

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: HB 685

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Hope

3. Committee: House Committee on General Laws

4. Title: Prohibits the selling tobacco products at retail without license from the Alcoholic Beverage Control Authority

5. Summary: The proposed bill prohibits any person from selling any tobacco product at retail without first obtaining a license from the Alcoholic Beverage Control Authority (“Authority”). Licenses would be subject to annual renewal and subject to revocation for violations of federal, state, or local laws related to tobacco products

The bill also prohibits the sale of tobacco products and hemp products intended for smoking from vending machines and imposes civil penalties on licensees for selling tobacco products without a license and for selling tobacco products to persons under age 21.

The bill creates the Tobacco Retail Administration Subfund for the purpose of funding the Authority’s costs of administering licenses and enforcing laws related to tobacco retail licensing.

The bill updates, for the purpose of the crime of selling or distributing tobacco products to a person younger than 21 years of age, the definition of "tobacco products" by including in such definition products currently defined as nicotine vapor products or alternative nicotine products.

6. Budget Amendment Necessary: Yes, Item 394

7. Fiscal Impact Estimates: Preliminary (see Item #8)

8. Fiscal Implications: Currently, a limited number of tobacco compliance checks is performed under a contract with the Virginia Department of Behavioral Health and Development Services. Outside of these compliance checks, the Authority does not currently engage in any material tobacco enforcement activities.

According to the Authority, additional personnel would be needed to enforce the provisions of HB365. The Authority anticipates that some entities that already hold an ABC license, such as gas stations, grocery stores, convenience stores and restaurants that also sell tobacco products to the general public would continue to be regulated by existing special agents.

However, data from Virginia ABC’s Bureau of Law Enforcement indicates there may be as many as 4,000 new licenses requested from vape shops, tobacco shops, and cigar shops.

To meet this anticipated increase in workload demand, the Authority estimates a need for 7 additional license record technicians and 12 additional special agents. The fiscal impact for each year of the biennium is shown in the following table:

Personnel/Other Costs	Positions	FY 2023 Total Cost	FY 2024 Total Cost
License Records Technicians	7	\$501,725	\$501,725
Special Agents	12	\$1,377,708	\$1,377,708
Information Technology cost		\$375,000	\$100,000
Equipment and Training cost (one-time)		\$584,400	
Total Personnel/Other Costs	19	\$2,838,833	\$1,979,433

The bill establishes the Tobacco Retail Administration Subfund. Moneys in the Subfund are to be used solely for the purposes of funding the Authority’s direct and indirect costs of the administration of licenses and enforcement of laws, including the administrative costs of reviewing applications, issuing licenses, education and training, and any other requirements, However, because the legislation does not provide for a license fee, the Authority believes it will need operating funding to cover the costs of implementing the provisions of the bill.

- 9. Specific Agency or Political Subdivisions Affected:** Virginia Alcoholic Beverage Control Authority

- 10. Technical Amendment Necessary:** None.

- 11. Other Comments:** None.