

Tobacco Study: House Bill 1946/Senate Bill 1060

August 19, 2025

- ▶ Introductions
- ▶ Areas of consensus from prior meeting
- ▶ 2 (and ½) potential legislative solutions
- ▶ Funding
- ▶ Open Forum: Input and Discussion
- ▶ Next Steps

- ▶ **Senator Adam Ebbin**, Senate of Virginia
- ▶ **Delegate Patrick Hope**, Virginia House of Delegates
- ▶ **Benjamin Jones**, Chief of Staff in the Office of Senator Adam Ebbin
- ▶ **Dale Farino**, Chief Executive Officer of the Virginia Alcoholic Beverage Control Authority (ABC)
- ▶ **Thomas Kirby**, Chief Operating Officer of ABC
- ▶ **John Daniel**, Government Affairs Officer and General Counsel of ABC
- ▶ **Leslie Haley**, Deputy Attorney General at the Virginia Office of the Attorney General (OAG)
- ▶ **Ian Lichacz**, Director of External Affairs at OAG
- ▶ **Sean Thorton**, Senior Assistant Attorney General at OAG
- ▶ **Flora Hezel**, Senior Assistant Attorney General at OAG

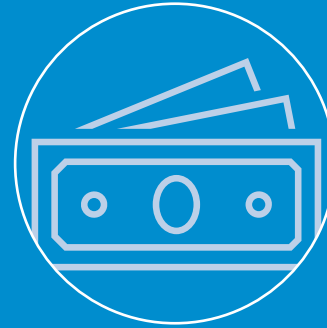
- ▶ **Colleen Hughes**, Director of the Office of Behavior Health Wellness at the Department of Behavioral Health and Developmental Services (DBHDS)
- ▶ **Jason Carlin**, Behavioral Health Wellness Consultant, Office of Behavior Health Wellness, DBHDS
- ▶ **James Goodrich**, First Sergeant of the Virginia State Police
- ▶ **Tripp Perrin**, President of Lindl Government Affairs
- ▶ **Chuck Duvall**, President Director & Founding Principal of Lindl Government Affairs



Retail Sales of Tobacco Products should be regulated in Virginia.



A retail enforcement program aimed at preventing sales to individuals under 21 years of age cannot be accomplished without a corresponding licensing structure for retail tobacco products.



Designated funding is required for ongoing expenses related to licensing and enforcement.



Greater involvement from local law enforcement would aid in reducing overall state costs.



Cost Efficiency & Local Engagement



2 (and ½) Potential Legislative Solutions

Potential Legislative Solutions

1. Virginia Tax retains Liquid Nicotine licensing; ABC to enforce underage restrictions.
 - 1.B Empower local law enforcement to undertake age verification by diverting civil penalties collected due to their activities into local treasury.
2. Convert liquid nicotine license to Retail Tobacco Permit administered and enforced by ABC.

- ▶ Maintains Virginia Tax's Liquid Nicotine License per *Va. Code* § 58.1-1021.04:1(C)
- ▶ Directs ABC to conduct unannounced age verification and communicate violations to Virginia Tax

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Draft Legislation

Tobacco Tax Legislation

A BILL to amend and reenact §§ 59.1-293.12 of the Code of Virginia, relating to underage checks for minors improperly being sold certain products.

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-293.12 of the Code of Virginia is amended and reenacted as follows:

§ 59.1-293.12. Restrictions on the sale of retail tobacco products to minors; penalties.

A. A retail dealer shall comply with the provisions of this section, §§ [18.2-246.8](#), [18.2-246.10](#), [18.2-371.2](#), and [59.1-293.13](#), and any other state or local law related to the sale of retail tobacco products. If the [Department Virginia Alcoholic Beverage Control Authority](#) determines that a retail dealer has violated any such provision of law, the [Department Virginia Alcoholic Beverage Control Authority](#) shall communicate such violation to the Department, who may suspend or revoke such retail dealer's Retail Sales and Use Tax Exemption Certificate for Stamped Cigarettes Purchased for Resale or Other Tobacco Products (OTP) Distributor's License.

B. 1. For each retail dealer, the [Department Virginia Alcoholic Beverage Control Authority](#) shall conduct an unannounced investigation at least once every 24 months to verify that the retail dealer is not selling retail tobacco products to persons under 21 years of age. If the [Department Virginia Alcoholic Beverage Control Authority](#) determines that the retail dealer has violated any provision of this section, § [18.2-246.8](#), [18.2-246.10](#), [18.2-371.2](#), or [59.1-293.13](#), or any other state or local law related to the sale of retail tobacco products, it shall conduct an unannounced investigation of the retail dealer within six months of such violation.

2. If the [Department Virginia Alcoholic Beverage Control Authority](#) determines that a retail dealer, or a retail dealer's agent or employee, sold a retail tobacco product to a person under 21 years of age or violated subsection A or B of § [18.2-371.2](#), the [Department Virginia Alcoholic Beverage Control Authority](#) shall impose and the retail dealer shall be subject to:

a. For the first violation in a 36-month period, a penalty of no less than [\\$1,000](#);

b. For a second violation in a 36-month period, a penalty of no less than \$5,000. Any retail dealer found to be in violation of this subdivision 2 b shall be required to verify that any consumer who appears to be under 30 years of age is of legal age by verifying such consumer's government-issued photographic identification using fraud detection software, technology, or a scanner that confirms the authenticity of such identification; and

c. For a third violation in a 36-month period, a penalty of no less than \$10,000 and a 30-day suspension of the retail dealer's Retail Sales and Use Tax Exemption Certificate for Stamped Cigarettes Purchased for Resale or OTP Distributor's License.

d. For a fourth violation in a 36-month period, revocation of the retail dealer's Retail Sales and Use Tax Exemption Certificate for Stamped Cigarettes Purchased for Resale or OTP Distributor's License, and ineligibility to possess any such certificate or license for a period of three years from the date of the most recent violation.

3. Any civil penalties assessed pursuant to this section shall be paid into the Tobacco Retail Enforcement Fund, established pursuant to [§ 59.1-293.14](#).

C. The [Virginia Alcoholic Beverage Control Authority](#) ~~Department~~ shall collaborate with the [Department Virginia Alcoholic Beverage Control Authority](#) and local law enforcement to the extent possible to enforce the provisions of this section and [§ 4.1-103.01](#).

Option 1: Virginia Tax retains Licensing; ABC to enforce

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Intended to address funding concerns regarding ABC enforcement activity

Funds shall be used solely for:

- ABC License administration and enforcement programs
- Education and training initiatives
- Retail Inspections
- Unannounced compliance checks

Disbursement Procedures:

- Expenditures made by the State Treasurer
- Based on Warrants issued by Comptroller
- At the written request of ABC's Chief Executive Officer

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Draft Legislation

Tobacco Tax Legislation

A BILL to amend and reenact §§ 59.1-293.14 of the Code of Virginia, relating to Tobacco Retail enforcement fund.

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-293.14 of the Code of Virginia is amended and reenacted as follows:

§ 59.1-293.14. Tobacco Retail Enforcement Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Tobacco Retail Enforcement Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All revenues accruing to the Fund pursuant to this article, all funds appropriated for such purpose, and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of funding the Department of Taxation's Virginia Alcoholic Beverage Control Authority's direct and indirect costs of the license administration and enforcement program administered pursuant to Article 2.1 (§ 58.1-1021.01 et seq.) of Chapter 10 of Title 58.1 and the administrative costs of education and training, retail inspections, and unannounced compliance checks in accordance with the provisions of §§ 59.1-293.12 and 59.1-293.13. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Tax Commissioner relating to enforcement of the restrictions on the sale of retail tobacco products to minors pursuant to Chapter 23.2 (§ 59.1-293.10 et seq.) of Title 59.1. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Tax Commissioner the Virginia Alcoholic Beverage Control Authority's Chief Executive Officer.

What comprises the Retail Tobacco Fund?

What is paid into the Tobacco Retail Enforcement Fund?

- ▶ *Va. Code* § 59.1-293.12: Amounts received for penalty for underage sales
- ▶ *Va. Code* § 59.1-293.19: Amounts received for penalty for refusing to cooperate with an audit by the OAG
- ▶ *Va. Code* § 59.1-293.20: Amounts received for penalty for failure to be included in OAG directory (unless the action is brought by a locality, in which case it is deposited into local treasury)

What is not paid into the Tobacco Retail Enforcement Fund?

- ▶ All revenue received pursuant to 58.1-1001 and 1018 [cigarette stamping], Article 2.1 of Chapter 10 of Title 58.1 [OTP and Liquid Nicotine], and escrow payments pursuant to the Master Settlement Agreement (“MSA”) are to be deposited into Virginia Health Care Fund per *Va. Code* § 32.1-366

Option 1B: Empower Local Law Enforcement to conduct age verification checks 12

Associations representing Sheriffs and Police Chiefs raised concerns regarding lack of criminality and issues of funding.

Provision allows civil penalties to be deposited into local treasuries if they were received as a result of local law enforcement action.

Draft Legislation
Tobacco Tax Legislation

A BILL to amend and reenact §§ 18.2-371.1 of the Code of Virginia, relating to prohibiting the sale or distribution of retail tobacco products intended for smoking by persons under 21 years of age.

Be it enacted by the General Assembly of Virginia:
1. That § 18.2-371.2 of the Code of Virginia is amended and reenacted as follows:
§ 18.2-371.2. Prohibiting sale or distribution, etc. of retail tobacco products and hemp products intended for smoking by persons under 21 years of age; civil penalties

A. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any person younger than 21 years of age, knowing or having reason to believe that such person is younger than 21 years of age, any retail tobacco product or hemp product intended for smoking.

No person shall sell retail tobacco products or hemp products intended for smoking from a vending machine.

B. No person shall sell a retail tobacco product or hemp product intended for smoking to any individual who does not demonstrate, by producing a driver's license or similar photo identification issued by a government agency, that the individual is at least 21 years of age.

Before a retail dealer may sell retail tobacco products, other than cigar and pipe tobacco products as defined in § ~~58.1-1021.01~~, to any consumer, the person selling, offering for sale, giving, or furnishing the retail tobacco products shall verify that the consumer is of legal age by examining from any person who appears to be under 30 years of age a government-issued photographic identification that establishes that the person is of legal age or, if required pursuant to subdivision C 4 b of § ~~58.1-1021.04-1~~ or subdivision B 2 b of § 59.1-293.12, verifying the identification presented using identification fraud detection software, technology, or a scanner that confirms the authenticity of such identification.

This subsection shall not apply to mail order or Internet sales, provided that the person offering the retail tobacco product or hemp product intended for smoking for sale through mail order or the Internet (i) prior to the sale of the retail tobacco product or hemp product intended for smoking verifies that the purchaser is at least 21 years of age through a commercially available database that is regularly used by businesses or governmental entities for the purpose of age and identity verification and (ii) uses a method of mailing, shipping, or delivery that requires the signature of a person at least 21 years of age before the retail tobacco product or hemp product intended for smoking will be released to the purchaser.

C. A violation of subsection A or B by an individual or by a separate retail establishment is punishable by a civil penalty in the amount of \$500 for a first violation and a civil penalty in the amount of \$2,500 for a second or subsequent violation within a three-year period. If applicable, upon a second or subsequent violation within a three-year period, the Department of Taxation may suspend or revoke any approved license, permit, or registration issued pursuant to subsection C of § ~~58.1-1021.04-1~~.

For any violation of this section by an employee of a retail establishment, (i) such penalty shall be assessed against the establishment and (ii) an additional penalty of \$100 shall be assessed against the employee.

Any attorney for the Commonwealth of the county or city in which an alleged violation occurred may bring an action to recover the civil penalty, which shall be paid into the state treasury. The penalty, however, shall be deposited into the local treasury if the penalty is imposed as a result of local law enforcement action. Any law-enforcement officer may issue a summons for a violation of subsection A or B.

D. 1. Cigarettes and hemp products intended for smoking shall be sold only in sealed packages provided by the manufacturer, with the required health warning. The proprietor of every retail establishment that offers for sale any retail tobacco product or hemp product intended for smoking shall post in a conspicuous manner and place a sign or signs indicating that the sale of retail tobacco products or hemp products intended for smoking to any person under 21 years of age is prohibited by law. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$500. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which instituted the action.

2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services Administration published at 61 Federal Register 1492, the Department of Agriculture and Consumer Services may promulgate regulations which allow the Department to undertake the activities necessary to comply with such regulations.

3. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$500. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which instituted the action.

E. Nothing in this section shall be construed to create a private cause of action.

F. Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § ~~4.1-105~~ may issue a summons for any violation of this section. Additionally, any retailer selling retail tobacco products shall be subject to the enforcement and compliance provisions of Chapter 23.2 (§ ~~59.1-293.10~~ et seq.) of Title 59.1.

G. As used in this section:

"Electronic smoking device" means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. "Electronic smoking device" includes any component, part, or accessory of the device, whether or not sold separately, and also includes any substance intended to be aerosolized or vaporized during the use of the device, whether or not the substance contains nicotine. "Electronic smoking device" does not include any (i) battery or battery charger when sold separately or (ii) device used for heated tobacco products. "Electronic smoking device" does not include drugs or devices, as such terms are defined in 21 U.S.C. § 321, or combination products, as such term is used in 21 U.S.C. § 353, if such drugs, devices, or combination products

General Points of Interest:

- ▶ This option would remove *Va. Code* § 58.1-1021.04:1(C)(1), which creates liquid nicotine license, while retaining *Va. Code* § 58.1-1021.04:1(A) & (B) as they related to the OTP distributors license
- ▶ Creates permitting structure for retail tobacco products akin to ABC permit, with permits issued and enforced by ABC
- ▶ Closely follows SB 1060 S2, as amended by SFAC on January 29, 2025.

Who is required to obtain a license?

Va. Code § 4.1-241 would require tobacco retailers who operate a tobacco retail establishment to obtain a permit to sell tobacco products at retail.

“Tobacco retail establishment” is defined to specifically *exclude* retailers selling only cigars and pipe tobacco.

Should retailers selling only cigars and pipe tobacco be exempted from this licensing requirement?

259 spirits means any beverage that contains alcohol obtained by distillation mixed with aromatic flavors
260 and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any
261 one or more of the last four named ingredients, but shall not include any such liquors completely denatured in
262 accordance with formulas approved by the United States government.
263 "Sports facility" means a coliseum, stadium, racetrack, or similar facility at which professional sports, as
264 defined in § 58.1-4030, or similar events, the types of which are approved by the Authority, are conducted.
265 "Tobacco product" means (i) any product containing, made of, or derived from tobacco or that contains
266 nicotine that is intended for human consumption or is likely to be consumed, whether smoked, heated,
267 chewed, dissolved, inhaled, absorbed, or ingested by other means, including a cigarette, a heated tobacco
268 product, chewing tobacco, snuff, or snus; (ii) any electronic smoking device and any substances that may be
269 aerosolized or vaporized by such device, whether or not the substance contains nicotine; and (iii) any
270 component, part, or accessory of a product described in clause (i) or (ii), whether or not such component,
271 part, or accessory contains tobacco or nicotine, including filters, rolling papers, blunt or hemp wraps, and
272 glass pipes. "Tobacco product" includes any nicotine vapor product. "Tobacco product" also includes any
273 "retail tobacco product" as defined in § 58.1-1021.01. "Tobacco product" does not include drugs or devices,
274 as such terms are defined in 21 U.S.C. § 321, or combination products, as such term is used in 21 U.S.C. §
275 353, if such drugs, devices, or combination products are authorized for sale by the U.S. Food and Drug
276 Administration.
277 "Tobacco retailer" means any person, partnership, joint venture, society, club, trustee, trust, association,
278 organization, or corporation that owns, operates, or manages any tobacco retail establishment. "Tobacco
279 retailer" does not include nonmanagement employees of a tobacco retail establishment.
280 "Tobacco retail establishment" means any place of business where tobacco products are available for
281 sale to the general public, including any grocery store, retail tobacco product shop, kiosk, convenience store,
282 gasoline service station, bar, or restaurant where tobacco products are available for sale to the general
283 public. For purposes of this subtitle, "tobacco retail establishment" shall not include an establishment that
284 does not sell tobacco products other than cigar and pipe tobacco products as defined in § 58.1-1021.01.
285 "Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural sugar
286 content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or
287 without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of
288 distillation. "Wine" includes any wine to which wine spirits have been added, as provided in the Internal
289 Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol
290 content of 21 percent by volume.
291 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not
292 more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine
293 mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water,
294 fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products
295 manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages
shall be treated as wine for all purposes except for taxation under § 4.1-236.

Tobacco Retail Permit: Fees

Application Fee

- \$100 per application (does not apply to continuation of permits).
- Non-refundable.
- Paid at time of filing; the first time.
- Separate from annual permit fee.

Permit Fee

- \$400 Fee for all other tobacco retail permittees
- Exemption for permittees who hold OTP Distributor's License, Retail Sales and Use Tax Exemption Certificate, Cigarette Stamping Agent License.
- Still requires filing of application

452 1. The required permit fee covering the continuation or reissuance of its permit by midnight of the
453 fifteenth day of the twelfth month, to pay the tax in lieu of reapplying, provided payment of the tax is made
454 within 30 days following that date and is accompanied by a civil penalty of \$25 or 10 percent of such tax,
455 whichever is greater; and
456 2. The tax and civil penalty pursuant to subdivision 1 to pay the tax in lieu of reapplying, provided
457 payment of the tax is made within 45 days following the 30 days specified in subdivision 1 and is
458 accompanied by a civil penalty of \$100 or 25 percent of such tax, whichever is greater.
459 Such civil penalties collected by the Board shall be deposited in accordance with § 4.1-116.
460 **§ 4.1-244. Applications for tobacco retail permits; fees.**
461 A. Every person intending to apply for a tobacco retail permit shall file with the Board an application on
462 forms provided by the Board and a statement in writing by the applicant swearing and affirming that all of
463 the information contained therein is true.
464 B. Each applicant shall pay the required application fee at the time the application is filed. Each tobacco
465 retail permit application fee shall be \$100. Application fees shall be in addition to the state permit fee
466 required pursuant to § 4.1-245 and shall not be refunded.
467 C. Subsection A shall not apply to the continuance of permits granted under this article; however, all
468 tobacco retail permittees shall file and maintain with the Board a current, accurate record of the information
469 required by the Board pursuant to subsection A and notify the Board of any changes to such information in
470 accordance with Board regulations.
471 **§ 4.1-245. Fees on tobacco retail permits.**
472 A. The annual fees on tobacco retail permits shall be as follows:
473 1. For tobacco retail permittees holding an Other Tobacco Products (OTP) Distributor's License from the
474 Department of Taxation, Retail Sales and Use Tax Exemption Certificate for Stamped Cigarettes Purchased
475 for Resale from the Department of Taxation, Cigarette Stamping Agent License from the Department of
476 Taxation, or any license at the permitted premises issued pursuant to this subtitle, \$0.
477 2. For any other tobacco retail permittees, \$400.
478 B. Nothing in this chapter shall exempt any permittee from any other tax or fee imposed by this subtitle,
479 state merchants' license, state restaurant license, or any other state tax. Every permittee, in addition to the
480 taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license
481 taxation and other state or local taxation applicable to tobacco products.
482 C. In addition to the fees set forth in this section, a fee of \$5 may be imposed on any tobacco retail permit
483 purchased in person from the Board if such tobacco retail permit is available for purchase online.
484 **§ 4.1-246. Records of tobacco retail permittees; inspection of records and place of business.**
485 The Board and its special agents shall be allowed free access during reasonable hours to every place in
486 the Commonwealth and to the premises where tobacco products are offered for sale or sold, for the purpose
487 of examining and inspecting such place and all records, invoices, and accounts therein.
488 For purposes of a Board inspection of the records of any tobacco retail permittee, "reasonable hours"
489 means the hours between 9 a.m. and 5 p.m.; however, if the tobacco retail permittee generally is not open to
490 the public substantially during the same hours, "reasonable hours" shall mean the business hours when the
491 tobacco retail permittee is open to the public. At any other time of day, if the tobacco retail permittee's
492 records are not available for inspection, the retailer shall provide the records to a special agent of the Board

How does a \$400 annual fee compare to other license and permit fees?

ABC Permit Fees and Duration

- ▶ All ABC permits are renewed *annually*, and fees vary based on which permit is being obtained. *Va. Code* § 4.1-231.1 sets fees as follows:
 - ▶ Commercial Lifestyle center license (\$300)
 - ▶ Retail license for on and off premises wine and beer (\$450)
 - ▶ Retail License for off premises wine and beer (\$300)
 - ▶ Retail marketplace license (\$1,000)

Virginia Tax License Fees and Duration

- ▶ ST-10C fee is \$50 and lasts for 5 years and automatically renews if TP is in good standing
- ▶ Stamping Agent and OTP application fee is \$600 and lasts for 3 years
- ▶ Liquid Nicotine License fee is \$400 and lasts for 2 years.

Impact of Exemptions

Estimated 10,000 retailer locations requiring permit		
OTP + Stamping Agents (564 locations)	ST-10C Holders (8,043 individuals)	ABC Permits (???)

Will there be enough retailers required to pay the annual \$400 fee to support the program?

453 1. The required permit fee covering the continuation or reissuance of a permit by midnight of the
454 fifteenth day of the twelfth month, to pay the tax in lieu of reapplying, provided payment of the tax is made
455 within 30 days following that date and is accompanied by a civil penalty of \$25 or 10 percent of such tax,
456 whichever is greater; and
457 2. The tax and civil penalty pursuant to subdivision 1 to pay the tax in lieu of reapplying, provided
458 payment of the tax is made within 45 days following the 30 days specified in subdivision 1 and is
459 accompanied by a civil penalty of \$100 or 25 percent of such tax, whichever is greater.
460 Such civil penalties collected by the Board shall be deposited in accordance with § 4.1-116.
461 **§ 4.1-244. Applications for tobacco retail permits; fees.**
462 A. Every person intending to apply for a tobacco retail permit shall file with the Board an application on
463 forms provided by the Board and a statement in writing by the applicant swearing and affirming that all of
464 the information contained therein is true.
465 B. Each applicant shall pay the required application fee at the time the application is filed. Each tobacco
466 retail permit application fee shall be \$100. Application fees shall be in addition to the state permit fee
467 required pursuant to § 4.1-245 and shall not be refunded.
468 C. Subsection A shall not apply to the continuance of permits granted under this article; however, all
469 tobacco retail permittees shall file and maintain with the Board a current, accurate record of the information
470 required by the Board pursuant to subsection A and notify the Board of any changes to such information in
471 accordance with Board regulations.
472 **§ 4.1-245. Fees on tobacco retail permits.**
473 A. The annual fees on tobacco retail permits shall be as follows:
474 1. For tobacco retail permittees holding an Other Tobacco Products (OTP) Distributor's License from the
475 Department of Taxation, Retail Sales and Use Tax Exemption Certificate for Stamped Cigarettes Purchased
476 for Resale from the Department of Taxation, Cigarette Stamping Agent License from the Department of
477 Taxation, or any license at the permitted premises issued pursuant to this subtitle, \$0.
478 2. For any other tobacco retail permittees, \$400.
479 B. Nothing in this chapter shall exempt any permittee from any other tax or fee imposed by this subtitle,
480 state merchants' license, state restaurant license, or any other state tax. Every permittee, in addition to the
481 taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license
482 taxation and other state or local taxation applicable to tobacco products.
483 C. In addition to the fees set forth in this section, a fee of \$5 may be imposed on any tobacco retail permit
484 purchased in person from the Board if such tobacco retail permit is available for purchase online.
485 **§ 4.1-246. Records of tobacco retail permittees; inspection of records and place of business.**
486 The Board and its special agents shall be allowed free access during reasonable hours to every place in
487 the Commonwealth and to the premises where tobacco products are offered for sale or sold, for the purpose
488 of examining and inspecting such place and all records, invoices, and accounts therein.
489 For purposes of a Board inspection of the records of any tobacco retail permittee, "reasonable hours"
490 means the hours between 9 a.m. and 5 p.m.; however, if the tobacco retail permittee generally is not open to
491 the public substantially during the same hours, "reasonable hours" shall mean the business hours when the
492 tobacco retail permittee is open to the public. At any other time of day, if the tobacco retail permittee's
records are not available for inspection, the retailer shall provide the records to a special agent of the Board

Duration of License

- ▶ Requires annual renewal
- ▶ Separate permit is required for each place of business
- ▶ Nontransferable

SB1060S2

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Permitting and Restrictions for Tobacco Retailers.

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§ 4.1-241. Tobacco retail permits.

The Board may grant permits to tobacco retailers who operate a tobacco retail establishment. Such permit shall authorize the permittee to sell tobacco products at retail on the permitted premises.

§ 4.1-242. To whom privileges conferred by tobacco retail permits extend; liability for violations of law.

The privilege of any permittee to sell tobacco products at retail shall extend to such permittee and to all agents or employees of such permittee for the purpose of selling tobacco products at retail under such permit. The permittee may be held liable for any violation of this subtitle or any Board regulation committed by such agents or employees in connection with their employment.

§ 4.1-243. Separate tobacco retail permit for each place of business; transfer or amendment; posting; expiration; carriers; civil penalties.

A. Each tobacco retail permit granted by the Board shall designate the place where the business of the permittee will be carried on. A separate permit shall be required for each separate place of business.

B. No permit shall be transferable from one person to another, or from one location to another.

C. Each permit shall be posted in a location conspicuous to the public at the place where the permittee carries on the business for which the permit is granted.

D. The privileges conferred by any tobacco retail permit granted by the Board shall continue until the last day of the twelfth month next ensuing, except the permit may be sooner terminated for any cause for which the Board would be entitled to refuse to grant a tobacco retail permit, by operation of law, voluntary surrender, or order of the Board.

The Board may permit a tobacco retail permittee who fails to pay:

1. The required permit fee covering the continuation or reissuance of its permit by midnight of the fifteenth day of the twelfth month, to pay the tax in lieu of reapplying, provided payment of the tax is made within 30 days following that date and is accompanied by a civil penalty of \$25 or 10 percent of such tax, whichever is greater; and

2. The tax and civil penalty pursuant to subdivision 1 to pay the tax in lieu of reapplying, provided payment of the tax is made within 45 days following the 30 days specified in subdivision 1 and is accompanied by a civil penalty of \$100 or 25 percent of such tax, whichever is greater.

Such civil penalties collected by the Board shall be deposited in accordance with § 4.1-116.

§ 4.1-244. Applications for tobacco retail permits; fees.

Underage enforcement provisions

- ▶ *Va. Code* § 59.1-293.12 requiring unannounced investigations to verify retailer is not selling tobacco products to individuals under 21 years of age is recodified in *Va. Code* § 4.1-255

748 Board for a tobacco retail permit at the same premises. The temporary permit shall (i) confer the privileges
749 of any tobacco retail permits held by the previous owner to the extent determined by the Board and (ii) be
750 valid for a period of 120 days or for such longer period as may be necessary as determined by the Board
751 pending the completion of the processing of the temporary permittee's tobacco retail permit application. No
752 temporary permit shall be issued without the written consent of the previous tobacco retail permittee. No
753 temporary permit shall be issued under the provisions of this subdivision if the previous tobacco retail
754 permittee owes any state or local taxes, or has any pending charges for violation of this subtitle or any Board
755 regulation, unless the temporary permittee agrees to assume the liability of the previous tobacco retail
756 permittee for the taxes or any penalty for the pending charges. An application for a temporary permit may be
757 filed prior to the effective date of the contract, in which case the temporary permit when issued shall become
758 effective on the effective date of the contract. Upon the effective date of the temporary permit, (a) the
759 temporary permittee shall be responsible for compliance with the provisions of this subtitle and any Board
760 regulation and (b) the previous tobacco retail permittee shall not be held liable for any violation of this
761 subtitle or any Board regulation committed by, or any errors or omissions of, the temporary permittee.

762 B. Every application for a temporary permit granted pursuant to this section shall be on a form provided
763 by the Board. The fee for a temporary permit shall be one-twelfth of the combined tobacco retail permit
764 application fee and tobacco retail permit fee computed to the nearest cent and multiplied by the number of
765 months for which the permit is granted.

766 C. The decision to refuse to grant a temporary permit shall not be subject to a hearing. A temporary
767 permit may be revoked summarily by the Board for any cause set forth in § 4.1-250 without complying with
768 subsection A of § 4.1-252. Revocation of a temporary permit shall be effective upon service of the order of
769 revocation upon the permittee or upon the expiration of three business days after the order of the revocation
770 has been mailed to the permittee at either his residence or the address given for the business in the license
771 application. No further notice shall be required.

772 **§ 4.1-255. Tobacco products underage decoy operations; frequency.**

773 For each tobacco retail permittee, the Board shall conduct an unannounced underage decoy operation at
774 least once every 24 months to verify that the tobacco retail permittee is not selling retail tobacco products to
775 persons under 21 years of age. If the Board determines, subject to §§ 4.1-250 and 4.1-252, that the tobacco
776 retail permittee has violated § 4.1-357, the Board shall conduct an additional underage decoy operation of
777 the tobacco retail permittee within six months of a board order substantiating such violation.

778 Article 4.

779 Tobacco Products.

780 **§ 4.1-355. Illegal sale of tobacco products in general; penalty.**

781 Any person who is not a tobacco retail permittee who sells any tobacco product except as permitted by
782 this subtitle or, for manufacturers or distributors licensed by the Department of Taxation, sold for resale
783 pursuant to Title 58.1, is guilty of a Class 1 misdemeanor.

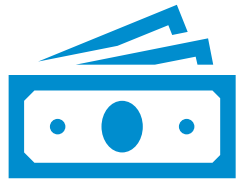
784 **§ 4.1-356. Purchase of tobacco products from person not authorized to sell; penalty.**

785 Any person who buys tobacco products from any person other than a person authorized under this subtitle
786 or Title 58.1 to sell tobacco products is guilty of a Class 1 misdemeanor.

Funding Sources and Concerns

Prior Appropriations to Virginia Tax and ABC to support licensing and enforcement

- ▶ Item 258 (EE) of the 2024 Appropriation Act allocated \$658,000 for FY 2024 and \$771,000 for FY 2025 to be used for costs associated with implementation of HB 790/SB 582 from the 2024 Session.
- ▶ Item 489.10 of the 2025 Appropriation Act allocated \$150,000 to ABC for costs associated with conducting unannounced investigation of retailers selling liquid nicotine to persons under 21 years of age.



Initial Funding Sources

Transfer funds

to help with coverage of startup costs:

- Existing reserves from Virginia Tax to the extent available
- ENDS (“Electronic Nicotine Delivery Systems”) Fund disbursements



Bridging the Startup Gap

- Legislative appropriations
- Delayed program launch until full funds available
- Treasury Loan



Ongoing Funding Options

- Annual appropriations to sustain program
- Annual retailer fees
- Applicable penalties

ABC Tobacco Enforcement and Regulatory Cost Estimate July 2025

ABC estimates that it will need:

- ▶ \$5.3M in initial costs for the first year; and
- ▶ \$3.96M every year thereafter.

Description	Number of Positions	Total	Assumptions
Special Agent 1 (NOVA)	5	\$ 731,399.18	
Special Agent 1 (non-NOVA)	12	\$ 1,442,446.43	
System Analyst	2	\$ 242,746.51	
Administrative Law Judge	1	\$ 179,422.14	
Paralegal	2	\$ 192,621.63	
Associate Legal Counsel	2	\$ 358,844.28	
Coordinator	1	\$ 131,691.57	
License Technicians	6	\$ 481,371.90	
Positions - Subtotal	31	\$ 3,760,543.63	
Underage Buyer		\$ 200,000.00	Year 1 Only Year 1 Only
Hiring, Training, Equipment		\$ 1,005,275.17	
Virginia ABC Licensing (VAL) Modifications		\$ 350,000.00	
Grand Total		\$ 5,315,818.80	
First Year Costs		\$ 5,315,818.80	
Second Year and Beyond		\$ 3,960,543.63	

Funding to Start: ENDS Fund

- ▶ A payment of \$2,385,406.97 will be received in December 2025, pursuant to the Consent Judgement resolving Virginia vs. JUUL Labs.*



JUUL Consent Judgment - Payments to Virginia					
OPTION 1 ¹		OPTION 2		OPTION 3	
Payment Dates	Payment Amounts	Payment Dates	Payment Amounts	Payment Dates	Payment Amounts
December 31, 2022	\$1,582,000.49	December 31, 2022	\$1,582,000.49	December 31, 2022	\$1,582,000.49
December 31, 2023	\$1,590,271.32	December 31, 2023	\$1,590,271.32	December 31, 2023	\$1,590,271.32
December 31, 2024	\$1,590,271.32	December 31, 2024	\$1,590,271.32	December 31, 2024	\$1,590,271.32
December 31, 2025	\$2,385,406.97	December 31, 2025	\$2,385,406.97	December 31, 2025	\$2,385,406.97
December 31, 2026	\$2,385,406.97	December 31, 2026	\$2,385,406.97	December 31, 2026	\$2,385,406.97
December 31, 2027	\$7,315,248.05	December 31, 2027	\$2,681,197.44	December 31, 2027	\$1,755,659.53
		December 31, 2028	\$2,681,197.44	December 31, 2028	\$1,755,659.53
		December 31, 2029	\$2,681,197.44	December 31, 2029	\$1,755,659.53
				December 31, 2030	\$1,755,659.53
				December 31, 2031	\$1,755,659.53
TOTAL(\$)	\$16,848,605.12		\$17,576,949.39		\$18,311,654.72

*As with the entirety of this presentation, this is being explored merely as a potential option for consideration by this workgroup. As Virginia Tax does not maintain this fund, it is unclear whether this payment may be committed for another purpose. Virginia Tax has no position on how these funds should be used.

Limitations on use of ENDS funds

Use of these funds is restricted to five enumerated categories, including prevention programs designed to reduce the use of electronic nicotine delivery systems by individuals under 21.

43. The amount paid to each Settling State shall be used for any lawful purpose. It is the Parties' intent that the payments be used, to the maximum extent practicable, to fund the following programs:

- a. Programs that provide cessation assistance to Virginia residents who were exposed to ENDS while under the age of 21;
- b. Education or prevention programs that are designed to prevent or reduce use of ENDS by Virginia residents who are under the age of 21;
- c. Research in support of preventing ENDS use by Virginia residents who are under the age of 21 by independent third parties;
- d. Programs or equipment that are designed to abate the impact that ENDS and other nicotine products have had on Virginia students, schools, school districts and to prevent such impact in the future; and
- e. Efforts to mitigate the impact of, including by enforcing Virginia and federal law with respect to, disposable ENDS, synthetic-nicotine products, and companies that have not taken steps similar to those described in this Consent Judgment to limit access to or usage of nicotine and nicotine-synthetic products by Virginia residents who are under the age of 21.

Bridging the Gap



Budget language allowing for ABC to obtain a treasury loan would help cover cash flow issues during implementation.



Explore delayed effective date to December 2026 to allow for additional payment into ENDS Fund.



Funding for Continuing Costs

The largest source of funds available to support the ongoing costs of this program are the application fees.

Assuming there are 10,000 tobacco retailers that pay for a license annually and the exemptions for tobacco retailers were fully eliminated, the annual application fee of \$400 appears to be sufficient to cover ongoing costs related to the licensing and enforcement program.* However, if we retain the exemption for ABC licensees, it would likely not be sufficient.

*This statement is based upon ABC's estimate of \$3.96M of ongoing costs, which assume 10,000 retailers in Virginia. If all 10,000 retailers paid the \$400 fee annually, that would produce \$4M in fee revenue annually. However, the actual amount of fee revenue may be different due to various factors, including varying compliance levels among retailers.

Discussion points

- ▶ Should Option 1, Option 1B, or Option 2 be the recommendation of this Work Group? Why?
- ▶ Should additional funds be diverted to the Retail Tobacco Enforcement Fund? If so, which funds?
- ▶ Are there other funding options available not already discussed?
- ▶ Should retailers selling only cigars and pipe tobacco be exempted from license requirement? Why?
- ▶ Are the application fee exemption for OTP Distributors, Stamping Agents, ST-10C holders, and ABC permittees necessary? Can any be eliminated?
- ▶ How could this work with the OAG's registry process?

- ▶ This presentation and all provided handouts will be made available on the Virginia Tax webpage for Active Studies and Surveys: <https://www.tax.virginia.gov/studies-and-surveys>
- ▶ If you would like to provide written comments on today's discussion, please provide them to Anna Mucha at anna.mucha@tax.virginia.gov by August 26.
- ▶ We will circulate a draft report to work group participants in advance of its submission by November 1.

Thank You!



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