



## 2022 Last Call Legislative Report



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# INTRODUCTION

April 29, 2022

Dear Members:

This **VCBG 2022 Last Call Legislative Report** is an overview of the priority and defensive priority bills that the VCBG monitored and managed in the 2022 Virginia General Assembly regular session. These bills are available for review [here](#). The VCBG Leadership Council and Government Affairs Committee are the core of our government affairs program. They helped to prepare this year's legislative agenda and were instrumental in our success.

The VCBG priority bills involved advocating for the loosening of the tied-house restrictions on labor, initiating farm brewery participation in the VDACS VA Wine Distribution Company, and increasing Payroll Protection Program (PPP) deductibility from income taxes. The rest of the VCBG legislative agenda was focused on defensive priorities such as ensuring an appeals procedure and regulatory flexibility with the new VDACS inspection permits, protecting rural farm brewery structures from overly burdensome building codes, ensuring that brewery containers (growlers, crowlers, and novel containers) may continue to be delivered via the new ABC delivery permit, and defeating a new cause of action statute against breweries if someone is injured by an underage driver impaired by alcohol.

A highlight of this year was the successful Quality & Operations Seminar, [Virtual Days on the Hill, and Virginia Craft Beer Caucus](#). We continued our ongoing effort to educate Delegates and Senators about the fundamentals of the independent craft beer industry. We built relationships with new leaders of the House General Laws Committee and Senate Rehabilitation Committee which regulate alcohol. In fact, the House General Laws ABC Subcommittee Chairperson, Delegate Roxann Robinson, successfully carried our [HB1336](#). We also continued to build close working relationships with the leadership of the VA ABC, VDACS, and the Youngkin Administration which are critical to our regulatory effectiveness throughout the year.



Paige Wernig, VCBG; Brett Vassey, VCBG; Ann Leigh, Hardywood Park; Caren Merrick, VA Secretary of Commerce & Trade - Craft Beer Caucus @ The Answer Brewery (Richmond)

The 2022 Virginia General Assembly regular session was positive for the independent craft beer industry. Now that it is over, we encourage all members to use this report in your [Brewer for a Day Program](#) and invite candidates and incumbents to participate.

Cheers!

*Brett A. Vassey*  
President & CEO

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Welcome to the Virginia Craft Brewers Guild “VCBG” 2022 Last Call Legislative Report. This report is produced annually to detail the highlights of each Virginia legislative session from the VCBG’s perspective. The Table of Contents is a quick reference to key sections of the report.

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This section details bills the VCBG requested to be introduced or was part of a coalition or commission that requested the bill to be introduced. These were the top priorities of the VCBG during this General Assembly session.

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This section identifies bills that the VCBG monitored and/or acted on in order to support, amend, neutralize, or stop from negatively impacting the craft beer industry or the VCBG’s legislative agenda.

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This section details the VCBG public policies used to gauge legislative action and priorities.

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This is a brief narrative of the 2021 Virginia General Assembly Session to provide members some understanding of the “taste and texture” of this year’s session.

## **Page 9 Upcoming VA ABC & VDACS Regulatory Activities**

This section details ABC & VDACS regulatory activities that require VCBG engagement.



## PRIORITY BILLS

*Priority bills represent legislation that has been introduced on our behalf or a coalition to which we belong. These bills directly relate to VCBG legislative priorities and involve member committees and/or the Leadership Council.*

**The VCBG produced an 66% success rate with this year's 3 priority bills.** 66% of the priority bills had Republican patrons and 33% had Democratic patrons.

We must give credit for these successes to specific priority bill patrons and leaders: Delegates Roxanne Robinson, Kathy Byron, and David Bulova.

## DEFENSIVE PRIORITY BILLS

*This section identifies bills that involved VCBG monitoring and/or action in order to support, amend, neutralize, or stop from negatively impacting the craft beer industry or the VCBG's legislative agenda.*

**The VCBG produced an 100% success rate with this year's 13 defensive priority bills.** 77% of the select defensive priority bills had Republican patrons and 23% had Democratic patrons.

This section provides details on only select defensive priority bills that required significant amendment, protection from amendment, or opposition to reduce or eliminate the negative impact on the Virginia independent craft beer industry.

## ALL BILLS

*In addition to Priority and Defensive Priority bills, the VCBG monitors all VA ABC, VDACS, tourism, economic development, farm brewery, tax, and workforce training legislation that is targeted at breweries and alcohol manufacturers.*

**The VCBG monitored and managed 18 total bills this legislative session.** See every bill the VCBG monitored during the 2022 Session in our full [VCBG legislative report](#).

# PUBLIC POLICY PRIORITIES

The VCBG has developed twelve foundational public policy priorities that help guide its legislative advocacy. These are developed and prioritized through the VCBG committees and Leadership Council. The priorities are as follows:

## **Defend Virginia’s “Hybrid Self-Distribution” Laws**

- *Tasting room retail sales privileges – no retail sales limits (On or Off-Premise) and no regulated hours of operation*
- *Expansion breweries – no limits on the number of breweries with retail tasting rooms and retain revised ABC administrative code definition of beer manufacturing*
- *Brewery In-State and Out-of-State Delivery/Shipping Permits/Licenses*
- *“Brewpub” exemption from “3 Tier System” and “Tied House” laws*
- *Eight (8) Manufacturer’s Beer Event Licenses per year*
- *“Arms-length” independent craft beer distributors*
- *Alternating proprietorships*

## **Defend current unlimited brewery-to-brewery transfer privileges**

## **Defend current unlimited contract brewing privileges**

## **Improve the performance of the distribution tier**

- *Regulate voluntary waivers of VA Beer Franchise Act terms in temporary distribution agreements*
- *Expedite distribution agreement termination process, including reforming ABC uniform prehearing scheduling orders involving VA Beer Franchise Act disputes*
- *Expand the number of small independent craft beer distributors*
- *Improve brewery-to-distributor communications and sales planning, and ensure that any beer sold by a brewery is delivered by its distributor*
- *Use comparable distributor performance metrics precedent set by Blue Mountain Brewery case in ABC dispute resolutions*

## **Maintain ABC Regulatory Balance**

## **Oppose “Pay-to-Play” Trade Spending**

## **No beer excise tax increases**

## **Expand craft beer tourism and market growth, particularly through the VCBG marketing and tourism programs and Virginia Tourism Corporation programs**

## **Expand authentic independent craft beer branding with consumers through the BA’s “Independent” label, and VCBG’s distributor, retailer, farm brewery, and craft beer programs**

## **Increase retail tier recognition of independent Virginia craft breweries and promotion of the Virginia Craft Beer Cup and national award-winning beers**

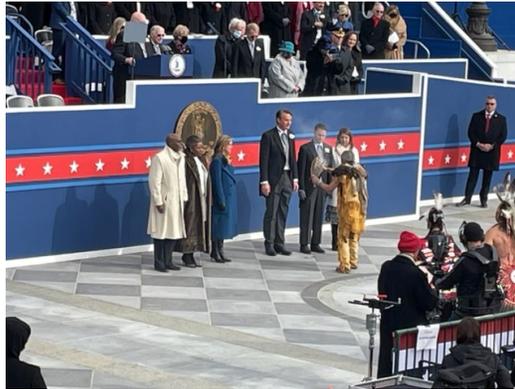
## **Improve the workforce development system to create a diverse and industry certified talent pool for breweries**

## **Create regional quality networks for brewers to share best practices**

## **Move Virginia into the “Top 10 U.S. States for Breweries Per Capita”**

# SUMMARY

The 2022 Virginia General Assembly introduced a total of 3,143 bills in the regular session. Accompanying this volume of legislation, the 2022 session followed a pivotal election that resulted in a party control change in the House of Delegates, Governor's Office, Lt. Governor's Office, and Attorney General's Office. The 2022 session was also a return to normalcy after a virtual 2021 Session, but still posed a variety of unique barriers to effectively impact the legislative process because each legislator took a different approach to managing COVID-19 prevention measures. **Overall, the VCBG monitored and managed 18 bills this legislative session: 13 were defensive priority bills, 3 were priority bills, and 2 were generally interest bills.**



This session posed an entirely new dynamic with a new leaders and committee Chairs in the House as well as new agency heads and policy staff in the Executive Branch. Despite returning to an in person legislative session, some Committees and Subcommittees kept the 2021 public testimony rules in place which allowed for abbreviated public testimony. Our democratic values of transparency, accessibility, equity, and deliberation continue to be diminished in comparison to the pre-pandemic legislature.

We also want to highlight a few bills to give some context to the work involved in getting bills passed, defeated, or amended, including partnerships the VCBG formed in the process.

**HB 1336 (Delegate Robinson) Farm Beer.** Directs the Virginia Department of Agriculture and Consumer Services to convene a working group consisting of the Virginia Alcoholic Beverage Control Authority, the Virginian Wineries Association, the Virginia Wine Wholesalers Association, the Virginia Beer Wholesalers Association, and the Virginia Craft Brewers Guild to discuss making limited brewery licensees available. There is an established system and precedent in place for farm wineries who work through the Virginia Wine Distribution Company (VWDC). This bill directs the working group to evaluate the IT, staffing, fee schedule, barrelage and case limits for wine and beer, and general appropriation needed to sustain and expand the VWDC's services to farm breweries (i.e., Limited Breweries). Success would not have been possible without the patronage and support of the Chairperson of House General Laws ABC Subcommittee, Delegate Roxanne Robinson. The VCBG Farm Brewery Committee will begin this working group June 1, 2022.

**SB 400 (Senator Hanger) Rural Structures.** Authorizes the Board of Housing and Community Development to develop regulations related to the use and regulation of buildings for agritourism events. It creates a nine member Agritourism Event Structure Technical Advisory Committee to assist the Board. The VCBG worked closely with Senator Hanger to ensure that the VCBG was named participant in the working group, ensuring that farm breweries have a voice in these discussions.

**HB 464 (Delegate Bulova) Tied-House Reform.** Would have allowed alcohol manufacturers, wholesalers, and retailers the freedom to employ anyone that is also employed at another establishment licensed by the ABC. Developing a comprehensive statute expanding employment opportunities between alcohol tiers, without creating unintended consequences, proved to be more difficult than anticipated. VCBG has agreed with the VA ABC that initiating reforms to 3VAC5-30-20 is a more appropriate venue. In our discussions, we agreed that it may result in a more artful solution to begin enumerating specific occupations or types of employment where a manufacturer may employ someone working in a grocery store, c store, restaurant, etc. We acknowledged that any solution must be enforceable, so, again, the regulatory reform process may provide us with more time to deliberate and narrowly tailor solutions to resolve this issue. As such, we supported the House General Laws Committee Chair issuing a letter to the VA ABC directing these reforms be considered. The specific language below will ensure that the progress we made during this session is not overlooked:

*“The Chairman requests that the ABC convene stakeholders to develop amendments to 3VAC5-30-20 that would enable a manufacturer, bottler, importer, broker or wholesaler to employ a person who is also employed by a retail licensee provided that such manufacturer, bottler, importer, broker or wholesaler does not require the retail licensee to exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers, importers, brokers or wholesalers.”*

VCBG and other stakeholders will convene to begin drafting a regulatory change to 3VAC5-30-20 before the official VA ABC regulatory process begins, building upon the consensus points reached during the session. The VA ABC meeting on this issue will be July 13, 2022.

**HB 971 (Delegate Byron) PPP Income Tax Deduction.** Retroactively allows up to a \$100,000 Virginia-specific income tax deduction for Paycheck Protection Program (“PPP”) loan/ American Rescue Plan Act related to restaurant revitalization grants/emergency injury disaster loan forgiveness recipients for certain fiscal year filers who were previously denied such deduction because it was limited to Taxable Year 2020 only. It also retroactively allows up to \$100,000 Virginia-specific subtraction for Rebuild Virginia grant recipients to certain fiscal year filers who were previously denied such subtraction because it was limited to Taxable Year 2020 only. Finally, it allows for unlimited PPP income tax deduction for Taxable Year 2021. See your tax professional for details.

**HB 426 (Delegate Bulova) VA ABC Delivery Licenses.** Creates a third-party delivery license that authorizes the licensee to deliver alcoholic beverages purchased by consumers from other retail licensees. It establishes conditions for the issuance of third-party delivery licenses, imposes eligibility requirements for delivery personnel, and sets forth requirements for a delivery to be made by such delivery personnel. Originally, we were concerned that this delivery license was more restrictive than the current guidance provided by the VA ABC, including reduced and restricted sizes of containers (crawlers, growlers, and other novelty

containers). We secured a favorable interpretation from the VA ABC on this issue (see except below):

*We appreciate the ABC's favorable interpretation that Line 1162 of HB426 includes our growlers, crowlers, and any novel containers exceeding 16oz approved by the ABC, because they are "in the manufacturer's original sealed container..." We also think that enactment language should be considered that empowers the ABC to streamline the 3rd party delivery reporting with the similar shippers reporting that delivers the same product. There appears to be a recognition that harmonizing these reporting systems as a single cloud-based tool will reduce paperwork, reduce record retention obligations, and increase ABC efficiency. Enabling another "paper-driven" compliance system should be avoided when cloud-based apps can be built in 30 days for less than \$50,000. This empowering language would also be consistent with Executive Order 1 calling for regulatory burden reductions on business.*

The lesson learned every session is that the VCBG depends upon legislators to understand the unique needs of the independent craft beer industry and support us. One of the best ways to gain that support is through education and relationship building. This was more important than ever in the 2022 session, with new leadership and members in the House of Delegates. It is important that we specifically engage the [House General Laws Committee](#) and [Senate Rehabilitation and Social Service Committee](#) leadership and members. To help accomplish this task, the VCBG has developed the [VA Craft Brewer for a Day](#) program. We provide a complete guide on how to approach legislators, host them at your brewery, promote the experience, and report your experience to the VCBG.

Next year, both the Virginia House of Delegates and Virginia Senate are up for election. Not only is 2023 a major election year for both legislative bodies, but new districts have been drawn for the election. Many elected officials are losing their district entirely or merging with a neighboring district. This means that your current Senator or Delegate may be primaried or challenged by another incumbent in the adjoining district. So, it is highly recommended that all members engage with your elected officials to ensure that they support our industry. To discuss political action support, including the pros and cons of engaging incumbents and challengers, please contact Brett Vassey, VCBG President and CEO.

In closing, the VCBG will continue to face challenges in government affairs – legislative and regulatory. Our proven strategy is to expand our industry education of General Assembly members and Executive Branch leaders. We will also continue to develop our productive relationships with the other regulated alcohol tiers. The VCBG has a strong government affairs program in place and is prepared to face the challenges ahead. The VCBG is proud to be the "shield and the sword" of the independent craft beer industry in the Commonwealth for over 10 years and looks forward to the next decade.

To join the VCBG Government Affairs committee, Farm Brewery committee, Tourism and Marketing committee, or Quality and Operations committee, please contact [Paige Wernig](#), VCBG Government Affairs Manager.

# UPCOMING VA ABC & VDACS REGULATORY ACTIVITIES

The majority of VCBG government affairs activities involve VA ABC AND VDACS regulatory matters. These matters are essential to maintaining the flexible environment in which craft beer currently operates. Building trusted relationships with regulators is essential to managing the complicated web of VA ABC regulations which frequently require interpretation, reinterpretation, and guidance. This has become a particular area of strength for the VCBG.

This year the VCBG will be involved in the following regulatory activities:

- VA ABC Licensing, Fee, and Regulatory Reforms:
  - Delivery permit data collection reform
  - Distribution performance improvement
    - Require delivery of brewery sold beer
    - Incorporating distributor performance metrics into VA ABC termination agreement cases using Blue Mountain Brewing Co. case
    - Reforming VA ABC process for terminating distribution agreements
    - VCBG distribution performance issues reporting system – review
  - Electronic reporting and tax/license/fee payments
  - Labeling reform
  - Temporary Distribution Agreement (with beer franchise act waiver)
  - Tied-house regulatory reform on shared labor with retailers
  - Virginia ABC Licensing Software Application workshop recording: <https://youtu.be/s-VRVuRS-Hc>
  - VA ABC Regulatory Reform Project (see meeting schedule below)
    - *MAY 11, 2022 MEETING 3pm – 5pm*  
*Review Chapter 10 and Chapter 11 related to Hearings and Conduct of Hearings and Public Participation Guidelines*
    - 
    - *JUNE 8, 2022 MEETING 3pm – 5pm*  
*Review Chapter 20 related to Advertising*
    - 
    - *JULY 13, 2022 MEETING 3pm – 5pm*  
*Review Chapter 30 and Chapter 60 related to Tied House and Manufacturers and Wholesaler Operations*
    - 
    - *AUGUST 10, 2022 MEETING 3pm – 5pm*  
*Review Chapter 40 relating to Requirements for Product Approval and Chapter 50 related to Retail Operations*
    - 
    - *SEPTEMBER 14, 2022 MEETING 3pm – 5pm*  
*Chapter 70 related to Other Provisions*
    - 
    - *OCTOBER 12, 2022 MEETING 3pm – 5pm*  
*Final Review*
- VDACS Regulatory Reforms:
  - Brewery Inspection Licensing Appeals Process and Guidance
  - Virginia’s Finest program to incorporate craft beer
  - VA Wine Distribution Company working group to evaluate incorporating farm beer