

COVID-19 Executive Order 51 Topics Updates Effective July 1, 2021



Topic	Topic Subject	Topic End Date	Brief Summary of Topic Revision
1	The return of product by wholesalers from retailers affected by COVID-19	Upon the expiration of E.O. 51	<p>Topic withdrawn.</p> <p>This response was intended as a one-time exception. Upon the expiration of E.O. 51, 3VAC5-30-10(B)(3)'s provisions will continue to govern any returns of product from retailers.</p>
2	The requirement for signature by purchaser at the time of delivery on invoices covering such sale	Upon the expiration of E.O. 51	<p>Topic withdrawn.</p> <p>Upon the expiration of E.O. 51, 3VAC5-30-30(A)'s provisions will govern the signature requirements; thus, purchasers will again be required to sign invoices at the time of delivery.</p>
3	The requirement for signature by recipient at the time of delivery when a licensee is making a delivery through the use of a delivery permit	Upon the expiration of E.O. 51	<p>Topic withdrawn, but statutory changes allow continuation of practice until January 1, 2022.</p> <p>Upon expiration of E.O. 51, such wine and beer delivery transactions shall be governed by the terms of the fourth enactment clause in 2021 HB 1845, which terms mirror the guidance in Topic 3, until January 1, 2022. After January 1, 2022, the signature of the wine and beer delivery recipient, whether on paper or electronic, shall be required pursuant to § 4.1-212.1(D) and 3VAC5-70-225(F).</p>
4	Virginia law regarding the delivery of wine & beer to a customer seated in a vehicle	Upon the expiration of E.O. 51	<p>Topic withdrawn, but statutory changes allow continuation of practice for customers seated in a vehicle in parking areas on a licensee's premises.</p> <p>Upon the expiration of E.O. 51, pursuant to § 4.1-209 and 2021's HB 1845, through 2021, and §§ 4.1-206.3 and 4.1-212.1(B), thereafter, licensees currently holding wine and beer licenses pursuant to § 4.1-209 may continue to be delivered to a person's vehicle if located in a designated parking area of the licensee's premises where such person has electronically ordered beer, wine, or farm wine in advance of the delivery. It should be noted, however, that such designated parking spaces must be on the licensee's premises.</p>

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5	Virginia Regulation prohibiting drive through establishments and delivering to a customer in a vehicle. (MANUFACTURER LICENSEES)	Upon the expiration of E.O. 51	<p>Topic withdrawn.</p> <p>Upon the expiration of E.O. 51, 2021's HB 1845, through 2021, and § 4.1-212.1(A), thereafter, provide authority for manufacturers to sell for off premises consumption and deliver for off premises consumption. Because these are not licenses granted pursuant to § 4.1-209, they do not currently carry privileges to deliver to a customer seated in a vehicle, which would be contrary to 3VAC5-50-150's prohibition. No privileges to deliver to customer seated in vehicle for breweries, wineries, or farm wineries in § 4.1-212.1(A).</p>
6	The Expedited process for issuance of delivery permits	March 19, 2020	This response had already been superseded by Topic 10.
7	Designated ABC distillery stores delivering to customers seated in vehicles	Upon the expiration of E.O. 51	<p>Topic withdrawn.</p> <p>Upon the expiration of E.O. 51 and the end of this topic, this will be governed by the existing distillery store agreement until July 1, 2021. Currently under the distillery store agreement that is in place between a licensed distillery and the Virginia ABC Authority all sales of distilled spirits shall take place within the designated store premises or upon issuance of a remote privilege issued by the Bureau of Law Enforcement. This agreement does not contemplate the ability to deliver to a customer seated in their vehicle at the location of the distillery store who has placed an electronic order of distilled spirits. Effective July 1, 2021, until July 1, 2022, however, HB1879/SB1299 shall again allow for distillery stores to deliver cocktails to go, including to customers seated in cars pursuant to § 4.1-212.1(E). Bottle delivery, including to customers seated in cars, is not authorized by HB1879/SB1299's § 4.1-212.1(E), and would remain subject to the terms of the distillery store agreement.</p>
8	Distilleries producing hand sanitizers	Upon the expiration of E.O. 51	<p>Topic withdrawn.</p> <p>Upon expiration of E.O. 51, a licensed distiller may no longer give away or sell hand sanitizer to communities, hospitals, patrons. As was the case prior to the issuance of E.O. 51, a licensed distiller may produce alcoholic beverages other than wine and beer on their premises and sell to those that can legally receive it out of state, to the VA ABC Board or at their designated ABC Distillery Store. In addition, upon the expiration</p>

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			<p>of E.O. 51, Virginia ABC Authority will no longer waive requirements for industrial permits or grain alcohol permits for licensed pharmacies or pharmacists. Virginia ABC Authority will also no longer waive industrial permit requirements for hospitals.</p>
9	General permit for off premises sale of wine and beer and waiver of delivery permit	Upon the expiration of E.O. 51	<p>Topic withdrawn, but statutory changes allow continuation of practices authorized under Topic 9.</p> <p>Upon the expiration of E.O. 51, pursuant to 2021's HB 1845, through 2021, there will be no changes to these privileges because of an intervening statutory change. Pursuant to §§ 4.1-206.1, 4.1-206.3, and 212.1, effective January 1, 2022, most on premises wine and beer licensees may continue to sell wine and beer for off premises consumption. In addition, most wine and beer licensees, through these statutory changes, will have the privilege to deliver wine and beer. No delivery permit will be required.</p>
10	Waiver of delivery permit for off premise licensees	Upon the expiration of E.O. 51	<p>Topic withdrawn, but statutory changes allow continuation of practices authorized under Topic 10.</p> <p>Upon the expiration of E.O. 51, pursuant to 2021's HB 1845, through 2021, there will be no changes to these privileges because of an intervening statutory change. Pursuant to §§ 4.1-206.1, 4.1-206.3, and 212.1, effective January 1, 2022, most on premises wine and beer licensees, including breweries, wineries, and farm wineries, may continue to sell wine and beer for off premises consumption. In addition, most wine and beer licensees, through these statutory changes, will have the privilege to deliver wine and beer. No delivery permit will be required.</p>
11	ABC response to the use of alternative containers or novel containers	Upon the expiration of E.O. 51	<p>Topic withdrawn, but the Board, through its discretion under 3VAC5-40-30(B), approves containers previously approved in Topic 11 for continued use.</p> <p>Pursuant to the discretion afforded the Board under 3VAC5-40-30(B) to approve resealable containers for the off-premises sale of wine and beer, the following containers will be permitted for use following the expiration of the Executive Order 51:</p>

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			<ol style="list-style-type: none"> 1. PET Plastic Growler Bottles (up to and including 64 oz. sizes). https://www.thecarycompany.com/containers/plastic/bottles/growlers 2. PET Plastic Bottles (up to and including 64 oz. sizes). https://www.containerandpackaging.com/catalog/plastic-containers/plastic-bottles 3. Swing Top Bottles (up to 750mL sizes). https://www.morebeer.com/products/swing-top-bottles-750ml-amber-case-12.html 4. Flip Top Beer Bottles (up to 32 oz.). https://www.morebeer.com/products/ez-cap-flip-top-beer-bottles-16-oz-amber-case-12.html and https://www.morebeer.com/products/beer-bottles-flip-top-750-ml-amber-case-12.html. <p>No regulatory change is necessary to allow this practice to continue.</p>
12	ABC response to Executive Directive 10 for the deferring of collection for license renewals and waiver of penalties	Upon the expiration of E.O. 51	<p>Topic 12 withdrawn upon the expiration of Executive Directive 10.</p> <p>Upon expiration of E.O.51, Executive Directive 10, which granted the Authority the power to take this action, will also expire absent additional executive action. Upon the expiration of that power granted in Executive Directive 10, the Authority will no longer defer the collection of license renewals and waiver of penalties. Any license renewal fee due thirty days following the expiration of Executive Directive 10 shall be due on the license renewal date and late penalties shall be assessed for any fees not paid by the license renewal date as required by §4.1-203 of the Code.</p>
13	ABC response to Executive Directive 10 for the sale of cocktails for off-premises consumption	Upon the expiration of E.O. 51	<p>Topic 13 withdrawn upon the expiration of Executive Directive 10, but cocktails to go are authorized by statute from July 1, 2021, until July 1, 2022.</p> <p>Upon expiration of E.O. 51, Executive Directive 10, which granted the Authority the power to take this action, will also expire absent additional executive action. Upon expiration of Executive Directive 10, sales of cocktails for off-premises consumption shall temporarily be prohibited; however, BLE shall exercise discretion in enforcing this because, effective July 1, 2021, and lasting until July 1, 2022, delivery of mixed beverages, as limited by § 212.1(G) shall be legal pursuant to HB1879/SB1299.</p>

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14	ABC response to deferred exchange of product by beer wholesale licensees to significantly impacted retailers	Upon the expiration of E.O. 51	<p>Topic withdrawn.</p> <p>This response was intended as a one-time exception. Upon the expiration of E.O. 51, 3VAC5-30-10(B)(3)'s provisions will continue to govern any returns of product from retailers.</p>
15	ABC response to licensed breweries utilizing the licensed premises to manufacture hand sanitizer	Upon the expiration of E.O. 51	<p>Topic withdrawn.</p> <p>This response was intended as a one-time exception. These provisions shall expire upon the expiration of E.O. 51.</p>
16	ABC response to temporary approval to outside dining areas	Upon the expiration of E.O. 51	<p>Topic withdrawn, and continuation or approval of outdoor dining areas are discussed in more detail in Circular Letter 21-02.</p> <p>Upon the expiration of E.O. 51, any licensee with outside dining area(s) previously approved by the Authority while under E.O. 51 may continue to use the outdoor dining space. Such outdoor dining space, however, will be counted as part of the restaurant's seating capacity for purposes of computing the licensee's annual license tax. Such continued use would also be subject to the same restrictions included within Topic 16, including those related to operating hours and entertainment.</p> <p>If the licensee wishes to expand the use of the outdoor space beyond the current restrictions, such as by using the space after 11:00 p.m. or having entertainment in the space, the licensee must submit approval from the locality permitting this expanded use. Approval from the locality must be received and acknowledged by Virginia ABC prior to expanding use beyond the restrictions included in Topic 16. The documentation for any expansion of approved outdoor spaces or new submissions for approval shall include the hours that the locality approved the space to be used and whether the locality approved the offering of entertainment in the outdoor space. For additional information, refer to Circular Letter 21-02.</p>