Virginia Association of Local Tax Auditors

ABC and Local Tax Auditor
October 27, 2017

Joseph L. Cannon
Special Agent in Charge

Overview of the Presentation

- History of Alcohol and Virginia ABC
- Role of ABC in the Commonwealth
- Divisions within ABC
- Overview of the Bureau of Law Enforcement
- Qualification for Licensee
- MBAR Investigations
- Public Safety Cases / Summary Suspension
- Tobacco Enforcement in Virginia
- ABC Resources
- Questions / Answers

History of Alcohol in the US

- On January 16, 1919, the 18th Amendment "Prohibition" was ratified after Nebraska became the 36th in the Union to ratify it.

THE AMERICAN ISSUE

U.S. IS VOTED DRY

36th STATE RATIFIES DRY AMENDMENT JAN. 16

Nebraska Noses Out Missouri for Honor of Completing Job of Writing Dry Act Into the Constitution; Wyoming, Wisconsin and Minnesota Right on Their Heels

JANUARY 16, 1919, MOMENTOUS DAY IN WORLD'S HISTORY

- On October 28, 1919, The National Prohibition Act

- " Volstead Act" was enacted by the 66th Congress with three distinct purposes:

Volstead Act: Three Distinct Purposes:

- Prohibiting intoxicating beverages
- To regulate the manufacture, sale or transport of intoxicating liquors,
  (but not consumption)
- To ensure an ample supply of alcohol and promote scientific research, development of fuel, dye and other lawful industries and practices such as religious rituals.

History of Alcohol in the US

In 1933 the U. S. Congress passed the 21st Amendment which repealed the 18th Amendment "Prohibition"

History of Virginia ABC

- The passing of the 21st Amendment allowed each State to determine how they would control their alcoholic beverages.

- In 1934 the General Assembly passed Legislation creating Virginia's Department of Alcoholic Beverage Control.

- Virginia adopted a Control system similar to Quebec Canada.

Three Member Board appointed by the Governor

Current Board Members

Jeffrey L. Painter

Judy G. Napier

Henry L. Marsh, III

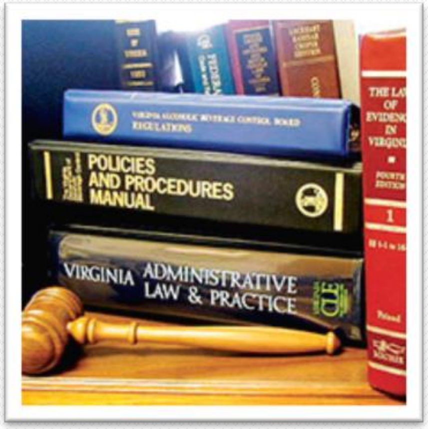
Virginia ABC's Role in the Commonwealth

- Leading revenue producer for Virginia.
- The profits collected from sales of distilled spirits at ABC stores, taxes collected on beer and wine sales, violation penalties and license.
- Virginia ABC's gross sales increased to $897.8 million, while profits rose to $165 million, an increase of $13 million.
- Since its establishment in 1934, Virginia ABC has contributed $9.5 billion to the Commonwealth's general fund, which supports major education, health and transportation initiatives.

Stores and Products

- More than 365 stores in convenient locations throughout the Commonwealth, Virginia ABC is dedicated to providing those age 21 and older with an enjoyable, modern shopping environment
- All products are stored in the 292,285-square-foot Virginia ABC warehouse located in Richmond.

Hearings Division



- Administrative law judges and court reporters travel throughout
  the state to conduct hearings on issues brought to the ABC Board for resolution.

- Hearings are held for disciplinary matters involving licensees; contested applications for ABC licenses; and matters involving the Beer and Wine Franchise Act.

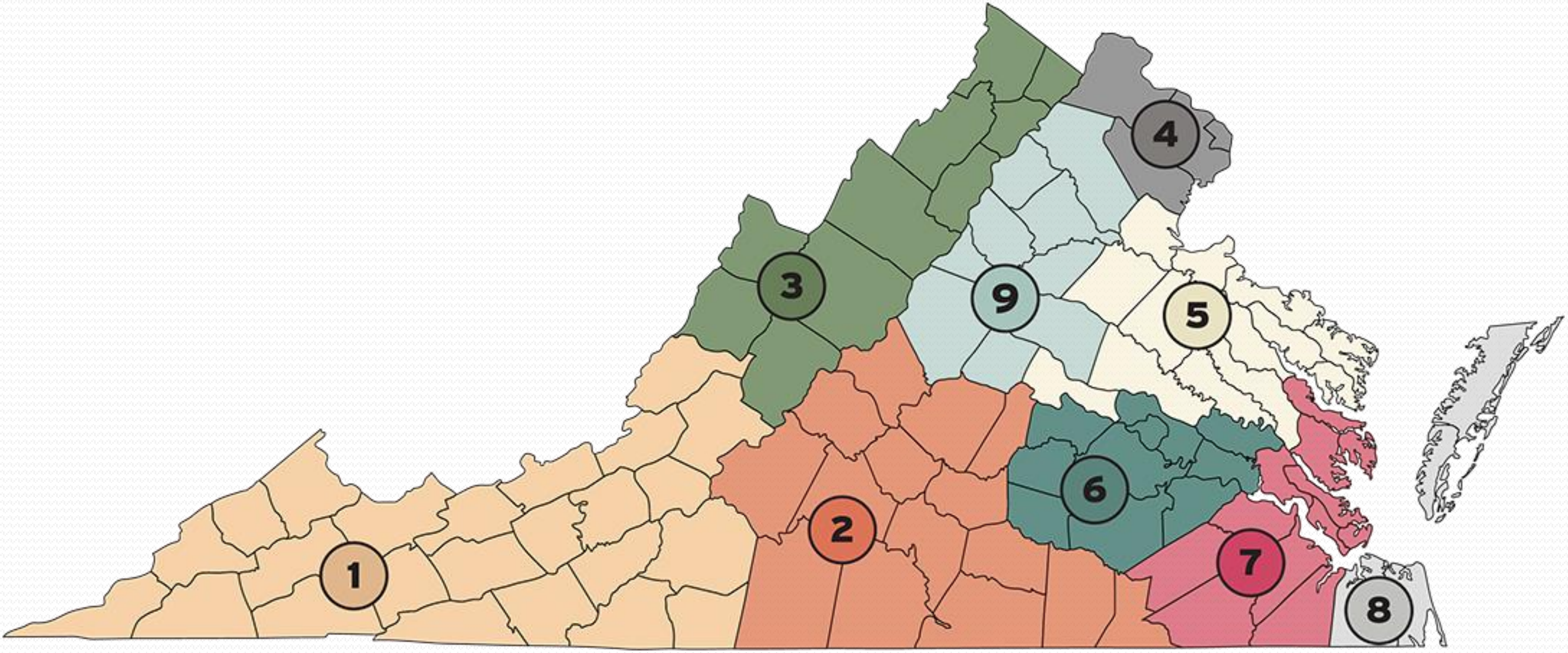
- Hearings and Appeals staff schedule and conduct initial hearings and help the Board schedule and conduct appeals sent to the Board and to circuit courts throughout Virginia.

Hearings

- When there is a disciplinary matter involving a licensee (i.e., a business is charged with an ABC law violation), a contested ABC license application or an issue involving the beer or wine franchise acts, the agency will hold an administrative hearing.
- 540 – Cases referred for Hearings
- 566 – Hearing Dispositions
- $ 708,050 – Collected in civil penalties
- $2,593.59 – Average civil penalty collected per case

"2016 ABC Annual Report Data"

Enforcement



ABC Regional Offices

- Region 1 – Roanoke
- Region 1 - Abingdon
- Region 2 – Lynchburg
- Region 3 – Staunton
- Region 4 – Alexandria
- Region 5 – Fredericksburg
- Region 6 – Richmond
- Region 7 – Hampton
- Region 8 – Chesapeake
- Region 9 - Charlottesville

Enforcement

- Virginia ABC's Bureau of Law Enforcement has nine regional offices supporting more than 100 special agents located throughout the state.
- Virginia ABC special agents have full police powers with a diverse range of duties—from investigating license applicants and conducting underage sale compliance checks, to enforcing ABC laws in nearly 19,000 licensed establishments.
- They also investigate and prosecute criminal activities ranging from drugs, gangs and gambling, to money laundering and tax evasion.

Enforcement

- The Bureau of Law Enforcement is also comprised of licensing, compliance and administrative services.
- Staff in those areas serve as liaisons to breweries, distilleries and wineries; inform and interact with manufacturers, importers and distributors; collect Virginia state taxes; process invoices and renewals; conduct alcohol-related training about state ABC laws;
- Maintain records for businesses with ABC licenses and individuals seeking licenses related to alcohol sale and consumption at private special events

Compliance Division

- Works with manufacturers, wholesalers, importers and out-of-state shippers in the alcoholic beverage industry and is responsible for granting licenses and enforcing industry regulations.
- Interprets applicable alcohol laws and regulations, offers training on industry matters and provides expert guidance on tied-house issues.
- The ABC Tax Audit Compliance Unit works directly with each of the regional agents to perform audits on an as needed basis or by random selection. Issues, discrepancies, and/or violations found during the audits are reported to the agent assigned to the region that the audit license is located in.

Compliance Tax Audit Unit

- Completes audits on manufacturers and wholesalers that do business in the Commonwealth.
- Our goal is to work with these entities to ensure proper reporting processes to Virginia ABC.
- Tax Audits are done in conjunction with Senior Special Agents from the Compliance Unit.
- 4 Auditors assigned to the following Regional offices; Hampton, Roanoke, Richmond & Fredericksburg.

Tax Management

- Tax Management is primarily responsible for the administration of excise tax collected from wholesalers that distribute alcohol in the state of Virginia.
- Administers franchises agreements that must be in place in order for a wholesaler to distribute products in Virginia as well as the approval of the contents of the individual product labels.
- Administers various miscellaneous permits and other taxes for the purchase of alcohol not related to a brick-and-mortar retail establishment.
- Permits pertaining to the movement of alcohol into and through Virginia are also administered by Tax Management.

"$83,807,399 Excise taxes collected for the Commonwealth"

Tax Management

Primary Responsibilities:

- Review wholesaler Reports:
  - Wine – Beer - Cider
- Report excise tax collections for:
  - Wine Wholesalers
  - Beer Wholesalers
- Process wine, beer, and cider product labels
- Process and monitor franchise agreements for the distribution of wine, beer, cider and low alcohol.
- Process Permits (Customs, Industrial, and Sacramental

Tax Examiner

- Data Enter Purchase Orders
- Monitor Licensee Inventory
- Provide technical support to licensees
- Process permits (Customs, Industrial, and Sacramental)
- Process Electronic submission of tax data

Product Approval

- Process Franchise Agreements
- Process Label Approval Requests
- Process Franchise Terminations
- Process Franchise Updates

Financial Reporting

- Submit Reports to Enforcement
- Submit Reports to the Public Safety Secretary's office
- Update Beer, Wine, and Cider webpages
- Ad hoc reporting for internal and external customers

Customer service

- Internal
  - FMS
  - The Board
  - Enforcement
- External
  - Wine and Beer Wholesalers
  - Wine Wholesaler Association
  - Compliance Companies
  - Industry Licensees

Projects in Progress:

- ACH Implementation
- Web Reports Re-Design
- Department Cross Training
- Electronic Submission of Wine Reports

Enforcement Stats…

- 3,373 - Criminal Investigations
- 431 - Alcohol related Arrest
- 41 - Illegal Still Investigations
- 91.04 % - Alcohol Compliance Rate
- 85.81% – Tobacco Compliance Rate
- $13,508,163.57 - Collected in Application and Licensing fees

"2016 ABC Annual Report Data"

Criminal / Administrative Investigations

- Retail / Banquet Application Investigations
- Illegal Manufacturing of Distilled Spirits (Moonshine, Untaxed Liquor)
- Narcotics Investigations
- Illegal Sale of Alcohol (Nip Joints, Bootleg/Shot Houses)
- Financial Crimes and Money Laundering
- Vice Crimes-Prostitution, Dancer Parties
- Embezzlement and Internal Theft
- MBAR Investigations
- Public Safety Investigations

Public Safety Investigations since July 1, 2016

- 49 – Public Safety Investigations at Licensed Establishments state-wide
- 42 – Richmond, Hampton and Chesapeake Regions
- 1,749.75 – Man hours in conducting these Investigations

Public Safety Cases

Summary Suspension of ABC License July 1, 2016

- Act of violence resulting in death or serious bodily injury
- Occurred on the licensed premises/immediately adjacent to the licensed premises
- Special agents of the Board shall conduct an initial investigation and submit all findings to the Secretary of the Board within 48 hours of any such act of violence

Public Safety Cases

- If the Board determines suspension is warranted, it shall immediately notify the licensee of its intention to temporarily suspend his license pending the outcome of a formal investigation
- Such temporary suspension shall remain effective for a minimum of 48 hours.
- After the 48-hour period, the licensee may petition the Board for a restricted license pending the results of the formal investigation and proceedings for disciplinary review.
- If the Board determines that a restricted license is warranted, the Board shall have discretion to impose appropriate restrictions based on the facts presented.

Retail Application Process

- ABC Application is sent to the Richmond Central Office along with nonrefundable application fee
- Notification Letters are sent to the locality
- Submit all relevant documentation and relevant fees to your assigned licensing technician;
- Posting and Publishing;
- Citizens have 30 days to object from the first date of publishing in the local newspaper
- Localities have 30 days to object from the date of the Notification Letter
- Pay additional taxes prior to the issuance of their license

Retail License

VABC

VIRGINIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

2901 Hermitage Road • P O Box 27491 • Richmond VA 23261-7491

License Number:

[redacted]

ABC LICENSE

LicenseType(s):	*Effective Period:*	*Expiration Date:*
Wine and Beer On Premises	**JUN 07, 2002 TO MAY 31, 2003**	**MAY 03**
Mixed Beverage Restaurant (Seating Capacity - 1 to 100 seats)	**JUN 07, 2002 TO MAY 31, 2003**	**MAY 03**

License Name & Trade Address:

[redacted]

Establishment Type: **Restaurant**

Telephone Numbers:

Richmond City - TERRITORY # 5
Richmond South - Region 6
(804) 213-4624

By Order of the Alcoholic Beverage Control Board

W. Curtis Coleburn

Secretary

Documentation to be submitted:

- Signed Lease in the entities name
- Criminal History on each owner/interested party
- Sketch of Building Layout
- Completed Posting and Publishing with either copy of newspaper ads or affidavit from newspaper
- Driver’s Transcript on each owner/interested party
- Company Information (SCC, Copy of By-Laws, Operating Agreements, Stock Certificates, etc)
- Management/Franchise Agreements
- FEIN Documentation, State Sales Tax Certificate
- Health Permits and Menu (if required)

Sample Notification Letter

COMMONWEALTH of VIRGINIA

Department of Alcoholic Beverage Control

2901 HERMITAGE ROAD
P. O. BOX 27491
RICHMOND, VIRGINIA 23261
(804) 213-4400
FAX: (804) 213-4411
www.abc.virginia.gov

April 1, 2015

To Whom It May Concern:

This is to inform you that a retail application has been received from an establishment that is located in Charlottesville City. The following is the basic information pertaining to the application:

License Number: 58340
Company Name: [redacted]
Trade Name: [redacted]
Address, City, State and Zip Code: [redacted]

Type of Establishment: Restaurant
Type of License Applied For: Mixed Beverage
Date of Receipt: 04-01-2015

You are receiving this email notification per Code 4.1-230-B which states:

"The Board shall notify the local governing body of each license application through the county or city attorney or the chief law-enforcement officer of the locality. Local governing bodies shall submit objections to the granting of a license within 30 days of the filing of the application."

Please feel free to contact our office at (804)298-3753 if you have any questions, need any further information or wish to file any objections against the above listed application. Please be sure to reference the license number listed above.

Thank you,

Amanda Henderson
License Technician
License Records Management
Retail License Section
(804) 298-3753- Phone
(804) 213-4592 - Fax
amanda.henderson@abc.virginia.gov

Continuation of Operations Permit COOP

- Allows a pending retail applicant to operate under the current ABC License
- Up to 120 days, unless an extension is granted
- They would either acknowledge that there are no pending tax or administrative violations against the current license
- Or they would assume responsibility for any activity that would take place on the premises
- Letter must be posted next to their current ABC License

Qualification Requirements for an ABC Retail Establishment

ABC Licenses

- Two major categories of licensees
  - On-premise
  - Off-premise

Beer Off-premise

- Maintain food inventory of $1,000
- Monthly food sales of $1,000
- Food inventory must be composed of edible items intended for human consumption, consisting of a variety of such items of the type normally sold in grocery or convenience stores

Wine and Beer Off-premise

- Maintain food inventory of $2,000
- Must maintain monthly food sales of a minimum of $2,000.
- Food inventory must be composed of edible items intended for human consumption, consisting of a variety of such items of the type normally sold in grocery or convenience stores

On-premise Establishment

- Must have a designated area(s)
- Monthly food sales must be a minimum of $2,000 regardless if establishment is boat, hotel, restaurant
- Sales requirement applies to beer on-premise, wine and beer on-premise and wine and beer on and off-premise
- Food must be prepared on-premises

Mixed Beverage Establishment

- Licensee must be a full service restaurant, An established place of business where meals with substantial entrees are habitually sold to persons and which has adequate facilities and sufficient employees for cooking, preparing and serving such meals for consumption at tables in dining areas on the premises.

Mixed Beverage Establishment

- Must maintain monthly food sales of $4,000 (at least $2,000 shall be in the form of meals with entrees; and prepared on the premises)
- Ratio provision – No more than 55% of the establishments total sales can come from the sale of liquor (mixed beverages)

“What is considered a Meal”

- Meal means a selection of foods for one individual, served and eaten especially at one of the customary, regular occasions for taking food during the day, such as breakfast, lunch, or dinner, that consists of at least one main dish of meat, fish, poultry, legumes, nuts, seeds, eggs, or other protein sources, accompanied by vegetable, fruit, grain, or starch products.
- Meals for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

“What is considered a Meal”

- Licensee must offer a full menu until at least 10:00 pm
- After 10:00 pm, Licensee may offer a limited menu containing a variety of offerings

Examples of what may count towards meals sales:

- Sandwiches
- Pizza
- Substantial Pasta Dishes
- Meal salads topped with a protein(fish, steak, chicken or other protein source)
- Cold / Vegetable plates served with a protein(fish, steak, chicken or other protein source)

Mixed Beverage Annual Review MBAR

Mixed beverage restaurant licensees shall keep records of all alcoholic beverages purchased for sale as mixed beverages and records of all mixed beverage sales. The following actions shall also be taken:

- Once a year, each licensee shall submit on prescribed forms to the board an annual review report. The report is due within 30 days after the end of the mixed beverage license year and shall include:

Mixed Beverage Annual Review MBAR

- A complete and accurate inventory of all alcoholic beverages purchased for sale as mixed beverages and held in inventory at the close of business at the end of the annual review period;

- An accounting of the annual purchases of food, nonalcoholic beverages and alcoholic beverages, including alcoholic beverages purchased for sale as mixed beverages, and miscellaneous items; and

- An accounting of the monthly and annual sales of all merchandise specified in subdivision 2 b of this subsection.

Mixed Beverage Annual Review MBAR

Virginia Department of Alcoholic Beverage Control

Mixed Beverage Annual Review

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License Id: [redacted]
Territory:
Trade Name:
Company Name:
Address:
City:
State - Zip:
Tax Number:
Phone:

Received Date	12/01/2016	**Month**	July	**Annual Review Year**	2016
Seating	150	**Signed Name**	[redacted]	**STATUS:NON COMPLIANCE**	
Sales Total	$710,042.00	**Purchases Total**	$158,160.00	**INCIDENT Number**	[redacted]
Begin Date	08/01/2015	**End Date**	07/31/2016	**Due Date**	09/01/2016

Sales	**Food & Non-Alcoholic Beverage Sales**		**Mixed Beverage Sales**		**Wine & Beer Sales**		**Misc. Sales**	**Monthly Totals**
Aug '15	**0.28**	$16,288.00	**0.50**	$29,899.00	**0.22**	$13,028.00	$0.00	$59,215.00
Sep '15	**0.31**	$28,621.00	**0.47**	$43,249.00	**0.22**	$20,754.00	$45.00	$92,669.00
Oct '15	**0.33**	$30,281.00	**0.50**	$45,805.00	**0.17**	$15,876.00	$45.00	$92,007.00
Nov '15	**0.43**	$19,390.00	**0.38**	$17,340.00	**0.19**	$8,625.00	$60.00	$45,415.00
Dec '15	**0.46**	$10,099.00	**0.34**	$7,441.00	**0.20**	$4,256.00	$15.00	$21,811.00
Jan '16	**0.51**	$13,789.00	**0.35**	$9,390.00	**0.14**	$3,649.00	$30.00	$26,858.00
Feb '16	**0.44**	$17,543.00	**0.37**	$14,570.00	**0.19**	$7,730.00	$0.00	$39,843.00
Mar '16	**0.34**	$24,146.00	**0.49**	$34,100.00	**0.17**	$11,996.00	$0.00	$70,242.00
Apr '16	**0.33**	$35,748.00	**0.48**	$51,830.00	**0.19**	$20,406.00	$0.00	$107,984.00
May '16	**0.36**	$26,972.00	**0.45**	$33,680.00	**0.19**	$14,187.00	$45.00	$74,884.00
Jun '16	**0.48**	$16,235.00	**0.29**	$9,696.00	**0.23**	$7,867.00	$75.00	$33,873.00
Jul '16	**0.40**	$18,236.00	**0.39**	$17,548.00	**0.21**	$9,397.00	$60.00	$45,241.00
Sales Total	**0.45**	$257,348.00	**0.55**	$314,548.00		$137,771.00	$375.00	$710,042.00
Purchases		$61,728.00		$48,309.00		$47,648.00	$475.00	$158,160.00
Markup	**4.17**		**6.51**					

Food /Liquor Ratio: 45.00/55.00 is unacceptable

MBAR Focus

- 1. Food purchase invoices for the MBAR period;
- 2. Ledger or spreadsheets of purchase and sales records for the MBAR review period;
- 3. Cash register tapes for the MBAR review period; and
- 4. Bank statements for the MBAR review period.

If bank statements are not made available, request a "subpoena duces tecum" from the Board.

Mixed Beverage Annual Review Investigation

Analysis of the MBAR

- A careful analysis of a MBAR report can very often reveal non-compliance with financial reporting requirements. Analysis of the MBAR should include:
- 1. Accuracy of tabulations;
- 2. Accuracy of mark-ups;
- 3. Ratio compliance;
- 4. Name and signature of person completing report;
- 5. Legibility and completeness; and
- 6. Qualifications compliance.

Inspection of the Licensed Premises

- An inspection of the licensed premises can reveal evidence of financial fraud. Food and beverage sales records are maintained in a variety of methods, ranging from handwritten daily ledgers to sophisticated POS systems. Items that should be analyzed include:
- 1. Guest checks;
- 2. Cash register tapes;
- 3. Food invoices;
- 4. Alcohol invoices;
- 5. Mixed beverage bottles and stamps;
- 6. Refrigerators and food storage areas;
- 7. Beer and wine storage ;
- 8. Sales records;
- 9. Bank records.

Mixed Beverage Annual Review Investigation

Interview Owners/Managers/Employees

Interview Local Government Officials

- Interviews of the following local government officials can be valuable in the course of a financial investigation, and can be useful in the corroboration of information or facts developed by the agent in the course of the investigation:
- 1. Chief of Police/Sheriff;
- 2. Commissioner of Revenue;
- 3. Health Department;
- 4. Plans and Permits Department;
- 5. Zoning Department; and
- 6. State Taxation Department (Should have signed EB-41, Request for Information & Joint Activity Designation).

Overt/Covert Observations of Licensed Establishment

Subpoena/Search Warrant

- If necessary, the records of an ABC licensed establishment can be obtained through an ABC Administrative Subpoena or through a Search Warrant obtained from a local judge or magistrate.
- However, agents should first attempt to obtain records through an **<u>inspection/voluntarily compliance by the licensee</u>** before obtaining a search warrant.

Validate Alcohol Purchases from ABC Licensed Wholesalers

EB-41 Request for Tax Information

EB-41 (805-79)(01/16)

Request for Information & Joint Activity Designation

Department of Alcoholic Beverage Control & Department of Taxation

To: Mrs. Arleen Green
Director of Field Audits
Office of Compliance
Department of Taxation

From: Ms. Jama Smith
Special Agent in Charge
Department of Alcoholic Beverage Control

Date:

Subject: Request for Information & Joint Activity Designation

Permission for Department of Alcoholic Beverage Control Special Agent to discuss tax information with designated TAX personnel with respect to:

Legal Business Name	
Trade Name	
Street Address	
City, State & Zip	
ABC License Number	
Virginia Sales Tax #	
Reference to:	

Requesting VA ABC Special Agent/Agent Code Number/Region/Phone #	Date:
Approval by VA ABC Regional Special Agent in Charge or Designee	Date:
VA ABC Special Agent in Charge / Special Investigation or Designee	Date:
Department of Taxation Approval	Date

§ 4.1-118. Certain Information not to be made Public.

- Neither the Board nor its employees shall divulge any information regarding
  - (i) financial reports or records required pursuant to § 4.1-114;
  - (ii) the purchase orders and invoices for beer and wine filed with the Board by wholesale beer and wine licensees; or
  - (iii) beer and wine taxes collected from, refunded to, or adjusted for any person.

The provisions of § 58.1-3 shall apply, mutatis mutandis, to beer and wine taxes collected pursuant to this title and to purchase orders and invoices for beer and wine filed with the Board by wholesale beer and wine licensees.

- Nothing contained in this section shall prohibit the use or release of such information or documents by the Board to **any governmental or law-enforcement agency, or when considering the granting, denial, revocation, or suspension of a license or permit, or the assessment of any penalty against a licensee or permittee.**

§ 4.1-118. Certain Information not to be made Public.

- Nor shall this section prohibit the Board or its employees from compiling and disseminating to any member of the public aggregate statistical information pertaining to
  - (i) malt beverage excise tax collection as long as such information does not reveal or disclose excise tax collection from any identified licensee;
  - (ii) the total quantities of wine sold or shipped into the Commonwealth
  - (iii) the total amount of wine sales in the Commonwealth
  - (iv) the total amount of purchases or sales submitted by licensees as required pursuant to § 4.1-114, provided such **information does not identify the licensee.**

Taxes

- Retailers are responsible for collecting state and local sales taxes and paying the appropriate agencies
- All state and federal excise taxes on wine and beer are paid by the wholesalers and built into the wholesale price

Inspections

- Special Agents inspect licensees at least once a year
- Special Agents must have full access to establishment in performing duties during reasonable hours,
- “Reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public substantially during the same hours, "reasonable hours" shall mean the business hours when the licensee is open to the public.

Record Keeping

- All establishments must keep their business and corporate records on the premises for two years
- Wine, beer, mixed beverages and food records must be made available for agents' review on request
- Licensee may use records on computer, microfiche, microfilm or disk can take the place of original paper records, providing that the records are available for retrieval and viewing by special agents
- At any other time of day, if the retail licensee's records are not available for inspection, the retailer shall provide the records to a special agent of the Board within 24 hours after a request is made to inspect the records

§ 4.1-225. Grounds for which Board may suspend or revoke licenses.

6. The licensee is delinquent for a period of **90 days or more in the payment of any taxes, or any penalties** or interest related thereto, lawfully imposed by the locality where the licensed business is located, as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for correction or appeal with respect to such taxes, penalties, or interest; or (iii) **the licensee has entered into a payment plan approved by the same locality to settle the outstanding liability.**

§ 4.1-225. Grounds for which Board may suspend or revoke licenses.

2. The place occupied by the licensee:

- Does not conform to the requirements of the governing body of the county, city or town in which such establishment is located, with **<u>respect to sanitation, health, construction or equipment, or to any similar requirements</u>** established by the laws of the Commonwealth or by Board regulations;
- Has been adjudicated a **<u>common nuisance</u>** under the provisions of this title or § 18.2-258; or
- Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks, prostitutes, pimps, panderers or habitual law violators or has become a place where illegal drugs are regularly used or distributed. The Board may consider the general reputation in the community of such establishment in addition to any other competent evidence in making such determination.

Tobacco Enforcement

- In 1997 Virginia ABC was vested with the powers to enforce § 18.2-371.2, purchase, possession and sell of tobacco products to minors
- Since 2001 Virginia ABC and Virginia's Department of Behavioral Health and Developmental Services has coordinated to conduct a statistically valid sample of tobacco compliance checks for the purpose of measuring Virginia's tobacco noncompliance rate.
- The US Synar amendment mandates that the states meet tobacco compliance targets or lose part of their Substance Abuse, Prevention, and Treatment Block Grant
- 85.81% – Tobacco Compliance Rate

Tobacco Enforcement

- In August 2011 Virginia ABC entered into a contractual agreement with the Food and Drug Administration to conduct Underage Buys and Advertising & Labeling Inspections
- Approximately 30 Inspectors are currently credentialed in Virginia
- 3,000 Underage Buys checks
- 1,000 A&L checks
- In Fall 2014 the FDA Contract was reissued
- All enforcement action is handled by the FDA.

§ 4.1-103.01. Additional powers; access to certain tobacco sales records; inspections; penalty.

- A. Notwithstanding the provisions of § 58.1-3 or any other provision of law, the Tax Commissioner shall provide to the Board the name, address, and other identifying information within his possession of all wholesale cigarette dealers.

- B. All invoices, books, papers or other memoranda and records concerning the sale of cigarettes maintained by wholesale cigarette dealers pursuant to § 58.1-1007 shall be subject to inspection during normal business hours by special agents of the Board. Any person who, upon request by a special agent, unreasonably fails or refuses to allow an inspection of the records authorized by this subsection shall be guilty of a Class 2 misdemeanor.

- C. The Board may use the information obtained from the Tax Commissioner or by the inspections authorized by subsection B only for the purpose of creating and maintaining a list of retail dealers to facilitate enforcement of the laws governing the sale of tobacco products to minors. Neither the Board nor any special agent shall divulge any information provided by the Tax Commissioner or obtained in the performance of the inspections authorized by subsection B to anyone other than to another special agent. Any person violating the provisions of this subsection shall be guilty of a Class 2 misdemeanor.

ABC Resources

ABC Website – How to get a License

https://www.abc.virginia.gov/licenses/get-a-license

Licensee Search Portal

https://www.abc.virginia.gov/licenseesearch/retail_search_view.do

ABC Control Act

https://law.lis.virginia.gov/vacode/title4.1/

ABC Regulations

https://law.lis.virginia.gov/admincode/title3/agency5/

Questions…

Special Agent in Charge Joseph L. Cannon
900 Natural Resources Drive Ste. 700
Charlottesville, VA 22903
Phone: 434-977-2974
joseph.cannon@abc.virginia.gov

abc.virginia.gov