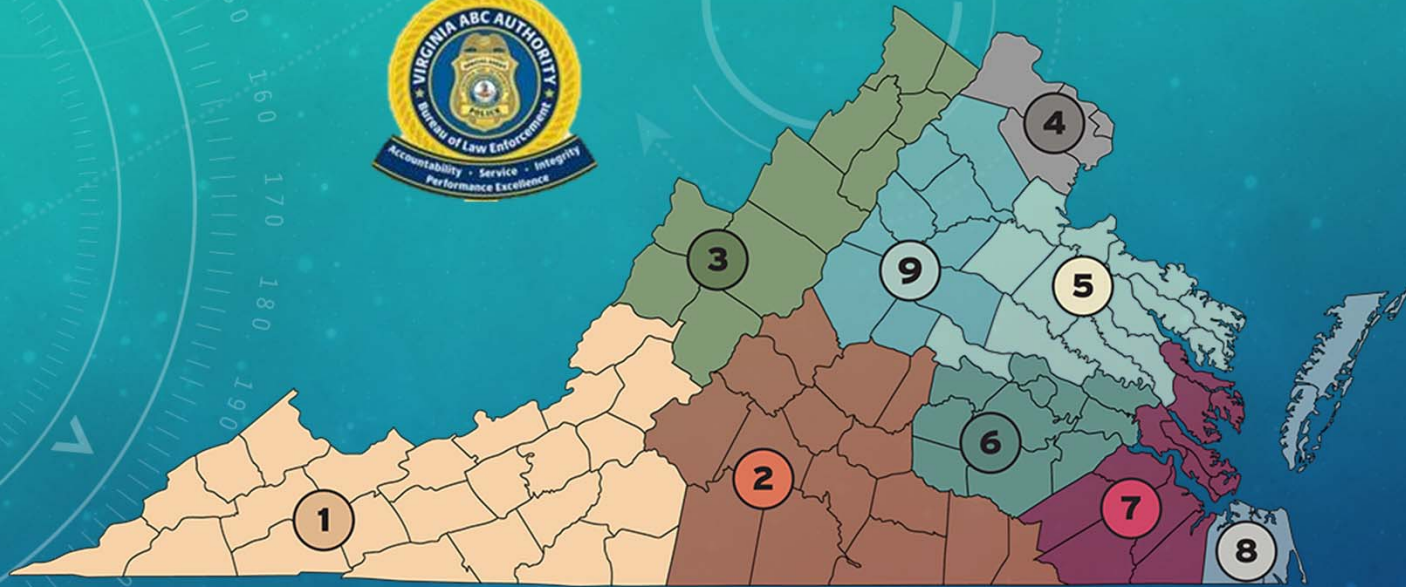




VIRGINIA ASSOCIATION OF LOCAL TAX AUDITORS – ANNUAL MEETING

4.1-225(6) GROUNDS FOR WHICH ABC BOARD MAY SUSPEND OR REVOKE LICENSES – DELINQUENT TAXES

4.1-212 A (16) CONTINUATION OF OPERATIONS PERMIT

HOW TO INITIATE A REGULATORY INVESTIGATION WITH VIRGINIA ABC BUREAU OF LAW ENFORCEMENT

UPDATE HOUSE BILL 1845 & 4.1-233.1 FEES ON LOCAL LICENSE INCREASE

PRESENTED BY: ASSISTANT SPECIAL AGENT IN CHARGE SERGEY I. SOLODYANKIN

VIRGINIA ABC BUREAU OF LAW ENFORCEMENT – STAUNTON & CHARLOTTESVILLE REGIONAL OFFICE

VIRGINIA ABC ACT: 4.1-225 (6)



The Board may suspend or revoke any licenses (except a brewery license) in which the Board may impose penalties as provided in 4.1-227, if it has reasonable cause to believe that:

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 (1) the outstanding amount is de minimis; (2) the licensee has pending a bona fide application for correction or appeal with respect to such taxes, penalties, or interest; or (3) the licensee has entered into a payment plan approved by the same locality to settle the outstanding liability.



HOW TO INITIATE A REGULATORY INVESTIGATION BY THE VIRGINIA ABC BUREAU OF LAW ENFORCEMENT FOR 4.1-225(6) VIOLATION



- Contact an ABC Bureau of Law Enforcement Regional Office and speak with the assigned Special Agent for your locality.
- Provide a synopsis and a signed letter stating that the ABC Licensed Entity has been delinquent for 90 days or more in the payment of taxes, penalties or interests imposed by the locality where the licensed business is located.
- ABC Special Agent will reach out to the ABC Licensed Entity and may either conduct an inspection or notify the licensee that an investigation requested has been filed with the agency.
- ABC Special Agent will first issue a written warning and provide a reasonable amount of time for the licensee to enter a payment plan with the locality or settle their past due taxes, interest and penalties.
 - A written warning is typically issued at the start to allow the licensee to self-correct or come into compliance without initiating regulatory action, unless it's a documented and re-occurring violations.
- If a written warning was issued and the licensee still has not come into compliance or has entered into any payment plans with the locality, the ABC Special Agent will ask for a follow-up letter from the locality stating that the licensee is non-compliant, a report will be prepared to be sent to Virginia ABC Hearings and Appeals Division for adjudication.
- A representative from the Commissioner of the Revenue Office would have to appear as a witness in the regulatory hearing.



HEARINGS & APPEALS DIVISION PROCESS



- Violation report supported by facts and evidence is submitted.
- Office of Legal Counsel drafts a consent settlement.
 - Monetary fine and/or
 - Suspension of license for a pre-determined amount of time
- If the licensee declines the consent offer.
- Hearing and Appeal Division sets a hearing date.
- Evidence and facts are presented, witnesses testify, cross examination occurs.
- Decision is issued after relevant laws and procedures are reviewed by the administrative judge.



CASE STUDY

CHARLOTTESVILLE COMMISSIONER OF THE REVENUE OFFICE

AUGUST – OCTOBER 2019



- On or about August 2019, ABC Special Agent Kyle Meador was made aware that an ABC Licensed Entity was delinquent on filing meal taxes for more than 90 days and had not paid any property taxes. Agent Meador based on the letter from the Commissioner of the Revenue issued the ABC Licensed Entity a written warning and advised that the entity needed to either pay in full or begin a re-payment plan.
- Beginning of October 2019 Agent Meador confirmed again with the Commissioner of the Revenue that the ABC Licensed Entity has not entered into any payment plans or repaid any owed taxes. During the same month Agent Meador received confirmation letter detailing how much the ABC Licensed Entity owed.
- The ABC Licensed Entity responded that they had paid or were on a payment, however were unable to produce any receipts, documents or correspondences where they were on a repayment plan.
- At the end of October 2019 Agent Meador again verified through the Commissioner of the Revenue that the information received was still accurate and that the ABC Licensed Entity was not in compliance.
- Since a written warning was issued and a deadline was set, Agent Meador prepared an investigative report and submitted it along with evidence and witness subpoena to the ABC Hearings & Appeals Division.
- A formal hearing was convened in January 2020. During the hearing business tax supervisor with City of Charlottesville testified that the ABC Licensed Entity had not filed any meal taxes from 2018 to present. Part of the argument surrounded as to when the ABC Licensed Entity had entered into any oral or written agreements. However after documentation was provided, the final decision was rendered. The ABC Licensed Establishment was ordered to pay Virginia ABC \$2000.00 dollars for the violation.
- The establishment surrendered its ABC License in June 2020.

QUESTIONS REGARDING 4.1-225(6) OR REGULATORY INVESTIGATION.



CONTINUATION OF OPERATION PERMIT

4.1-212 A.15 (COOP)



- A COOP Permit is a bridge between an active ABC License and an applicant for a new ABC License.
- It allows a pending applicant to open up their business and operate under the active ABC License for a period of no more than 120 days or until the application is completed.
- The process may require the ABC Special Agent to contact the Commissioner of the Revenue Office to obtain information on whether or not the current ABC Licensed Entity owes any meal or business-related taxes, penalties or interest.
- The applicant entity may elect to take on any owed taxes, penalties or interest from the current active licensee if that option is checked.
- Typically, the applicant entity does not select that option and thus ABC Special Agents would contact the locality to verify that the current ABC License Entity does not owe any meal or business-related taxes.

4.1-212 A.15 Any person who, through contract, lease, concession, license, management or similar agreement (hereinafter referred to as the contract), becomes lawfully entitled to the use and control of the premises of a person licensed by the Board to continue to operate the establishment to the same extent as a person holding such license, provided such person has made application to the Board for a license at the same premises. The permit shall (1) confer the privileges of any licenses held by the previous owner to the extent determined by the Board and (2) be valid for a period of 120 days or for such longer period as may be deemed necessary as determined by the Board pending the completion of the processing of the permittee's license application. No permit shall be issued without the written consent of the previous licensee. No permit shall be issued under the provisions of this subdivision if the previous licensee owes any state or local taxes, or has any charges for violation of this title or any Board regulation, unless the permittee agrees to assume the liability for the taxes or any penalty for the pending charges. An application for a permit may be filed prior to the effective date of the contract. Upon effective date of the permit, (a) the permittee shall be responsible for compliance with the provisions of this title and any Board regulation and (b) the previous licensee shall not be held liable for any violation of this title or any Board regulation committed by, or any errors or omissions of, the permittee.

NEW LICENSE & INCREASE IN FEES JANUARY 1 2022

HOUSE BILL 1845 & 4.1-233.1 FEES ON LOCAL LICENSES



- House Bill 1845 – Market Place License

Per 4.1-206.3 The Board may grant a market place license to persons operating a business of which a primary function is not the sale of alcoholic beverages. The licensee will be authorized to serve complimentary wine or beer to bona fide customers on the licensed premises.

The example regarding this type of license would be a Williams-Sonoma or Jos A. Bank potentially. The House Bill 1845 eliminates Day Spa, Art Instruction Studio, Meal Assembly Kitchen, Canal Boat Operator, Co-Working Establishment and Bespoke Clothier. It directs the license holders of the eliminated licenses to apply for the Market Place License.

- 4.1-233.1 Fees on Local Licenses

In addition to having Virginia ABC increasing their ABC Licensing fees under 4.1-231.1 effective January 1, 2022. Localities may collect annual local license taxes not exceeding the set-forth amounts found under 4.1-233.1 (Effective January 1, 2022).

CONTACT INFORMATION FOR LOCALITIES

REGION 1 – ROANOKE

COUNTIES:

Alleghany, Botetourt, Craig, Franklin, Henry, Montgomery, Patrick and Roanoke.

CITIES:

Covington, Martinsville, Roanoke and Salem.
2943 Peters Creek Rd. NW, Suite D
Roanoke, Virginia 24019
(540)562-3604

REGION 1 – SATELLITE OFFICE IN ABINGDON

COUNTIES:

Bland, Buchanan, Carroll, Dickenson, Floyd, Giles, Grayson, Lee, Pulaski, Russell, Scott, Smyth, Tazewell, Washington, Wise and Wythe.

CITIES:

Bristol, Galax, Norton and Radford.
102 Abingdon Place
Abingdon, Virginia 24211
(276)676-5502

REGION 2 – LYNCHBURG

COUNTIES:

Amherst, Appomattox, Bedford, Brunswick, Buckingham, Campbell, Charlotte, Cumberland, Greensville, Halifax, Lunenburg, Mecklenburg, Nelson, Pittsylvania and Prince Edward.

CITIES:

Danville, Emporia and Lynchburg.
20353 Timberlake Rd., Suite A
Lynchburg, Virginia 24502
(434)582-5136

REGION 3 – STAUNTON

COUNTIES:

Augusta, Bath, Clarke, Frederick, Highland, Page, Rockbridge, Rockingham, Shenandoah and Warren.

CITIES:

Buena Vista, Harrisonburg, Lexington, Staunton, Waynesboro and Winchester.
38 Professional Way (P.O. BOX 1)
Verona, Virginia 24482
(540)332-7800

REGION 4 - ALEXANDRIA

COUNTIES:

Arlington, Fairfax, Loudoun and Prince William.

CITIES:

Alexandria, Fairfax, Manassas, Manassas Park and Falls Church.
6308 Grovedale Dr
Alexandria, Virginia 22310
(703)313-4444

REGION 5 & 6 – FREDERICKSBURG AND RICHMOND

COUNTIES:

Caroline, Essex, Goochland, Hanover, King & Queen, King George, King William, Lancaster, Northumberland, Richmond, Spotsylvania, Stafford and Westmoreland, Amelia, Charles City, Chesterfield, Dinwiddie, Henrico, New Kent, Nottoway, Powhatan and Prince George.

CITIES:

Fredericksburg, Colonial Heights, Hopewell, Petersburg and Richmond.
7450 Freight Way
Mechanicsville, Virginia 23116
(804)213-4620

REGION 7 – HAMPTON

COUNTIES:

Gloucester, Isle of Wight, James City, Mathews, Middlesex, Southampton, Surry, Sussex and York.

CITIES:

Franklin, Hampton, Newport News, Poquoson, Suffolk and Williamsburg.
9317 Warwick Blvd
Hampton, Virginia 23605

REGION 8 – CHESAPEAKE

COUNTIES:

Accomack and Northampton

CITIES:

Chesapeake, Norfolk, Portsmouth and Virginia Beach
1103 South Military Hwy
Chesapeake, Virginia 23320
(757)424-6700

REGION 9 – CHARLOTTESVILLE

COUNTIES:

Albemarle, Culpeper, Fauquier, Fluvanna, Greene, Louisa, Madison, Orange and Rappahannock.

CITIES:

Charlottesville
630 Peter Jefferson Pkwy, Suite 260
Charlottesville, Virginia 22911
(434)977-2974

