

From: **Helen Gordon** <helen.gordon@virginiaabc.com>

Date: Thu, Mar 20, 2025 at 4:14 PM

Subject: RE: FOLLOW-UP Confirmation Request for VaABC Forms and Documents received

To: Maura Walsh-Copeland <Maura@walsh-copelandconsulting.com>

Good afternoon Ms. Walsh-Copeland,

Assistant Special Agent in Charge John O'Connell has confirmed that the forms you have are the most current forms.

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From: Maura Walsh-Copeland <Maura@walsh-copelandconsulting.com>

Sent: Thursday, March 20, 2025 2:28 PM

To: MeaghanOBrien@virginiaabc.com

Subject: FOLLOW-UP Confirmation Request for VaABC Forms and Documents received

Meaghan,

I was very thankful for the quick and complete response to questions originally presented to Marc Haalman and responded to by your office in September 2023. The information was extremely helpful.

As a follow-up,

- I would appreciate confirmation that the attached inspection forms and GO procedure documents received are still **THE MOST CURRENT VERSIONS.**
- If any have been updated since receipt in September, 2023 I would appreciate receiving the revised versions.

Thank you, again, for all your help!

Maura

Maura Walsh-Copeland



Walsh-Copeland Consulting, LLC



VIRGINIA ALCOHOLIC BEVERAGE CONTROL
BUREAU OF LAW ENFORCEMENT

GENERAL ORDER #503

BANQUET/SPECIAL EVENT APPLICATION INVESTIGATIONS

EFFECTIVE DATE: July 1, 2014

REVISED: June 19, 2015

REFERENCES:

REPLACES:

TLP: AMBER



Chief of Law Enforcement

I. PURPOSE

The purpose of this General Order is to provide guidance to members of the Bureau of Law Enforcement regarding the investigation of applications for one-day and multi-day Banquet and Banquet Special Event licenses.

II. POLICY

It shall be the policy of the Bureau of Law Enforcement to promptly and thoroughly investigate all applications for Banquet/Special Event licenses, and to issue licenses to qualified individuals and entities.

III. PROCEDURES

A. Banquet License

1. A Banquet License is issued only to individuals (natural persons as distinguished from corporations or associations) for private events limited in attendance to members and invited guests of a particular group or association. A ratio of approximately seven (7) guests per member is considered to be a private event. Exceptions: family reunions, wedding receptions, birthdays and anniversaries.
2. The privileges of a Banquet License authorize the dispensing and consumption of beer and/or wine, mixed beverages, or guests may bring their own alcoholic beverages. The sale of alcoholic beverages for profit is not authorized.
3. The privileges of a Banquet License authorizes, (but does not require) the licensee to purchase beer and/or wine from a licensed Virginia wholesaler.

4. Other Provisions

- a. A Banquet License is required if the event will be held on the premises of a non-licensed club, and at any non-licensed restaurant facility. It may be required at certain licensed clubs.
- b. Licenses may not be issued to bottlers or wholesalers or manufacturers of alcoholic beverages.
- c. Third party caterers may not obtain a banquet license on behalf of a client; however caterers may supply and dispense the beer/wine purchased/provided by the banquet licensee for a lump-sum payment as part of a contractual agreement for the caterer's services.

B. Banquet Special Event License

- 1. A Banquet Special Event License is issued to duly organized, non-profit corporations or associations in charge of the event being conducted for athletic, charitable, civic, educational, political, or religious purposes. If the organization possesses a 501C (3) IRS status, this will be considered a duly organized group for the purposes of this section. Additionally, it is not necessary for a group to possess a 501C (3) status to be considered duly organized, but further investigation should be completed.
- 2. The privileges of a Banquet Special Event License authorize the dispensing and/or sale of beer and/or wine, or both. Guests may bring their own alcoholic beverages. Additionally, the licensee is authorized, (but not required) to purchase beer and/or wine from a licensed Virginia wholesaler.
- 3. Other requirements:
 - a. An event may be public or private.
 - b. Applicant must be legitimate "non-profit" or "not for profit" organization. Eligibility items that prove the non-profit organization's status include, but are not limited to:
 - 1) Registered with the State Corporation Commission;
 - 2) By-laws which list their stated purpose;
 - 3) Membership list;
 - 4) Dues structure;
 - 5) Conducts regular meetings;

- 6) Maintains minutes of their meetings;
- 7) Maintains verifiable and accurate financial records; and
- 8) Exempt from federal and state taxes. (501C [3] IRS classification is prima facie in considering a group as qualified for banquet special event licenses.)

NOTE: An athletic team will not be approved for a Banquet Special Event License that is not a bonafide non-profit entity.

c. In response to legitimate concerns from potentially objected third parties, and in lieu of an ABC hearing on the matter, applicants for Banquet Special Event License applicants may voluntarily agree to have certain agreed upon conditions such as:

- 1) A limit on the amount of alcoholic beverages sold or served to any one person at any one time. (i.e. no more than two alcoholic beverages be served to any one person at one time).
- 2) No server of alcoholic beverages consumes any alcoholic beverages while on duty.
- 3) The sale and consumption of alcoholic beverages be restricted to the approved area.
- 4) The sale and/or consumption of alcoholic beverages are restricted to the following hours: (the day, date and time should be listed).
- 5) Other restrictions as agreed to.

d. Promoters

- 1) Many “non-profits” will employ promoters to facilitate the organization and execution of a special event fund-raiser. However, many promoters will use “non-profits” as a front to circumvent ABC laws prohibiting events aimed at personal monetary gain.
- 2) When a “non-profit” has employed a promoter to facilitate the organization and execution of a special event a contract memorializing the relationship must be presented. The contract must cover the following points:
 - a) Who the agreement is between;

- b) That the “non-profit” is in control of the event; and
- c) That all proceeds will go to the “non-profit” and the promoter will receive either a set fee for their services or a lesser percentage of the net profits.

C. Mixed Beverage Special Event

- 1. Issued to the following:
 - a. Same as Banquet Special Event License.
- 2. Authorizes the following:
 - a. All beer and wine authorizations that a Special Event license carries (see B.2) and;
 - b. Authorizes the sale of mixed beverages purchased from a Virginia ABC store.
- 3. Other requirements:
 - a. Same as Banquet Special Event License.

D. Mixed Beverage Club Event License

- 1. Issued to the following:
 - a. A private club which already holds a Beer or Wine and Beer Club License.
- 2. Authorizes the following:
 - a. Authorizes a club holding a Beer or Wine and Beer Club License to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises.
- 3. Other requirements:
 - a. A separate license is required for each day of each club event.
 - b. No more than 12 such licenses may be granted to a club in any calendar year.

E. Tasting License

1. Issued to business(s) or individual(s) who are not prohibited from holding an ABC license and wishes to sell or give samples of alcoholic beverages for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted.
2. Authorizes the following:
 - a. Authorizes licensee to sell or give samples of alcoholic beverages of the type specified in the license.
3. Other requirements/limitations:
 - a. Not to exceed 2 ounces per person of each product tasted provided that in the case of wine or beer, no more than four products will be offered or in the case of spirits no more than two products shall be offered.
 - b. Tasting licenses for mixed beverages shall only be issued in localities that have approved the sale of mixed beverages.
 - c. No license shall be issued to any person to whom issuance of a retail license is prohibited.
 - d. No more than four tasting licenses annually shall be issued to any person.

F. Manufacturer's Multi Day Banquet Special Event

1. Issued to the following:
 - a. Manufacturers of beer or wine.
2. Authorizes the following:
 - a. Authorizes a manufacturer of malt beverages or wine, whether licensed in the Commonwealth or not, to obtain a banquet license for a special event as provided in § 4.1-209 upon application to the Board provided that such event is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about malt beverage or wine products.

3. Other requirements:
 - a. The manufacturer is limited to no more than four banquet licenses for such special events per year, and
 - b. When the event occurs on no more than three consecutive days, it requires only one license and constitutes only one of the manufacturer's four events per year.

IV. PROCEDURES-APPLICATION PROCESS

A. Forms

“Application for Banquet License” form 805-4 is used to request all Banquet/Special Event Licenses. This form is available at each ABC Regional Office, the Central Office, and online at www.abc.virginia.gov.

B. Time Frames

1. Banquet/Special Event License applications should be investigated when they are received.
2. In person applications should be received at least ten (10) business days prior to the day of the event. Applications filed online must also be filed at least ten (10) business days before the event.
 - a. Agents/Administrative Technicians should make every effort necessary to complete any application investigation not submitted within the ten (10) day time frame.
 - b. If there is insufficient time to complete the investigation of a Banquet/Special Event application, the agent should immediately notify the supervisor.

C. Every reasonable effort should be made to display a spirit of cooperation in resolving discrepancies that would lead to refusal.

D. All Banquet/Special Event applications will be processed in the following manner:

1. Banquet License applications
 - a. Administrative Technicians are authorized to gather all required documentation.
 - b. Applications may be accepted without the applicant's social security number. The Administrative Technician will accept the application but encourage the applicant for either a social security

number or an individual taxpayer identification number (ITIN), one of these numbers is required if a refund is owed to the applicant.

- c. Administrative Technicians will data enter all information in WebCORE.
- d. Administrative Technicians will be responsible for collecting money and entering info into Money Redistribution system.
- e. Administrative Technicians will verify all information by personal contact with the applicant.
- f. Administrative Technicians will search for the applicants name in WebCORE to ascertain if the applicant has been issued an unusual amount of one-day licenses.
- g. Administrative Technicians will screen the applicants name as necessary to determine if the applicant has been identified as previously hosting an illegal or suspicious event.
- h. The Administrative Technicians will:
 - 1) If the paperwork is in order and there is no unusual number of previous events, and no other suspicious indicators, forward the application to the agent or supervision for review and approval.
 - 2) If the Administrative Technicians uncovers any suspicious indicators, or the applicant has an unusual number of previous events notation should be made and forwarded to the special agent so a more comprehensive investigation can be conducted.

2. All other Banquet/Special Event License applications

Will be handled the same as Banquet Licenses except that when the paperwork is forwarded to the agent from the Administrative Technicians, the agent is required to make personal contact with the applicant and verify all information, giving special attention to any suspicious indicators. Manufacturer's Multi-Day Event applications will be forwarded to the Compliance Unit for investigation/approval.

V. **ADDITIONAL GENERAL REQUIREMENTS**

- A. Banquet/Special Event applications requiring a hearing may be considered withdrawn by supervisor if there is insufficient time to schedule an Administrative Hearing.
- B. Posting and publishing is not required for any Banquet/Special Event application.
- C. The licensed area should be defined in detail in the application for the license, and outside events should have physical or natural boundary lines.
- D. The sale of alcoholic beverages is prohibited between 2:00am and 6:00am under Banquet/Special Event licenses.
- E. Banquet/Special Event licenses will not be issued for an event held at a retail licensed premises while that retail license is under suspension.
- F. Banquet/Special Event licenses will not be issued for promotional or commercial events that are open to the public. Promotional or commercial events may be licensed, provided alcoholic beverages are not sold and admittance to the affair is by invitation only. Banquet licenses issued for promotional or commercial events should contain the following statement: "Restricted against the sale of alcoholic beverages."
- G. Banquet/Special Event licenses will not be issued to persons if the event will result in personal monetary gain. If promoters are involved, a copy of the contract between the group holding the license and the promoter should accompany the application for the license.
- H. A single license will be issued at the same location when covering more than one day within the same month and will require only one application fee, if filed on a single application form.
- I. An application received for a single event at the same location to include consecutive days not in the same month will not require a separate application fee for each month covered (i.e., December 31, January 1).
- J. A separate application license fee will be required for each day or days, of the event. The time period covered under the banquet license is noon of one day to noon of the next day.
- K. When the need arises to reschedule an event after a license has been issued, the original license should be returned and a new license issued to reflect the new date. When this is not possible, the agent, upon authorization from the supervisor, may meet with the licensee to change the initial date on the license.

- L. In no case will an alternate or inclement weather date be noted on the license. However, inclement weather locations may be noted.
- M. When an event is canceled and is not to be rescheduled, and the privileges of the license have not been exercised, the licensee is entitled to a refund of the application license tax only.

VI. WAIVER OF BANQUET SPECIAL EVENT LICENSE TAX

- A. The license tax may be waived under the following circumstances:
 - 1. The applicant must represent a duly organized, not-for-profit corporation or association holding a non-profit event.
 - 2. A "non-profit event" means income from the event will not exceed expenses for the event. Fixed costs, including, but not limited to, staff salaries, rent, utilities and depreciation will not be included as expenses.
 - 3. Alcoholic beverages may be served in any combination, the amount to be no more than that which equals the total alcohol content by volume in two kegs (31 gallons) of beer.
 - 4. The granting of a waiver is limited to two events per fiscal year (July 1 through June 30) for each group.
 - 5. The applicant must submit with the application, an affidavit certifying the above.

VII. BANQUET LICENSE GUIDELINES FOR STUDENT ORGANIZATIONS AFFILIATED WITH COLLEGES AND UNIVERSITIES

- A. A Banquet License may be issued to college and university fraternities under the following special occasions:
 - 1. Special occasions are defined as: Homecomings, Founder's Day, Alumni or Alumnae events, etc.
 - 2. Agents should contact university or college officials for their input regarding the issuance of a license.
 - 3. Licenses should not be issued for any event where students less than 21 years of age are the principle participants. Rush week, orientation week, etc.
 - 4. College fraternities should not be licensed for events which might be described as weekly beer parties, keg parties, hump parties, or routine weekday parties, routine weekly dances, and the like.

5. Licensed fraternity events must be restricted in attendance to:
 - a. Members of the fraternity and their guests. Each member of the licensed fraternity may have a maximum of seven invited guests.
 - b. Alumni members of the fraternity and their guest.



VIRGINIA ALCOHOLIC BEVERAGE CONTROL
BUREAU OF LAW ENFORCEMENT

GENERAL ORDER #100

ORGANIZATIONAL PHILOSOPHY

EFFECTIVE DATE: January 23, 2014

REVISED: June 19, 2015

REFERENCES:

REPLACES:

[TLP](#): WHITE


Chief of Law Enforcement

I. PURPOSE

The purpose of this General Order is to institute the organizational philosophies which will establish the expectation of conduct and performance for all members of the Bureau of Law Enforcement. It is recognized that rules, regulations, policies and procedures can only describe the correct things to do. The intent of the organizational philosophy is to prescribe the correct things to do for most anticipated actions or circumstances that may be encountered by Bureau members.

II. POLICY

The Bureau of Law Enforcement prescribes an organizational philosophy that establishes the expectations of conduct and performance for all members of the Bureau of Law Enforcement. All personnel should strive to abide by these statements.

III. PROCEDURES

A. Overview

The organizational philosophy of the ABC Bureau of Law Enforcement is captured in four statements related to the organization's Vision, Values, Mission and Employee Value. These statements will be established by Bureau leadership and periodically reviewed.

B. Vision

To be recognized internationally as the premier alcohol law enforcement organization; acknowledged for its innovative and effective approach to enforcement, training and education.

C. Values

An organizational commitment to professionalism through:

1. Integrity
2. Excellence
3. Pride

D. Mission

To improve the quality of life in the Commonwealth through the fair and impartial enforcement of laws and regulations governing the manufacture, distribution, sale and consumption of alcoholic beverages and tobacco while utilizing innovative educational and community partnerships.

E. Employee Value

Every employee plays a vital role in support of our mission. We are committed to a work environment that recognizes excellence and provides opportunities for learning and personal growth. Open communications, creativity and innovation are encouraged for improving the effectiveness of the Bureau. Above all, employees will be shown the same level of fairness, concern, respect, and professionalism within our organization that they are expected to show to all ABC customers.



VIRGINIA ALCOHOLIC BEVERAGE CONTROL
BUREAU OF LAW ENFORCEMENT

GENERAL ORDER #502

ALCOHOLIC BEVERAGE LICENSE APPLICATIONS

EFFECTIVE DATE: July 1, 2014
REVISED: June 19, 2015
REFERENCES:
REPLACES: OM-03, O-004, O-005
TLP: AMBER


Chief of Law Enforcement

I. PURPOSE

The purpose of this General Order is to provide guidance regarding the receipt, handling, and investigation of all applications to the Virginia Department of Alcoholic Beverage Control for a retail license to sell alcoholic beverages in Virginia.

II. POLICY

It is the policy of the Bureau of Law Enforcement to conduct a detailed and thorough investigation of all persons and locations for ABC licenses in a prompt and efficient manner. Investigations will adhere to the Code of Virginia, Board Regulations, Bureau Policies and Procedures, and applicable local ordinances. It will also be the policy of the Bureau of Law Enforcement to conduct an investigation when it comes to the attention of the agency that the licensed premises has changed in some way that may affect the statutory or regulatory requirements upon which the original license was issued.

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IV. TYPES OF LICENSES

Descriptions for types of licenses offered by the Virginia Department of Alcoholic Beverage Control can be located in the Code of Virginia Title 4.1, Alcoholic Beverage Control Act, §4.1-206 through §4.1-210.

V. TYPES OF OWNERSHIP

1. Sole Proprietor - An unincorporated business that is owned and operated by one person. This person receives all the profits and is personally liable for all the losses. (Does not have to register with the State Corporation Commission.)
2. General Partnership - A relationship existing between two or more persons who join together to carry on a trade or business. Each partner contributes money, property, labor and/or skills, and agrees to share in the profits or losses of the business. (Registering with the State Corporation Commission is optional.)
3. Limited Partnership (LP) - Created to obtain additional funds. Limited partners' liability is limited to the extent of their investment. (Must register with the State Corporation Commission.)
4. Limited Liability Partnership (LLP) - A status granted to a general partnership or limited partnership that has registered as a limited liability partnership in its home state. (Must register with the State Corporation Commission.)
5. Limited Liability Company (LLC) - An unincorporated association usually having one or more members. It is a separate legal entity that limits the personal liability of all its owners. (Must register with the State Corporation Commission.)
6. Corporation - An entity with a legal existence apart from its owners. Corporations are classified as "stock" or "non-stock" and "domestic" or "foreign." It consists of a group of people authorized to perform certain professional services in the corporate form. (Must register with the State Corporation Commission.)
7. Association - A group of individuals or companies in a specific business or industry organized to promote common interests. (Does not have to register with the State Corporation Commission.)
8. Tax-exempt Private Club - A non-profit organization approved by the IRS and operated solely for a national, social, patriotic, political, athletic or similar purpose. (Register with the State Corporation Commission only if a non-stock corporation; otherwise, does not have to register with the State Corporation Commission.)

VI. PROCEDURES

A. Retail Investigations

1. Applicants are required to file an application form 805-52 consisting of two parts—Part 1, which is ownership and establishment information, and Part 2, which is Posting and Publishing information. Part 1 must be completed and filed with the Department before the posting and publishing requirement begins. Both Part 1 and the Posting & Publishing document must be signed and notarized. For general partnerships, all individuals must sign the application as well as posting and publishing form. The Bureau has determined that any authorized agent of the applicant such as attorneys and registered agents may sign notarized statements as representatives of the applicant.
2. Application fee(s) must accompany each application when submitted. (Only application fees are required to begin the investigation.)
3. Postmark dates will be used to determine the filing date, if legible; otherwise the date received will be used.
4. Applications for investigation (Part I) may be hand delivered to a Regional office, or sent directly to License Records Management (LRM) in the Richmond Central Office.

If received at a Regional Office, the Regional Administrative Technician (Regional Technician) will cashier any payment received, assign a license number, scan the application in “InVize” under the assigned license number, and then e-mail LRM Support advising of the same. The Regional Technician will then mail or otherwise deliver the original documents from the application to LRM.

5. The LRM Technician (License Technician) will attempt to contact the applicant within 24 hours of receipt of Part I. When the license Technician makes contact with the applicant, they will discuss any deficiency found in the application and advise applicants on how to correct the problem. Part II will be forwarded to the License Technician when received by LRM.
6. If a License Technician notes a discrepancy or question about any information or documents provided by the applicant, the License Technician will notate such discrepancies in the applicant’s file.

7. The License Technician will continue to gather required documents and information pending receipt of Part 2 of the application, Posting and Publishing.
 - a. Exception - Posting and Publishing is not required for:
 - 1) Licenses for Carrier (Airplanes, boats, trains);
 - 2) Out-of-State beer or wine Importers;
 - 3) Museums;
 - 4) Wine and/or beer shippers;
 - 5) Annual Banquet;
 - 6) Annual MB Banquet; and
 - 7) Out-of-State Delivery Permittees.
8. The License Technician should not delay an investigation or submission of an application investigation if there is not reasonable cause to believe the applicant has any arrest record outside of the Commonwealth of Virginia. As an interim measure, the License Technician will obtain a signed notarized statement from each individual applicant stating that they have no out-of-state criminal record or out-of-country criminal record if not a United States citizen or not a Virginia resident.
9. All in-state license applicants are required to submit to ABC the appropriate payment for a Virginia criminal history background check. Applicants include:
 - a. Individual owners (sole proprietors);
 - b. General Partnerships – each partner;
 - c. Limited partnerships (LP), Limited liability partnerships (LLP), and Limited liability companies (LLC) – any member-manager or any member owning 10% or more of the membership;
 - d. Associations – persons with 10% or more interest in the association; and
 - e. Corporations:
 - 1) Such officers with such titles and duties as stated in the by-laws or a resolution of the Board of Directors. For example, if the by-laws state: “The Board of Directors will appoint the president, vice-president, and secretary...,” then a request and payment for a criminal history background check should be submitted by persons holding those offices. If, however, the by-laws state: “The Board of Directors will appoint all officers...,” then all officers must submit the criminal history background check request and payment.
 - 2) All directors;
 - 3) Shareholders of 10% or more of the capital stock; and

- 4) However, the Board may waive, for good cause shown, the requirement for a criminal history records search and completed personal data form for officers, directors, non-managing members, or limited partners of any applicant corporation, limited liability company or limited partnership.
10. All out-of-state applicants (entity breakdown as enumerated in above paragraph) will obtain and submit to the responsible License Technician, a criminal history report from the state in which they reside. Third party providers will not be accepted.
11. For any out-of-state applicant that is unable to obtain and submit a criminal history report from the state in which they reside, (California, Arizona, and Mississippi) payment to this agency for a Virginia criminal history check will be required. In addition, the out-of-state applicant must sign a notarized affidavit stating that he/she does not have a criminal history in the state in which they reside. If the applicant is not a United States citizen, the License Technician should obtain a signed notarized statement from each individual applicant stating that they have no out-of-state criminal record or out-of-country criminal record and payment to this agency for a Virginia criminal history check will be required.
12. All applicant history checks must include a DMV transcript from their state of residence in order to ascertain if there are any alcohol-related convictions.
13. All applicants not residing in Virginia more than 12 months will be required to comply with items 10, 11 and 12 above.
14. The License Technician will carefully review each application for minimum filing requirements.
15. The License Technician will ensure information is collected for all applicants including:
 - a. Individual owners (sole proprietors).
 - b. General Partnerships – each partner.
 - c. Limited partnerships (LP), Limited liability partnerships (LLP), and Limited liability companies (LLC) – any member-manager or any member owning 10% or more of the membership.
 - d. Associations – persons with 10% or more interest in the association.
 - e. Corporations:
 - 1) Such officers with such titles and duties as stated in the by-laws or a resolution of the Board of Directors.

For example, if the by-laws state: “The Board of Directors will appoint the president, vice-president, and secretary...,” then a thorough investigation should be completed on persons holding those offices. If, however, the by-laws state: “The Board of Directors will appoint all officers...,” then all officers must be investigated.

- 2) All directors.
 - 3) Shareholders of 10% or more of the capital stock.
- f. However, the Board may waive, for good cause shown, the requirement for a criminal history records search and completed personal data form for officers, directors, non-managing members, or limited partners of any applicant corporation, limited liability company or limited partnership.
 - g. If the partner, member, or shareholder of 10% or more of an entity (corporation, LLC, partnership or association), information will be provided as described above until it is determined that ownership is privately held or publicly traded.
 - h. The License Technician will collect the documents related to the above process and enter the information in WebCORE including any licensee ownership structure and owner relationships. The License Technician will also ensure that required criminal background and DMV information is obtained and input.
16. The application process will also include:
- a. Alien status of each individual if applicable. If not born in the United States, and not a U.S. citizen, the License Technician will obtain a copy of authorized immigration documents that show the applicant has legal presence in the United States.
 - b. Except for applicants for wine shipper’s, beer shipper’s, wine and beer shipper’s licenses, and delivery permits, the License Technician shall ensure notification of 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. The Regional office and the assigned territory agent are also advised by LRM when this notification is made.
 - c. The local governing body may object to the issuance of the license when the establishment is not in compliance with the locality’s ordinances regarding health, construction, sanitation, etc.

17. The License Technician will also verify and/or obtain from applicant:
 - a. Proof of Federal Employer Identification Number.
 - b. Copy of Virginia Department of Taxation certificate, including number, registered status, tax liability, and responsible parties.
 - c. Virginia resident status, if relevant.
 - d. Ownership interest via leases, deeds, management or franchise agreements. If a signed agreement is unavailable, LRM will contact the Regional office who will assist in acquiring those documents from the applicant.
 - e. Menus are required for the restaurant classification for mixed beverages and wine on premises. Menus should include prices for food and drinks. If assigned agent determines the application is subject to a qualification objection, then the menu will be submitted with the CMS report and forwarded to Hearings. Any documents supporting the objection should be scanned into CMS.
 - f. Verify and obtain current monthly sales (less sales tax) and inventory (cost) figures of qualifying items. Refer to “Definitions and Qualifications for Common Establishment Types.”
 - g. The License Technician will research the establishment's history in WebCORE for the past year and report it accordingly.
 - h. The License Technician will attempt to gather all required documentations related to the application. In the case where an applicant is unable to submit all the required documents, the Regional SAC will consult with the appropriate RAC to determine if a license may be issued.
18. An establishment will be considered “patently qualified” if that establishment holds multiple active licenses for which there is a master file, qualifying sales information is not required for these applications.
19. Before a license is issued the assigned territory agent shall conduct a site visit to ensure sufficient inventory of qualifying items, and other requirements relating to the licensed premises and to educate the applicant about ABC laws and regulations. If necessary, the agent will also determine if there are any objections to the issuance of the license from potentially aggrieved parties in accordance with 4.1-222. The Comments should be entered in WebCORE to appear on the 805-1.

20. While LRM has the primary responsibility for the collection of routine information and forms in support of the application, special agents will familiarize themselves with the entire application process. Moreover, any investigative activities conducted by an agent in support of a retail license application, such as inspections of the applicant's premises, liaison with local officials, etc., should be done contemporaneously with the collection of data by LRM. Assigned agents have the responsibility of reviewing all documents submitted for accuracy and compliance prior to the application being submitted for approval.

B. License Application Report

1. License Technicians will enter all information gathered into WebCORE, after verifying and documenting information supplied by the applicant and other third-party records. All relevant data will be incorporated into the 805-1 application investigation report form. The comments section will be used to clarify any data if necessary, and to list any objections registered regarding the investigation and make reference to master file if applicable. See III.B.8 below.
2. Mixed Beverage License Applications:
 - a. Preferred Licensee Store number, (to be entered by investigating agent).
 - b. Total seats.
 - c. Outside dining details, (if applicable).
3. Business hours and days of operation.
4. Description of boundaries of the licensed premises, (to be entered by investigating agent).
5. Restaurant classifications:
 - a. Total number of dining rooms.
 - b. Report the mailing address only if different from the address of the business.
6. Qualifying sales and inventory information when required.
7. Additional data required:
 - a. Name and address of property owners;
 - b. Management, franchise, or purchase agreements;
 - c. Corporate data; and
 - d. Record name and address of persons contacted regarding the investigation.

8. If an objection is received by LRM, that information is forwarded to Regional Office for the attention of the investigating agent. The agent will use the index found in the Charge/Objections manual to report the same. Using the appropriate objection(s), the agent shall create an incident in CMS under Objections completing the appropriate information to include but not limited to: names of objectors, administrative objections/charges and a narrative explaining the objections. This procedure will be followed for objections that are identified by the investigating agent as well.
9. Under no circumstances will any mention of an individual's police record be reported on the License Application Investigation report other than generic reference to police record being a reason for objection. No specific details regarding the content of the police record should appear in the report.
10. Once the License Technician has completed the collection of all required documentation, the file will be forwarded to the appropriate agent for review. The agent will review all documents collected to this point and check WebCORE for appropriate and complete entry of information. If any further investigation needs to be completed, the agent will conduct that investigation.
11. Agents will then make a recommendation (Approval or Hearing) in WebCORE and forward the entire file, including all attachments, to their supervisor for review. The file should be submitted in the following order: Investigative Report (805-1), Application (Parts 1 & 2), Posting and Publishing, Personal Data Sheets (criminal history and DMV transcripts available from LRM upon request), corporate/LLC information, lease, and general correspondence, including menus.
12. If a hearing is called for objections, an Objection Incident must be completed in CMS and forwarded to the supervisor for approval. The supervisor will forward this through CMS to LRM and LRM will then forward to Hearings once the history, if any, has been completed in CMS. If additional documents are collected by the Region, they will be imaged by the Region and forwarded to LRM to be combined with the original file. For a full listing of objections, refer to the Administrative Hearings Charge/Objection Manual and Case Law Index.
13. A license should not be issued until the following conditions are met:
 - a. VA ABC has received all required documents; Regional SAC may use discretion to waive this requirement, for example - if the health inspection has been completed but the actual permit has not been issued, the license may be issued upon authorization by the SAC and the applicant's agreement to provide a copy within a reasonable time frame.

- b. The License Technician and the assigned agent have completed his/her processing and investigation;
 - c. The agents inspection has been completed;
 - d. All fees have been paid;
 - e. Any local government or citizen objections have been resolved;
 - f. The establishment is in operation or ready to open; and
 - g. 30 days has expired from the first notice that was published as required by 4.1-230.
14. To see the latest version of the retail application and required documents, visit the ABC website at www.abc.virginia.gov.
15. If a pending application is inactive for six months, the application may be withdrawn. A certified letter will be sent by LRM notifying the applicant that their application will be considered withdrawn unless a response is received within five days of receipt of the letter. Any license fee (tax) paid by the applicant may be refunded to the last address on file if ABC possesses proper tax information to process the refund. With proper information, refunds may be processed up to three years from initial receipt of payment. Beyond the three-year cut off, the refund money will be placed in state revenue.

C. Master File

1. A master file is to be created on any applicant who currently holds at least five (5) licenses issued under the same applicant name. The file will be created upon completion of the sixth application investigation report. For good cause shown this number may be reduced, if the business applying for the license will be opening up several establishments at a later date under the same ownership structure a master file may be created.
2. When a sixth investigation is completed the assigned License Technician will complete and submit a separate report for a master file, see III.C.5.
3. A detailed investigation will be conducted and a report filed containing the following if applicable:
 - a. Copy of Virginia State Corporation Commission status (e-file); copy of by-laws; copy of annual report filed with the State Corporation Commission (if corporation is older than one year).
 - b. If out-of-state corporation, copy of original state charter and letter of authorization to transact business in Virginia.
 - c. Name change or merger documents (for existing files).
 - d. Number of shares authorized/issued, if applicable.
 - e. Main office address, point of contact, and indication of mailing preferences.
 - f. Name and address of Registered Agent.

- g. Background checks will be conducted on all applicants including:
- 1) Individual owners (sole proprietors);
 - 2) General Partnerships - each partner;
 - 3) Limited partnerships (LP), Limited liability partnerships (LLP), and Limited liability companies (LLC) – any member-manager or any member owning 10% or more of the membership;
 - 4) Associations – persons with 10% or more interest in the association; and
 - 5) Corporations:
 - a) Such officers with such titles as stated in the by-laws or a resolution of the Board of Directors. For example, if the by-laws state: “The Board of Directors will appoint the president, vice-president, and secretary...,” then a thorough investigation should be completed on persons holding those offices. If, however, the by-laws state: “The Board of Directors will appoint all officers...,” then all officers must be investigated.
 - b) All directors;
 - c) Shareholders of 10% or more of the capital stock.
- h. However, the Board may waive, for good cause shown, the requirement for a criminal history records search and completed personal data form for officers, directors, non-managing members, or limited partners of any applicant corporation, limited liability company or limited partnership.
- i. If the partner, member, or shareholder of 10% or more is entity (corporation, LLC, partnership or association) information will be provided as described above until ownership is privately held or publicly traded.
- j. The License Technician will collect the documents related to the above process and input the information in WebCORE including any licensee ownership structure and owner relationships.
- 1) The License Technician will ensure that required criminal background and DMV information is obtained and data entered. If the establishment is located in a vacant territory in which an agent is not currently assigned, the file will be forwarded to the Regional ASAC, Regional SAC, and Regional Administrative Technician(s).

- 2) The Regional SAC may appoint a Regional Administrative Technician to conduct a precursory review of the file in assistance to the investigating agent. The agent will review the application package and ensure that each required individual's or entity's details have been entered properly into WebCORE and that appropriate criminal background and DMV information has been collected and entered.
4. On subsequent licensee investigations if it is determined that the information in the master file is not correct, the changes must then be coordinated with and/or reported to LRM to update the master file.
5. License Records Management will notify the assigned agent and supervisor if a master file exists for a particular applicant.

D. LRM Final Review

The retail application packet is reviewed for accuracy by a LRM supervisor prior to being imaged and sent to the Regional Office. At that time, any discrepancies that could not be resolved by LRM staff will be brought to the attention of the regional office.

E. Regional Office Responsibilities

1. The investigating agent will complete a thorough investigation of the file and if required, will forward the matter for a hearing in the event of a bona fide objection. If the file is complete and accurate, and no objections have been made, the agent will forward the file to his/her supervisor with a recommendation for approval.
2. The supervisor will carefully review each application investigation. If the supervisor approves the issuance of the license, a Retail License will be printed for the agent to deliver to the licensee.
3. VCIN, DMV and other criminal history record checks will not be imaged or forwarded to the Region unless specifically requested. LRM staff will SHRED these records after review and approval given to an investigation. In cases where objections are registered relating to a criminal record, the agent will obtain and bring a certified copy of the record to the hearing.

F. License Delivery

1. If the supervisor approves the issuance of the license, a Retail License will be printed for the agent to deliver to the licensee.

- a. Upon Regional SAC approval, licenses may be left at a regional office for the licensee to retrieve and/or emailed to the licensee, in rare circumstances. Licenses may not be picked up or emailed under any circumstances if the site inspection has not been completed.
2. Under normal circumstance agents will be required to deliver the license and all attachments to the licensee, explaining all of the various instructions and forms pertaining to the operation under an ABC license. When the license is issued, an Acknowledgement Letter should be signed by the licensee verifying the license was received along with the other materials. A copy of the Acknowledgement Letter shall be maintained by the agent in the licensee's file, and a copy will be scanned and sent to LRM. After delivery of the license, the agent will properly document this activity.

G. Restricted or Conditional Licenses

1. There will be cases when licenses are issued with restrictions or conditions. Restrictions are placed by:
 - a. Agreement between the license applicant and third-party objectors (agreements must be in writing and signed by all parties); or
 - b. Board Order.
2. If the applicant does not agree to a restricted or conditional license, a hearing is recommended by the investigating Agent.

H. Virginia Residency Requirement for Sole Proprietor Only

If the applicant has been a resident of Virginia for less than one year, he/she may be requested to provide information that will establish their intent to become a Virginia resident.

I. Temporary Licenses

1. In accordance with 4.1-211, the Board may issue a temporary license for any retail operation authorized by the ABC Act, and the Board regulations: in cases where the sole objection to the issuance of a permanent license is that the establishment will not be qualified in terms of the sale of food. This period will not exceed 180 days, during which an audit of the business will be conducted to see if the business qualifies for a permanent license.
2. At the conclusion of the auditing process, the agent and the supervisor will review the report and make their recommendations.

3. Issuance and Review

- a. Temporary licenses will be issued from the Regional Office and stamped “Temporary License” in red letters.
- b. Agents will deliver the license along with a separate letter of instructions to the licensee. The agent is to monitor the operation under a temporary license to ensure compliance with the ABC laws and Board regulations. The agent is to report violations in the same manner as with a permanent license. The agent will also complete the 90 day initial inspection, as with any other new license.
- c. Agents will be instructed to review the qualifications of the temporary license after 120 days, (four months), at which time an audit of monthly sales figures will be conducted.
- c. If the audit reveals the establishment is qualified for a permanent license, the agent will complete the license inspection – NEW in CMS showing a report of the sales, with a recommendation the permanent license is to be issued. This Incident will be forwarded to the agent’s supervisor through CMS for approval.
- d. If the inspection reveals the establishment is not qualified, and the licensee does not wish to surrender the license, the agent will complete a violation report in CMS. This report will reflect the establishment is not qualified and should be submitted for an administrative hearing before expiration of the temporary license.

If scheduling of the hearing causes the license to go beyond its temporary period, contact LRM to ensure proper collection and distribution of license fees.

- e. A temporary license may be revoked summarily by the Board for any cause in Section 4.1-225 of the ABC Act.
- f. No further temporary license will be issued to the applicant or to any other person at that location for a period of one year from the expiration.

J. Temporary Mixed Beverage Licenses

1. Temporary Mixed Beverage licenses will be issued to all applicants that have never been issued a permanent mixed beverage license in the Commonwealth of Virginia before and are applying for locations that have not held previous mixed beverage licenses.

2. SACs may only issue permanent Mixed Beverage licenses under the following circumstances.

a. Applicants that have held prior mixed beverage licenses or hold existing on premises licenses at the same or other locations in good standing with the Board.

b. Applicants that are new owners taking over an existing establishment that held a Mixed Beverage license in good standing with the Board under the old owners.

c. Applicants that have a partner, member, officer, director, manager, or a substantial shareholder who has held prior mixed beverage licenses or hold other existing Mixed Beverage licenses in good standing with the Board and who will be actively involved in the management of the new Mixed Beverage license.

3. If an applicant for a Mixed Beverage license held or holds other mixed beverage licenses under the above circumstances, agents may still recommend a temporary Mixed Beverage license if they have other sufficient cause to object based on qualifications.

4. Steps a.-f. in Sec I.3. above should be followed when issuing a Temporary Mixed Beverage License

K. Continuation of Operations Permit Process (COOP)

1. COOPs may be issued for the continuation of operations under a license upon execution of a contract provided in accordance with 4.1-212(A)(16):

- a. The prospective owner has made application for an ABC license to the Board;
- b. The existing licensee has no pending violations of Title 4.1 or Board regulations or the new owner agrees to assume the liability for any pending violations;
- c. The existing licensee owes no state or local taxes or the new owner agrees to assume the liability for taxes owed by the existing licensee; and
- d. The existing licensee consents in writing to issuance of the permit.
- e. The prospective owner has completed and submitted an Application for Continuation of Operations Permit (805-99).

2. SAC Responsibilities

- a. The Regional Special Agent in Charge shall be the issuing authority for these permits except in cases related to master file licensees/applicants where the Deputy Chief of Operations shall be the issuing authority. The SAC shall issue the permit on the Continuation of Operations Permit Template (EB-47). The sections of the template in **bold italics** must be completed.

- b. The SAC shall ensure prior to permit issuance that all applications are completed in full and all required documentation is submitted in the proper format for investigation, including verification of pending applications and confirmation of pending violations/tax liabilities.
- c. Once the permit has been issued, an email shall be sent to LRM Support with a copy of the COOP or in the following format:

“On (permit effective date) a Continuation of Operations Permit was issued to (enter name of applicant entity), expiring (date of expiration), for the following license numbers (enter license numbers).”

 - 1) When a permit is issued it shall have an expiration date of 120 days from the date of issuance with the date of issuance being day 1.
 - 2) For good cause the SAC who authorized the original COOP may grant an extension.

3. Permit Post Issuance Procedures

- a. LRM will maintain and forward the COOP to the appropriate License Technician.
- b. The application, permit and all supporting documentation shall be scanned under both license numbers and the hard copy submitted to LRM with the application package when completed.
- c. If during the effective period of the permit the existing license or licenses comes due for renewal, it shall be the responsibility of the permittee to pay the required fees. A copy of the permit shall accompany the payment.
- d. If during the effective period of the permit the Mixed Beverage Annual Review becomes due, it shall be the responsibility of the permittee to complete and submit the form. A copy of the permit shall accompany the form.

L. Still Permits

- 1. Refer to General Order 513, Still Permit Investigations.

Still permits will be issued by the Board in those instances where there exists a distillery apparatus and for which the Board has been petitioned.

2. The agent will conduct an investigation to ensure that the still has been rendered inoperable. The agent will then submit his/her report to the attention of the Director via the chain of command with a recommendation for approval/disapproval. If approved, the Director will forward the request to LRM who will assign a permit number, and generate a letter for the Director's signature. This letter will then be delivered to the petitioner.

M. Estate Permits

1. Whenever a licensee dies, and an Administrator or Executor is appointed for the Estate, a special permit may be issued by the Board upon receipt of a copy of the court order making such appointment, and memorandum from agent regarding same. The agent must report to the Board the status of the Estate at least during the tenth month from the month that the special permit was first issued.
2. The Board policy is to allow the person appointed to handle the estate at least one year within which to qualify the establishment for the type of license involved should such qualifications be an issue. The License Technician is not involved in this process.

N. Off Premises Keg Permits

1. Keg Permits can only be issued to a licensee holding an "off premises" privilege. There is a \$65.00 permit fee.
2. Applicants or licensees must submit an Off-Premises Keg Permit request.
 - a. If LRM receives the application it is scanned (Invized) and emailed to the Region.
 - b. If the Region receives the application it should be scanned (Invized) and the original application sent to LRM for recordkeeping.
3. The issued permit becomes a part of the retail license.
4. Keg permits are subject to suspension or revocation in the same manner as retail licenses.
5. Each Keg Permittee is required to complete a Keg Registration Declaration and Receipt that are to be attached to each keg at the time of retail sale. The permittee maintains the receipt booklet as a part of the business records for one year.
6. Keg Receipt Booklets are provided to each new permittee via the Regional Office, the Region should provide one or two books (keg book numbers

shall be entered into CORE). Subsequent books are provided to the permittee by LRM.

7. Keg permits issued during an active license period will be prorated.

O. Grain Alcohol

1. Permits are issued upon receipt of Grain Alcohol Application, form 805-75.
2. The permit is issued for good cause for industrial, commercial, culinary or medicinal use.
3. Upon receipt of an application, an agent will conduct an investigation to verify the qualifications for such permit. The License Technician does not assist in this investigation process.
4. The agent will complete the reverse side of Form 805-75 at the conclusion of the investigation, including an ABC store selection and agent recommendation.
5. The report will be submitted to the supervisor for review.
6. Upon approval, a grain alcohol permit will be issued by the Regional Office.
7. A letter or explanation should be sent to the applicant if a permit should be denied.
8. A copy of approved permit should be forwarded to LRM for tracking purposes.

P. Culinary

1. Permits are issued, without charge to persons operating establishments where food is prepared on the premises. Requests for culinary permits must be in writing.
2. If an establishment holds any type of on premises alcohol license, they may prepare food with the alcohol for which they are licensed without the necessity of a culinary permit; however, if they want to prepare food with alcohol for which they are not licensed, they must obtain a culinary permit. For example, a wine and beer on premises licensee could prepare food using beer and wine without a culinary permit, but would need a culinary permit to use liquor in the preparation of food.
3. The Agent's investigation report should include the following:

- a. A statement as to the type of establishment and that food will be prepared on the premises;
 - b. The type(s) of alcoholic beverages to be used;
 - c. A description of where the alcoholic beverages will be stored;
 - d. A recommendation; and
 - e. The report will be forwarded to the supervisor for review and approval.
4. Copy of approved permits should be forwarded to LRM for tracking purposes.

Q. Private Club License Investigation

1. Application for License will be submitted on the Application for License, form 805-52. LRM will process the initial application as it would with any other retail application. However, additional investigation in support of the application will be the responsibility of the investigating agent with all club applications.
2. The report of an agent investigation will be submitted through comments in WebCORE to appear on the application investigation report. The License Technician will collect documents related to the processing of club applications and enter the information in WebCORE including any licensee ownership structure, owner relationships, as well as criminal background and DMV information.
 - a. The License Technician may collect answers/documents corresponding to the items enumerated in paragraph 25 listed below, and in the retail application package only. No advice will be communicated to the applicant.
3. Qualifications
 - a. In determining a club's qualifications to hold a club-type ABC license, the agent should determine if the club is in compliance with 4.1-100, Section 4.1-222, 3VAC5-50-130 and the ABC Act and Regulations in general.
 - b. Any corporation or association which holds a valid exemption from the payment of federal and state income taxes will be deemed a non-profit organization; however, the possession of these exemptions has not been construed to mean that the control of the club cannot be questioned by the Board in terms of alcoholic beverage control.

c. In determining whether an applicant qualifies under the statutory definition (of a) club, the following factors, among others, are to be considered:

- 1) The nature of the objectives of the club, and whether the operation is in compliance.

A club must be operated solely for objectives of a national, social, patriotic, political or athletic, or other like purpose, but not for pecuniary gain of members or nonmembers. The advantages of a club must belong to all its members.

“Social” objectives are construed as something more than merely affording facilities for consumption of alcoholic beverages, food, or refreshments.

There are many conceivable organizations which may be eligible to be licensed as a club of a social nature, such as businessmen’s clubs, professional organizations, sportsmen’s clubs, scholarly organizations, employee groups, community organizations, alumni or alumnae clubs, etc.

- 2) The club documents should set forth to what extent members are entitled to participate in the control of the club, and the frequency and reasonableness of provisions made for election of officers and directors, and the quorum requirements for such elections.

A club should avoid any self-perpetuating officers or directors. If a stock corporation, the documents should prohibit stock from being traded on the open market or among persons other than members of the club and the payment of dividends.

- 3) Nothing in the preceding section shall prohibit, however, a homeowner’s association from obtaining a club license in spite of the fact that any officer, member or director of the homeowner’s association may be the developer/builder or representative of the developer/builder. The holder of this position may be appointed rather than elected for a variable or definitive length of time.

- 4) The privilege to vote and hold office should be extended to all members similarly situated, such as by geography, age, sex, etc., provided such privileges are not restricted to too small a portion of the membership.

- 5) It is objectionable if a club extends voting privileges only to stockholding members, and stock is not available to a new or prospective member, thus requiring those new members to accept a non-voting classification. Consideration should also be given to persons who are not currently dues-paying members of the club. Prerequisites for membership in a club may not be contingent upon membership in, or ownership of, other enterprises.
4. There is generally no objection to different dues being required of the different classes of membership. Likewise, no objection is made to members who, of their own volition, choose not to receive certain privileges by paying lesser dues. Exception should be taken if all members do not pay any dues, or if dues required of a particular class of membership are inconsistent with the privileges afforded that class of membership.
5. A club may have "lifetime members," provided the financial contribution of each lifetime member is not less than ten times the annual dues of a resident member, and the full amount of such contribution is paid in advance in a lump sum.
6. Club membership must be restricted to natural persons, as opposed to so-called corporate, company, or industrial memberships, except in the case of a homeowner's association where the developer/builder or representative of the developer/builder may sit on the board.
7. A club need not operate a restaurant on its premises for its members in order to obtain a wine and/or beer license. A club may also purchase food for its members from a caterer, such as a hotel, on a regular basis, but such food prepared by the caterer should be served to the club members by employees of the club, as distinguished from the caterer's employees. The caterer should not benefit any individual profit from such an arrangement.

The price of the food sold to the club, reduced by a minimum 10% below the caterer's menu price, is viewed as a sufficient safeguard against the caterer receiving any special pecuniary gain. Any such agreement should be in the form of a written contract.
8. All income derived from the operation of the club must accrue to the benefit of all the members. An employee of the club (member or nonmember) may receive reasonable pay for services rendered, or property furnished to the club.
9. A club employee may operate a pro shop on club premises and sell sporting equipment, food, soft drinks and the like, and receive profits as part of his compensation as a club employee. He may also dispense alcoholic

beverages as a club employee; however, all purchases of alcoholic beverages must be made with club funds and all receipts from alcoholic beverages must accrue to the benefit of the club.

An individual or firm may lease the kitchen facilities from a club and service food to club members and guests on club premises and receive the profits. Again, all alcoholic beverages must be purchased with club funds, and all receipts from alcoholic beverages must accrue to the benefit of the club.

10. The number of times a nonmember may patronize a club as a guest of any member during a given period of time should be stipulated in the by-laws or house rules of the club. The guest privileges must be sufficiently restrictive to render the club a private place.

A limitation of one visit per month by a resident nonmember is generally accepted as sufficiently restrictive except in the case of a homeowner's association where unlimited guest visitations may be allowed as long as the guest is accompanied by an association member.

11. The partner of a member need not be restricted on the frequency of his or her visits. Likewise, nonresident guests need not be restricted on the frequency of visits. A nonmember attending a member-sponsored affair is not to be counted as a guest with respect to the club guests' restrictions.
12. Clubs may allow the use of their golf facilities by schools and college golf teams for practice or match play, provided alcoholic beverages are not sold to minors or the general public.
13. Local civic organizations may occasionally conduct golf tournaments on licensed club premises and admit the public, provided no alcoholic beverages are served to the public and the affair is not for pecuniary gain of the club.
14. A club may conduct bingo games or raffles in which nonmembers participate, provided no alcoholic beverages are served or consumed in the room while such games are being conducted.

If the club has a separate club room in which alcoholic beverages are sold and consumed, nothing prohibits the club from selling alcoholic beverages in this room to members and bona fide guests while bingo games or raffles are being conducted in other rooms on club premises.

15. If the bingo games or raffles are for members and their invited guests, then alcoholic beverages may be sold and consumed in the room while such games are being conducted.
16. Exception should be taken to so-called reciprocal agreements by and between clubs, except as provided for under 3VAC5-50-130. Exception

generally is not taken to what may be termed reciprocal agreements by and between “out-of-town” clubs of a fraternal or patriotic nature. Such clubs are permitted to treat visiting guests as lodge or post guests. Membership cards carried by lodge or post members usually entitle them to visit all lodges or posts of the same nature; however, visiting members may not bring guests into the club they are visiting.

17. Members of an auxiliary unit of a licensed club may patronize the club premises unescorted, if stated in the by-laws or house rules, and approved by the Board.
18. A club must be financially stable. The ability of an organization to function without a license for a club is a factor to be considered in determining whether an organization is one eligible for such license. The financial stability of a club should be questioned if dues collected by the club are not sufficient to meet the rent and other obligations of the club.
19. A lease agreement must be in the name of the club or corporation. The club’s premises should not be subject to a lease back or reversion clause, whereby the premises revert for frequent or short periods to the lessor.
20. A club may keep, for its members, legally acquired alcoholic beverages belonging to the members. Any such alcoholic beverages owned by a member, and left on the premises, must be distinguished in an appropriate manner from alcoholic beverages owned by other members.
21. Guests are prohibited from leaving alcoholic beverages on club premises.
22. If a club desires to keep certain closets locked for the storage of members’ alcoholic beverages, the keys to such areas should be readily available to the person in charge, and these lockers if used for the storage of alcoholic beverages, must be made available for inspection.
23. Investigation – Club Officers and Directors
 - a. When an agent is notified of any changes in the officers or directors of a club, the agent will conduct an investigation and submit a report, which will include:
 - 1) A Personal Data Report containing personal history information that is required on the Application for License;
 - 2) Criminal background checks. (The cost for running a Virginia criminal check is covered by the Commonwealth of Virginia as long as it is not part of a new application investigation. The cost of any other criminal background check will be the responsibility of the subject of the investigation.);

- 3) A recommendation of approval or disapproval; and
 - 4) Be guided by III.O.2 for the License Technician's role in this instance.
- b. After approval, all information should be imaged (with the exception of criminal background check and DMV documentation) and originals sent to LRM.
 - c. Should the suitability of an officer or director be questionable, the agent will use the index found in the Charge/Objections Manual to report the same. Using the appropriate charge(s), the agent shall create an incident in CMS completing the appropriate information to include, but not limited to: administrative charge(s) and a narrative explaining the issue.
 - d. The supervisor will forward this through CMS to LRM and LRM will then forward to Hearings once the history, if any, has been completed in CMS. The entire investigation file will be imaged by the Region and forwarded to LRM. (For a full listing of charges, refer to the Administrative Hearings Charge/Objection Manual and Case Law Index.)
 - e. If an officer or director of a club is a wholesale licensee or employee of a wholesale licensee, consideration should be given to what influence the individual would have on the control of the club, and with the use of their particular products on the club premises.

Questions would be raised if the individual had any control over the purchase, selling, serving or dispensing of alcoholic beverages or if he or she, in fact, became an employee of the club.
 - f. When an officer or director is a police officer with police authority in the political subdivision where the club is located or is an employee of the Department of Alcoholic Beverage Control, it should be noted and recommendation submitted to the Central Office. Each case will be considered on its own merits with consideration being given to the duties and responsibilities of the individual.
 - g. A Commonwealth's Attorney and magistrate are defined as constitutional officers and not a police officer.
24. If any changes in a club's charter, articles of association, or by-laws occur, a certified copy shall be furnished to the Board within 30 days thereafter.

25. The application process for a club-type license is the same as for retail establishments. Every applicant for the club license will furnish, with the application, the following information:
- a. A certified copy of the club's charter, articles of association or constitution;
 - b. A copy of the by-laws;
 - c. If this is a corporation, and has existed for more than one year, include a copy of the last annual report filed with the SCC;
 - d. A personal data sheet for each officer and director;
 - e. The average number of members for the preceding twelve months. (Only natural persons may be members of clubs.);
 - f. A financial statement for the latest calendar or fiscal year of the club, and a brief summary of the financial condition, as of the end of the month next preceding the date of application; and
 - g. There are various types of organizations that will apply for club-type ABC licenses. These may be stock corporations, non-stock corporations, or unincorporated associations. These organizations may further be classified as national, social, patriotic, political, or athletic in nature.
26. The application investigation report will be submitted by the agent in WebCORE. Refer to Section III.O.2 for guidance on the License Technician's role in this instance.

The agent will ensure that the following information is included in WebCORE, if a data entry field is not present for this information the agent will enter into the comments section:

Organization: Include date organized and the date chartered by the State Corporation Commission or parent organization, type of organization, and other information pertaining to the organizational structure. The following sections of the club application investigation should be addressed only to the extent of citing the appropriate portion of the club's organizational papers that refer to the subject matter, and not require the entire reciting of the material:

- a. Purpose;
- b. Prerequisites for Membership;
- c. Election of Officers;
- d. Quorum; and

e. Guest Privileges.

In citing the appropriate portion of the club's organizational papers, please underline the section that applies, and indicate the page number where the information may be found.

Stock: If a stock corporation, include classes of stock, shares authorized, and number of shares issued. Also include, if dividends are subject to be paid, voting rights of each class of stock, and whether a nonmember owns stock.

Class of Membership Number Initiation Fees Annual Dues: List all classes of membership, the number of members in each class, the initiation fee, and annual dues of each class. If more than one class of membership is provided, show the privileges and voting rights of each class. (For informational purposes, initiation fees are not required, but all members must pay dues.)

If any portion of the dues or initiation fee is not retained by the applicant club, give full details of the distribution. If any officer or member is compensated for services rendered, so indicate.

Present Officers Name and Title: List name and title of each officer, a director and/or trustee. If investigation reveals any officer to have a police record, so note on a supplemental sheet.

Federal Income Tax Exempt Status: Give date of exemption and IRS Code section under which exempt (attach supporting documents.)

Revenue: Give the main sources of revenue.

Bookkeeping System: Ascertain what records are being maintained, and determine if applicant agrees to maintain records in accordance with the Board's regulations.

Lockers: Ascertain the number of individual lockers for the storage of a member's alcoholic beverages. If none, state where the same will be stored, and what method will be used to identify these alcoholic beverages.

Food: There is no requirement for the purchase or sale of food with a wine/beer club license.

Hours: Indicate the normal operating hours of the club.

Property: If the club is leased, describe premises and terms of lease, and attach copy of the lease. If the club is owned, describe premises, outstanding mortgages and how amortized, and attach a copy of the deed of trust.

Licensed Premises: This should include building and land under exclusive control of the applicant. Describe area being recommended for privileges of license to be exercised.

Federal Identification Number: Obtain from an appropriate federal document.

Virginia Sales Tax Number: All clubs engaged in selling products.

Remarks: Make any additional comments pertinent to the investigation not previously stated. Make appropriate contacts and so state. List any objections to the issuance of the license. If valid objections are registered, the Agent will use the index found in the Charge/Objections manual to report the same. Using the appropriate objection(s), the agent shall create an incident in CMS under Objections completing the appropriate information to include but not limited to: names of objectors, administrative objections/charges and a narrative explaining the objections.

Recommendation: A recommendation is required.

Attachments: Attachments should include the following when applicable, but not limited to: Sketch, Financial Statement, Balance Sheet, Charter, By-Laws, Articles of Incorporation, Association or Constitution, Lease, House Rules, and a copy of the Federal Tax Exempt Letter.

Special Agent's Territory Number: Self-explanatory.

27. Mixed Beverage Applications – Club: The information required on a club mixed beverage application investigation report is the same as that for a regular wine and/or beer club application investigation report. However, the following additional information must be furnished on mixed beverage application investigations.

- a. A month's sales and present wholesale inventory of food and non-alcoholic beverages;
- b. A mixed beverage club must meet the same qualifications as a restaurant under the Mixed Beverage Laws. If food sales qualification is an issue, refer to the audit procedure;
- c. Wine and Beer sales and wholesale inventory;
- d. Miscellaneous items. (The sales of setups are considered miscellaneous sales, and will be shown as such; they should not be

- included with food, non-alcoholic beverages, wine and beer, or mixed beverage sales.);
- e. Hours in which prepared foods, including meals with entrees, are available;
- f. A copy of the club's menu must be attached;
- g. A statement describing the approved storage area for alcoholic beverages to be purchased under the license;
- h. A statement describing the area where mixed beverages will be prepared. (Storage and preparation area of club-owned distilled spirits must be segregated from member-owned distilled spirits.);
- i. A statement noting which ABC store will be assigned to the applicant; and
- j. A statement indicating the average number of resident members during the preceding twelve months. The tax is based on the number of the above type members.

28. Abbreviated Club Application Investigation for Patently-Qualified National, Patriotic, and Fraternal Organizations

- a. Application investigations for the following national, patriotic and fraternal organizations will be handled by an abbreviated format:
 - 1) Loyal Order of Moose;
 - 2) Benevolent Protective Order of Elks;
 - 3) Improved Benevolent Protective Order of Elks;
 - 4) American Legion;
 - 5) Fraternal Order of Eagles;
 - 6) Veterans of Foreign Wars;
 - 7) Fraternal Order of Police;
 - 8) Fraternal Order of Orioles;
 - 9) Parents Without Partners;
 - 10) Ancient Egyptian Arabic Order Noble Mystic Shrine;
 - 11) Ancient Arabic Order Noble Mystic Shrine;
 - 12) AMVETS; and
 - 13) Disabled American Veterans.
- b. The abbreviated form will contain the following information:
 - 1) Subject name, trade name, address, zip code, county (if applicable), and type of license applied for;
 - 2) Federal ID Number;
 - 3) Federal Tax Exemption Letter;
 - 4) Virginia Sales Tax Number;
 - 5) Guest Privileges Documentation;

- 6) Sketch or statement describing licensed premises;
- 7) Particulars of the stock corporation, if applicable;
- 8) Date chartered by State Corporation Commission, or parent organization. Last annual report filed with the SCC;
- 9) Appropriate contacts' response;
- 10) A statement that the club is qualified with respect to 3VAC5-50-130 of the Regulations; and
- 11) All additional information required on mixed beverage applications.

29. Change of Location or Additional Privileges

- a. Change in location: If the location of the club changes, a new application must be filed and a new applicant investigation conducted. Investigation reports covering such matters should contain a brief resume of the club's history, and remarks indicating, if applicable, that the operation is substantially the same as when originally licensed. A description of the new premises and location must be given, as well as a statement as to agent objections or third-party objections, if any.

NOTE: Other than "updating" purposes that agent deems necessary, the requirements of 3VAC5-50-130, Regulations, may be disregarded.

- b. Additional Privileges: The above would also be applicable to a lesser extent with respect to requests for additional privileges (such as adding wine or mixed beverages.) A new application must be filed and new applicant investigation completed.

IV. THE FOLLOWING PROCEDURES RELATE TO ADDITIONAL AGENT INVESTIGATIONS AS PART OF AN EXISTING LICENSE OR A NEW APPLICATION

A. Additional Dining/Designated Area Requests

1. When an agent receives a request, which shall be in writing, from a licensee for approval of an additional dining/designated area, or for enlargement of licensed premises, the agent will conduct an investigation. This location must be located in the designated place of business stated on the application investigation reference to Title 4.1-203 and 4.1-100 (place or premises). The following criteria should be met for the additional area to be approved:
 - a. The location of the area in relation to the rest of the establishment;

- b. The area dimensions and the number of seats at tables. If a mixed beverage licensee, also include the number of seats at counters and indicate whether the increased seating affects the state license fee (tax);
 - c. Type of food served and hours available for sale. Dining areas must provide meals with entrees, whereas designated areas need only serve food;
 - d. Type of supervision and the extent to which illumination, arrangement and construction permits reasonable observation and ready access;
 - e. Indicate that the licensee has exclusive control over the additional area; and
 - f. Ascertain the opinion of local officials and citizens where applicable.
2. If the agent finds the area in conformance with applicable laws, regulations, policies and guidelines, they may inform the licensee of its approval.
 3. If the agent finds that the area should not be approved because all criteria have not been met, or if local objections have been raised, then a hearing should be recommended in the investigation report and an objection entered in CMS. In lieu of a hearing, the licensee may withdraw their request. All investigation reports will be submitted to the supervisor.
 4. WebCORE should be updated by the agent with any approvals or changes. The License Technician is not involved in this process.

B. Outside Terraces or Patios

1. Agent investigations should conform to instructions stated in "Additional Dining/Designated Area Request" section.
 - a. Outside terraces or patios may be approved as dining or designated areas;
 - b. Outside dining areas may not have more than one means of ingress and egress to an adjacent public thoroughfare; and
 - c. Indicate what type of supervision the licensee will maintain in the outside area. The local Health Department will be contacted to see if the outside area has been approved for the sale of food.
2. The seating in an outside area is taxable and may be included in determining the eligibility qualification if such area is used regularly.
3. WebCORE should be updated by the agent with any approvals or changes. The License Technician is not involved in this process.

V. PRIVATE FUNCTIONS

- A. A private function is defined as a prearranged event, other than an impromptu event for drinking alcoholic beverages only, not advertised to the general public and limited in attendance to members and bona fide guests of particular groups, associations, or organizations.
1. Members and Guests: Members should mean the composition of the sponsoring group, association, or organization. Guests will mean the partner of a member and invited personal friends of a member in attendance of a sponsoring group, association, or organization.
 2. Licensees may use the dining/designated area, whether inside or outside, for private functions.
 3. The management of a restaurant which allows groups, associations, or organizations to hold private events must keep records of bona fide arrangements made substantially in advance with such groups.
 4. Members and guests of a sponsoring group may bring lawfully acquired alcoholic beverages to the restaurant for consumption in such private areas, but such alcoholic beverages may not be brought to the restaurant prior to the day on which the private event will be held.
 5. Lawfully acquired alcoholic beverages brought by members or guests may be served by employees of the restaurant.
 6. The chilling, mixing, serving and consumption of alcoholic beverages brought by members and guests must be accomplished only in the private area.
 7. Appropriate charges may be made for ice, mixes, and the like, as well as for bar service where members and guests bring in their own alcoholic beverages.
 8. No alcoholic beverages other than those that the licensee is authorized to sell under their license may be sold at the private event.
 9. The area used for private functions where alcoholic beverages are consumed must be free from public access.
 10. No alcoholic beverages may be carried from the private area to any public portion of the restaurant.
 11. All alcoholic beverages not sold under the license of the restaurant where the private function is held must be removed from the restaurant after such function, or if left on the premises, destroyed at once by the licensee.

12. The regulation fixing the hours during which wine, beer or mixed beverages may not be sold or consumed in restaurants, does not apply to the consumption of lawfully acquired alcoholic beverages brought in by members or guests of the group.
13. The management of a licensed restaurant in office buildings, industrial, or similar facilities which allows employees and nonpaying guests of the owner or a lessee of all or part of such building or facility, to hold a private function must close the restaurant to the public while in use for such private function.
14. The consumption of alcoholic beverages at private functions is not allowed on licensed premises during those times when the privileges are suspended due to Board action.
15. Licensees are not required to obtain permission to allow private functions on their licensed premises, and agents are not required to make reports covering private areas unless there is a question concerning their use.
16. WebCORE should be updated by the agent with any approvals or changes. The License Technician is not involved in this process.

VI. TEMPORARY EXTENSION OF LICENSED PRIVILEGES INVESTIGATIONS

- A. Establishments licensed as restaurants may, for a temporary time period, have their licensed privileges extended beyond the area already approved for the sale and consumption of alcoholic beverages. Licensees may extend their wine and beer and/or mixed beverages. (See Item B for club rules.) Agents will conduct an investigation and be governed by the following guidelines:
 1. Extensions will not be approved for more than four days per calendar year; days may run consecutively.
 2. The area, or areas, need not be covered under the licensee's lease; however, if not, the licensee must have written approval from the owner of the property to have exclusive control over the area(s).
 3. The area(s) must be adjacent to the licensee's leased premises.
 4. Access to the area(s) must be confined to one well-defined opening.
 5. Adequate tables and chairs must be provided. If it is a mixed beverage license and it exceeds the existing seating tax, no additional seating tax will be required.
 6. Foods, which need not be entrees, must be available.

7. Wine, beer, and mixed beverages not purchased from the licensee are prohibited.
 8. The consumption of alcoholic beverages not purchased from the licensee is prohibited.
 9. There must be adequate supervision, and lighting must be sufficient to allow for reasonable observation of those in attendance.
 10. Ascertain the opinion of local citizens and officials, where applicable.
 11. A report will be filed at the completion of the investigation with appropriate recommendation. WebCORE should be updated by the agent with any approvals or changes. If the agent finds the area(s) unsuitable, or there are local objections, a hearing should be recommended in the investigation report and an objection entered in CMS.
 12. The License Technician is not involved in this process.
- B. Private clubs may request and have their premises extended beyond their normally approved premises for a temporary period of time not to exceed twelve (12) times per year. In this circumstance, there is no prohibition against purchase or consumption of alcoholic beverages from a source other than the licensee due to the fact that members are allowed to keep alcoholic beverages at the club as long as they are lawfully acquired.

VII. GOLF COURSE INVESTIGATIONS

- A. Licensed restaurants located on the premises of a golf course with exclusive control thereof, either public or private, may have their licensed premises extended to include the golf course as a designated area.
1. The agent will conduct the investigations for the approval of a golf course for the consumption of beer, wine, and mixed beverages. The License Technician may assist in gathering the required information. No advice should be communicated to the applicant.
 2. The investigation report should contain the following information and be submitted to the Special Agent in Charge for review:
 - a. Verify and report that the licensee has ownership, has leased, or has a contract agreement giving exclusive control of the golf course;
 - b. The opinion of area citizens and local officials where applicable is determined by the agent;

- c. That only alcoholic beverages purchased and sold under the license may be consumed;
 - d. That no person less than 21 years of age may sell or serve the alcoholic beverages;
 - e. That no alcoholic beverages will be consumed on public thoroughfares or parking lots;
 - f. That signs are posted, and written instructions are given to golf course guests as well as employees, in reference to the use of alcoholic beverages, within the designated area; and
 - g. That agents of the Board will be furnished, at no cost, motorized transportation to inspect the approved area.
3. If the agent finds the area in conformance with applicable laws, regulations, policies and guidelines, they may inform the licensee of its approval. WebCORE should be updated with any approvals or changes.
 4. If the agent finds that local opposition has been registered, then a hearing should be recommended in the investigation report and an objection entered in CMS.

VIII. CARRIER LICENSES

- A. Air Carrier Licenses issued to airlines operating regularly scheduled flights in foreign, interstate, or intrastate commerce, which will authorize the licensee to sell wine, beer and mixed beverages for consumption by passengers in such airplanes anywhere in or over the Commonwealth while in transit and in designated rooms of establishments of such carriers at airports in Virginia.
 1. A license is issued to the air carrier's main office in Virginia, although the carrier may operate and exercise the privilege of the license at more than one airport in the state. Additional airports exercising the privilege should be listed in WebCORE Comments.
 2. LRM staff should obtain input from the Bureau of Law Enforcement where such airlines operate in obtaining the required information listed in 3.a.-e. below.
 3. The License Technician should follow the retail process outlined in III Procedure A. Retail Investigation beginning on Page 10 and may also collect answers/documents corresponding to the following items only. No advice should be communicated to the applicant beyond procedural information known by the License Technician to be correct. The investigation report should contain:

- a. The number of flights originating from each airport;
 - b. Describe any VIP room and any area where alcoholic beverages are stored, including dimensions of each;
 - c. Report hours of operation of the VIP room, number of employees, and state if food is served;
 - d. Authority to use the room. State whether any ticket-holder can use the VIP room, and whether or not this particular airline has a reciprocal agreement with other airlines for members to use each other's facilities. If a VIP room is used as a particular club, state what one must do to become a member of that club; and
 - e. State Corporation Commission Certificate of Authority.
- B. Boat - A common carrier of passengers for which a certificate as a sightseeing carrier by boat or a special or chartered party by boat has been issued by the State Corporation Commission.
- 1. Qualifications, habitually selling food pursuant to Board Regulations 3VAC5-50-110, B1 and C1.
 - 2. Posting and publishing notice for carrier license shall not be required.
 - 3. Form 805-1 report will be submitted at the conclusion of a carrier license investigation.
 - 4. LRM will obtain assistance as required from the Regional office as necessary to process these applications.

IX. CHANGE OF STRUCTURE OF CORPORATIONS/LIMITED PARTNERSHIPS

- A. Corporations, associations, limited partnerships, limited liability partnerships, limited liability companies may from time to time, change officers, directors, stockholders, partners or members. For the most part such changes will not necessitate the filing of a new application unless it is determined that the change is a device to evade the provision of the ABC Act (reference Section 4.1-203).
- B. Any changes will require an investigation of:
 - 1. General Partnerships – any new partner;
 - 2. Limited partnerships (LP), Limited liability partnerships (LLP), and Limited liability companies (LLC) – any new member-manager or new member owning 10% or more of the membership;

3. Associations – new persons with 10% or more interest in the association; and
 4. Corporations:
 - a. Such new officers with such titles and duties as stated in the by-laws or a resolution of the Board of Directors. For example, if the by-laws state: “The Board of Directors will appoint the president, vice-president, and secretary...,” then a thorough investigation should be completed on new persons holding those offices. If, however, the by-laws state: “The Board of Directors will appoint all officers...,” then all new officers must be investigated.
 - b. All new directors.
 - c. New shareholders of 10% or more of the capital stock.
 - d. However, the Board may waive, for good cause shown, the requirement for a criminal history records search and completed personal data form for officers, directors, non-managing members, or limited partners of any applicant corporation, limited liability company or limited partnership.
- C. The licensee is required to report any such change to the agency within 30 days.
- D. Upon receipt of notification of such change by LRM, LRM may assist the agent with collection of required documents and WebCORE data entry of information. The agent will review all information collected and entered by the License Technician. When the notification of change is received by the agent, or Regional office, the agent is responsible for conducting the investigation and submitting a report, which will include:
1. A Personal Data Report containing personal history information that is required on the Application for License;
 2. Criminal background checks. (The cost for running a Virginia criminal background check is covered by the Commonwealth as long as it is not part of a new application investigation. The cost of any other criminal background check will be the responsibility of the subject of the investigation); and
 3. A recommendation of approval or disapproval.
- E. After approval/disapproval, all information should be imaged (with exception of criminal background check and DMV documentation) and original sent to LRM.

- F. Should the suitability of an officer or director be questionable, the agent will use the index found in the Charge/Objections Manual to report the same.

Using the appropriate charge(s), the agent shall create an incident in CMS completing the appropriate information to include but not limited to: administrative charge(s) and a narrative explaining the issue. The agent will then forward to supervisor.

- G. The supervisor will forward to Hearings once the history, if any, has been completed in CMS. The entire investigation file will be imaged by the Region and forwarded to LRM. (For a full listing of charges, refer to the Administrative Hearings Charge/Objections Manual and Case Law Index.)

X. LICENSE RENEWALS

- A. Bills are sent by License Records Management (LRM) to licensees on or about the 10th day of the month preceding month of license expiration. At this time, each Regional Office may produce an unpaid renewal listing showing the licensees billed for each agent territory and forward that information to each agent. The listing may be checked for accuracy and corrections made to the WebCORE system as necessary.
- B. Agents are responsible for ensuring that licensees in their assigned territory renew their license(s) within the permitted time period.
- C. On or about the 15th of the month of expiration, each Regional Office may generate an unpaid renewal listing for each agent territory showing those licensees who have not paid their license renewal. All such licensees must pay a penalty plus the required state license fee. Penalties are \$25.00 or 10% of the state license fee, whichever is greater for a 30 day delinquency, and \$100.00 or 25% of the state license fee for delinquencies in excess of 30 days.
- D. Licensees who do not pay the state license fee by midnight of the 15th day of the month of expiration have 75 days from that date to pay the state license fee and appropriate penalty, and have their license renewed. Otherwise, a new application must be filed after 75 days.
- E. Any licensee who has not renewed by the 15th day of the month of expiration should be contacted and advised they must pay the state license fee and penalty by midnight of the last day of the month or their license will expire.
- F. On the 1st day of the month following the month of expiration or as soon as possible thereafter, agents must contact the establishment and advise the licensee they must stop purchasing and selling alcoholic beverages unless the state license fee and penalty are collected.

Note: When the agent contacts the licensed establishment, if the licensee claims they mailed the state licensee fee and penalty, (where applicable) in time, and can show some evidence to that effect, the agent should consult WebCORE System Money Screen for the most current information or contact LRM to verify that payment has been paid.

G. Additional Information:

1. Due dates for renewals are not always the 15th of the month. If the 15th falls on a weekend or holiday, the due date is moved to the next business day. This is reflected on the bill sent to the licensee.

This fact also affects the other dates involved in the process such as the last date that late penalty and state license fee can be paid without having to reapply. This date is also specified on the bill.

2. The postmark date is an important key. Even if the printout or WebCORE shows that a licensee has not paid, if their payment arrives with a valid postmark date, the licensee will not be penalized.

If a licensee says they have paid but the Money Screen for that license number does not indicate a payment, the Regional office Administrative Technician can search CORE by doing a “Cashier Receipt Search” in Licensing using the license number in question.

3. Regional Administrative Technicians can run a “General Reporting” report at any time for an agent for his/her assigned territory to check on renewals. The Technician can do this from “Licensing, Utilities, General Reporting”, choose the territory number, active licenses, and choose an expiration date for whatever month they are requesting. This will provide a list of the licenses that will expire for that particular month, who have not yet paid. NOTE: Those licensees in the territory who have paid would not be pulled into the report because their expiration date after payment would now be showing expiration in the next year.

XI. EMPLOYMENT OF CONVICTED FELONS

- A. Virginia Administrative Code 3 VAC 5-50-40 permits persons with convictions of the types listed in the statute to be employed by licensees without having to seek permission from ABC. This regulation will be the controlling document when dealing with employment of convicted felons.
- B. There will be three (3) levels of employment recognized by ABC when considering employment of convicted felons:

1. Positions involving busboy, cook or other kitchen help;
 2. Positions involving selling and serving;
 3. Positions involving the creation or maintenance of required records or the preparation or filing of any tax return or required report.
 - a. This will include positions of designated manager, general manager, staff bookkeeper and above.
 - b. It will not include people who ring cash registers or write up service checks. Those positions do not rise to the level of "creation or maintenance" of records.
- C. Employment Regulations - Listed below are the only criminal offenses that will be considered when dealing with employment of felons.
1. Positions involving busboy, cook or other kitchen help:
 - a. There are no limitations concerning hiring someone with a criminal record.
 2. Positions involving selling and serving:
 - a. A licensee must first obtain permission before employing anyone convicted of a violation involving the manufacture, transportation, possession, use or sale of alcoholic beverages.
 - b. A licensee must first obtain permission before employing anyone convicted of a felony violation of any of the statutes contained in Articles 1 (Drugs), 1.1(Drug Paraphernalia), or 2 (Driving Motor Vehicle, etc., While Intoxicated) of Chapter 7 of Title 18.2.
 3. Positions involving the creation or maintenance of required records or the preparation or filing of any tax return or required report:
 - a. A licensee must first obtain permission before employing anyone convicted of a violation involving the manufacture, transportation, possession, use or sale of alcoholic beverages.
 - b. A licensee must first obtain permission before employing anyone convicted of a felony violation of the statutes contained in:
 - 1) Articles 2 (Burglary and Related Offenses), 3 (Larceny and Receiving Stolen Goods), 4 (Embezzlement and Fraudulent Conversions), or 7.1 (Computer Crimes) of Chapter 5; or

Articles 1 (Forgery), 3 (False Pretenses), 4 (Bad Check Law), 5 (False Representations to Obtain Property or Credit), 6 (Offenses Involving Telecommunications Devices), or 9 (Virginia Comprehensive Money Laundering Act) of Chapter 6 of Title 18.2.

D. Investigations of requests to employ individuals with convictions that fall under above listed prohibitions.

1. When an agent receives a written request to employ a convicted felon that falls under the above listed requirements they will:

a. Conduct an investigation into the background and suitability of the proposed employee. The investigation should be completed in CMS and include:

- 1) The personal history of the individual, including his or her full name, home address, date of birth and social security number.
- 2) A complete criminal history. (The cost for running a Virginia criminal background check is covered by the Commonwealth as long as it is not part of a new application investigation.

The cost of any other criminal background check will be the responsibility of the subject of the investigation.

- 3) A statement from the probation officer, if applicable.
- 4) A recommendation from the Chief of Police or Sheriff and the Commonwealth's Attorney or their designee.
- 5) The agent's recommendation.

E. Special Agents in Charge, after reviewing the investigation, have the authority to exercise discretion in the approval of employees who have been convicted of the above listed offenses if:

1. Felony conviction was more than five years ago;
2. Conviction of a crime involving alcoholic beverages was more than 12 months ago; or
3. Drug Convictions.

The SAC will prepare and send a letter of approval or disapproval of an employee to the licensee. If disapproved, this letter will include information about the pending hearing. Copies of this letter with all attachments will be forwarded to the Deputy Chief of Operations through the chain of command.

- F. All employee cases that are disapproved will be called to a hearing and forwarded to the Hearings Division as is currently the procedure for disciplinary and contested applications.
- G. If a SAC encounters an employment case that, while not covered under the new regulation, does in their view present a public safety risk or where they believe circumstances warrant disapproval, the SAC will send the investigation with accompanying comments to the Regional Agent in Charge for guidance.
- H. When an agent receives or uncovers a licensee who currently has in their employment an individual who, under the new regulation, would need to be approved, the agent will:
 - 1. Make the licensee aware of the issue.
 - 2. Ascertain if they wish to pursue obtaining permission for employment of that individual.
 - 3. If the licensee wishes to pursue approval:
 - a. The agent will immediately initiate an investigation and expedite a hearing, if needed.
 - 4. If the licensee does not wish to pursue approval:
 - a. The agent will advise the licensee he must terminate the individual in a reasonable timeframe or face an administrative charge.
 - 5. Individual employees are not afforded the right to petition the Board for employment approvals. The employing licensee must be the entity making the request.
- I. The License Technician is not involved in this process.

XII. LICENSEE CONVICTIONS

- A. Virginia Administrative Code 3 VAC 5-50-40 does not impact the process for investigating licensees convicted of felony offenses.
- B. When any licensee has been convicted of any of the following, the licensee will be called to a hearing and forwarded to the Hearings Division as is currently the procedure for disciplinary and contested applications.
 - 1. A felony within five years;
 - 2. A crime involving moral turpitude within the past two years;
 - 3. A crime involving alcoholic beverages within the past twelve months;

4. Drug Convictions; or
 5. Persons currently on parole or probation.
- C. Cases under other circumstances could be called for a hearing. An example of this would be a felony drug conviction, which is six years old. The chief law enforcement officer and the Commonwealth's Attorney of the locality in which the employment is being requested, will be notified of the conviction at the time of our initial notification requirement, relative to the application.
- D. All of these cases require an incident to be generated in CMS by the agent and forwarded through the chain of command to Hearings.
- E. The License Technician is not involved in this process.



VIRGINIA ALCOHOLIC BEVERAGE CONTROL
BUREAU OF LAW ENFORCEMENT

GENERAL ORDER #501

LICENSEE INSPECTIONS

EFFECTIVE DATE: July 1, 2014
REVISED: June 19, 2015
REFERENCES: Code of Virginia §4.1-204
REPLACES: O-007
TLP: AMBER

Ryan D. Washburn

Chief of Law Enforcement

I. PURPOSE

The purpose of this General Order is to provide guidance to agents regarding the conduct of licensee inspections.

II. POLICY

It shall be the policy of the Bureau of Law Enforcement that all ABC licensed establishments are inspected in a consistent, fair, and impartial manner in accordance with the guidelines established in this General Order, the Code of Virginia, the Virginia Administrative Code, and the constitutional rights of the licensee.

III. PROCEDURES – LEGAL AUTHORITY

- A. An inspection is an official examination of premises licensed to sell alcoholic beverages, and all invoices, records, and accounts therein, and is a judicially recognized exception to the search warrant requirement. However, an inspection shall not be conducted when the agent has advance knowledge/probable cause that evidence of a criminal violation is located upon the licensed premises. In this instance, the agent will obtain and execute a search warrant in accordance with General Order 301, Search Warrants.
- B. In accordance with Code of Virginia Section 4.1-204.F., Records of Licensees; Inspections of Records and Places of Business. “The Board and its special agents shall be allowed free access during reasonable hours to every place in the Commonwealth and to the premises of both (i) every wine shipper licensee and beer shipper licensee, and (ii) every delivery permittee wherever located where alcoholic beverages are manufactured, bottled, stored, offered for sale or sold, for the purpose of examining and inspecting such place and all records, invoices and accounts therein. The Board may engage the services of alcoholic beverage control authorities in any state to assist with the inspection of the premises of a wine shipper licensee, a beer shipper licensee, or delivery permittee, or any applicant for such license or permit.”

- C. For purposes of a Board inspection of the records of any retail licensees, "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. 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. Licensee records may be stored by electronic means provided they are readily available for inspection.
- D. For purposes of a Board inspection of the premises of any retail license, and in accordance with 3VAC 5-50-70, the term "reasonable hours" shall be deemed to include all business hours of operation and any other time at which there exists any indication of activity upon the licensed premises.

IV. PROCEDURES-CONDUCTING THE INSPECTION

- A. Scope of Inspection
 - 1. Records, invoices, and accounts therein.
 - 2. Evidence of violation of any ABC laws and regulations.
 - 3. Evidence of violation of local ordinances as described in the ABC Act.
 - 4. Evidence of violation of state and federal criminal laws which could constitute grounds for suspension or revocation of a license pursuant to Virginia Code Section 4.1-225. These will include, but not be limited to, the following:
 - a. Narcotics violations;
 - b. Drug paraphernalia;
 - c. Gambling violations;
 - d. Imitation controlled substances; and
 - e. Stolen property.
 - 5. Agents can inspect the premises where the items outlined above could reasonably be located. While conducting inspections agents may seize items of evidence, under the plain view doctrine, of criminal violations if they have probable cause to believe such items constitute evidence of a crime. Upon seizing any such item however, the inspection should cease with the scene secured, and either a search warrant or consent to search from a person authorized to provide consent should be obtained.

6. The inspection authority does not extend to individuals, property of patrons or personal property of the licensee or employees, i.e. purses, coats, cell phones, etc. However, a consent search may be requested if the agent has a reasonable basis for seeking such consent.
7. Inspections should be conducted so as to minimize disruption to the operation of the licensed business.

B. Refusal of the Licensee to Allow the Inspection

In the event a licensee or representative refuses to permit an inspection into a locked area (cabinet or office), a forced inspection is not permitted. However, the person in control should be notified that his refusal to permit the inspection constitutes a criminal offense under Section 4.1-331 or Section 4.1-349, Code of Virginia, to wit: Violation of 3VAC 5-50-70.D, and that the subject's continued refusal could result in issuance of an arrest summons under these sections and administrative charges filed against the license.

C. Frequency of Inspections

1. Off Premise licensed establishments are to be inspected within 90 days after the initial issuance of the license and once every other year thereafter or more often, if required. On Premise licensed establishments are to be inspected within 90 days after the initial issuance of the license and once every year thereafter or more often, if required.
2. The purpose of these inspections is to ensure that the licensee is in compliance with ABC laws and regulations and the Code of Virginia, and to answer any questions that the licensee may have related to operating under an ABC license. An inspection is also an opportunity to discuss new laws and regulations with which the licensee may not yet be familiar.

D. Required Paperwork

A licensee inspection report (Form 805-5) shall be completed and signed by the agent and the licensee or his/her authorized representative upon conclusion of the inspection. Violations detected in the course of the inspection will be noted on this report as either a "Written Warning", or "Hearing Requested". The inspection report will serve as the licensee's official notice of warning/violation, and should contain sufficient information in the "Agent's Comments" section of the report, to adequately describe the violation. When a Written Warning is issued, the agent shall archive this information in the Inspection module in CMS. If a hearing is requested, the agent will complete and submit a Violation Report in CMS in accordance with General Order 509, Violation Reports. Form 805-5 shall be returned to the Regional Administrative Technician within 10 working days of the inspection. The Administrative Technician shall scan the 805-5 and enter into the license record through Invize.

E. Compliance Unit Inspection Reviews

1. Inspections of industry licensees will be conducted within the guidelines of this General Order with the exceptions and additions listed below.
2. Senior Special Agents assigned to the Compliance Unit (Compliance SSA), will conduct inspections of all ABC licensed wholesalers, out of bond permittees, wineries, breweries, farm wineries, and distilleries on an annual basis.
 - a. A comparison of products in the physical inventory with those in the book inventory.
 - b. Invalid check records.
 - c. Business entertainment records.
 - d. Verifying there were no changes in ownership information.
 - e. Verifying the building lease or ownership information.
 - f. Documenting the list of all licenses and tax identification numbers held by the licensee.
 - g. Comparison of the wholesaler actual inventory and the inventory of record immediately prior to the physical inventory.
4. Detailed audits of a licensee may be conducted by the Tax Audit Unit as assigned by the Compliance Unit SAC.
5. Inspections will also serve as an opportunity for the Compliance SSA to address any issues or concerns which either party may have.
6. Compliance SSAs will also conduct inspections of all Out of Bond warehouses on an annual basis. Members of the Tax Audit Unit are available to assist with these inspections. The inspections will be used to verify:
 - a. Alcoholic beverages are being stored according to regulations.
 - b. Records of the receipt and transfer of alcoholic beverages are complete and accurate.
 - c. The alcoholic beverages are being delivered to persons or places authorized by law.



VIRGINIA ALCOHOLIC BEVERAGE CONTROL
BUREAU OF LAW ENFORCEMENT

GENERAL ORDER #500

UNDERAGE BUYER OPERATIONS

EFFECTIVE DATE: July 1, 2014

REVISED: June 19, 2015

REFERENCES: Code of Virginia §18.2-371.2

REPLACES: OM-01, G.O. 42

TLP: AMBER



Chief of Law Enforcement

I. PURPOSE

The purpose of this General Order is to establish the guidance of the Bureau of Law Enforcement regarding Underage Buyer Compliance Check Operations, and to provide guidance regarding the conduct of those operations for both alcoholic beverages and tobacco products.

II. POLICY

It is the policy of the Bureau of Law Enforcement that all underage buyer compliance checks are conducted in a manner that is fair, ethical, transparent, and consistent with all legal standards and requirements. It shall also be the policy of the Bureau of Law Enforcement to regularly conduct underage buyer compliance checks as a means of deterring the sale of restricted alcohol and tobacco products to underage persons, and as a mission critical performance standard.

III. BACKGROUND

A. Alcohol

Alcohol underage buyer (UAB) compliance checks are one of the main objectives and a critical function of the Bureau of Law Enforcement's public safety mission. It is well established that the sale of alcoholic beverages to underage persons can jeopardize lives and safety. The primary goal of a UAB compliance check is to deter the sale of alcoholic beverages to underage persons by licensees.

UAB checks also measures the compliance rates of licensees and ABC stores when each are faced with the same set of circumstances. Communities need valid information in order to do the most effective job of prevention.

UAB Compliance check operations can also:

1. Identify those establishments that are selling to underage persons and how often;

2. Raise community awareness and build support for reducing sales to underage persons;
3. Inform merchants that they are being monitored by the community;
4. Aid law enforcement as they develop prevention strategies; and
5. Help establish a benchmark to evaluate the effectiveness of these prevention strategies.

B. Tobacco

In July 1992, Congress enacted the Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act, which included the Synar Amendment aimed at decreasing youth access to tobacco. This amendment requires States to enact and enforce laws prohibiting the sale or distribution of tobacco products to individuals under 18 years old. To determine compliance with the legislation, the Amendment requires each State and U.S. Jurisdiction to conduct annual random, unannounced inspections of retail tobacco outlets and to report the findings to the Secretary of the U.S. Department of Health and Human Services (HHS). States that do not comply with the requirements set forth in the Amendment are subject to a penalty of 40 percent of their Federal Substance Abuse Prevention and Treatment (SAPT) Block Grant funding.

The Virginia Department of Alcoholic Beverage Control was designated by the General Assembly as the governmental agency charged with the enforcement of this requirement pursuant to Title 18.2-371.2.G.

IV. PROCEDURES - ADMINISTRATIVE

A. Licensee Selection – Alcohol Compliance Checks

1. In July of each year two randomly generated lists of licensees subject to compliance checks will be created as follows:
 - a. System Initiated Alcohol Compliance Checks:
 - 1) System randomly chooses licensee.
 - 2) System contains two algorithms:
 - a) Licensees will be checked at least once in a four year cycle.
 - b) Licensees that have previously failed a UAB check have a higher statistical probability of being selected by the program.

- 3) Final lists are sent to each Regional SAC for distribution with a 12 month completion date of June 30th of the following year.
 - b. Random Alcohol Compliance Checks:
 - 1) Random sampling of existing licensees with no algorithms affecting the probability of a licensee becoming the target of a check.
 - 2) Scientifically sound process for computing the actual compliance rates for the state.
 - 3) Final lists are sent to each Regional SAC for distribution with a completion date of November 30th. This allows time for the data to be analyzed, compliance rate percentages calculated and ultimately sent to the General Assembly.
 2. To the extent possible, these two lists will be mutually exclusive.
 3. A licensee may also be checked via the agent initiated process:
 - a. Agent Initiated Alcohol Compliance Checks:
 - 1) Licensee selection is at agent or supervisor discretion used as an investigate tool.
 4. ABC stores are also checked at least once a year as part of the Underage Buyer Program.
- B. Retailer Selection – Tobacco Compliance Checks
 1. Tobacco compliance checks are divided into two operations - Synar Checks and Food and Drug Administration (FDA) checks. ABC receives a list of approximately 6000 retailers, in the form of an electronic file from Virginia Department of Behavioral Health and Developmental Services (DBHDS) for SYNAR tobacco checks.
 2. Synar Checks - approximately 1000 SYNAR checks are done on retailers that have been identified by a computerized random sample of the DBHDS list. SYNAR lists are generated and distributed in May and are due by August 15th, so the data compiled from these checks can be submitted to DBHDS, and then to the Federal Department of Health and Human Services that oversee the process. Data from these checks are used to establish tobacco compliance rates for Virginia.

3. FDA checks will be conducted in accordance with FDA guidelines and procedures manual.
 4. Agent initiated Tobacco Compliance Checks can be made at retail establishments after receiving a complaint. Agent initiated tobacco compliance checks are documented and submitted on a form 805-95 and in CMS.
 5. Agents are not limited to conducting checks for cigarettes only. Code of Virginia §18.2-371.2 states “No person shall sell to, distribute to, purchase for or knowingly permit the purchase by any person less than 18 years of age, knowing or having reason to believe that such person is less than 18 years of age, any tobacco product, nicotine vapor product or alternative nicotine product.
- C. Underage Buyer (UAB) Recruitment and Hiring - Underage buyers should be recruited based on the following criteria:
1. The Regional Special Agent in Charge is responsible for ensuring the efficient and appropriate recruitment and hiring of UABs. Regions should employ UABs who represent diverse demographics.
 2. Age Requirements
 - a. Alcohol - Underage buyers used for alcohol compliance checks shall be 17, 18, or 19 years of age at the time of an operation.
 - b. Tobacco - Underage buyers used for tobacco compliance checks shall be 16-17 years of age at the time of an operation.
 3. UABs should be youthful in appearance and shall not appear older than their true age.
 4. Underage buyers must possess a valid Virginia DMV issued Driver’s License or Virginia DMV issued identification card.
 5. Application process:
 - a. UAB applicants shall submit a criminal history check consent form and photographs as the first step of the application process. These forms may be collected by the recruiting agent or supervisor and forwarded to the Regional SAC.
 - b. UAB applicant photographs must accurately depict the way the UAB would appear during an operation. Applicants must be clean shaven and not wearing makeup or jewelry in the application photographs.

The application photographs must be taken in adequate lighting with a plain background. Applicant photographs must include a close facial photograph and a full body photograph.

- c. If the Regional SAC recommends that the applicant advance in the application process after reviewing the application photographs, the consent form and photographs will be scanned and emailed to the Chief's Administrative Staff Assistant.
 - d. The Chief's Administrative Staff Assistant will present the application photographs to the Deputy Chief of Operations for approval.
 - e. If approved by the Deputy Chief of Operations, the Chief's Administrative Staff Assistant will complete the criminal history check.
 - f. The Chief's Administrative Staff Assistant will notify the Regional SAC of the approval and results of the criminal history check.
 - g. If the applicant is to proceed in the hiring process, the Regional SAC will ensure that the UAB Hiring Manual is followed to complete the hiring process.
 - h. The recruiting agent shall ensure a clear digital photograph of the UAB is taken and attached with the application.
6. UABs cannot be hired as a means to avoid prosecution, judicial findings, or other penalties.
 7. UABs are required to have a bank account to comply with direct deposit requirements.

D. Underage Buyer Training

UABs will complete mandatory training prior to deployment. During UAB training the following topics will be covered in detail using the Bureau approved training presentation and testing package, which is stored on "J" drive:

1. UAB Program Overview.
2. Applicable ABC/Tobacco laws.
3. UABs exemption from prosecution for making purchases as an employee of ABC.
4. UAB safety; UAB compliance with special agent's instructions.

5. Selection and retention as a UAB including the basis of selection, appearance, and proper attire.
 6. Entrapment.
 7. Rules of evidence.
 8. Operational Processes:
 - a. Appearance requirements.
 - b. Observation, mental note taking and completing field notes if sale made.
 - c. Court and hearings demeanor and procedures.
 - d. Actions to take if UAB knows the seller or server.
 - e. Detailed purchase instructions.
 9. A typical operation from start to finish.
 10. UAB daily timesheet procedures.
 11. All UABs will be required to take and pass with at least a 90% the Bureau UAB testing instrument.
- E. Prohibited UAB activities include: (not all inclusive)
1. UABs shall not consume alcoholic beverages or tobacco products during their assignment. Moreover, the illegal use of alcohol or tobacco products by a UAB while off duty is grounds for dismissal from the program.
 2. UABs shall not wear, display, or carry identification which shows that they are an ABC or law enforcement employee.
 3. UABs shall not carry firearms or weapons in their scope of employment.
 4. UABs are instructed to answer truthfully if asked their age or birth date during a compliance check. Lying is prohibited.
 5. UABs are instructed to provide their actual driver's license or DMV issued identification card if asked. Providing false identification is prohibited. Possession of a false identification is a violation of law and is grounds for dismissal from the program.
 6. UABs are instructed that if asked are they old enough to purchase/consume

alcohol/tobacco, they are to reply “no”. Lying or deception of any type is prohibited.

7. UABs will not be removed from school to conduct a UAB operation.
8. UABs shall not sign blank time sheets.

F. Responsibility of Regional Special Agent in Charge

Overall responsibility for the timeliness, effectiveness, integrity, and compliance of UAB program operational procedures. This includes the appropriate recruitment and training of all UABs.

G. Responsibility of Assistant Special Agent in Charge

1. Daily oversight of UAB checks/functions.
2. Paperwork review and approval.
3. Compliance with all time-line requirements.

H. Responsibility of Special Agents involved in UAB checks

1. At a minimum, two agents will be assigned to a UAB operation. In some cases a local, state or federal law enforcement officer may be used in place of an ABC agent. Additionally, two agents are required when accompanying a juvenile UAB (under 18 years of age), to include, driving to and from the UABs residence. If the agent is transporting without the accompaniment of another agent or Law Enforcement officer a UAB of the opposite sex who is 18 years of age or older the agent must report the appropriate information to communications to include beginning and ending mileage.
2. The overriding responsibility for both agents is the safety of the UAB. The UAB shall be under direct visual observation of an agent at all times during the operation.
3. The primary agent organizes and supervises the UAB operation.
4. The primary agent ensures sufficient funds are available for the operation.
5. The primary agent ensures a pre-operation inspection/briefing takes place including:
 - a. Ensures that the UAB has received agency approved training.

- b. Ensures that the UAB is appropriately attired and does not appear older than their actual age. UABs that are not properly attired or appear older than their actual age will not be used. UABs may not wear make-up or jewelry, and males must be clean shaven.
- c. Ensures the UAB's ID is valid and make sure the UAB has no other ID on his/her person.
- d. Ensures that a digital photograph (using bureau issued equipment) of the UAB is taken prior to beginning the operation.

NOTE: When a check results in a violation, that photograph is deemed evidentiary and the arresting agent will ensure it is attached electronically to the CMS report (this applies to alcohol compliance checks only due to the fact a photograph is needed for the hearings process of a licensee violation) and a copy is taken to court/hearing.

- 6. If a purchase is made, evidence shall be secured and a CMS report shall be completed. If the item purchased is an opened alcoholic beverage and the agent cannot testify that he/she observed the liquid served from a designated beer tap or poured from a clearly marked beer/wine or spirits bottle, the arresting agent will collect a sample in an agency provided sample bottle. The sample will be submitted to the Virginia Department of Forensic Science for an analysis when the agent believes it is needed for a criminal case or administrative hearing. When the sample is submitted the lab should be requested to test for an alcoholic beverage.
- 7. **At no time** will the identity of the UAB be disclosed to persons associated with licensed businesses or merchants during the investigation.
- 8. The primary agent will provide the UAB with purchase money prior to or at each purchase attempt.
- 9. ABC provides UABs a meal if working through normal meal hours. Asset forfeiture funds will not allow for food purchases, the primary agent will pay for all approved expenses incurred by the UAB (i.e., meal). The primary agent may submit a Travel Expense Reimbursement Voucher and 805-20 for reimbursement of UAB meals. This expenditure covers the UAB's meal only, and should be expense coded as 1287.
- 10. ABC employs UABs as P-14 state employees as such UABs are restricted to the state maximum allowed hours per week. UABs are not permitted to receive any compensation other than their actual earnings.

11. Compliance checks are assigned to agents by CMS and a preprinted data collection form is provided. Each agent is responsible for the UAB checks assigned in their territories. While it is strongly preferred that an agent take part in UAB checks of licensees in their assigned territories, it is not mandated. UAB checks may be assigned to other agents at the discretion of the regional SAC.
12. Agents shall use discretion in using UABs in establishments that the agent suspects may be unsafe or lewd. In such cases agents shall check the appropriate box on the form and forward it to their supervisor for review. Only UABs that are over 18 years of age and willing to do so, shall be used to check establishments that provide adult entertainment.
13. In the event that an establishment commits an offense, the agent who witnessed the violation issues the summons, enters the data into CMS within three working days and initiates the report of license violation within five working days. The SAC or ASAC should approve the incident in CMS within five working days of receipt of the report.
14. If no violations are observed during a compliance check, the primary agent completes the data collection form, and returns it to the SAC or ASAC for approval within three working days following the operation. The SAC or ASAC approves the form and returns it to the central office for entry into CMS within five working days of receipt of the form.
15. Special agents should not interfere with the sale process. An agent observing the purchase attempt should not say or signal anything that alerts the seller or server that the UAB may be underage. Examples of interference include wearing a police identifier (badge/credentials) in a conspicuous manner, advising the clerk to check the ID again or making comments that the UAB “looks young”.
16. At the conclusion of each operation, UABs shall accurately complete the EB-48 (time sheet) to include specific start and finish times. Agents shall ensure accuracy of the information on the form and shall sign the form as an approval of time worked by the UAB. Both the UAB’s and the agent’s signatures are required on the EB-48.
17. Agents are reminded that other agencies and the private sector rely on compliance check results. Therefore, agents must ensure that the data collection process, evidence documentation, expenditures, and time reports, are complete and accurate.

V. PROCEDURES - OPERATIONAL

A. Off-Premise Establishments

1. To ensure the safety of UABs and to comply with basic on-view arrest mandates, it is recommended that the agent will enter the establishment before the UAB and observe the UAB's purchase attempt. While the agent does not have to stand directly beside or behind the UAB, he/she should be close enough to see the transaction and hear any conversation between the clerk and the UAB.
 - a. If the primary agent is known to the establishment the secondary agent should enter the establishment.
 - b. If it is believed that the establishment will know both agents, the primary agent will consult with supervision for authorization to use extraordinary strategies, (i.e. utilizing agents from outside the area, outside observation while using electronic eavesdropping equipment, etc.).
2. The secondary agent remains in the vehicle or observes from outside the establishment.
3. UAB Procedures:
 - a. UAB enters the establishment;
 - b. UAB selects alcoholic beverage or tobacco product;
 - c. UAB proceeds to checkout line alone;
 - d. UAB attempts to purchase alcoholic beverage or tobacco product;
 - e. If the establishment employee asks "Are you old enough?" - UAB answers "No".
 - f. If the establishment employee asks "Are you 21?" - UAB answers "No".
 - g. If the establishment employee asks "How old are you?" - UAB answers with true age, "16, 17, 18 or 19".
 - h. If the establishment employee asks for identification - UAB provides valid Virginia driver's license or DMV issued identification card.

- i. If the establishment employee declines sale. - UAB returns to the car.
 - j. If the establishment employee completes the sale of alcohol or tobacco to the UAB.
 - 1) UAB pays for the product;
 - 2) UAB picks up the purchased products, which is now evidence and the receipt if provided;
 - 3) UAB returns to the agent's vehicle.
 - k. UAB shall draft notes using the designated form (EB-49) immediately after the check, date and sign the notes.
 - l. UAB gives the evidence, alcohol or tobacco, and the EB-49 to the special agent. The special agent may copy the UAB's notes and provide copies to the UAB.
- 8. Agent who witnessed the sale identifies him/herself to the establishment.
 - 9. Agent tells the establishment employee that they sold alcohol or cigarettes to an underage buyer and initiates the appropriate enforcement action.
 - 10. The Bureau's policy is zero tolerance for alcohol and tobacco sales to underage persons. However, if faced with extraordinary circumstances, appropriate action shall be taken by the agent and immediately reported to his/her ASAC.

B. On-Premise Establishments

- 1. On premises – restaurants, clubs, places that have tables or counters to sit at.
- 2. The agent enters the business followed by the UAB.
- 3. UAB Procedures:
 - a. Some businesses may require proof of age at the door. Upon entering the establishment, asks age or for identification, answer truthfully or present valid DL or identification.
 - b. Entry denied - UAB returns to car.
 - c. UAB permitted to enter;
 - d. UAB takes seat at a table and places an order or UAB approaches counter and places an order;

- e. UAB orders alcoholic beverage or tobacco product; it is preferred that UAB order a bottle or can of beer if possible;
 - f. UAB shall not consume or pretend to consume any unauthorized product;
 - g. UAB makes customary payment;
 - h. As soon as the establishment employee delivers the product, the UAB walks away and returns to the agent's vehicle;
 - i. UAB drafts notes using the designated form (EB-49) in the agent's vehicle and gives original notes to agent.
4. The agent who witnessed the sale will identify themselves to the violating employee and advise them that they sold an unauthorized product to an unauthorized person. The agent will then initiate the appropriate action.

C. Timesheets

- 1. Form EB-48 shall be filled out by the UAB and include the exact hours worked. The sheet will be signed by both the UAB and the primary agent attesting to its accuracy at the end of tour, each day they work.
 - a. It is strictly forbidden for an agent to have the UAB pre-sign the timesheet and then the agent fill in the hours worked.
- 2. The agent may keep the same EB-48 to be used during one pay period but the UAB must enter their work hours and signature at the end of each separate tour.
- 3. A UAB's work time begins when the agent picks him/her up, when the UAB meets the agent or when the UAB arrives at court.

If the UAB is requested to meet the agent at a location rather than having the agent travel to pick up the UAB, this approved "travel" mileage will be compensated by additional time being placed on the EB-48. If applicable, the agent shall indicate on the EB-48 that the UAB used their personal vehicle to meet the agent or drive to court and shall calculate the travel time, adding it to the actual time worked in lieu of mileage reimbursement.

D. UAB Appearances in Court – ABC Administrative Hearings

- 1. Agents should make reasonable, diligent efforts to ensure that UABs are called to testify in administrative hearings. Direct testimony from UABs is the preferred evidentiary procedure.

2. Enforcement does not want the compliance program to unnecessarily interfere with a UAB's educational opportunities. However, there should not be a blanket "pass" on their appearance at administrative hearings without the agent verifying their availability. Once a UAB case is referred for an ABC hearing and the hearing date set, the agent should consult with the UAB to determine their availability. If the UAB is in school or participating in an educationally enriching school sponsored program, the UAB will be considered "unavailable". In the event that a UAB is unavailable to testify, the agent should document the reason and the UAB's available dates and times and forward that information to the Hearings Division prior to the scheduled administrative hearing. Hearings Division will decide whether to continue the case (if the UAB's future available dates are not too far into the future) or to proceed with the case knowing the UAB would be unavailable.
If the case is not continued the agent will be permitted to present the hearsay evidence and will testify to the events of the operations.
3. At all administrative hearings, the agent shall present a photograph of the UAB's identification and a digital color photograph of the UAB taken the day of the operation. Those documents should be made available to the licensee and presented into evidence during the hearing, whether or not the UAB is present to testify. The agent should not assume that because these items were made part of the CMS they are in the possession of the hearings officer. Prior to uploading a photograph of the UAB's identification, or providing a photocopy to the licensee, the agent shall redact the UAB's customer number and address.
4. Agents and their ASACs will ensure they have complied with all FOIA and "§4.1-227" requests prior to a hearing. Failure to comply with such requests may compromise UAB case outcomes and may result in disciplinary action.
5. If there are extraordinary circumstances requiring the UAB to be excused from school to attend either an administrative or criminal hearing, the agents shall ensure that the UAB returns to school expeditiously after the hearing or court case. Agents should work with the respective school to provide proper documentation, (agency letter, subpoena, etc.) to ensure the UAB is not charged with an unexcused absence.
6. Court expectations:
 - a. Agents will ensure UABs know to tell the truth at all times regardless of the case outcome. When they cannot answer a question, they simply state that they do not know.
 - b. Agents should assist UABs with their testifying skills.

VI. PROCEDURES - REPORTING

- A. If a location is permanently closed, the agent must confirm that the location is in fact closed and the license shows surrendered in WebCORE.
- B. All of the data fields on the form must match what is entered into CMS.
- C. The paper form should not be signed by the approving supervisor until the electronic approval has been completed in CMS on a UAB incident resulting in an arrest.
- D. CMS completed electronic reports on sales and completion of the paper form for sales and no sales shall be completed within three working days after the operation.
Supervisors shall review and approve both sale and non-sale reports within five working days of receipt of the report. The Central Office shall validate and enter completed no sales within five working days of receipt.
- E. The narrative in the CMS should be short and as uniformed as possible. Refer to Section VII below.

VII. CMS TEMPLATE

The following information is provided as a guideline only, and is offered to ensure that certain critical elements are included in the agent's narrative report. It is understood that each circumstance is unique, and that additional information may be required/offered:

On (DATE) at approximately (TIME) I, along with special agent (NAME OF ASSISTING AGENT) conducted an Underage Buyer Operation using standard ABC protocols. The Underage Buyer (UAB) was (UAB number). He/She is (#) year of age and was chosen to participate in the operation because of his/her youthful facial and physical features and appearance.

This UAB was approved to participate in the UAB program by me and numerous levels of supervisory personnel who also reviewed the UAB's appearance. On this date the UAB appeared his/her age, was casually dressed and wore no make-up, jewelry and was cleanly shaven (If male). I (AGENT NAME) verified the UAB was carrying only his/her true identification. I (AGENT NAME) took a digital color photograph of the UAB prior to the start of the operation.

1. For Off-Premise: I (OR THE ASSISTING AGENT) observed the UAB's actions after he/she enter into the (NAME OF ESTABLISHMENT). The UAB obtained an alcoholic beverage (PROVIDE NAME OF PRODUCT) from the cooler and took it to the checkout counter where it was placed before the register. (Add any information on the clerks activity related to asking for ID etc.) The clerk rang up the sale and accepted payment (PROVIDE AMOUNT).

2. For On-Premise: I (OR THE ASSISTING AGENT) observed the UAB's actions after his/her enter into the (NAME OF ESTABLISHMENT). The UAB ordered an alcoholic beverage (PROVIDE NAME OF PRODUCT) from the waitperson/bartender. (Add any information on the clerks activities related to asking for ID, etc.) The waitperson/bartender retrieved an alcoholic beverage from (location or serving apparatus) and served the UAB the alcoholic beverage.

NOTE: Tobacco Cases - "alcoholic beverage" would be replaced with "tobacco product".

At that time I approached the employee who made the sale and identified myself and displayed my credentials. I advised the employee that the person they just sold tobacco/alcohol to was less than 18/21 years of age, and a UAB working for the ABC Board.

The employee stated (record any statement).

I took custody of the alcoholic beverage/tobacco product which was then processed as evidence in accordance with Bureau policy.

NOTE: If Alcohol - Add information about the actions taken concerning the lab report.



VIRGINIA ALCOHOLIC BEVERAGE CONTROL
BUREAU OF LAW ENFORCEMENT

GENERAL ORDER #101

ORGANIZATIONAL STRUCTURE, DUTIES AND RESPONSIBILITIES

EFFECTIVE DATE: January 23, 2014

REVISED: June 19, 2015

REFERENCES:

REPLACES: A-001

TLP: WHITE

Chief of Law Enforcement

I. PURPOSE

The purpose of this General Order is to identify the organizational structure of the Bureau of Law Enforcement to include definition of duties.

II. POLICY

The Virginia Department of Alcoholic Beverage Control maintains a Bureau of Law Enforcement within its organization. The Bureau will be organized for the effective and efficient accomplishment of its mission. The Bureau will be managed by a Chief of Law Enforcement.

III. ORGANIZATIONAL STRUCTURE

Each Bureau of Law Enforcement component is under the direct control of only one supervisor. Each employee of the Bureau is responsible to only one supervisor at any given time. All Bureau supervisors are accountable for the performance of employees under their immediate control. The Bureau of Law Enforcement will consist of the following structure:

A. Chief of Law Enforcement

1. Responsibilities

- a. Be in overall command of the Bureau of Law Enforcement to ensure the proper functioning of enforcement operations.
- b. Report to the Chief Operating Officer.

B. Deputy Chief of Administration

1. Responsibilities

- a. Responsible for the overall supervision of Administrative Services, Compliance, Licensing and Records Management.
- b. Report to the Chief of Law Enforcement in matters regarding the administration, control and operation of the Bureau's administrative functions.
- c. Responsibilities outlined in EWP.

C. Deputy Chief of Operations

1. Responsibilities

- a. Responsible for the overall supervision of Field Operations, Professional Standards, and Training.
- b. Report to the Chief of Law Enforcement in matters regarding the administration, control and operation of the Bureau's operational functions.
- c. Responsibilities outlined in EWP.

D. Regional Agent In Charge

1. Responsibilities

- a. Direct the overall operations of assigned regions by providing leadership and direction to SAC's in regional field offices.
- b. Serves as liaison between the Bureau's Deputy Chief of Operations and SAC's regarding interpretation of ABC laws, regulations, policies and procedures.
- c. Report to the Deputy Chief of Operations.
- d. Responsibilities outlined in EWP.

E. SAC of Administration

1. Responsibilities

- a. Supervise the Property and Fleet section and the Security Division.
- b. Report to the Deputy Chief of Administration.
- c. Responsibilities outlined in EWP.

F. Field Operations Unit

The Field Operations Unit consists of nine regional offices and one satellite office, each headed by a Special Agent in Charge who reports to the Regional Agent in Charge.

Regional office locations:

Region 1 – Roanoke

Region 1 – Abingdon (Satellite)

Region 2 – Lynchburg

Region 3 – Staunton

Region 4 – Alexandria

Region 5 – Fredericksburg

Region 6 – Richmond

Region 7 – Hampton

Region 8 – Chesapeake

Region 9 – Charlottesville

1. Regional Office Special Agent in Charge
 - a. Responsibilities
 - i. Manage the overall operations of a Regional Field Office.
 - ii. Responsibilities outlined in EWP.

2. Regional Assistant Special Agent in Charge
 - a. Responsibilities
 - i. Directly supervise special agents.
 - ii. Report to the SAC.

3. ABC Special Agent Duties and Responsibilities

ABC Special Agents are sworn police officers with full Virginia law enforcement authority for criminal laws. ABC Special Agents have met the certification or training standards established for all law enforcement officers in Virginia. ABC Special Agents report directly to an Assistant Special Agent in Charge. Agents are responsible for conducting licensee suitability investigations, licensee/alcohol related criminal investigations, and inspections of all businesses holding ABC license, and any other responsibilities as assigned.

G. Specialized Units

1. Compliance Unit

Consists of a Special Agent in Charge of senior special agents. The Compliance Unit is responsible for the regulation of Manufacturers, Wholesalers, Distributors, Distilleries and Wineries. The Compliance SAC reports to the Deputy Chief of Administration.

2. Professional Standards Unit

Consists of a Special Agent in Charge who reports to the Deputy Chief of Enforcement and consists of the Internal Affairs function, Audit and Inspections, Criminal Intelligence, Policy, Accreditation, Hiring and Training.

3. Special Operations Unit

Consists of a Special Agent in Charge, senior special agents and support personnel. The Special Operations Unit provides specialized operational, technical and surveillance support in furtherance of regional enforcement efforts and assist Regional Offices with complex financial and public safety investigations. The Special Operations SAC reports to the Regional Agent in Charge.

4. Licensing and Records Unit

Consisting of Licensing and Records Management headed by a Special Agent in Charge. The unit is responsible for processing and managing license applications. The Licensing and Records Unit SAC reports to the Deputy Chief of Administration.

5. Accreditation Unit

The accreditation Unit is responsible for the maintenance of all accreditation records and files, the drafting of new Bureau policy, and the review and revision of current policy. The unit reports directly to the Chief of Law Enforcement on all accreditation and policy matters. Members of this unit will have their administrative requirements (time recording, personnel matters) administered by the Office of Professional Standards.

6. Security

The Security unit reports to the SAC of Administration and monitors the Central Office complex in order to protect employees, visitors and properties.