CUMBERLAND COUNTY

OFFICE OF THE COMMISSIONER OF THE REVENUE
P.O. Box 77 ~ Cumberland, Virginia 23040
(804) 492-4280 ~ Fax: (804) 492-3342
www.cumberlandcounty.virginia.gov

JULIE A. PHILLIPS
Master Commissioner

Effective July 1, 2014, every business located in Cumberland County will be required to obtain one of the following licenses:

- Operating License: A license issued to a business with gross receipts totaling $10,000 or less. Although there is no fee associated with this license, all mandatory requirements listed below must be completed before issuance.
- Business License: Every business with gross receipts greater than $10,000 is required to purchase a business license after completing the mandatory requirements listed below.

To apply for your license, please perform the following steps in the order in which they are presented.

1. Cumberland County Code §18-33(c) requires every person applying for a business license to ensure that the location for the business be properly zoned for its intended use by such business. Call or visit the Planning Department (804-492-3520) to find out if your business location is properly zoned for your business activities, especially if you intend to conduct business from your home. A $10 fee will apply. Office hours are M - F, 8:30 am - 4:30 pm.

2. Visit the Office of the Clerk of the Circuit Court in the Administration Building (804-492-4442) in person only if you will be operating a business under an assumed or fictitious trade name. A trade name that includes the sole proprietors' last name does not need to be recorded. A trade name using only an individual's initials or any other fictitious name which differs from the actual sole proprietor, partnership, LLC, or corporate name must be recorded with the Clerk of the Circuit Court. Virginia Code §59.1-74 requires that proof of recordation must be submitted to the Office of the Commissioner of the Revenue before a business license may be issued. A fee of $10 must accompany the form at the time of recordation. Office hours are M - F, 8:30 am - 4:30 pm.

3. CONTRACTORS ONLY: Register with the State Board for Contractors, located at 9960 Mayland Drive, Richmond (804-367-8511, www.dpor.virginia.gov), if you:

- Accept individual contracts of $1,000 or more; or
- Have total gross receipts in excess of $150,000 during a 12-month period
    - Virginia Code 54.1-1111(B) requires that contractors in either of these categories must provide their State Board of Contractors registration number before a license may be issued.

4. CONTRACTORS ONLY: Complete a "Contractors Certification of Insuring Liability for Workers' Compensation in Virginia" form. Virginia Code §58.1-3714B(1) prohibits a county from issuing or reissuing a business license to a contractor who has not obtained or is not maintaining workers' compensation coverage for his employees, if such coverage is required. Questions regarding workers' compensation coverage requirements should be directed to the Workers' Compensation Commissioner at 1000 DMV Drive, Richmond, Virginia 23220 or by phone at (804) 205-3586.

5. Complete the Application for Cumberland County Business License and bring the documents listed on the back of this page to the Office of the Commissioner of the Revenue at One Courthouse Circle, Cumberland, Virginia 23040. Office hours are M - F, 8:30 am - 4:30 pm.

Cumberland County Business Application Checklist

The following list of paperwork is required prior to the issuance of a Cumberland County Business License. Please be sure to bring all applicable items with you when applying:

ALL APPLICANTS:

- ❑ New Business Questionnaire filed with the Planning and Zoning Department
- ❑ Certificate of Assumed or Fictitious Name form filed with the Clerk of the Circuit Court (if applicable)
- ❑ Completed New Business License Application
- ❑ Payment (make checks payable to Treasurer, Cumberland County)
- ❑ State issued picture I.D.

CONTRACTORS ONLY:

- ❑ State Contractors License or Affidavit of Contractor
- ❑ Completed Workers' Compensation Form

If you have any questions, please contact our office at (804) 492-4280

CUMBERLAND COUNTY

DEPARTMENT OF PLANNING & ZONING
P.O. Box 110 ~ Cumberland, Virginia 23040
(804) 492-3520 ~ Fax: (804) 492-3697

NEW BUSINESS QUESTIONNAIRE FOR ZONING

Tax Map Number: _____ **Zoned**: _____ **Acreage**: _____

Name and Address of Applicant:

_____

_____

_____

Phone:

_____

Alternate Phone:

_____

Describe all existing structures and use thereof:

_____

Please answer all questions:

1. Will the applicant be residing in the home?
   ❑ Yes ❑ No
2. From the outside of the premises will it be obvious that a business is being run from inside?
   ❑ Yes ❑ No
3. Will there be employees coming to the home?
   ❑ Yes ❑ No
4. Will there be customers coming to the home?
   ❑ Yes ❑ No

I hereby certify that:

- I have the authority to complete the foregoing application,
- The statements are true and correct, and
- I understand if any changes are made to the use or structures of this property, additional review or permits may be required at that time.

_____ _____
Printed Name of Applicant or Authorized Agent Signature of Applicant

_____ _____
Title of Applicant or Authorized Agent Date

✦ ✦ **FOR OFFICE USE ONLY** ✦ ✦

_____ _____
Zoning Administrator Date

❑ **No Zoning Permit is required.** ❑ **Zoning Permit is required; see attached.**

Print | Highlight Fields | Clear All Data

CERTIFICATE OF ASSUMED OR FICTITIOUS NAME

Commonwealth of Virginia

This is to certify that the below named person, partnership, limited liability company or corporation intends to conduct or transact business under an assumed or fictitious name in the [ ] City [ ] County of ..... .

1. The ASSUMED OR FICTITIOUS NAME of business

   .....

2. The above business is owned by the following entity type:
   [ ] SOLE PROPRIETORSHIP (Complete A below) [ ] PARTNERSHIP (Complete B below)
   [ ] LIMITED LIABILITY COMPANY (Complete C below) [ ] CORPORATION (Complete C below).

   A. NAME OF OWNER .....

      RESIDENCE ADDRESS .....

      POST OFFICE ADDRESS .....

   B. NAME OF PARTNERSHIP .....

      OFFICE ADDRESS .....

      POST OFFICE ADDRESS .....

      (1) Is this a general partnership? [ ] NO [ ] YES. If YES, complete the Statement of Partners on Page Two of Two.
      (2) Is this a domestic limited partnership? [ ] NO [ ] YES. If YES, a certified copy of this certificate must be filed with the State Corporation Commission. Va. Code § 59.1-70.
      (3) Is this a foreign limited partnership? [ ] NO [ ] YES. If YES, indicate the date of the certificate of registration to transact business in the Commonwealth of Virginia issued by the State Corporation Commission: .....
      A certified copy of this certificate must be filed with the State Corporation Commission. Va. Code § 59.1-70.

   C. NAME OF [ ] CORPORATION [ ] LIMITED LIABILITY COMPANY

      .....

      OFFICE ADDRESS .....

      POST OFFICE ADDRESS .....

      (1) A corporation or limited liability company must file a certified copy of this certificate with the State Corporation Commission. Va. Code § 59.1-70.
      (2) Is this a foreign corporation or a foreign limited liability company? [ ] NO [ ] YES. If YES, indicate the date of the certificate of authority/registration to transact business in the Commonwealth of Virginia issued by the State Corporation Commission: .....

ACKNOWLEDGMENT

I certify that the foregoing is true and correct to the best of my knowledge and belief.

Sole Proprietorship ..... _____
NAME OF OWNER — SIGNATURE OF OWNER

Partnership ..... _____
NAME OF GENERAL PARTNER — SIGNATURE OF GENERAL PARTNER

Corporation ..... _____
NAME OF PRESIDENT — SIGNATURE OF PRESIDENT

Limited Liability Company ..... _____
NAME OF MEMBER/MANAGER — SIGNATURE OF MEMBER/MANAGER

[ ] City [ ] County of ..... State/Commonwealth of .....

Subscribed and acknowledged before me , this ..... day of ....., 20 .....

by .....
NAME — TITLE

_____
[ ] CLERK/DEPUTY CLERK [ ] NOTARY PUBLIC

My commission expires ..... Registration No. .....

CLERK'S OFFICE

Filed in the Clerks' Office of the ..... Circuit Court on .....
DATE

..... , Clerk by _____, Deputy Clerk

STATEMENT OF PARTNERS

This is to certify that the below named persons intend to carry on business under an assumed or fictitious name as partners in the [ ] City of [ ] County of ....., and that the following is a list of every person owning the GENERAL PARTNERSHIP set forth on the front of this certificate.

.....
PRINTED NAME (LAST, FIRST, MIDDLE)

_____
SIGNATURE

.....
RESIDENCE ADDRESS

[ ] City [ ] County of ..... State/Commonwealth of .....

Subscribed and acknowledged before me this ..... day of ....., 20 .....

by .....
NAME TITLE

_____
[ ] NOTARY PUBLIC [ ] CLERK/DEPUTY CLERK

My commission expires ..... Registration No. .....

.....
PRINTED NAME (LAST, FIRST, MIDDLE)

_____
SIGNATURE

.....
RESIDENCE ADDRESS

[ ] City [ ] County of ..... State/Commonwealth of .....

Subscribed and acknowledged before me this ..... day of ....., 20 .....

by .....
NAME TITLE

_____
[ ] NOTARY PUBLIC [ ] CLERK/DEPUTY CLERK

My commission expires ..... Registration No. .....

.....
PRINTED NAME (LAST, FIRST, MIDDLE)

_____
SIGNATURE

.....
RESIDENCE ADDRESS

[ ] City [ ] County of ..... State/Commonwealth of .....

Subscribed and acknowledged before me this ..... day of ....., 20 .....

by .....
NAME TITLE

_____
[ ] NOTARY PUBLIC [ ] CLERK/DEPUTY CLERK

My commission expires ..... Registration No. .....

.....
PRINTED NAME (LAST, FIRST, MIDDLE)

_____
SIGNATURE

.....
RESIDENCE ADDRESS

[ ] City [ ] County of ..... State/Commonwealth of .....

Subscribed and acknowledged before me this ..... day of ....., 20 .....

by .....
NAME TITLE

_____
[ ] NOTARY PUBLIC [ ] CLERK/DEPUTY CLERK

My commission expires ..... Registration No. .....

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JULIE A. PHILLIPS
Master Commissioner

2016 New Business License Application

Bring this form to the Commissioner of Revenue's office within 30 days of the business start date
2016 Licenses will expire on December 31, 2016

Please Bring to the Following Address:
Commissioner of the Revenue
One Courthouse Circle
Cumberland, Virginia 23040

Make Checks Payable to:
Treasurer, Cumberland County

Office Use Only	Processed By:
License Number: _____	
Date Received: _____	
ID Verified: ❑ D.L. ❑ Other ID#:	
Payment Received: ❑ Cash ❑ Credit ❑ Check #	❑ N/A

Part 1: Please complete all fields below	
FEIN or SSN:	Jurisdiction:
Applicant Name:	Trading as Name:
Mailing Address:	Business Address:
City, State, Zip:	City, State, Zip:
Alternate Phone #:	Business Phone #:
Email Address:	

Business Entity: ❑ Individual ❑ LLC ❑ Partnership ❑ Corporation

Nature of Business: _____ Business Start Date: _____

Part 1a: CONTRACTORS ONLY		
State Board Contractors or Tradesman License Number:	Class: ❑A ❑B ❑C ❑N/A	Expiration Date:
In what other localities do you have a business license? (attach copies)		

Part 2: Statement of Gross Receipts (Refer to back for definitions and rates)		
Oath: I, the undersigned applicant, do swear (or affirm) that the foregoing figures and statements are true, full and correct to the best of my knowledge and belief.	Gross Receipts: (taken from top line of Schedule C) *Note: Corporate filers should use line 1A of Form 1120	$
	Rate: (from back)	_____ / 100
	Total Due: ($30.00 Minimum)	$

Printed Name of Applicant or Authorized Agent

Signature

Title of Applicant or Authorized Agent

Date

IMPORTANT INFORMATION

LICENSE FEE AND TAX: (Cumberland County Code §18-40) Every person or business subject to licensure under this article, and whose annual gross receipts are more than $10,000, shall be required to pay annually a license fee of $30 **or** a license tax based on the rate below, whichever is greater.

1. **Who must file**: Any individual, partnership, corporation, LLC or others engaged in any business, profession or occupation in Cumberland County. There is no tax on businesses whose gross receipts are less than $10,000. However a license is required and gross receipts must be reported on ALL businesses for 2016.
2. **When to file**:
   a. New businesses are required to have a license when beginning a business (within 30 days).
   b. Yearly applications are due on or before March 1 of each year.
   c. All delinquent Business License fees must be paid before a current license can be issued.
3. **Where to file**: Completed forms should be returned to the Commissioner of the Revenue, One Courthouse Circle, Cumberland, VA 23040. If you have questions regarding this application call 804-492-4280.
4. **Definition**: This license is based on a statement of the gross receipts. The term "Gross Receipts" shall include the receipts from all sales or services rendered or activities conducted within the county, both to persons within the county and outside the county.
5. **Special note to contractors**: All contractors doing business in Cumberland County are required to have a county license. Prior to issuance, a Workers Compensation form 61-A must be completed. Exception: If situs is in another county in the state of Virginia, and you are licensed by your county, you are not required to have a Cumberland license, unless gross receipts exceed $25,000.

BUSINESS LICENSE TAX RATES

TABLE A **TAX RATES FOR BUSINESSES OF $10,000 (25,001 for Contractors) OR GREATER IN GROSS RECEIPTS**	
Builder-Developer, Contractor, Subcontractors, Retail Merchants, Financial Services, Repair Services, Personal & Business Services, Wholesale Merchants, Hotels, Motels, Tourist Homes and Cabins, Boarding Houses, Lodging Houses and Trailer Parks	$0.05/$100
Professional and Real Estate Services	$0.10/$100
Merchant-Placed Vending Machines, Junk & Secondhand Dealers	$0.10/$100
Utility	$0.50/$100
Amusement Machines: Less than 10 10 or more	$25 each $200
All Other Businesses	$0.36/100
Direct Sellers: Total annual sales in excess of $4,000, $0.20 per $100 of total annual retail sales or $0.05 per $100 total annual wholesale sales, whichever is applicable	

TABLE B **FLAT FEE LICENSES**	
Carnivals, Circuses & Speedways: One-day performance Two Consecutive day events After two consecutive days, the tax for each additional day will be	$100 $500 $250
Itinerant Merchants or Peddlers	$25 per year
Photographer	$30 per year
Savings Institutions or State-Chartered Credit Unions	$50 per year
Industrial Loan Associations or Agricultural Credit Associations	$500 per year
Dancehalls	$600 per year
Fortune Tellers, Clairvoyants & Practitioners of Palmistry	$1,000 per year
Permanent Coliseums, Arenas, or Auditoriums with Maximum Capacity in Excess of 10,000 Persons, Open to the Public:	$1,000 per year
Massage Parlors	$5,000 per year

Internal Use Only:

❑ Approved Zoning Permit	❑ Certificate of Assumed or Fictitious Name Form
❑ Worker's Comp Form Attached	❑ State Contractor's License or Affidavit of Contractor (circle one)

CONTRACTOR STATEMENT AND AFFIDAVIT

The Code of Virginia requires:

§54.1-1111. Prerequisites to obtaining business license; building, etc., permit.

B. Any contractor applying for or renewing a business license in any locality in accordance with Chapter 37 (§58.1-3700 et seq.) of Title 58.1 shall furnish prior to the issuance or renewal of such license either (i) satisfactory proof that he is duly licensed or certified under the terms of this chapter or (ii) a written statement, supported by an affidavit, that he is not subject to licensure or certification as a contractor or subcontractor pursuant to this chapter.

No locality shall issue or renew or allow the issuance or renewal of such license unless the contractor has furnished his license or certificate number issued pursuant to this chapter or evidence of being exempt from the provisions of this chapter.

AFFIDAVIT OF CONTRACTOR

[to be signed before a Notary Public]

COMMONWEALTH OF VIRGINIA)
} to wit,
COUNTY OF _____)

I, _____ & _____
Owner Print Name — Co-Owner Print Name (if applicable)

first being duly sworn, do hereby depose and state as follows:

I am not subject to licensure or certification as a contractor or subcontractor with the state of Virginia pursuant to Chapter 54.1-1111 of the Code of Virginia, as amended. I will not perform or manage construction, removal, repair, or improvements when the total value referred to in a single contract or project is $1000 or more.

_____ _____
Signature of Owner — Date

_____ _____
Signature of Co-Owner (if applicable) — Date

Subscribed and sworn to before me on this

_____ day of _____, 20_____

_____
Notary Public

My commission expires: _____

State Contractors License

Class A contractors perform or manage construction, removal, repair, or improvements when (i) the total value referred to in a single contract or project is $120,000 or more, or (ii) the total value of all such construction, removal, repair, or improvements undertaken by such person within any twelve-month period is $750,000 or more. (Initial License Fee of $385)

Class B contractors perform or manage construction, removal, repair, or improvements when (i) the total value referred to in a single contract or project is $10,000 or more, but less than $120,000, or (ii) the total value of all such construction, removal, repair, or improvements undertaken by such person within any twelve-month period is $150,000 or more, but less than $750,000. (Initial License Fee of $370)

Class C contractors perform or manage construction, removal, repair, or improvements when (i) the total value referred to in a single contract or project is over $1,000 but no more than $10,000, or (ii) the total value of all such construction, removal, repair, or improvements undertaken by such person within any twelve-month period is no more than $150,000. (Initial License Fee of $235)

DID YOU KNOW…Unlicensed Contracting is Illegal

You may be in violation of state law prohibiting illegal contracting – which includes painting, home improvement, roofing, etc. without a state license.

Even if you possess a local business license, in most cases you are also required to hold a state license from the Virginia Board of Contractors.

DON'T RISK IT! Contact the Department of Professional and Occupational Regulation (DPOR) to find out how to comply with the law.

BOARD FOR CONTRACTORS: (804) 367-8511
www.dpor.state.va.us

IMPORTANT: For details concerning State Contractors License, please review the *Board for Contractors Regulations.*

Effective 01/01/2014, license fees subject to change per DPOR standards.

Contractor's Certificate of Workers' Compensation Insurance

(Form 61-A)

www.workcomp.virginia.gov

PLEASE COMPLETE FULLY AND LEGIBLY

INSTRUCTIONS ON REVERSE SIDE

File this completed form at the local office where your business license is obtained

Locality Issuing License: **City** ☐ **Town**☐ **County**☐	**Name of Locality:**	**Business or Trade Name**	**Business License Number:**
Name of Business Owner/ Contractor **Last:**	**First:**	**Business Federal Employer ID (FEIN) or Tax ID Number:**	
Business Owner / Contractor's Home Mailing Address:		**Business Address if different from Business Owner Address:**	
City: **State:** **Zip:**		**City:** **State:** **Zip:**	
Home Telephone:		**Business:** **Corp.**☐ **L.L.C.**☐ **Sole Prop**☐ **Partnership**☐ **Other** ☐	

WORKERS' COMPENSATION INSURANCE

If you have workers' compensation insurance check type and complete below:

List <u>ONLY</u> WORKERS' COMPENSATION, <u>not</u> General Liability

☐ **Insurance Carrier licensed in Virginia**

☐ **Self-insured with certificate of authorization issued by the Virginia Workers' Compensation Commission**

☐**Group Self-Insurance Association (GSIA) licensed by the State Corporation Commission**

☐ **A Professional Employer Organization (PEO) registered in Virginia**

Name of Insurance Carrier, Self-Insured, GSIA or PEO:

Policy, Master Policy or Certificate Number:

Policy Effective Date and Policy Period:

Type of Trade or Industry:

Business Telephone: | **E-mail Address:**

If you do not list workers' compensation insurance you <u>must</u> answer below:

1. **Do you have more than two part-time or full-time employees?**

   (Note: Corporate officers, LLC managers, part-time employees and employees of your subcontractors generally count as your employees for Workers' compensation purposes. Filing of a 1099, payment of cash wages or designating a worker an "Independent Contractor" does not necessarily Eliminate or alter employee status under the Workers' Compensation Act.)

   ☐ **Yes** ☐ **No**

2. **Do you hire Independent Contractors or subcontractors with employees to assist you in your work?**

   ☐ **Yes** ☐ **No**

Failure to insure when required by law shall subject an employer to civil penalties of up to $250 per day uninsured, subject to a maximum penalty of $50,000.00 plus costs, pursuant to Virginia Code § 65.2-805

Under penalty of perjury, the undersigned certifies s/he is duly authorized by the business license applicant to execute this certificate; the information provided herein is correct; and the business is in compliance with Chapter 8 of Title 65.2 of the Virginia Workers' Compensation Act and will remain in compliance with the law during the effective period of the business license.

Signature of Applicant (Contractor or Business Owner)	**Date**
Print Name of Applicant	

Form 61-A is prepared and distributed by the Virginia Workers' Compensation Commission to local licensing authorities for use in compliance with §58.1-3714, Code of Virginia. Form 61 A is available online at www.workcomp.virginia.gov Return this form to the licensing authority, not to the Virginia WC Commission.

For questions regarding how to complete this form, please contact the Commission toll-free at **1-877-664-2566** or 804 205-3586

Certificates of Insurance Cannot be accepted in Lieu of a Completed Form

Return your completed form to the licensing authority where your business license is obtained

INSTRUCTIONS FOR COMPLETING THE VWC FORM 61-A

To be completed by the official issuing the business license.

1. Check one. City, Town or County.
   Provide the name of locality issuing the license.
   Provide business license number including any prefix or suffix.

To be completed by the contractor. All information requested is required.

2. Enter the Business owner / Contractor's name, mailing address and phone number, all information is required.

3. Enter the complete name of business. Additionally list the trade name under which the business operates if a trade name is used.

4. Enter the business address that is used to receive mail by the U.S. Postal Service, if this address is different from the business owner / contractor's address.

5. Provide the Federal Employer Identification Number (FEIN) for the business. If one has not been issued, list the Temporary FEIN issued by the Virginia Tax Dept. If you are a sole proprietor with neither, list your social security number; however it is best to obtain a FEIN, given the restrictions on the use of social security numbers.

6. Check the legal status of the business.

7. Provide the type of trade or industry in which the business is classified.

8. Enter the business phone number if there is one and the business e-mail if there is one.

9. Provide the workers' compensation insurance information if you have coverage. Enter ***only*** workers' compensation insurance. No other form of insurance substitutes. Provide the complete name of the insurance company or other insuring entity providing workers' compensation insurance coverage for the business. Also enter the policy or member number and policy effective dates.

   Do not list the name of an insurance agent or agency. If you do not know or recall the name of your insurance company or insuring entity, please contact your agent to obtain this information.

10. **Out of state employers**, please note, Virginia requires valid Virignia workers' compensation coverage for work performed in Virginia. For a business that has a valid policy based outside Virginia, if the business either performs or subcontracts work in Virginia, the business needs valid Virginia coverage and may usually secure valid Virginia coverage with the proper Virginia Amendatory Endorsement, adding Virginia to Item 3A of the policy. An employer from a monopolistic state must usually obtain separate coverage from a Virginia licensed insurance carrier.

11. **If you do not have / list workers' compensation insurance on your form you must answer additional questions,** please answer whether you have more than two employees and whether you hire subcontractors to assist in your work. A response to these questions is required.

12. **Virginia workers' compensation insurance coverage requirements.** Virginia law requires that every employer who regularly employs more than two part-time or full-time employees purchase and maintain workers' compensation insurance. A business that hires subcontractors to assist in the work of the business or fulfill a contract of the business must count the subcontractor's employees when counting employees to determine if / when coverage is required. This is true even if the subcontractor has their own workers' compensation coverage. A contractor should gather proof of coverage from **all** subcontractors hired and should not be charged insurance premium for subcontractors that have their own coverage. Regardless, a contractor that hires subcontractors with employees must count the subcontractor's employees when counting total employees and determining when and whether the contractor is required to carry coverage.

13. Please ensure that the form is signed, the name of the person signing the form is printed on it and the form is properly dated.

14. For workers' compensation insurance questions please contact the Virginia Workers' Compensation Commission at 804 205-3586.

15. **Return your completed form to the licensing authority where your business license was obtained**.

Note: The state funds of West Virginia and Maryland are not authorized to write workers' compensation insurance in Virginia.

www.workcomp.virginia.gov

DO NOT ATTACH ANY DOCUMENTS TO THE CONTRACTOR'S CERTIFICATE.

COMMONWEALTH OF VIRGINIA
VIRGINIA WORKERS' COMPENSATION COMMISSION
1000 DMV DRIVE, RICHMOND VA 23220
1-877-664-2566
(804) 205-3586
Fax: 804-367-2239
www.workcomp.virginia.gov

IMPORTANT NOTICE FOR EMPLOYERS

Civil Penalty When Uninsured for Workers' Compensation Significantly Increased - Effective Date July 1, 2014

—Uninsured employers shall be assessed a civil penalty, subject to a maximum of $250 per day of noncompliance and subject to a maximum civil penalty of $50,000.—

The 2014 General Assembly approved an increase in the civil penalty imposed when an employer required to insure under the Workers' Compensation Act fails to insure. An employer is required by state law to insure in Virginia when they regularly employ **more than two part-time** (or full-time) **employees**. A business that hires subcontractors or other business to assist them in their trade or to fulfill a contract **must count the subcontractor's employees** as well as their own employees in determining total employees for coverage requirements. For a contractor whose work varies, the Commission looks to the "established mode" of performing work. A contractor that hires one or more subcontractors with employees to accomplish their business is required to carry workers' compensation insurance.

Workers' compensation coverage requirements are complex, but focus on the number of employees. It is important to be aware that an "employee" is defined broadly under the Act and includes every person in the service of another under any contract of hire, written or implied. "Employee" includes statutory employees (subcontractor's employees), corporate officers, minors, undocumented workers, working family members, apprentices, temporary and seasonal employees. A business that doesn't count all of its employees may not realize it is required to carry coverage.

Employers should also be aware, designating a worker as an "independent contractor" does not necessarily mean they are not an employee. Workers' compensation looks to whether the business exerts control over the manner and means of how the work is performed. In the event of a claim, the facts of the work circumstances will determine if the individual is covered for workers' compensation, regardless of payment on a 1099 designation.

The Virginia Workers' Compensation Commission encourages employers to check their coverage, avoid coverage gaps, urges uninsured employers and new businesses to familiarize themselves with workers' compensation insurance coverage requirements, obtain coverage when required, be compliant and avoid a penalty. Workers' compensation is **mandatory coverage**. It is required by state law, and no other form of insurance may substitute. Failure to have coverage due to lack of knowledge is not a valid excuse for failure to insure.

The law change amends section 65.2-805 of the Workers' Compensation Act which addresses the civil penalty for employer failure to insure. Such employer shall be assessed a civil penalty of not more than **$250 per day for each day of noncompliance**, subject to a **maximum penalty of $50,000**, plus **collection costs**. The amendment was approved March 7, 2014 and is effective on July 1, 2014.

This notice provides only a summary of workers' compensation coverage requirements and the law change and is not intended to be a substitute for or to be considered legal advice. Workers' compensation information is available at: www.workcomp.virginia.gov. For specific coverage questions, please contact the Insurance Department of the Commission by e-mail at vwcinsurance@workcomp.virginia.gov or by phone at (804) 205-3586.