

Virgin Islands Code Annotated Currentness
Title 27. Professions and Occupations
Chapter 9. Licensing of Businesses and Occupations
Subchapter I. General Provisions

27 V.I.C. Notes

Notes

HISTORY

Amendments -1982.

Act Jan. 29, 1982, No. 4674, § 1, Sess. L. 1982, p. 14, designated sections 301-307 of this chapter as 'Subchapter I. General Provision'.

27 V.I.C. Notes, VI ST T. 27 Notes

Current through Act 8146 of the 32nd Legislature

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27 V.I.C. § 301

§ 301 Licenses required; application forms; qualifications and limitations

(a) Every person or association wishing to engage in any business, occupation, profession, or trade listed in section 302 of this chapter, as a condition precedent to engaging in any such business, occupation, profession, or trade, shall apply in writing to and obtain from the Commissioner of Licensing and Consumer Affairs (referred to as the 'Commissioner' in the remainder of this chapter) a license to engage in or to conduct such business, occupation, profession or trade.

(b) Applications for licenses under this chapter shall be made on forms prescribed and furnished by the Commissioner. As a part of or in connection with any application the applicant shall furnish information concerning his identity, personal history, experience, business record, purposes, record of any conviction of any offense which is a felony or crime involving moral turpitude in the jurisdiction where the offense occurred, and any other pertinent facts that the Commissioner may reasonably require.

In the case of corporations or partnerships the preceding requirements shall be applicable to all of the shareholders or partners. In any case, such requirements shall be applicable to the actual owners and not merely to the nominal owners of either of the business or of any participation or share therein. The use of any subterfuge or misrepresentation, directly or indirectly, to obtain a license shall constitute sufficient cause for the immediate revocation of such license. Applications of business licenses for film or music recording businesses must be issued no later than 60 days from their receipt. The Commissioner's failure to issue a license to a film or music recording business within 60 days of receipt deems the license automatically approved.

(c) If the applicant is a partnership or a corporation, the application shall designate each member, officer, or employee who will exercise the powers to be conferred by the license upon such partnership or corporation. The Commissioner may require any such member, officer or employee to furnish him with the information required of applicants under subsection (b) of this section.

(d) The license fee rate imposed by this chapter shall be an annual rate; provided, however, that the Commissioner may, in his discretion, issue licenses for a period of less than a year, grant equitable relief to businesses affected by major natural or economic disasters in the form of a carry over license fee credit for any business closed or severely impacted by a major, natural or economic disaster. The Commissioner may, in his discretion, collect for a license fee period of less than a year or may collect for a license fee-period of one year on an annual or biennial basis, or credit the licensee in the next license year period for an amount equal to the certified period of business interruption or devastation where the licensee submits certified proof that the annual gross income decreased twenty percent (20%) or more as a result of the disaster or where a disaster has resulted in the closing of a business for a period of three (3) months or more. The Commissioner may, in his discretion, stagger the terms of licenses so that all license renewals do not come due at the same time of the year. In accomplishing a staggered schedule, the Commissioner shall prorate the license fee over the initial period of time required to implement the staggered schedule. The initial license may be for a period in excess of one year at the discretion of the Commissioner. Such license shall be free from stamp taxes; shall entitle the owner, for the period specified in the license, to carry on the specified business or occupation from the designated place of business;

shall be put into active use in the business, occupation, profession, or trade for which the license was granted within ninety days following the date of issuance of the license, subject to automatic revocation of the license if not put into active use within the time prescribed; shall be renewable annually or biennially on the payment of the required fee; and may be reviewed at any time by the Commissioner. No license issued to any person or association to engage in a business, occupation, profession, or trade under this chapter may be transferred to any other person or association, except that a business license to a natural person shall be transferred automatically on the death of the licensee to the widow or widower of the licensee so long as the widow or widower remains unmarried, and except that a business license held and used by a corporation may be transferred on the sale of the corporation.

(e) Subsection (b), except the first sentence thereof, and subsection (c) of this section shall not apply to foreign sales corporations.

Credits

-Added June 6, 1967, No. 1991, § 3, Sess. L. 1967, p. 330; amended May 13, 1973, No. 3431, § 9, Sess. L. 1973, p. 111; Oct. 23, 1980, No. 4498, § 6(a), Sess. L. 1980, p. 228; Sept. 25, 1984, No. 4990, § 4(a), Sess. L. 1984, p. 247; July 19, 1990, No. 5584, Sess. L. 1990, p. 249; Sept. 18, 2002, No. 6570, § 15, Sess. L. 2002, p. 533; Mar. 7, 2012, No. 7344, § 3(a), Sess. L. 2012, p. 25.

HISTORY

Revision notes.

Substituted ‘Commissioner of Licensing and Consumer Affairs’ for ‘Director of Consumer Services’ in subsection (a) and ‘Commissioner’ for ‘Director’ wherever it appeared in view of Act June 24, 1987, No. 5265, § 702, Sess. L. 1987, p. 67 pursuant to section 14 of Title 1. See section 276 of Title 3.

Amendments -2012.

Act 7344, § 3(a), added the last two sentences at the end of the second paragraph of subsection (b). **-2002.**

Act 6570, § 15, in subsection (d), inserted ‘or may collect for a license fee-period of one year on an annual or biennial basis;’ preceding ‘or credit the licensee’ in the second sentence, and inserted ‘annually or biennially’ following ‘renewable’ near the end of the sixth sentence. **-1990.**

Subsection (d): Substituted ‘rate’ for ‘rates’ preceding ‘imposed’ and added the proviso in the first sentence and added the second sentence. **-1984.**

Subsection (e): Added. **-1980.**

Subsection (d): Rewrote former first sentence as present first through fourth sentences to provide for staggered terms of licenses. **-1973.**

Subsection (a): Substituted ‘Director of Consumer Services’ for ‘Commissioner of Finance’ preceding ‘(referred to as the’ and ‘Director’ for ‘Commissioner’ thereafter.

Subsection (b): Substituted ‘Director’ for ‘Commissioner’ wherever it appeared in the first paragraph.

Subsection (c): Substituted ‘Director’ for ‘Commissioner’ in the second sentence.

Subsection (d): Substituted ‘Director’ for ‘Commissioner’ at the end of the second sentence.

Effective date.

Act June 6, 1967, No. 1991, § 4, Sess. L. 1967, p. 338, provided:

‘The provisions of this Act shall become effective on July 1, 1967, except subsection (b) of section 5 [see transfer of functions note above] which shall become effective immediately.’

Transfer of functions.

Act June 6, 1967, No. 1991, § 5, Sess. L. 1967, p. 338, provided:

‘(a) All property, personnel, records, contracts and unexpended balances of appropriations and funds of the Office of the Government Secretary connected with its functions heretofore arising out of the provisions of Title 27, chapter 9, as amended, entitled LICENSING OF BUSINESS AND OCCUPATIONS, are hereby transferred to the Office of the Commissioner of Finance; Provided, That any personnel so transferred who are found to be in excess of the personnel required for the efficient administration of the licensing functions of the Office of the Commissioner of Finance, shall be transferred under existing law to other positions in the Government of the Virgin Islands.

‘(b) In order to effect a smooth transfer of these functions and to avoid disrupting efficient administration and the continuity of essential functions of the Government, the Governor of the Virgin Islands is authorized to provide for the transfer of all functions, powers, duties and responsibilities of the Office of the Government Secretary, arising from Title 27, chapter 9 to the Office of the Commissioner of Finance, by Executive Order or otherwise.’

Former section 301.

Former section 301 of this title, which related to the same subject, was repealed by Act June 7, 1957, No. 194, § 3, Sess. L. 1957, p. 92, after which it was covered by this section, which was numbered 301a until it was renumbered 301 by section 1 of Act March 25, 1964, cited above. Said section was repealed by Act June 6, 1967, No. 1991, § 3, Sess. L. 1967, p. 330, and a new section 301 relating to the same subject was added.

ANNOTATIONS

1. Constitutionality.

The argument that applying the Virgin Islands business licensing scheme to non-owner attorneys would deny such attorneys equal protection of the laws because these attorneys would be required to pay a licensing fee while other, allegedly similarly situated employees would not be required to pay, is utterly baseless. [Smith v. Magras, 124 F.3d 457, 37 V.I. 464, 1997 U.S. App. LEXIS 21491 \(3d Cir. V.I. 1997\)](#).

2. Administration.

It is clear from the V.I. Organic Act, § 21(c), that local law, enacted by the Virgin Islands legislature, may have some role to play in the regulation of attorneys; put differently, the Organic Act envisions the possibility of the sharing of power over the regulation of attorneys between the Virgin Islands courts and the Virgin Islands legislature, at least to the extent of imposing a license fee. [Smith v. Magras, 124 F.3d 457, 37 V.I. 464, 1997 U.S. App. LEXIS 21491 \(3d Cir. V.I. 1997\)](#).

The Commissioner of the Department of Licensing and Consumer Affairs is empowered and entrusted to administer the licensing of businesses, and pursuant to [27 V.I.C. § 304](#), also has the authority to grant, deny, revoke and suspend licenses; additionally, pursuant to [8 V.I.C. § 13](#) and [8 V.I.C. § 17](#), the Commissioner is responsible for the licensing of businesses that seek to sell alcoholic beverages, and has the authority to issue, revoke and suspend liquor licenses. [Virgin Islands ex rel. Department of Licensing & Consumer Affairs v. MT Retailers, 31 V.I. 62, 1995 V.I. LEXIS 6 \(V.I. Terr. Ct. 1995\)](#).

The administration of the licensing law with respect to the collection of taxes from professional persons was not the responsibility of the District Attorney's office. 2 V.I. Op. Att'y Gen. 160. (Decided under prior law.)

2.5.

Attorneys.

The plain language of 27 V.I.C. 302 and subsection (a) of this section renders these sections applicable to non-owner attorneys employed by law firms. *Smith v. Magras*, 124 F.3d 457, 37 V.I. 464, 1997 U.S. App. LEXIS 21491 (3d Cir. V.I. 1997).

3. Engaging in business.

Engaging in a single isolated business transaction does not constitute being engaged in a business for which a license to do business would have to be procured. *Roberts v. Ross*, 344 F.2d 747, 5 V.I. 219, 1965 U.S. App. LEXIS 5741 (3d Cir. V.I. 1965). (Decided under prior law.)

4. Real estate agents.

Where a party seeking to recover a commission for the sale of real property did not hold himself out as a real estate broker and had never acted as such on any other occasion, he is not precluded from recovery by this section. *Roberts v. Ross*, 344 F.2d 747, 5 V.I. 219, 1965 U.S. App. LEXIS 5741 (3d Cir. V.I. 1965). (Decided under prior law.)

5. Export business.

A manufacturer's license is required for production of dolls which are subsequently exported, and, upon acquisition of such a license, there is no legal reason why the licensee could not carry on its export business under that designation. 1 V.I. Op. Att'y Gen. 268. (Decided under prior law.)

An importer's license does not cover the production and export of dolls produced from local raw materials. 1 V.I. Op. Att'y Gen. 268. (Decided under prior law.)

6. Mail order business.

A person opening a retail sales outlet, where the form of sale is either by placing an order with him or by ordering directly from the company he represents, is subjected to the same licenses and taxes as other merchants. 1 V.I. Op. Att'y Gen. 97. (Decided under prior law.)

7. Steamship companies.

Steamship companies operating in the Virgin Islands are not required to obtain licenses to do business unless they engage in some other business activity. 2 V.I. Op. Att'y Gen. 345. (Decided under prior law.)

8. Sale of imported goods.

A license fee may be imposed on the sale or distribution of goods brought into the Virgin Islands when these goods become part of the common mass property within the jurisdiction. 2 V.I. Op. Att'y Gen. 235. (Decided under prior law.)

A transient or itinerant merchant who does not sell goods from stock which he brings into the Municipality, but who merely takes orders for shipment from outside the Municipality, is not subject to licensing requirements. 2 V.I. Op. Att'y Gen. 235. (Decided under prior law.)

9. Interstate commerce.

Bill No. 160, Seventh Municipal Council of St. Thomas and St. John [a predecessor of this chapter], was void insofar as it purported to levy an occupation or license tax on a local radio broadcasting station, as an unconstitutional regulation of interstate and foreign commerce. 2 V.I. Op. Att'y Gen. 124. (Decided under prior law.)

A commission merchant who solicits and takes orders for goods to be shipped from outside the Municipality, where no stock is stored in the Virgin Islands, may not be required to pay a license tax on his operations, since such tax would be illegal under the commerce clause of the Federal Constitution. 2 V.I. Op. Att'y Gen. 157. (Decided under prior law.)

10. Place of business.

Ordinance in effect prior to enactment of this section, prohibiting the use of one license for more than one place of business, indicated that such place of business be fixed at one address; therefore, the ordinance did not authorize issuance of a license to carry on business from a vessel docked at a waterfront. 3 V.I. Op. Att'y Gen. 194. (Decided under prior law.)

11. Change of license.

An importer's license issued to a man may not later be changed to include the names of both the licensee and his wife. 2 V.I. Op. Att'y Gen. 320. (Decided under prior law.)

12. Double licensees.

There is no legal objection to the levy of a license fee both on an insurance company and on its agents. 2 V.I. Op. Att'y Gen. 117. (Decided under prior law.)

13. Federal licensees.

No state or local government can compel companies licensed under the [Federal] Communications Act of 1934 to pay an occupation or license tax. 2 V.I. Op. Att'y Gen. 124. (Decided under prior law.)

14. Staggering of licenses.

Commissioner of Finance has no authority to stagger the licensing of businesses under his jurisdiction. 9 V.I. Op. Att'y Gen. 172.

15. Rebate of fee.

Where the term of a license was shortened to less than one year, license holder was entitled to a rebate for the period of time for which he paid, but for which his license was not valid. 9 V.I. Op. Att'y Gen. 213.

Cited.

Cited in [Smith v. Magras](#), 29 V.I. 11, 1993 V.I. LEXIS 6 (Terr. Ct. St. T. and St. J. 1993); [Polychrome Int'l Corp. v. Krigger](#), 29 V.I. 311, 5 F.3d 1522, 1993 U.S. App. LEXIS 23287 (3d Cir. 1993); [Polak v. Lebron](#), - V.I. -, - F.3d -, 2003 U.S. App. LEXIS 6274 (3d Cir. Mar. 18, 2003).

27 V.I.C. § 301, VI ST T. 27 § 301

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27 V.I.C. § 301a

§ 301a [Renumbered.]

HISTORY

Section 301a, which was derived from Act June 7, 1957, No. 194, § 1, Sess. L. 1957, p. 89, was renumbered as section 301 by Act Mar. 25, 1964, No. 1111, § 1, Sess. L. 1964, p. 53. Said section was repealed by Act June 6, 1967, No. 1991, § 3, Sess. L. 1967, p. 330, and a new section 301 relating to the same subject was added.

27 V.I.C. § 301a, VI ST T. 27 § 301a

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27 V.I.C. § 301b

§ 301b Foreign sales corporations defined

For the purposes of this chapter a ‘foreign sales corporation‘ shall have the same meaning as that contained in Title 13, chapter 12, Virgin Islands Code.

Credits

-Added Sept. 25, 1984, No. 4990, § 4(b), Sess. L. 1984, p. 247.

27 V.I.C. § 301b, VI ST T. 27 § 301b

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27 V.I.C. § 301c

§ 301c Protected cell and incubator business defined

For the purposes of this chapter a ‘Protected Cell’ shall have the same meaning as that contained in Title 17, chapter 42, section 801, of this Code and an Incubator Business shall mean a business as described in Title 17, chapter 34, section 482(g), of this Code.

Credits

-Added Feb. 21, 2002, No. 6502, § 3(a), Sess. L. 2002, p. 256.

HISTORY

Revision notes.

Substituted ‘section 801’ for ‘section 801(b)’ as this section does not contain a subsection (b).

27 V.I.C. § 301c, VI ST T. 27 § 301c

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Virgin Islands Code Annotated Currentness
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27 V.I.C. § 302

§ 302 Same; business, occupations, professions and trades covered; fees

(a) The following annual license fees are made applicable to and shall be levied upon all persons and associations engaged in the designated businesses, occupations, professions and trades in the Virgin Islands:

Additional place of brokers business\$ 50Advertising150Air cargo transportation500Air charter service per plane100Air conditioning and refrigeration repair shop125Answering service75Apartment house A, more than 12 units250Apartment house B, 9-12 units220Apartment house C, 5-8 units150Apartment house D, 4 or less units100Appliance repair shop100Appraiser100Armored car service300Artist studios100Astrology service100Attorney500Auto cleaning and polishing service100Automobile towing service100Automobile undercoating100Automotive inspection and diagnostic services100Automobile mechanical road service100Baby sitting service100Baggage, cargo, mail handling225Bakery200Barber50Barber apprentice25Barber shop initial issuance150Barber shop renewal75Barber temporary10Battery and ignition repair100Beach club100Beautician apprentice30Beautician temporary10Beauty school200Beauty shop initial issuance150Beauty shop renewal75Billiard table per table30Blasting service150Blender, bottler of alcohol beverages1600Boat building and repair125Boat charter service per boat100Boat rental100Bookkeeping services100Bowling alley300Bus transportation per bus50Business and management consultant300Business courses and related training250Business Management or Consulting Firm for V.I. Foreign Sales Corporations: Firms managing or consulting for less than 5 V.I. Foreign Sales Corporations500 Firms managing or consulting for at least 5 but less than 100 V.I. Foreign Sales Corporations1,000 Firms managing or consulting for 100 or more V.I. Foreign Sales Corporations2,000Butchery300Cable car sightseeing tours125Cable splicing and related work150Cable television and antenna service150Car leasing100Car Rental A-0 to 20 vehicles200Car Rental B-21 to 50 vehicles300Car Rental C-more than 50 vehicles400Carpentry contractor75Carpet laying and related services125Catering service100Certified public accounting300Charm school100Check room service50Claim adjusters150Clinical laboratory300Club liquor license200Cockfighting500Coffee shop and ice cream parlor100Coin operated car wash100Commercial art services100Commercial boat, freight or passengers100Commercial breeding services100Commercial diver100Commercial kennel100Commercial laundry200Commercial school250Commercial warehousing150Commodity exchange clearing house300Common carrier int. telecommunication150Communication equipment inst. contractor150Communication equipment oper. contractor150Concrete pumping250Construction contractor200Consultation and related therapy services125Copyright protection service100Cottage rental100Credit bureau and collection agency200Customs and visa preparations service100Dance studio50Dealer in explosives Public Safety500Dental laboratory350Development and sale of own property75Discotheque-same as night clubDocumentation services for vessels steam ship agent150Dog grooming shop100Draftsman75Driving school200Dry cleaning200Dry docking services200Drywall-sheetrock installation contractor75Electrical contractor100Electronic security consultant150Employment agency100Escort service200Exterminating and pest control150Fiduciary services100Fingerprint services100Firearms and ammunition-distributor or wholesaler1,000Firearms and ammunition-retail sales550Firearms and ammunition-gunsmith500Fire prevention service100Fireproofing contractor license150Florist150Flower conserv. and agricultural nursery100Flying school250V.I. Foreign Sales Corporation100Free lance photographer100Garage and repair shops200Garbage removal100Gasoline station250General aviation service

and maintenance125General manufacturing-glass150General manufacturing-food150General manufacturing-tobacco150General manufacturing-textile150General manufacturing-clothes150General manufacturing-public printing150General manufacturing-chemical150General manufacturing-petroleum1,000General manufacturing-rubber1,000General manufacturing-leather150General manufacturing-metal500General manufacturing-fabricated metal500General manufacturing-machinery500General manufacturing-electrical machinery500General manufacturing-transportation equipment300General manufacturing-watches350General manufacturing-miscellaneous300Glass tinting contractors75Golf course150Guard dog service100Hair removal service75Health club or spa300Holding company200Hotel and guest house A-over 100 beds400Hotel and guest house B-over 40-99 beds300Hotel and guest house C-1-39 beds200Hotelkeeper-liquor400Hypnotism consultant100Ice manufacturing250Importer of goods for resale200Incubator business250Information and data processing services100Installation of equipment75Installation of fences75Installation of fire and burglary alarm systems200Interior decorating100Investment advisory service200Investment brokerage400Itinerant vendor license50Janitorial service and supply150Jewelry and watch repair shop100Judo instructor100Karate instructor100Kindergarten school200Landscaping consultant100Landscaping, garden, maintenance service100Laundromat200Laundry pickup and delivery service100Leasing of plants100Lie detection service100Liquor wholesalers license800Machine shop100Manicurist apprentice10Manufacturers of aerated waters150Manicurist75Marine biological supplies100Marine salvage and Rel underwater service150Marine surveyor and blasting service150Marine surveyor and consultant150Masonry contractor75Massage parlor150Master electrician100Master plumber100Media advertising, promotion and production200Medical laboratory300Messenger and delivery service100Misc. amusement devices150Mobile food service100Mobile refreshment stand75Modeling agency100Motion picture distribution150Motion picture theater500Motor vehicle dealer500Moving and freight forwarding services200Music recording and sales business200Nickelodeon per machine30Night club license1,400Nutrition and consulting services100Oceanographic research and development100Out patient care facility100Owners representative coordinator100Painting contractor75Paralegal services100Parking lot vehicle100Pharmacy300Photocopying services75Photographic processing or studio50Piano technician100Pin ball and similar machines per machine50Plastering contractor75Plumbing contractor100Pollution control services100Poultry farm-agriculturePrime distillers of alcoholic beverages3,000Printing and publishing house250Private elementary/secondary school200Production of milk and milk products125Project coordinator/consultant75Protected Cell1000Public accountant120Public auctioneer100Public dance license25Public relations services100Public title reporter100Radio and television repair shop100Radio advertising, promotion and production200Radio station500Real estate broker250Real estate salesman200Real estate salesman-temporary100Real estate-change business place50Real estate-change of associate50Red cap porter service50Rent of real property (other than buildings)100Rental of equipment100Rental of non-residential building150Rental watersports equipment100Repair and maintenance of misc. items100Restaurant A-Seating capacity 25 or more200Restaurant B-Seating capacity less than 25125Retail shop and store-except liquor100Retailers liquor license500Riding academy75Rooming house100Rug and furniture cleaning on location100Sailing school200Sale of prepaid hotel reservation125Sales and marketing concepts50Sales finance200Salvage and sale of used parts100Scheduled air service700School of ceramics100School of language100School of music100School of philosophy100School of underwater photography100Scooter and/or motorcycle rental150Scrap metal collection and sales100Scrap paper collection and sales100Scrap plastic collection and sales100Scuba diving school and related services125Secretarial service100Security analyzing service100Septic tank cleaning150Sewer cleaning and rodding services150Sewerage maintenance and operational engineering services150Sewing school100Sheet metal and iron work shop150Ship chandler100Shoe repair shop75Sightseeing and tour operations100Sign painting75Silk screen manufacturing150Skating rink175Solicitor, sales and commission agent75Sporting and recreational camp100Sports instructor100Sports promoter150Sprinkle system installation contractor75Steamship and shipping agents150Stevedoring license100Summer school100Swimming instruction100Swimming pool installation contractor150Tailoring and alteration service100Tavernkeeper A-distilled and fermented spirits500Tavernkeeper B-fermented spirits only300Tax consultant100Telegraph office350Television station600Temporary help contracting agency100Tennis club100Theatrical production, except motion picture100Theatrical promoter and booking agent150Theatrical variety employment service150Tile setting contractor75Tire recapping and retreading service100Tobacco Retailer100Tobacco Wholesaler500Transient disco

service75Transient amusement operator500Translation services100Travel and ticket agent150Tree surgery100Trucking, transportation and delivery100Typewriter repair shop100Undertaking business500Upholstery shop100Used car lot100Vehicle inspection service100Vending machine A-License-0 through 5 machines100Vending machine B-License-6 through 20 machines150Vending machine C-License-21 through 50 machines200Vending machine D-License-more than 50 machines400Vocational training school100Water skiing school100Water supply services150Waterproofing

(b) Any person or association engaged in a business, occupation, profession, or trade not designated in subsection (a) of this section or not covered by any other provision of this Code shall obtain an annual license at a fee determined by the Commissioner as reasonable to defray the costs of regulation, but not to exceed \$500.

(c) For the purposes of this chapter, ‘hotels and guesthouses’ shall be construed to mean establishments used for providing rooms and related accommodations for guests, and shall include such establishments feeding their own guests but not otherwise conducting a restaurant business, and ‘night club’ shall be construed to mean every business which has a capacity for at least thirty (30) persons seated at tables and the bar, and which employs a bartender and which maintains table service and dancing and/or other live entertainment for the guests. Notwithstanding the provisions of any other law, the Commissioner of Licensing and Consumer Affairs may issue a Tavern Keeper B-fermented spirits only-license to mobile, food and mobile refreshment vendors.

(d) No license shall be issued to any person or association to engage in an investment brokerage business in the Virgin Islands for the purpose of buying and selling stocks, bonds, and other securities and debentures to and for others, unless the person or association pays the required annual license fee, and, in addition, files with the Commissioner, for the protection of its customers, a good and sufficient bond signed by the person or association as principal, with one or more sureties to be approved by the Commissioner and running to the Commissioner and his successors in office, in a sum of \$50,000, with condition that the surety or sureties on the bond shall be answerable to the amount of the bond for all judgments, decrees, or orders given, made, or rendered against the principal on the bond by any court of competent jurisdiction in the Virgin Islands for payment of money. In case of any breach of the condition of any bond, the Commissioner may, and upon demand and receipt of satisfactory assurance for the payment of costs shall, enforce the bond either in his own name or in the name of any person as obligee therein by appropriate proceedings in any court of competent jurisdiction for the use and benefit of any person injured by the breach. The surety or sureties on the bond may withdraw from obligations under the bond upon written notice to the Commissioner at least ninety (90) days prior to the date on which the then existing license of authorization is to expire. Such surety or sureties shall, however, remain liable on the bond for all judgments, decrees, or orders given, made, or rendered against the principal, based on obligations incurred during the period of suretyship.

(e) No person shall go into or upon any private or commercial premises in the Virgin Islands, not having been requested or invited to do so by the owner, owners, occupant or occupants of said private or commercial premises, as a solicitor, peddler, hawker, salesman, itinerant vendor or transient merchant, for the purpose of selling or procuring orders or subscriptions thereto (except magazines and newspapers published in the Virgin Islands), or for any other commercial or business purposes without first obtaining a door-to-door license as required by this chapter. For the purposes of this chapter an ‘Itinerant Vendor’ license shall be required for all persons selling and delivering merchandise at retail other than from a retail store located within the Virgin Islands.

(f) Notwithstanding the provisions of subsection (b) of this section, persons owning and residing in apartment houses with less than five units shall not be required to obtain a license under any provision of this chapter.

(g) An owner of an apartment house or houses shall not be required more than one license under the provisions of subsection (a) of this section and shall pay annually only one license fee to be determined by the total number of apartment units owned by such person.

(h) Every person or association who has been issued a license pursuant to the provisions of this chapter shall display the license in a conspicuous manner at the location identified in the license as the place of business.

Credits

-Added June 6, 1967, No. 1991, § 3, Sess. L. 1967, p. 330; amended May 8, 1968, No. 2184, § 3(a), Sess. L. 1968, Pt. I, p. 486; May 29, 1968, No. 2217, § 2, Sess. L. 1968, Pt. II, p. 24; June 28, 1968, No. 2259, § 3, Sess. L. 1968, Pt. II, p. 112; July 18, 1968, No. 2308, §§ 1-3, Sess. L. 1968, Pt. II, p. 268, Feb. 11, 1969, No. 2413, Sess. L. 1969, p. 60; Feb. 13, 1970, No. 2622, Sess. L. 1970, p. 12; July 28, 1972, No. 3282, § 11, Sess. L. 1972, p. 259; Nov. 21, 1972, No. 3330, § 12, Sess. L. 1972, p. 504; May 13, 1973, No. 3431, § 9, Sess. L. 1973, p. 111; Nov. 7, 1983, No. 4877, § 310(a), (b), Sess. L. 1983, pp. 230, 239; Feb. 21, 1984, No. 4895, § 1, Sess. L. 1984, p. 29; Sept. 25, 1984, No. 4990, § 4(c), Sess. L. 1984, p. 247; Feb. 1, 1985, No. 5037, § 1, Sess. L. 1984, p. 459; Sept. 10, 1986, No. 5194, § 1, Sess. L. 1986, p. 209; Dec. 13, 1986, No. 5225, § 16, Sess. L. 1986, p. 374; June 17, 1993, No. 5866, § 2, Sess. L. 1993, p. 100; Feb. 15, 1994, No. 5955, §§ 2(a), 6, Sess. L. 1994, pp. 10, 12; Mar. 22, 1996, No. 6099, § 3(a), Sess. L. 1996, p. 32; Feb. 1, 2001, No. 6391, § 2(a)(3), Sess. L. 2000, p. 435; Jan. 1, 2002, No. 6490, § 3, Sess. L. 2001, p. 377; Feb. 21, 2002, No. 6502, § 3(b), Sess. L. 2002, p. 256; July 14, 2003, No. 6585, § 14, Sess. L. 2003, p. 30; Mar. 5, 2005, No. 6727, § 8, Sess. L. 2005, p. 31; Apr. 9, 2011, No. 7248, § 8(1)-(8), Sess. L. 2011, p. 16.

HISTORY

Revision notes.

In subsection (a), substituted ‘Baby sitting service’ for ‘Babu sottomg service’ to correct an apparent typographical error pursuant to section 14 of Title 1.

In subsection (a), made minor stylistic changes in entries relating to firearms and ammunition for purposes of conformity with format of remainder of fee schedule.

Act May 8, 1968, No. 2184, § 3, Sess. L. 1968, Pt. I, p. 485, provided: ‘Section 3. (a) Subsection (a) of section 302, Title 27, Virgin Islands Code, as amended, is hereby further amended by the deletion from ‘VII. Trades and Profession’’. As such subdivision is contained in this section rather than section 302 the amendment was executed in this section.

Substituted ‘Commissioner’ for ‘Director’ wherever it appeared in subsection (d) in view of Act June 24, 1987, No. 5265, § 702, Sess. L. 1987, p. 67 pursuant to section 14 of Title 1. See section 276 of Title 3.

‘Virgin Islands’ was substituted for ‘Virgin Islands of the United States’ in subsection (a) pursuant to the Revised Organic Act of 1954.

Amendments -2011.

Act 7248, § 8(1), substituted ‘1600’ for ‘800’ in the entry for ‘Blender, bottler of alcohol beverages’ in subsection (a).

Act 7248, § 8(2), substituted ‘400’ for ‘200’ in the entry for ‘Hotelkeeper-liquor’ in subsection (a).

Act 7248, § 8(3), substituted ‘800’ for ‘400’ in the entry for ‘Liquor wholesalers license’ in subsection (a).

Act 7248, § 8(4), substituted ‘1,400’ for ‘700’ in the entry for ‘Night club license’ in subsection (a).

Act 7248, § 8(5), substituted ‘3,000’ for ‘1,500’ in the entry for ‘Prime distillers of alcoholic beverages’ in subsection (a).

Act 7248, § 8(6), substituted ‘500’ for ‘250’ in the entry for ‘Retailers liquor license’ in subsection (a).

Act 7248, § 8(7), substituted '500' for '250' in the entry for 'Tavernkeeper A-distilled and fermented spirits' in subsection (a).

Act 7248, § 8(8), substituted '300' for '150' in the entry for 'Tavernkeeper B-fermented spirits only' in subsection (a). **-2005.**

Act 6727, § 8, in subsection (a), deleted 'Mortgage banker 200' and 'Mortgage broker 400' following 'Modeling agency 100'. **-2003.**

Act 6585, § 14 substituted 'fee determined by the Commissioner as reasonable to defray the costs of regulation, but not to exceed \$500' for 'fee of \$100' in subsection (b). **-2002.**

Act 6502 inserted 'Incubator Business \$250.00' and 'Protected Cell \$1000.00' in subsection (a). **-2001.**

Act 6490 inserted 'V.I.' preceding 'Foreign Sales Corporation' or 'Foreign Sales Corporations' throughout subsection (a). **-2000.**

Added subsection (h). **-1996.**

Subsection (a): Substituted '1,000' for '500' in the entry for 'firearms and ammunition-distributor or wholesaler', '550' for '250' in the entry for 'firearms and ammunition-retail sales' and '500' for '100' in the entry for 'firearms and ammunition-gunsmith'. **-1994.**

Subsection (a): Added the entries 'Tobacco Retailer - 100.00' and 'Tobacco Wholesaler - 500.00' in alphabetical order.

Subsection (c): Added the second sentence. **-1993.**

Subsection (a): Substituted '100' for '75' in the entries for 'electrical contractor', 'master electrician', 'master plumber' and 'plumbing contractor'. **-1986.**

Subsection (a): Act No. 5194 deleted entries relating to dealers in firearms and/or ammunition and gunsmiths preceding the entry for dental laboratory, and added entries relating to firearms and ammunition following the entry for fingerprint services.

Subsection (e): Act No. 5225 substituted 'or commercial premises' for 'residence' following 'private' in two places in the first sentence and deleted the third sentence. **-1984.**

Subsection (a): Amended generally. **-1983.**

Subsection (a): Amended generally.

Subsection (b): Substituted '\$100' for '\$25' following 'fee of'. **-1973.**

Subsection (d): Substituted 'Director' for 'Commissioner' wherever it appeared. **-1972.**

Subsection (a): Act No. 3330 amended the thirteenth line of that portion thereof labeled 'II. Commercial' by inserting the words 'but excluding fishing boats'.

Act No. 3282 omitted in Schedule VII electricians and plumbers and inserted 'Master Electricians, Master Plumbers, Electrical Contractors and Plumbing Contractors'. **-1970.**

Subsection (e): Amended generally. **-1969.**

Subsections (f), (g) were added as subsections (e), (f) but were redesignated as (f), (g) as a subsection (e) was added by Act July 18, 1968, No. 2308, § 3. **-1968.**

Act May 29, 1968, No. 2217, § 2, Sess. L. 1968, Pt. II, p. 24, deleted 'Itinerant Vendor' from schedule II. Such Act was repealed by Act July 18, 1968 which added 'Itinerant Vendor or Door-to-Door Salesman' to schedule II.

Act June 28, 1968, No. 2259, § 3, Sess. L. 1968, Pt. II, p. 112, deleted 'Barber Shops' and 'Beauty Shops' from schedule II of subsection (a).

Act July 18, 1968, No. 2308, § 3, Sess. L. 1968, Pt. II, p. 268, added subsection (e).

Effective date of amendments

-Act No. 3465.

Section 8 of Act July 13, 1973, No. 3465, provided: 'The effective date of this Act [adding 'annual license fees' note to this section, section 177 note to Title 3, amending section 433 of Title 20, and amending sections 43, 72, 91, 93 and 94 of Title 33] shall be July 7, 1973'.

-1969 amendment.

Act April 1, 1969, No. 2496, Sess. L. 1969, p. 206, provided:

'Section 2. The provisions of this Act [which added subsecs. (e) and (f) to this section now (f) and (g)] shall be effective retroactive to January 1, 1969. The Commissioner of Finance is authorized and directed to repay or refund to any individual, partnership, corporation or other association which has paid after January 1, 1969, the license fees exempted by section 1 of this Act [subsecs. (e) and (f) of this section now (f) and (g)] after the effective date of this Act.'

Construction with other laws.

Act May 8, 1968, No. 2184, § 3(b), Sess. L. 1968, Pt. I, p. 486, provided:

'(b) All other laws or parts of laws in conflict with the provisions of this chapter are hereby repealed.'

Former section 302.

Former section 302 of this title, which related to terms and conditions of licenses, was repealed by Act June 6, 1967, No. 1991, § 3, Sess. L. 1967, p. 330, and a new section 302 was added.

Annual license fees increased.

Act July 13, 1973, No. 3465, § 5, provided:

'Notwithstanding any other provision of law, the annual license fees prescribed for businesses, occupations, professions and trades by Title 27, Virgin Islands Code, are hereby increased by one hundred (100%) percent.'

Amendment of existing licenses of firms providing business management or consulting services to foreign sales corporations; license fees.

Act Sept. 25, 1984, No. 4990, § 5, Sess. L. 1984, p. 248, provided:

'Any firm which, on the date of enactment of this act [Sept. 25, 1984], is licensed to do business as a Business and Management Consultant, Fiduciary Services, Project Coordinator/Consultant, or Owner's Representative/Coordinator, shall be permitted to file with the Consumer Services Administration within ninety (90) days of the effective date of this

act an application to amend its existing license to the category of Business Management or Consulting Firm for Foreign Sales Corporations.

‘Said application shall include an additional fee in an amount equal to the difference between the fee previously paid for the existing license and the fee payable for the amended license. Ninety (90) days or more after the effective date of this act no firm shall provide business management or consulting services to a Foreign Sales Corporation unless such firm has obtained a license to do business as a Business Management or Consulting Firm for a Foreign Sales Corporation.’

Payment for business license for foreign sales corporation.

Act Dec. 19, 1984, No. 5032, § 7, Sess. L. 1984, p. 414, provided:

‘The Director of the Consumer Services Administration shall accept the following in payment for a business license for a Foreign Sales Corporation:

- (a) cash;
- (b) certified check;
- (c) a bank manager's or cashier's check; or
- (d) a check drawn on a Virgin Islands bank.

In the case of subsection (d) above, should the bank on which such check is drawn refuse to honor such check, the Director of the Consumer Services Administration shall so notify the Foreign Sales Corporation or its agent in writing and unless payment for the license plus such service fee, not exceeding \$50, as is established by the Director of the Consumer Services Administration, is forthcoming within five business days of receipt of said notice, the Director may revoke the license of said Foreign Sales Corporation.’

Issuance of contractor's licenses prohibited within one year after a disaster.

Act Nov. 9, 1995, No. 6087, § 13, Sess. L. 1995, p. 236 provided:

‘Notwithstanding any other provisions of law to the contrary, the Department of Licensing and Consumer Affairs shall not issue any new contractors licenses after any natural disaster within a one year period after the disaster. The provisions of this section [this act] shall not apply if the contractor is a domiciliary of the Virgin Islands.’

ANNOTATIONS

1. Constitutionality.

The argument that applying the Virgin Islands business licensing scheme to non-owner attorneys would deny such attorneys equal protection of the laws, because these attorneys would be required to pay a licensing fee while other, allegedly similarly situated employees would not be so required, is utterly baseless. [Smith v. Magras](#), 124 F.3d 457, 37 V.I. 464, 1997 U.S. App. LEXIS 21491 (3d Cir. V.I. 1997).

It is clear from the V.I. Organic Act, § 21(c), that local law, enacted by the Virgin Islands legislature, may have some role to play in the regulation of attorneys; put differently, the Organic Act envisions the possibility of the sharing of power over the regulation of attorneys between the Virgin Islands courts and the Virgin Islands legislature, at least to the extent of imposing a license fee. [Smith v. Magras](#), 124 F.3d 457, 37 V.I. 464, 1997 U.S. App. LEXIS 21491 (3d Cir. V.I. 1997).

2. Corporations.

A corporation does not, simply because it is a corporation, have a right to carry on the business of construction contractors without obtaining the license required by Schedule VII of this section. 3 V.I. Op. Att'y Gen. 282. (Decided under prior law.)

3. Assignments.

A hotel license is not assignable, but belongs to the person in whose name it is issued, even if that person uses a firm or trade name. 1 V.I. Op. Att'y Gen. 87. (Decided under prior law.)

4. Apartment houses.

This section, being a revenue measure, does not change the status of apartment houses to the status of hotels or guesthouses, nor does it change the legal relationship between the parties involved. [Smith v. Moorhead, 5 V.I. 19, 1964 V.I. LEXIS 1 \(Mun. Ct. St. T. and St. J. 1964\)](#). (Decided under prior law.)

The definition of 'hotels and guest houses' in this section covers only hotels and guesthouses specified under part IV of this section, but does not cover apartment houses specified under part II. [Smith v. Moorhead, 5 V.I. 19, 1964 V.I. LEXIS 1 \(Mun. Ct. St. T. and St. J. 1964\)](#). (Decided under prior law.)

5. Attorneys.

The plain language of [27 V.I.C. § 301\(a\)](#), which requires every person or association wishing to engage in any business, occupation, profession, or trade listed in section 302 to obtain a license to do so, is applicable to non-owner attorneys employed by law firms. [Smith v. Magras, 124 F.3d 457, 37 V.I. 464, 1997 U.S. App. LEXIS 21491 \(3d Cir. V.I. 1997\)](#).

Attorneys who are salaried employees and who have no ownership interest in the firms for which they work are not required to obtain individual business licenses from Department of Licensing and Consumer Affairs (DLCA) in order to practice law. [Smith v. Magras, 29 V.I. 11, 1993 V.I. LEXIS 6 \(V.I. Terr. Ct. 1993\)](#).

Since hearings are required before Department of Licensing and Consumer Affairs (DLCA) may impose sanctions for failure to obtain a license to do business, Commissioner of DLCA may not unilaterally decide that attorneys not possessing a license are engaged in illegal, fraudulent or deceitful practices, and thereafter impose sanction of publicly listing their names. [Smith v. Magras, 29 V.I. 11, 1993 V.I. LEXIS 6 \(V.I. Terr. Ct. 1993\)](#).

Imposition of mandatory bar dues and a licensing fee in order to practice law in the Virgin Islands was not an impermissible double tax, since the fees were imposed for separate uses and did not involve assessment of taxation twice on the same gain or imposition of taxes by two separate sovereigns. [Virgin Islands Bar Asso. v. Government of Virgin Islands, 648 F. Supp. 170, 1986 U.S. Dist. LEXIS 19568 \(D.V.I. 1986\)](#).

Where legislature had power to increase attorney licensing fees, court would not pass on the reasonableness of the increase or hold it unconstitutional because it rendered business unprofitable. [Virgin Islands Bar Asso. v. Government of Virgin Islands, 648 F. Supp. 170, 1986 U.S. Dist. LEXIS 19568 \(D.V.I. 1986\)](#).

Increase in attorney licensing fee, which was based on a rational but unscientific understanding of the general economic status of attorneys in relation to other persons and was similar both in percentage and absolute increase to that of other licensing fee increases, did not violate the equal protection guarantees of the Fourteenth Amendment, where it bore a rational relationship to the legitimate government goal of increased general revenue. [Virgin Islands Bar Asso. v. Government of Virgin Islands, 648 F. Supp. 170, 1986 U.S. Dist. LEXIS 19568 \(D.V.I. 1986\)](#).

6. Boat rental.

Owners of small sailboats who rent them by the day or half-day to customers are not liable for the statutory per boat license fee. 9 V.I. Op. Att'y Gen. 125.

7. Hotels and guesthouses.

Where a hotel maintains two separate and distinct guesthouse facilities located in different places, it is a question of fact whether it is one or two business establishments, and in establishing a policy as to whether one or two licenses are required in such cases, consideration should be given to the expediency and desirability of inland hotels having beach front facilities for guests. 3 V.I. Op. Att'y Gen. 282. (Decided under prior law.)

A boardinghouse, defined as a public house where rooms are let by the week or month and meals and drinks, exclusive of intoxicants, are served, was excluded from the definition of hotel-keeping for the purposes of the licensing requirements of the Trades and Occupations Ordinance of St. Thomas. 1 V.I. Op. Att'y Gen. 281. (Decided under prior law.)

Hotel-keeping is defined as the keeping of any public house where rooms are let to transient persons without any previous agreement as to the duration of their stay, or any public house where rooms are let by the week or longer and meals and drinks, including intoxicants, are served. 1 V.I. Op. Att'y Gen. 281.

Lodging or rooming houses, defined as being the same as boardinghouses except that meals and drinks are not served, are excluded from the definition of hotel-keeping for the purposes of the licensing requirements of the Trades and Occupations Ordinance of St. Thomas., 1 V.I. Op. Att'y Gen. 281.

An ordinance requiring licensing of the occupation or trade of 'hotel-keeping' was applicable to boardinghouses and private parties who furnished hotel services, regardless of whether or not the establishments were called hotels. 1 V.I. Op. Att'y Gen. 83. (Decided under prior law.)

8. Importers.

Applying rule of recourse to prior statutes on the subject to aid in interpretation, it would be conclusively presumed that provision for license for 'Importers of Goods for Resale' encompassed the privilege of operating one retail outlet, so that a holder of an importer's license need not also acquire a retailer's license if he operates only one retail outlet. 3 V.I. Op. Att'y Gen. 273. (Decided under prior law.)

The holder of an importer's license may open as many retail outlets as he wishes, regardless of location and regardless of whether the goods imported are consigned to the importer or an outlet, though only one of the outlets is licensed free under the importer's license. 3 V.I. Op. Att'y Gen. 273. (Decided under prior law.)

An importer's license is not required to import equipment to be used in business operations. 3 V.I. Op. Att'y Gen. 194. (Decided under prior law.)

Since a distiller or a blender and rectifier of alcoholic beverages is required to obtain a manufacturer's license, they do not have to also obtain an importer's license. 3 V.I. Op. Att'y Gen. 194.

Whether one or more importer's licenses are needed when one or more retail outlets are operated depends mainly upon whether the outlet or outlets are integral parts of one or more business entities. 3 V.I. Op. Att'y Gen. 194.

9. Itinerant vendors.

Removal of vendors from a certain location did not deprive the vendors of a property right because the vendors did not have location permits issued in their names; the location permits could not lawfully be transferred because most of the permits provided that they were not transferable, and in March 1992, the prohibition against transferring permits

was codified in the Virgin Islands Rules and Regulations. *Polak v. Lebron*, 2003 U.S. App. LEXIS 6274 (3d Cir. Mar. 18, 2003).

Subsection (e) of this section, requiring itinerant vendors to be licensed and providing that no door-to-door salesman or itinerant vendor shall solicit business or advertise in any business district or shopping area or closer than 500 feet from any retail store selling similar merchandise, does not apply to persons carrying hand-held signs and advertising. 8 V.I. Op. Att'y Gen. 146.

Vendor selling meat pates and maubi was excepted from 500-foot limitation of subsection (e) of this section, under which itinerant vendors cannot sell closer than 500 feet to a retail store selling similar things, as a vendor selling things produced, prepared or assembled in the territory, or having mobile refreshment stands, not subject to the 500-foot limit. 8 V.I. Op. Att'y Gen. 135.

10. Manufacturers.

With respect to licensing requirements, the legal distinction between manufacturers and processors is that in most instances, 'manufacture' includes what is ordinarily considered as processing. 3 V.I. Op. Att'y Gen. 282. (Decided under prior law.)

Unless in possession of an importer's license, a manufacturer needs a license in order to sell locally at wholesale or retail, and an importer's license covers only one sales outlet. 3 V.I. Op. Att'y Gen. 282. (Decided under prior law.)

11. Photographic services.

A licensed attorney at law must also secure a photographic services license, at a fee to be fixed, where he conducts a business as a photographer and developer in his home. 3 V.I. Op. Att'y Gen. 138. (Decided under prior law.)

12. Taxi operators.

Consumer Services Administration has no authority to require taxi operators to obtain a license pursuant to general licensing statute, since the occupation of taxi operator is covered by another specific provision of the Virgin Islands code. 10 V.I. Op. Att'y Gen. 72. (Decided under prior law.)

13. Travel and ticket agents.

A travel and ticket agent operating more than one place of business need not acquire a separate license for each place. 3 V.I. Op. Att'y Gen. 282. (Decided under prior law.)

14. Foreign sales corporations.

Corporate plaintiffs doing business in Virgin Islands as foreign sales corporations had standing to challenge corporate tax and fee provisions, where Third Circuit adopted implied duress rule of taxation and plaintiffs paid the filing, licensing, and franchise-tax assessments under implied duress. [Polychrome Int'l Corp. v. Krigger](#), 5 F.3d 1522, 29 V.I. 311, 1993 U.S. App. LEXIS 23287 (3d Cir. V.I. 1993).

Filing fees and licensing fees Virgin Islands imposed on foreign sales corporations were fairly apportioned and nondiscriminatory, where apportionment formula was such that if applied by every jurisdiction it would result in no more than all of unitary business' income being taxed, factors used in formula reflected reasonable sense of how income was generated, and none of fees discriminated against interstate or foreign commerce. [Polychrome Int'l Corp. v. Krigger](#), 5 F.3d 1522, 29 V.I. 311, 1993 U.S. App. LEXIS 23287 (3d Cir. V.I. 1993).

Franchise taxes and licensing and filing fees imposed on foreign sales corporations in Virgin Islands were fairly related to services provided in Virgin Islands for purposes of Commerce Clause analysis, where method of calculating taxes and

fees was reasonable and merely ensured that such corporations shouldered fair share of services provided. [Polychrome Int'l Corp. v. Krigger](#), 5 F.3d 1522, 29 V.I. 311, 1993 U.S. App. LEXIS 23287 (3d Cir. V.I. 1993).

Licensing fees Virgin Islands charged foreign sales corporations did not discriminate against interstate and foreign commerce by imposing fees higher than those imposed on other Virgin Islands corporations, where in fact foreign sales corporations paid lower licensing fees. [Polychrome Int'l Corp. v. Krigger](#), 5 F.3d 1522, 29 V.I. 311, 1993 U.S. App. LEXIS 23287 (3d Cir. V.I. 1993).

15. Night clubs.

Where the definition of a nightclub is found under 27 V.I.C. §§ 302(c), 351a(b) and 29 V.I.C. § 225(74) as a business having the capacity of seating 30 or more people, having a bartender, table service and live entertainment, and all such elements were conclusively shown by the defendant's general manager, there was substantial evidence on the record to support the Hearing Officer's finding that the defendant was engaged in nightclub activities. [Virgin Islands ex rel. Department of Licensing & Consumer Affairs v. MT Retailers](#), 31 V.I. 62, 1995 V.I. LEXIS 6 (V.I. Terr. Ct. 1995).

The court supports the Hearing Officer's differentiation between a tavern and a night club as very reasonable; while a night club can have dancing and/or live entertainment, a tavern is a place for drinking and may also have dancing, but no provision in the controlling statute is made for live entertainment. [Virgin Islands ex rel. Department of Licensing & Consumer Affairs v. MT Retailers](#), 31 V.I. 62, 1995 V.I. LEXIS 6 (V.I. Terr. Ct. 1995).

16. Application.

Once it was established that petitioner had not provided the Department of Licensing and Consumer Affairs (DLCA) with a valid tax clearance letter, the DLCA had the authority under V.I. Code Ann. tit. 27, §§ 302, 304, and 307 and V.I. Code Ann. tit. 3, § 272 to demand the fees, tax clearance letter, and fines from petitioner, as well as to revoke his license and order him to cease and desist from operating his business. Furthermore, the deadlines imposed upon petitioner were simply a grace period before revocation of his license, and having allowed the grace period, the DLCA was not required by due process to give petitioner an additional hearing before revoking his license. [Milligan v. Gov't of the V.I.](#), - V.I. -, 2015 V.I. LEXIS 137 (V.I. Super. Ct. Nov. 18, 2015). Invalid Court Name - SUPERIOR COURT OF THE VIRGIN ISLANDS, DIVISION OF ST. CROIX

Cited.

Cited in [Hollar v. Government of Virgin Islands](#), 857 F.2d 163, 1988 U.S. App. LEXIS 12273 (1988).

27 V.I.C. § 302, VI ST T. 27 § 302

Current through Act 8146 of the 32nd Legislature

Virgin Islands Code Annotated Currentness
Title 27. Professions and Occupations
Chapter 9. Licensing of Businesses and Occupations
Subchapter I. General Provisions

27 V.I.C. § 303

§ 303 Process of applications

(a) Upon the receipt of an application for an initial license under the provisions of this chapter, the Commissioner shall submit copies of the application to the U.S. Virgin Islands Police Department (V.I.P.D.) for verification of the police record stated on the application, to the Virgin Islands Historic Preservation Commission, Department of Planning and Natural Resources for construction and site acceptability, to the Department of Health in the case of a business, occupation, trade or profession involving food operations, and to pay any other pertinent agency or instrumentality of the Government of the Virgin Islands or of the United States for the purpose of obtaining reasonable information or approval determined necessary by the Commissioner for action upon the application. In the case of Foreign Sales Corporations, a license to do business shall be granted within three (3) business days of the receipt of the application, provided that the license shall be subsequently revoked if, upon receipt of the information, the Commissioner determines that a license would not have been granted had the information been received prior to the granting of a license.

(b) The Commissioner may establish reasonable conditions and terms in any initial or renewed license reasonably related to the business, occupation, profession, or trade, the violation or breach of which may result in the revocation or suspension of the license according to the provisions of section 304 of this chapter.

(c) Subsection (a) of this section shall not apply to foreign sales corporations.

(d) A processing fee, in an amount established by the Commissioner, shall be payable to the Government of the Virgin Islands upon the submission of an application to the Department for an initial license or renewal.

Credits

-Added June 6, 1967, No. 1991, § 3, Sess. L. 1967, p. 330; amended May 13, 1973, No. 3431, § 9, Sess. L. 1973, p. 111; June 15, 1984, No. 4964, § 1(b), Sess. L. 1984, p. 177; Sept. 25, 1984, No. 4990, § 4(d), (e), Sess. L. 1984, p. 248; Dec. 19, 1984, No. 5032, § 10, Sess. L. 1984, p. 415; Feb. 1, 2001, No. 6391, § 2(a)(4), Sess. L. 2000, p. 435.

HISTORY

Revision notes.

Substituted ‘Commissioner’ for ‘Director’ wherever it appeared in subsections (a) and (b) in view of Act June 24, 1987, No. 5265, § 702, Sess. L. 1987, p. 67 pursuant to section 14 of Title 1. See section 276 of Title 3.

Substituted ‘Virgin Islands Historic Preservation Commission, Department of Planning and Natural Resources’ for ‘Virgin Islands Planning Board’ in the first sentence of subsection (a) pursuant to section 14 of Title 1. See section 403 of Title 3.

Amendments -2000.

Added subsection (d). -1984.

Subsection (a): Act No. 4964 substituted 'U.S. Virgin Islands Police Department (V.I.P.D.)' for 'Department of Public Safety' preceding 'for verification' in the first sentence.

Act No. 4990 added the second sentence.

Act No. 5032 added 'In the case of Foreign Sales Corporations' preceding 'Foreign Sales Corporations' preceding 'a license to do business' at the beginning of the second sentence.

Subsection (c): Added by Act No. 4990. -1973.

Subsection (a): Substituted 'Director' for 'Commissioner' preceding 'shall'.

Subsection (b): Substituted 'Director' for 'Commissioner' preceding 'may establish'.

Effective date of amendments

-1984 amendment.

Act June 15, 1984, No. 4964, § 1(c), Sess. L. 1984, p. 177, provided that the change of name of the Department of Public Safety shall take effect Jan. 1, 1985.

Former section 303.

Former section 303, relating to license fees; definitions, was amended by Act March 25, 1964, No. 1111, § 5, Sess. L. 1964, p. 53; Act June 30, 1964, No. 1236, Sess. L. 1964, p. 357 and repealed by Act June 6, 1967, No. 1991, § 3, Sess. L. 1967, p. 330 and a new section 303 was added.

ANNOTATIONS

1. Between agencies.

The Department of Licensing and Consumer Affairs (DLCA) is required to submit copies of the application for a night club license to the Department of Planning and Natural Resources (DPNR) for determinations of site acceptability and where the DPNR recommended the denial of such license in accordance with Virgin Islands Zoning Laws, the DLCA's reliance on that recommendation was not arbitrary or capricious. [Virgin Islands ex rel. Department of Licensing & Consumer Affairs v. MT Retailers](#), 31 V.I. 62, 1995 V.I. LEXIS 6 (V.I. Terr. Ct. 1995).

Cited.

Cited in [Smith v. Magras](#), 29 V.I. 11, 1993 V.I. LEXIS 6 (Terr. Ct. St. T. and St. J. 1993); [Polak v. Lebron](#), - V.I. -, - F.3d -, 2003 U.S. App. LEXIS 6274 (3d Cir. Mar. 18, 2003).

27 V.I.C. § 303, VI ST T. 27 § 303

Current through Act 8146 of the 32nd Legislature

Virgin Islands Code Annotated Currentness
Title 27. Professions and Occupations
Chapter 9. Licensing of Businesses and Occupations
Subchapter I. General Provisions

27 V.I.C. § 303a

§ 303a Repealed. June 6, 1967, No. 1991, § 3, Sess. L. 1967, p. 330.

HISTORY

Former section 303a, relating to license and bond requirements of investment brokerage businesses; breach of conditions; withdrawal of securities, was amended by Act Feb. 24, 1964, No. 1091, Sess. L. 1964, p. 32 and repealed by Act June 6, 1967, No. 1991, § 3, Sess. L. 1967, p. 330.

27 V.I.C. § 303a, VI ST T. 27 § 303a

Current through Act 8146 of the 32nd Legislature

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Virgin Islands Code Annotated Currentness
Title 27. Professions and Occupations
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27 V.I.C. § 303b

§ 303b Registration of vacancies with Employment Security Agency

(a) Any entity licensed pursuant to this chapter shall notify the Employment Security Agency, Virgin Islands Department of Labor, of its intent to fill an existing position, now vacant or soon to become vacant, or a new previously unfilled position. Notices of vacancies shall include the title of the position, if any, the proposed salary, any required qualifications, and the general duties of the position, and the name, address or telephone number of the person to be contacted by applicants for the position.

(b) For the purposes of this section ‘position’ means employment at an hourly, monthly or yearly salary, intended to last at least 30 hours per week and for one month or more, but does not include temporary, or day workers.

(c) This section shall not be applicable to positions which are being filled by upgrading.

Credits

-Added June 20, 1986, No. 5174, § 4, Sess. L. 1986, p. 168.

HISTORY

Revision notes.

Substituted ‘this section’ for ‘the section’ following ‘purposes of’ in subsection (b), and ‘this section’ for ‘this law’ preceding ‘shall not be applicable’ in subsection (c) for purposes of clarity pursuant to section 14 of Title 1.

ANNOTATIONS

Cited.

Cited in [Smith v. Magras](#), 29 V.I. 11, 1993 V.I. LEXIS 6 (Terr. Ct. St. T. and St. J. 1993).

27 V.I.C. § 303b, VI ST T. 27 § 303b

Current through Act 8146 of the 32nd Legislature

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27 V.I.C. § 304

§ 304 Denial, revocation or suspension of licenses; hearing; appeal

(a) The Commissioner, after notice and hearing, may refuse to issue, or may revoke or suspend a license for any one or any combination of the following causes:

- (1) Where fraud or deceit has been perpetrated in the application.
- (2) Where the Commissioner finds that because of the moral character or previous misconduct of the applicant or licensee, relevant to the conduct of the business or occupation for which the license is sought or has been granted, such applicant or licensee is not a suitable or fit person and the denial, revocation or suspension of the license is accordingly necessary to protect the public welfare, health, morals or safety.
- (3) Where the licensee allows, permits or suffers on the licensed place or business any improper or wrongful behavior of a substantial character and of public concern.
- (4) Where the licensee has violated or breached any term or condition of the license as established under the provisions of subsection (b), section 303 of this chapter.
- (5) Where the Commissioner finds that the applicant or licensee has willfully claimed an exemption from any excise tax, gross receipts tax or customs duty, knowing such claim to be false.
- (6) Where the licensee has failed to comply with section 303b of this chapter.
- (7) Where the applicant has failed to comply with the provisions of title 13, section 533(e) of this Code.
- (8) Where the licensee fails to comply with title 19 V.I.C., chapter 53a.

(b) The provisions of subsection (a) of this section shall be applicable to each member, officer, or employee of a partnership or corporation who is to exercise the powers conferred by the license and to the manager or operator of a place of business, licensed under the provisions of this chapter.

(c) A written notice stating the nature of the causes constituting the basis for the determination to deny, revoke or suspend the license and the time and place of the hearing shall be served on the applicant or licensee not less than thirty days prior to the date of the hearing either personally or by mailing a copy thereof by registered mail to the last known address of the applicant or licensee.

(d) If, after having been served with the notice of hearing as provided in subsection (c) of this section, the applicant or licensee fails to appear at said hearing and defend, the Commissioner may proceed to hear evidence against him and may enter such order as may be justified by the evidence, which order shall be final unless he petitions for a review thereof as

provided in this section; Provided, however, That within 30 days from the date of any order, upon a showing of good cause for failure to appear and defend, the Commissioner may reopen the proceedings and may permit the applicant or licensee to submit evidence in his behalf.

(e) At any hearing the applicant or licensee may appear in person any by counsel, produce witnesses and evidence in his own behalf, cross examine witnesses and examine such evidence as may be produced against him. The applicant or licensee shall be entitled, on application to the Commissioner, to the issuance of subpoenas to compel the attendance of witnesses on his behalf.

(f) The Commissioner may issue subpoenas to compel the attendance of witnesses and the production of documents and may administer oaths, take testimony, hear proofs and receive exhibits in evidence. In case of disobedience to a subpoena the Commissioner may invoke the aid of any court of the Virgin Islands in requiring the attendance and testimony of witnesses and the production of documentary evidence.

(g) A stenographic record of the hearing shall be kept and a transcript thereof filed in the Department of Finance.

(h) At all hearings the Attorney General or an Assistant Attorney General shall appear and represent the Commissioner.

(i) Any person adversely affected by any order of the Commissioner may obtain a review thereof by filing a written petition for review with the Superior Court within 30 days after the entry of said order. The petition shall state the grounds upon which review is asked and shall pray that the order of the Commissioner be modified or set aside in whole or in part. A copy of such petition shall be forthwith served upon the Commissioner and within 15 days the Commissioner shall certify and file in the court a transcript of the record upon which the order complained of was entered. A copy of such transcript shall also be furnished at the time of such filing to the appellant. Upon such review the findings of the Commissioner, if supported by substantial evidence, shall be conclusive.

(j) The Commissioner shall not issue or renew a license to do business to any person who fails to present at the time of application for said license or renewal affidavits signed by an authorized officer of the Virgin Islands Bureau of Internal Revenue and the Division of Corporation and Trademarks, Office of the Lieutenant Governor affirming that said applicant has filed and paid all taxes, penalties and interest applicable to said business including a certification from the corporate division of the Lieutenant Governor's office that all franchise taxes have been paid, or has satisfactorily made agreement to pay the same. However, the proprietor of a new business who is applying to the Department for a business license for the first time and who is not the proprietor, partner or principal in any other business or a Film or Music Recording Company certified by the Commissioner of Tourism, is not required to obtain from the Virgin Islands Bureau of Internal Revenue and the Division of Corporate and Trademarks, an affidavit certifying the payment of taxes, penalties and interest.

(k) The Commissioner shall, after ten (10) days' notice, revoke any license of a person who fails to file and pay all taxes, penalties and interest due to the Virgin Islands Bureau of Internal Revenue and the Division of Corporations and Trademarks, Office of the Lieutenant Governor in connection with the operation of his business activities, or who has not made a satisfactory agreement to pay the same.

Credits

-Added June 6, 1967, No. 1991, § 3, Sess. L. 1967, p. 330; amended May 13, 1973, No. 3431, § 9, Sess. L. 1973, p. 111; Sept. 9, 1976, No. 3876, § 6, Sess. L. 1976, p. 197; Sept. 20, 1982, No. 4740, § 9(a), Sess. L. 1982, p. 142; May 14, 1985, No. 5060, § 101(a), Sess. L. 1985, p. 17; June 20, 1986, No. 5174, § 5, Sess. L. 1986, p. 168; Jan. 13, 1994, No. 5948, § 106(C), Sess. L. 1993, p. 337; Aug. 17, 1999, No. 6287, § 17, Sess. L. 1999, p. 47; Dec. 29, 2001, No. 6487, § 2, Sess. L. 2001, p. 368; Apr. 7, 2010, No. 7161, § 16(a), (b), Sess. L. 2010, p. 51; May 10, 2010, No. 7171, § 2, Sess. L. 2010, p. 87; Mar. 7, 2012, No. 7344, § 3(b), Sess. L. 2012, p. 25.

HISTORY

Revision notes.

Redesignated subsection (a)(5) of this section, as added by Act June 20, 1986, No. 5174, § 5, Sess. L. 1986, p. 168, as subsection (a)(6), to avoid conflict with existing subsection (a)(5) pursuant to section 14 of Title 1.

Substituted 'Commissioner' for 'Director' wherever it appeared in view of Act June 24, 1987, No. 5265, § 702, Sess. L. 1987, p. 67 pursuant to section 14 of Title 1. See section 276 of Title 3.

Amendments -2012.

Act 7344, § 3(b), inserted 'or a Film or Music Recording Company certified by the Commissioner of Tourism' following the third occurrence of 'business' in subsection (j). -2010.

Act 7161, § 16(a), deleted 'or any other business venture' in subsection (j).

Act 7161, § 16(b) added the last sentence in subsection (j).

Act 7171, § 2, added subsection (a)(8). -2001.

Act 6487 added subdivision (a)(7). -1999.

Subsection (j): Substituted 'affidavits' for 'an affidavit', inserted 'and Division of Corporation and Trademarks, Office of Lieutenant Governor' after 'Revenue', and added 'or any other business venture' following 'business'.

Subsection (k): Added 'and the Division of Corporations and Trademarks, Officer of the Lieutenant Governor' after 'Revenue'. -1993.

Subsection (j): Inserted 'including a certification from the corporate division of the Lieutenant Governor's office that all franchise taxes have been paid' following 'said business' near the end of the section. -1986.

Subsection (a)(5): Added. -1985.

Subsection (j): Added.

Subsection (k): Added. -1982.

Subsection (a)(5): Added. -1976.

Subsection (i): Substituted 'Territorial' for 'Municipal' preceding 'Court' in the first sentence. -1973.

Subsection (a): Substituted 'Director' for 'Commissioner'.

Subsection (d): Substituted 'Director' for 'Commissioner' wherever it appeared.

Subsection (e): Substituted 'Director' for 'Commissioner' in the second sentence.

Subsection (f): Substituted 'Director' for 'Commissioner' wherever it appeared.

Subsection (h): Substituted 'Director' for 'Commissioner'.

Subsection (i): Substituted 'Director' for 'Commissioner' wherever it appeared.

Effective date of amendments

-1993.

Act Jan. 13, 1994, No. 5948, § 106, Sess. L. 1993, p. 334, as amended by Act April 6, 1994, No. 5966, § 14(C)(3), Sess. L. 1994, p. 37, provided:

‘The effective date of Section 106 of Act. No. 5948 [which amended § 304 of this title and §§ 222 and 531 of Title 13] shall be April 15, 1994.’

-1976.

Act Sept. 9, 1976, No. 3876, § 8, Sess. L. 1976, p. 198, provided that the effective date of Act No. 3876, which amended this section, shall be Jan. 1, 1977.

Former section 304.

Former section 304, relating to exemptions was repealed by Act June 6, 1967, No. 1991, § 3, Sess. L. 1967, p. 330, and a new section 304 was added.

CROSS REFERENCES

Suspension of license for failure to bring office workplace or restaurant into compliance with smoking law, see section 895 of Title 23.

ANNOTATIONS

1. Administration.

Once it was established that petitioner had not provided the Department of Licensing and Consumer Affairs (DLCA) with a valid tax clearance letter, the DLCA had the authority under [V.I. Code Ann. tit. 27, §§ 302, 304, and 307](#) and [V.I. Code Ann. tit. 3, § 272](#) to demand the fees, tax clearance letter, and fines from petitioner, as well as to revoke his license and order him to cease and desist from operating his business. Furthermore, the deadlines imposed upon petitioner were simply a grace period before revocation of his license, and having allowed the grace period, the DLCA was not required by due process to give petitioner an additional hearing before revoking his license. *Milligan v. Gov't of the V.I.*, - V.I. -, 2015 V.I. LEXIS 137 (V.I. Super. Ct. Nov. 18, 2015). Invalid Court Name - SUPERIOR COURT OF THE VIRGIN ISLANDS, DIVISION OF ST. CROIX

The Commissioner of the Department of Licensing and Consumer Affairs is empowered and entrusted to administer the licensing of businesses, and pursuant to 27 V.I.C. § 304, also has the authority to grant, deny, revoke and suspend licenses; additionally, pursuant to [8 V.I.C. § 13](#) and [8 V.I.C. § 17](#), the commissioner is responsible for the licensing of businesses that seek to sell alcoholic beverages, and has the authority to issue, revoke and suspend liquor licenses. *Virgin Islands ex rel. Department of Licensing & Consumer Affairs v. MT Retailers*, 31 V.I. 62, 1995 V.I. LEXIS 6 (V.I. Terr. Ct. 1995).

2. Certificate of attorney.

Lack of a certificate of attorney by petitioners did not divest the appellate court of jurisdiction with respect to judicial review under [24 V.I.C. § 306\(e\)\(3\)](#) and [27 V.I.C. § 304\(i\)](#) nor did it render the petitions for review fatally flawed under V.I. Super. Ct. R. 15, as statutes governed over procedural court rules. *V.I. Coalition of Citizens with Disabilities, Inc. v. Virgin Islands*, 47 V.I. 315, 2005 V.I. LEXIS 26 (V.I. Super. Ct. 2005).

Cited.

Cited in [Smith v. Magras, 29 V.I. 11, 1993 V.I. LEXIS 6 \(Terr. Ct. St. T. and St. J. 1993\)](#); [Polak v. Lebron, - V.I. -, - F.3d -, 2003 U.S. App. LEXIS 6274 \(3d Cir. Mar. 18, 2003\)](#).

27 V.I.C. § 304, VI ST T. 27 § 304

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Virgin Islands Code Annotated Currentness
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27 V.I.C. § 305

§ 305 Numerical limitations on liquor retail licenses

(a) After due notice and public hearings, the Commissioner shall establish a numerical limitation on the licenses for liquor retail businesses, to become effective on January 1, 1968, and to be reviewed annually after notice by public hearing. The sole basis for the numerical limitation shall be the determination that licenses in excess of the limitation would have an adverse effect on the public morals, safety or welfare.

(b) The Commissioner shall impose a five-year moratorium on the issuance of business licenses for tavern keeper within the towns of Frederiksted and Christiansted in St. Croix and the town of Savan in St. Thomas, to extend westward to Bethesda Gade and the historic town of Charlotte Amalie as established by title 1 Virgin Islands Code, chapter 5, section 81. The sole basis of the moratorium is to ensure that the number of taverns within these confined areas does not negatively compromise the public's safety or welfare.

(c) Notwithstanding subsection (b), this moratorium shall not prevent restaurateurs from acquiring business licenses for bars housed within their restaurants.

Credits

-Added June 6, 1967, No. 1991, § 3, Sess. L. 1967, p. 330; amended July 7, 1967, No. 2005, Sess. L. 1967, p. 366; May 13, 1973, No. 3431, § 9, Sess. L. 1973, p. 111; May 17, 2006, No. 6831, § 1, Sess. L. 2006, p. 30; July 19, 2006, No. 6856, § 13, Sess. L. 2006, pp. 143, 144.

HISTORY

Revision notes.

Substituted 'Commissioner' for 'Director' in the first sentence in view of Act June 24, 1987, No. 5265, § 702, Sess. L. 1987, p. 67 pursuant to section 14 of Title 1. See section 276 of Title 3.

Amendments -2006.

Act 6831, § 1, designated the existing language as subsection (a), and added subsections (b) and (c).

Act 6856, § 13, inserted 'and the historic town of Charlotte Amalie as established by title 1 Virgin Islands Code, chapter 5, section 81' following 'Gade' at the end of subsection (b). -1973.

Substituted 'Director' for 'Commissioner' in the first sentence. -1967.

Substituted 'January 1, 1968' for 'July 1, 1967'.

Former section 305.

Former section 305, relating to denial, revocation or suspension of licenses; hearing, appeal, was based on Ord. Mun. C. St. T. and St. J. app. July 6, 1950 (Bill no. 160), § 2 and was repealed and added by Act Mar. 25, 1964, No. 1111, § 6, Sess. L. 1964, p. 54 and repealed by Act June 6, 1967, No. 1991, § 3, Sess. L. 1967, p. 330, and a new section 305 was added.

27 V.I.C. § 305, VI ST T. 27 § 305

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27 V.I.C. § 305a

§ 305a Restrictions on holding wholesale and retail licenses for the sale of alcoholic beverages simultaneously

- (a) The Commissioner of the Department of Licensing and Consumer Affairs may not issue or renew a wholesale license to a person, association, partnership, or corporation for the sale of alcoholic beverages if that person, association, partnership or corporation presently holds a valid retail license for that purpose.
- (b) The Commissioner of the Department of Licensing and Consumer Affairs may not issue or renew a retail license to a person, association, partnership, or corporation for the sale of alcoholic beverages if that person, association, partnership, or corporation presently holds a valid wholesale license for that purpose.
- (c) A person who knowingly or intentionally possesses both a retail license and a wholesale license for the sale of alcoholic beverages issued under this chapter shall be fined up to \$1,000.

Credits

-Added Feb. 1, 1985, No. 5043, § 4, Sess. L. 1984, p. 470.

HISTORY

Revision notes.

Substituted 'Commissioner of Licensing and Consumer Affairs' for 'Director of Consumer Services' in subsections (a) and (b) in view of Act June 24, 1987, No. 5265, § 702, Sess. L. 1987, p. 67 pursuant to section 14 of Title 1. See section 276 of Title 3.

Substituted 'Commissioner of the Department of Licensing and Consumer Affairs' for 'Commissioner of Licensing and Consumer Affairs' in subsections (a) and (b) pursuant to Act Feb. 15, 1994, No. 5955, § 2(b), Sess. L. 1994, p. 11.

27 V.I.C. § 305a, VI ST T. 27 § 305a

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27 V.I.C. § 305b

§ 305b Prohibitions applicable to tobacco vendors, and their employees and agents

(a) Definitions.

(1) ‘Electronic cigarette’ means a battery-operated device that contains cartridges filled with a combination of nicotine, flavor and chemicals that are turned into a vapor which is inhaled by the user.

(2) ‘Alternative nicotine product’ means a product or device not consisting of or containing tobacco that provides nicotine for ingestion into the body, whether by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by any other means. This does not include any product approved by the United States Food and Drug Administration as a non-tobacco product for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, as long as the product is marketed and sold solely for that approved purpose.

(b) A person who holds a tobacco vendor license issued under section 302 of this chapter shall:

(1) display the license or a copy of the license prominently at the place or outlet for which the license is issued;

(2) [Deleted.]

(c) A person that holds a tobacco vendor license issued under section 302 of this chapter, or an employee or agent of that person, shall not sell or distribute tobacco products, electronic cigarettes, or alternative nicotine products:

(1) to any individual under 18 years of age;

(2) to any individual, who does not present a driver's license or other generally accepted means of identification that describes the individual as 18 years of age or older, contains a likeness of the individual, and appears on its face to be valid;

(3) in any form other than an original factory-wrapped package; or

(4) other than at an outlet for which a license has been issued under section 302 of this chapter.

(d) A person who holds a license issued under section 302 of this chapter, or an employee or agent of that person, shall ensure that minors under the age of 18 years not have access to any vending machine or other device which dispenses tobacco products automatically and shall further ensure that such minors are prohibited from purchasing such tobacco products on their premises.

(e) A person who holds a tobacco vendor license issued under section 302 of this chapter shall prominently display a sign which clearly states that it is a violation of law for cigarettes or other tobacco products to be sold to any person under

the age of 18 years of age. The Commissioner of the Department of Licensing and Consumer Affairs shall, through its rules and regulations, determine the type and size of the sign.

(f) No person shall be liable under the provisions of this section for more than one violation on any one day.

Credits

-Added Feb. 15, 1994, No. 5955, § 2(c), Sess. L. 1994, p. 11; amended Dec. 28, 2011, No. 7337, § 8, Sess. L. 2011, p. 333; Mar. 7, 2012, No. 7346, § 4(1.)-(3.), Sess. L. 2012, p. 29; amended May 16, 2014, No. 7595, § 1(a), (b), Sess. L. 2014, p. 60.

HISTORY

Amendments -2014.

Act 7595, § 1(a), inserted ‘electronic cigarettes, or alternative nicotine products’ following ‘tobacco products’ in subsection (b) (now (c)).

Act 7595, § 1(b), added present subsection (a), and redesignated former subsections (a) through (e) as present subsections (b) through (f). **-2012.**

Act 7346, § 4(1.), deleted subsection (a)(2).

Act 7346, § 4(2.), deleted ‘whom the license holder, employee or agent knows is’ in subsection (b)(1) and deleted ‘other than an individual who appears without reasonable doubt to be over 18 years of age’ in subsection (b)(2).

Act 7346, § 4(3.), added present subsection (d) and redesignated former subsection (d) as present subsection (e). **-2011.**

Act 7337, § 8, added subsection (a)(2).

27 V.I.C. § 305b, VI ST T. 27 § 305b

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27 V.I.C. § 305c

§ 305c Prohibition of unlicensed sale or distribution of tobacco products

(a) No person, other than a person who holds a tobacco vendor license issued under section 302 of this chapter, or an employee or agent of that person, shall sell or distribute a tobacco product.

(b) Subsection (a) shall not apply to:

(1) distribution by an individual to family members or acquaintances on private property that is not open to the public; or

(2) the sale or distribution to a manufacturer of tobacco products, to a wholesaler of tobacco products, or to a person who holds a tobacco vendor license issued under section 302 of this chapter.

Credits

-Added Feb. 15, 1994, No. 5955, § 2(c), Sess. L. 1994, p. 11.

HISTORY

Revision notes.

Substituted ‘subsection (a) of this section’ for ‘subsection (a)’ in the introductory language of subsection (b) for purposes of conformity with V.I.C. style pursuant to section 14 of Title 1.

ANNOTATIONS

Cited.

Cited in [United States v. Hickman](#), 991 F.2d 1110, 28 V.I. 298, 1993 U.S. App. LEXIS 7908 (3d Cir. 1993).

27 V.I.C. § 305c, VI ST T. 27 § 305c

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27 V.I.C. § 305d

§ 305d Tobacco Master Settlement Agreement Model Statute

(a) Findings and Purpose.

(1) Cigarette smoking presents serious public health concerns to the Territory and to the citizens of the Territory. The Surgeon General has determined that smoking causes lung cancer, heart disease and other serious diseases, and that there are hundreds of thousands of tobacco-related deaths in the United States each year. These diseases most often do not appear until many years after the person in question begins smoking.

(2) Cigarette smoking also presents serious financial concerns for the Territory. Under certain health-care programs, the Territory may have a legal obligation to provide medical assistance to eligible persons for health conditions associated with cigarette smoking, and those persons may have a legal entitlement to receive such medical assistance.

(3) Under these programs, the Territory pays millions of dollars each year to provide medical assistance for these persons for health conditions associated with cigarette smoking.

(4) It is the policy of the Territory that financial burdens imposed on the Territory by cigarette smoking be borne by tobacco product manufacturers rather than by the Territory to the extent that such manufacturers either determine to enter into a settlement with the Territory or are found culpable by the courts.

(5) On November 23, 1998, leading United States tobacco product manufacturers entered into a settlement agreement, entitled the 'Master Settlement Agreement,' with the Territory. The Master Settlement Agreement obligates these manufacturers, in return for a release of past, present and certain future claims against them as described therein, to pay substantial sums to the Territory (tied in part to their volume of sales); to fund a national foundation devoted to the interests of public health; and to make substantial changes in their advertising and marketing practices and corporate culture, with the intention of reducing underage smoking.

(6) It would be contrary to the policy of the Territory if tobacco product manufacturers who determine not to enter into such a settlement could use a resulting cost advantage to derive large, short-term profits in the years before liability may arise without ensuring that the Territory will have an eventual source of recovery from them if they are proven to have acted culpably. It is thus in the interest of the Territory to require that such manufacturers establish a reserve fund to guarantee a source of compensation and to prevent such manufacturers from deriving large, short-term profits and then becoming judgment-proof before liability may arise.

(b) Definitions.

(1) 'Adjusted for inflation' means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the Master Settlement Agreement.

(2) 'Affiliate' means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms 'owns,' 'is owned' and 'ownership' mean ownership of an equity interest, or the equivalent thereof, of ten percent or more, and the term 'person' means an individual, partnership, committee, association, corporation or any other organization or group of persons.

(3) 'Allocable share' means Allocable Share as that term is defined in the Master Settlement Agreement.

(4) 'Cigarette' means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (A) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or (B) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (C) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (A) of this definition. The term 'cigarette' includes 'roll-your-own' (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of 'cigarette,' 0.09 ounces of 'roll-your-own' tobacco shall constitute one individual 'cigarette.'

(5) 'Master Settlement Agreement' means the settlement agreement (and related documents) entered into on November 23, 1998 by the Territory and leading United States tobacco product manufacturers.

(6) 'Qualified escrow fund' means an escrow arrangement with a federally or Territorially chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least \$1,000,000,000 where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing or directing the use of the funds' principal except as consistent with subsection (c)(2)(B) of this section.

(7) 'Released claims' means Released Claims as that term is defined in the Master Settlement Agreement.

(8) 'Releasing parties' means Releasing Parties as that term is defined in the Master Settlement Agreement.

(9) 'Tobacco Product Manufacturer' means an entity that after the date of enactment of this section directly (and not exclusively through any affiliate):

(A) manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer (as that term is defined in the Master Settlement Agreement) that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of subsections II(mm) of the Master Settlement Agreement and that pays the taxes specified in subsection II(z) of the Master Settlement Agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States);

(B) is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(C) becomes a successor of an entity described in subparagraph (A) or (B).

The term 'Tobacco Product Manufacturer' shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of (A) - (C) above.

(10) 'Units sold' means the number of individual cigarettes sold in the Territory by the applicable tobacco product manufacturer (whether directly or through a distributor, retailer or similar intermediary or intermediaries) during the year in question, as measured by excise taxes collected by the Territory on packs (or 'roll-your-own' tobacco containers) bearing the excise tax stamp of the Territory. The Department of Finance shall promulgate such regulations as are necessary to ascertain the amount of the Territorial excise tax paid on the cigarettes of such tobacco product manufacturer for each year.

(c) Requirements. Any tobacco product manufacturer selling cigarettes to consumers within the Territory (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this section shall do one of the following:

(1) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(2)

(A) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation)-

(i) for 2001: \$.0136125 per unit sold after February 1, 2001;

(ii) for 2002: \$.0136125 per unit sold;

(iii) for each of 2003 through 2006: \$.0167539 per unit sold;

(iv) for each of 2007 and each year thereafter: \$.0188482 per unit sold.

(B) A tobacco product manufacturer that places funds into escrow pursuant to subparagraph (A) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances -

(i) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the Territory or any releasing party located or residing in the Territory. Funds shall be released from escrow under this subparagraph (a) in the order in which they were placed into escrow and (b) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(ii) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the Territory's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(iii) to the extent not released from escrow under items (i) or (ii), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(C) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the Territory against any tobacco product manufacturer that fails to place into escrow the funds

required under this subsection. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this subsection shall -

(i) be required within 15 days to place such funds into escrow as shall bring it into compliance with this subsection. The court, upon a finding of a violation of this subsection, may impose a civil penalty to be paid to the general fund of the Territory in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(ii) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this subsection. The court, upon a finding of a knowing violation of this subsection, may impose a civil penalty to be paid to the general fund of the Territory in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(iii) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the Territory (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

(iv) Each failure to make an annual deposit required under this subsection shall constitute a separate violation.

The violator shall pay the Territory's costs and attorney's fees incurred during a successful prosecution under this paragraph.

Credits

-Added Feb. 1, 2001, No. 6391, § 3(g), Sess. L. 2000, p. 566; amended June 29, 2001, No. 6416, §§ 1, 2, Sess. L. 2001, p. 53; Aug. 13, 2001, No. 6428, § 3, Sess. L. 2001, p. 184.

HISTORY

Amendments -2001.

Act 6416 rewrote the section.

Act 6416 also repealed the previous version of section 305d, originally enacted by section 3(g) of Act 6391.

Act 6428 redesignated the former last undesignated sentence in the section as present (c)(2)(C)(iv) and added the present last undesignated sentence.

27 V.I.C. § 305d, VI ST T. 27 § 305d

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27 V.I.C. § 305f

§ 305f Notification of cessation of business operations

Upon the cessation of business operations, any business licensed under the provisions of this chapter shall notify the Department, in writing, within fifteen days of the cessation of business operations.

Credits

-Added Feb. 1, 2001, No. 6391, § 2(a)(5), Sess. L. 2000, p. 435.

27 V.I.C. § 305f, VI ST T. 27 § 305f

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27 V.I.C. § 305g

§ 305g Prohibition of unlicensed automotive repair business

- (a) Whoever engages in the business of automotive repairs without obtaining a business license under this chapter shall be subject to the penalties enumerated in section 307.
- (b) No business license may be issued for any automotive repair business, unless the premises are so zoned.

Credits

-Added Aug. 11, 2005, No. 6750, § 3, Sess. L. 2005, p. 213, eff. Oct. 1, 2005.

27 V.I.C. § 305g, VI ST T. 27 § 305g

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27 V.I.C. § 306

§ 306 Exemptions

The provisions of this chapter shall not apply to agencies of the Virgin Islands or of the United States Government, to religious, charitable, benevolent, or educational organizations when not engaged in the conduct of business pursuits for profit, or to transactions involving a charitable or benevolent purpose.

Credits

-Added June 6, 1967, No. 1991, § 3, Sess. L. 1967, p. 330.

HISTORY

Former section 306.

Former section 306, which related to penalties, was amended by Act March 25, 1964, No. 1111, § 7, Sess. L. 1964, p. 56 and repealed by Act June 6, 1967, No. 1991, § 3, Sess. L. 1967, p. 330, and a new section 306 was added.

ANNOTATIONS

1. Constitutionality.

Exemption of government attorneys from licensing fee was rationally related to the government's interest in attracting a competent staff and, therefore, not discriminatory. [Hollar v. Government of Virgin Islands, 857 F.2d 163, 1988 U.S. App. LEXIS 12273 \(3d Cir. V.I. 1988\)](#).

2. Federal agencies.

The Virgin Islands Corporation, being a wholly owned Government corporation and therefore an agency or instrumentality of the United States, is obliged to pay only such local taxes as are authorized and consented to by congress, and, in the absence of such consent, cannot be compelled to pay such taxes. 2 V.I. Op. Att'y Gen. 115. (Decided under prior law.)

Since no provision is made in the statutes of the United States for payment of the annual corporate license fee by the Virgin Islands Corporation, the Corporation is exempt from payment of such fee. 2 V.I. Op. Att'y Gen. 115. (Decided under prior law.)

3. Federal lessees.

A provision in a lease of hotel between the United States Government, as lessor, and a private individual, as lessee, providing for payment by the lessee of real property taxes, does not exempt the lessee from payment of other license fees and taxes which are incidents of the trade in which the lessee is engaged. 1 V.I. Op. Att'y Gen. 87. (Decided under prior law.)

4. Religious organizations.

A boardinghouse maintained by a religious order is not exempt from licensing taxes because the proceeds from the boardinghouse are used to support a charitable or religious operation, since the purpose for which the proceeds are used is not the test of whether an occupation is free. 1 V.I. Op. Att'y Gen. 91. (Decided under prior law.)

Cited.

Cited in [Smith v. Magras, 29 V.I. 11, 1993 V.I. LEXIS 6 \(Terr. Ct. St. T. and St. J. 1993\)](#); [Smith v. Magras, 37 V.I. 464, 124 F.3d 457, 1997 U.S. App. LEXIS 21491 \(3d Cir. 1997\)](#).

27 V.I.C. § 306, VI ST T. 27 § 306

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27 V.I.C. § 307

§ 307 Penalties

- (a) Whoever willfully fails or refuses to comply with the provisions of this chapter shall be guilty of a misdemeanor and shall be liable to a fine not to exceed \$500 and imprisonment not to exceed 30 days or both.
- (b) The pertinent provisions of chapter 75, Title 14 of this Code shall apply to every application, statement, document, and to all information presented to the Commissioner in an application or at a hearing under this chapter.
- (c) The Commissioner may refuse to issue any license until the license fee has been paid. The Attorney General may institute an action in any court of competent jurisdiction to enjoin any person or association from engaging without a license in any of the businesses, occupations, professions, or trades subject to the provisions of this chapter.
- (d) In addition to the penalties prescribed in this section, an administrative fine of not more than 10% per month of the license fee may be assessed by the Commissioner against persons who have willfully failed or refused to comply with the provisions of this chapter, in the determination of the Commissioner, and the amount of such fine as finally determined by the Commissioner shall be paid by the applicant for a license who has commenced business operations without first obtaining a license therefor or an applicant for the renewal of a license who has not applied and paid for the same before the 31st day of January.
- (e) In lieu of the penalties under subsection (a) of this section, any entity who willfully fails or refuses to comply with section 303b of this chapter shall be guilty of a misdemeanor and shall be fined not less than \$500 for the first offense, and \$1,000 for each offense thereafter.

Credits

-Added June 6, 1967, No. 1991, § 3, Sess. L. 1967, p. 337; amended Mar. 29, 1968, No. 2134, Sess. L. 1968, Pt. I, p. 388; Oct. 31, 1968, No. 2348, Sess. L. 1968, pt. II, p. 346; Apr. 15, 1971, No. 2985, § 1, Sess. L. 1971, p. 104; May 10, 1973, No. 3431, § 9, Sess. L. 1973, p. 111; May 14, 1985, No. 5060, § 101(b), Sess. L. 1985, p. 17; June 20, 1986, No. 5174, § 6, Sess. L. 1986, p. 168; Dec. 1, 2001, No. 6479, § 3, Sess. L. 2001, p. 323; May 28, 2005, No. 6732, § 30, Sess. L. 2005, p. 157.

HISTORY

Revision notes.

Substituted 'Commissioner' for 'Director' wherever it appeared in subsections (b)-(d) in view of Act June 24, 1987, No. 5265, § 702, Sess. L. 1987, p. 67 pursuant to section 14 of Title 1. See section 276 of Title 3.

Editor's note.

Act Feb. 15, 1994, No. 5955, § 3, Sess. L. 1994, p. 12, purported to amend this section by substituting ‘Commissioner’ for ‘Director’ wherever it appeared in subsections (b)-(d). However, the change had been made previously pursuant to Act June 24, 1987, No. 5265, § 702, Sess. L. 1987, p. 67. See revision note under this section set out in the main volume.

Amendments -2005.

Act 6732, § 30, in subsection (e), substituted ‘\$500’ for ‘\$200’ and ‘\$1,000’ for ‘\$500.’ **-2001.**

Act 6479 substituted ‘10%’ for ‘25%’ in subsection (d). **-1986.**

Subsection (e): Added. **-1985.**

Subsection (a): Substituted ‘\$500 and’ for ‘\$50 or’. **-1973.**

Subsection (b): Substituted ‘Director’ for ‘Commissioner’.

Subsection (c): Substituted ‘Director’ for ‘Commissioner’ in the first sentence.

Subsection (d): Substituted ‘Director’ for ‘Commissioner’ wherever it appeared. **-1971.**

Subsection (d): Omitted minimum fine and added provisions relating to willful failure to comply with chapter. **-1968.**

Subsection (d): Added by Act No. 2134.

Act No. 2348, inserted ‘of not less than 5% nor more than’ preceding ‘25%’, and added ‘the amount of such fine as finally determined by the Commissioner’ thereafter.

Former section 307.

Former section 307, relating to application of chapter, was added by Act Mar. 25, 1964, No. 1111, § 8, Sess. L. 1964, p. 56 and repealed by Act June 6, 1967, No. 1991, § 3, Sess. L. 1967, p. 330, and a new section 307 was added.

Annotations

1. Application.

Once it was established that petitioner had not provided the Department of Licensing and Consumer Affairs (DLCA) with a valid tax clearance letter, the DLCA had the authority under [V.I. Code Ann. tit. 27, §§ 302, 304](#), and [V.I. Code Ann. tit. 3, § 272](#) to demand the fees, tax clearance letter, and fines from petitioner, as well as to revoke his license and order him to cease and desist from operating his business. Furthermore, the deadlines imposed upon petitioner were simply a grace period before revocation of his license, and having allowed the grace period, the DLCA was not required by due process to give petitioner an additional hearing before revoking his license. *Milligan v. Gov't of the V.I.*, - V.I. -, 2015 V.I. LEXIS 137 (V.I. Super. Ct. Nov. 18, 2015). Invalid Court Name - SUPERIOR COURT OF THE VIRGIN ISLANDS, DIVISION OF ST. CROIX

The fact that petitioner twice tried to pay outstanding licensing fees did not require the Virgin Islands Department of Licensing and Consumer Affairs to reduce his fines, as V.I. Code Ann. tit. 27, § 307 gave the Commissioner the discretion to charge a maximum of 25 percent per month for every month that the business license was not in place through willful failure or refusal to comply, and there would have been a continuing failure to comply even had the payment been accepted. *Milligan v. Gov't of the V.I.*, - V.I. -, 2015 V.I. LEXIS 137 (V.I. Super. Ct. Nov. 18, 2015). Invalid Court Name - SUPERIOR COURT OF THE VIRGIN ISLANDS, DIVISION OF ST. CROIX

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27 V.I.C. § 307a

§ 307a Surrender of business licenses

(a) Any licensee whose business license has been revoked to protect the public welfare, morals or safety under paragraph (2) of subsection (a), section 304 of this chapter, or who has been convicted of an offense under Title 14, sections 1622-1625, shall immediately surrender all licenses as described in section 302 of this chapter which were the subject of the violation of Title 14, sections 1622-1625 inclusive.

(b) No license surrendered under this provision may be reissued for a minimum period of five years. Any licensee whose business license has been revoked under this provision may be enjoined by any court of competent jurisdiction, upon institution of an action by the Attorney General, from engaging in capacity in any businesses which were the subject of the violation of Title 14, sections 1622-1625.

Credits

-Added May 27, 1983, No. 4816, § 1, Sess. L. 1983, p. 66.

27 V.I.C. § 307a, VI ST T. 27 § 307a

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27 V.I.C. § 307b

§ 307b License conspicuously placed

Any business licensed under the provisions of this chapter shall display their business license(s) prominently at all times in their place of business and clearly identifiable by the consumer.

Credits

-Added Feb. 1, 2001, No. 6391, § 2(a)(6), Sess. L. 2000, p. 435.

27 V.I.C. § 307b, VI ST T. 27 § 307b

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