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Virginia Economic Development Partnership

# 2007-08 Virginia Guide to Establishing a Business

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## **INTRODUCTION - 3**

## **ESTABLISHING A BUSINESS - 4**

Virginia Economic Development Partnership  
Virginia Department of Business Assistance  
Incorporating in Virginia  
Domesticating in Virginia  
Authority to Transact Business in Virginia  
Annual Registration  
Unincorporated Entity Registration  
Assumed (“Trade”) Names  
Security Registration  
Franchise Registration  
Trademark Registration  
Business Registration Guide

## **STATE AND LOCAL TAXES - 8**

Business Taxes  
Registration  
Corporate Income Tax  
State Business Taxes Imposed in Lieu of  
    Corporate Income Tax  
Sales and Use Tax  
Intangible Personal Property Tax  
Other State Taxes  
Real Estate Tax  
Tangible Personal Property Tax  
Merchants’ Capital Tax  
License Tax  
Utility Tax  
Personal Taxes

## **LABOR REGULATIONS - 16**

Unemployment Insurance  
Workers’ Compensation Insurance  
Income Tax Withholding  
Payroll and Wages  
Minimum Wage  
Equal Pay  
The Right-to-Work Law  
Unlawful Discrimination  
Rights of Persons with Disabilities  
Child Labor  
Employment of Aliens  
Apprenticeship Training  
Bulletin Board Poster Requirements  
State Posters  
Federal Posters

## **BUSINESS AND OCCUPATIONAL REGULATIONS - 24**

Business and Occupational Licenses  
Special Permits  
Virginia Tradesman Program  
Transporting Oversized and/or Overweight Vehicle Loads

## **OCCUPATIONAL SAFETY AND HEALTH REGULATIONS - 26**

Occupational Safety and Health  
Office of Cooperative Programs  
Occupational Safety and Health Compliance  
Radiation Control  
Water Supply  
Explosives  
Boilers and Pressure Vessels

## **ENVIRONMENTAL REGULATIONS - 29**

Administration  
Regulatory Methods  
Information and Assistance Programs for Industry

## **BUILDING CODE AND CONSTRUCTION REGULATIONS - 31**



# Introduction

The Virginia Guide to Establishing a Business summarizes the major state and local tax, labor, occupational and environmental regulations that may affect businesses in Virginia. The Guide cannot substitute for the legal, financial and other professional advice required when establishing or enlarging a business.

While every effort has been made to ensure that the information included in the Guide is accurate, businesses are urged to consult with the agencies listed in this publication and with private counsel before proceeding to establish a business in Virginia.

The Virginia Economic Development Partnership thanks the agencies listed in this publication for their assistance in developing the Guide.

## **VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP**

The Virginia Economic Development Partnership (VEDP) promotes Virginia as a location for new domestic and international business facility locations and existing facility expansions within the Commonwealth.

The Partnership provides comprehensive information on available sites and buildings, labor and wages, industrial training programs, state and local taxes, utilities, transportation services, financial services, environmental factors, laws and regulations, general business conditions and quality of life throughout Virginia.

The Partnership's services are available free of charge, and business inquiries remain strictly confidential. A representative will work with a company from the initial inquiry until the project is in operation in Virginia.

For assistance in securing an advantageous location in Virginia and for guidance through the governmental requirements to begin or expand an operation, please contact:

*Virginia Economic Development Partnership*  
Post Office Box 798  
Richmond, Virginia 23218-0798  
(804) 545-5600  
info@YesVirginia.org  
<http://www.YesVirginia.org>

## **VIRGINIA DEPARTMENT OF BUSINESS ASSISTANCE**

The Virginia Department of Business Assistance (DBA) is the economic development agency devoted to the growth and success of the Commonwealth's business community. DBA supports economic development by providing workforce incentives, access to capital, business information, incubator counseling, and educational opportunities for Virginia businesses. DBA rounds out the state's economic development program by ensuring that industries not only find Virginia an excellent place to do business, but an ideal place to expand and make additional investments. DBA administers the Virginia Business Information Center (VBIC), a free and easy way for business owners to find information and solve problems. Experienced economic development and business professionals can be reached through VBIC by calling (804) 371-0438, toll-free (866) 248-8814 or by emailing [VBIC@dba.virginia.gov](mailto:VBIC@dba.virginia.gov).

For additional information on how DBA can help your businesses, visit <http://www.dba.virginia.gov> or contact:

*Virginia Department of Business Assistance*  
Post Office Box 446  
Richmond, Virginia 23218-0446  
(804) 371-8200  
<http://www.dba.virginia.gov>



## INCORPORATING IN VIRGINIA

A company choosing to incorporate in Virginia must file its articles of incorporation with the State Corporation Commission and pay the required charter and filing fees. After the articles are filed, the incorporators or the initial directors, if they are named in the articles, must hold a meeting to complete the organization of the corporation.

Virginia's corporation laws protect directors from liability for good-faith business decisions, expand managerial discretion, authorize anti-takeover measures and provide some protections for minority and dissenting shareholders.

## DOMESTICATING IN VIRGINIA

A corporation incorporated under the laws of a jurisdiction other than Virginia may become a Virginia corporation if this is allowed under the laws of the foreign jurisdiction. To become a Virginia corporation, the foreign corporation files articles of domestication with Virginia articles of incorporation attached. The company also has to pay the required charter and filing fees.

## AUTHORITY TO TRANSACT BUSINESS IN VIRGINIA

Before transacting business in Virginia, a corporation incorporated outside Virginia must complete an application for a Certificate of Authority to Transact Business in Virginia, and file it with the State Corporation Commission. The application must be accompanied by a certified copy of the corporation's certificate or articles of incorporation, including all amendments, recently authenticated by the Secretary of State or other public official having custody of corporate records in the state or country under whose laws the corporation is organized. The corporation pays an entrance fee and a filing fee.

## ANNUAL REGISTRATION

The annual registration fee for a stock corporation, either incorporated in Virginia or in another state, is based on the number of authorized shares of stock shown in the charter. The fee is assessed two months prior to the anniversary month of the corporation's date of incorporation or initial filing of its certificate of authority.

Corporations organized without capital stock pay an annual registration fee unless they incorporated before 1970 and were not subject to the annual fee at that time.

The annual registration fee is paid to the State Corporation Commission.

In addition, both foreign and domestic corporations are required to file an annual report with the State Corporate Commission.

For additional information about incorporating in Virginia and the fees associated, about the authority to transact business in Virginia, or about annual registration, please contact:

*State Corporation Commission*

*Clerk's Office*

*Post Office Box 1197*

*Richmond, Virginia 23218-1197*

*(804) 371-9733*

*<http://www.scc.virginia.gov>*

## UNINCORPORATED ENTITY REGISTRATION

**Limited Liability Companies.** A limited liability company is an unincorporated association which may be treated as a partnership for tax purposes by providing owners with limited liability similar to that available to shareholders of a stock corporation.

A Virginia limited liability company is formed by filing articles of organization with the State Corporation Commission and paying a filing fee.

Foreign limited liability companies may register in Virginia by filing an application for registration along with a copy of the articles of organization filed in the foreign limited liability company's jurisdiction of formation, duly authenticated by the Secretary of State or other official having custody of the records in the state or other jurisdiction of its formation. There is a filing fee for filing an application for registration.

Domestic and foreign limited liability companies pay an annual fee which is assessed July 1 of each year.

**Business Trusts.** Business trusts are unincorporated businesses, trusts, or associations governed by a governing instrument that provides for the property or activities of the business trust to be owned, managed or carried on by at least one trustee for the benefit of at least one beneficial owner. The beneficial owners are normally entitled to the same limitation of personal liability as are shareholders of a stock corporation.

A Virginia business trust is formed by filing articles of trust with the State Corporation Commission and paying a filing fee.

Foreign business trusts may register in Virginia by filing an application for registration along with a copy of the articles of trust or other constituent documents filed in the foreign business trust's jurisdiction of formation duly, authenticated by the Secretary of State or other official having custody of the business trust records in the state or other jurisdiction of its formation. There is a filing fee for the application for registration.

Domestic and foreign business trusts pay an annual fee to the State Corporation Commission each year.

**Limited Partnerships.** A limited partnership is a partnership formed by two or more persons and having at least one general partner and one limited partner. General partners retain control over the management of the limited partnership and are liable for all debts. Limited partners invest money or property in the business and are entitled to share in the profits. The limited partners' liability is limited to the extent of their investment.

A Virginia limited partnership is created by filing a certificate of limited partnership with the State Corporation Commission and paying a filing fee.

A foreign limited partnership may register in Virginia by filing an application for registration along with a copy of the certificate of limited partnership filed in the foreign limited partnership's jurisdiction of formation, duly authenticated by the Secretary of State or other official having custody of the records in the state or other jurisdiction of its formation. There is a fee associated with filing an application for registration.

Domestic and foreign limited partnerships pay an annual fee which is assessed on July 1 of each year.

**General Partnerships.** A general partnership (sometimes simply referred to as "a partnership") is an association of two or more persons who join together to carry on a business for profit. Each partner contributes money, property, labor and/or skills, and agrees to share in the profits or losses of the business. General partnerships are not required to register with the State Corporation Commission. The Virginia Uniform Partnership Act permits general partnerships to file certain types of documents with the Commission.

Domestic and foreign general partnerships are permitted to file a statement of partnership authority, which is effective for five years unless otherwise cancelled. There is a filing fee for filing a statement of partnership authority.



**Limited Liability Partnerships.** Both limited partnerships and general partnerships may register for status as a limited liability partnership by filing a statement of registration as a registered limited liability partnership with the State Corporation Commission and paying the filing fee.

A foreign registered limited liability partnership may register with the Commission by filing a statement of registration of a foreign limited liability partnership along with a current certificate of status indicating the foreign entity's status as a limited liability partnership, executed by the Secretary of State or other official having custody of the records in the state or other jurisdiction of its formation. There is a filing fee for the foreign registration.

Both foreign and domestic limited liability partnerships file an annual continuation report and pay an annual fee which is assessed July 1 of each year.

**Sole Proprietors.** Sole proprietors are not required to file with the State Corporation Commission.

For additional information, please contact:

*State Corporation Commission  
Clerk's Office  
Post Office Box 1197  
Richmond, VA 23218-1197  
(804) 371-9733  
<http://www.scc.virginia.gov>*

## ASSUMED (“TRADE”) NAMES

Any person, partnership, limited liability company or corporation may transact business under a name that is not his, her or its real name. To do so, an assumed or fictitious name certificate must be filed with the clerk of circuit court of the county or city where the business will be transacted. If a corporation, limited liability company or limited partnership files an assumed name certificate, an attested copy must also be filed with the State Corporation Commission. Minor filing fees are associated with the certificate and attested copy.

For additional information, please contact the circuit court of the jurisdiction(s) in which the business operates.

## SECURITY REGISTRATION

Securities, and persons offering or selling securities, must be registered with the State Corporation Commission (SCC) or the securities or transactions must be exempt under the Virginia Securities Act before they may be offered or sold in Virginia. Investment advisers and investment adviser representatives must also be registered with the SCC before transacting business in Virginia.

## FRANCHISE REGISTRATION

Franchises must be registered with the State Corporation Commission before they may be offered or sold.

## TRADEMARK REGISTRATION

Any person who owns and uses a trademark in Virginia may file an application for registration of the trademark with the State Corporation Commission (SCC). Application forms are available from the SCC's Division of Securities and Retail Franchising. There is a nonrefundable application fee.

For rules, forms, and any additional information regarding security, franchise or trademark registration, please contact:

*State Corporation Commission  
Division of Securities and Retail Franchising  
Post Office Box 1197  
Richmond, Virginia 23218-1197  
(804) 371-9051  
<http://www.scc.virginia.gov>*

## BUSINESS REGISTRATION GUIDE

The Commonwealth of Virginia Business Registration Guide, published collaboratively by the State Corporation Commission, Virginia Employment Commission, and Department of Taxation, provides step-by-step instructions on registering to conduct business in Virginia, contains copies of commonly required forms and supplies answers to common questions regarding the process. Copies of the Business Registration Guide are available from the three cooperating agencies, the Virginia Economic Development Partnership or online at <http://www.scc.virginia.gov/division/clk/forms/brg.pdf>.

## BUSINESS TAXES

Virginia has a fair tax structure, with all companies paying the same taxes regardless of location of incorporation. The state has not raised its corporate income tax rate since 1972. Prior to 1972, the income tax rate remained the same for 25 years.

In Virginia, items taxed at the state level are not taxed at the local level. The exception is the sales and use tax, which is levied by both state and local governments.

Virginia's major state taxes include the corporate income tax and the sales and use tax. The major local taxes include the real estate tax, the machinery and tools tax and the tangible personal property tax. Many communities levy a modest consumer's tax on utility purchases.

Virginia differs from most states in that its counties and cities are separate taxing entities. A company pays either county or city taxes depending on its location. If it is located within the corporate limits of a town, it is subject to town taxes in addition to county levies.

For more detailed information about Virginia's local taxes, consult *A Virginia Guide to Local Taxes on Business* at [http://www.yesvirginia.org/pdf/guides/2007\\_LocalTaxesGuide.pdf](http://www.yesvirginia.org/pdf/guides/2007_LocalTaxesGuide.pdf).

## REGISTRATION

All companies doing business in Virginia must register with the Virginia Department of Taxation for all taxes that may apply to the operation of the business. All corporations and partnerships must obtain an Employer Identification Number (EIN) from the Internal Revenue Service to use as a taxpayer identification number. Sole proprietors also must obtain an EIN if they pay wages to one or more employees or if they file an excise tax return.

## CORPORATE INCOME TAX

All corporations registered with the State Corporation Commission must file a corporate income tax return with the Virginia Department of Taxation. The corporate income tax rate is equal to 6 percent of a company's federal taxable income, with modifications if applicable. The major modifications involve adding back as income any state and local income taxes that may have been deducted when computing the federal income tax, and subtracting certain items included in federal taxable income such as certain foreign source income and dividends from companies in which the taxpayer owns 50 percent or more of the voting stock. The federal income tax is not deductible, and Virginia fully conforms to the federal Modified Accelerated Cost Recovery System (MACRS), except for the 30 percent bonus depreciation deduction.

Corporations that are not organized or conducted for pecuniary profit and that are exempt from income taxes under Section 501(c) of the Internal Revenue Code are taxed on unrelated business taxable income.

A corporation's income tax is calculated based on its activities in Virginia and in other states. If the entire business of a corporation is transacted or conducted in Virginia, the tax rate is equal to 6 percent of the entire income with minor modifications. If the corporation participates in multistate activities and its income is taxable by both Virginia and other states, Virginia permits the corporation to allocate and apportion income among Virginia and other states in order to determine equitable tax.

Income that is allocable is assigned to the state where the taxpaying corporation's central operations are located—also known as the corporation's commercial domicile. If the allocable income is assigned to Virginia, it is subject to the state corporate income tax. Virginia generally includes only dividends in this allocable portion—dividends received from companies in which the taxpayer owns less than 50 percent of the voting stock. All other income is considered apportionable. The apportionment is based on a three-factor formula. Under this formula, the sales factor is weighted 50 percent and the payroll and property factors are 25 percent each in determining the overall corporate income apportionment factor. In general, double weighting the sales factor benefits corporations with significant Virginia property and payroll.

- The property factor is computed by dividing the average value of real and tangible personal property owned or rented and used by the corporation in Virginia during the tax period by the average value of real and tangible

personal property owned or rented and used by the corporation everywhere. Property owned by the corporation is valued at its original cost plus the cost of additions and improvements. Property rented by the corporation is valued at eight times the net annual rental rate. The average value of property is determined either by averaging the value at the beginning and end of the tax period or by averaging monthly values during the tax period.

- The payroll factor is computed by dividing the total payroll of the corporation in Virginia during the tax period by the total payroll of the corporation everywhere.
- The sales factor is computed by dividing the sales of the corporation in Virginia during the tax period by the total sales of the corporation everywhere. Virginia sales are defined as sales by the corporation that physically end up in Virginia, i.e., those sales with a true destination in Virginia, regardless of whether or not the product originated in Virginia.

The ratios of the three factors are averaged, and the corporation's apportionable income can be multiplied by this percentage to obtain the amount of apportionable income taxable in Virginia. The income apportioned to Virginia is then added to the income allocated to Virginia, and a six percent tax is paid on this amount.

To learn more about Virginia's corporate income tax, please contact:

*Virginia Department of Taxation  
Post Office Box 1115  
Richmond, Virginia 23218-1115  
(804) 367-8037  
<http://www.tax.virginia.gov>*

Virginia allows the following credits against the corporate income tax:

**Major Business Facility Job Tax Credit.** Credits for new job creation are available statewide for qualifying companies. Companies reaching certain employment thresholds will receive a \$1,000 credit for each qualifying job in excess of the threshold. The credit amount is taken in equal installments

over three years (i.e., \$333 per year) and may be used to eliminate the entire state corporate income tax liability. Unused credits may be carried forward for up to ten years. The employment threshold for companies locating in enterprise zones or economically distressed areas is 50 net, new, full-time jobs. For all other areas of the state, the threshold is 100 jobs. Credits are available for taxable years beginning on and after January 1, 1995, but before January 1, 2010.

**Day Care Investment Tax Credit.** Businesses may claim a tax credit equal to 25 percent of all expenditures incurred by a business for planning, site preparation, construction, renovation, acquisition of facilities or permanent equipment installed for the purpose of providing day care to be used primarily by the children of the business' employees. The maximum credit allowed to any one taxpayer is \$25,000. Any credit not usable for the taxable year may be carried over to the extent usable for the next three years. The Virginia Tax Commissioner at the Department of Taxation approves applications for this program.

**Worker Retraining Tax Credit.** Virginia employers will be eligible to receive an income tax credit equal to 30 percent of all expenditures made by the employer for eligible worker retraining. The credit has a statewide spending cap of \$2.5 million in any taxable year. Eligible worker retraining consists of courses at Virginia community colleges and private schools certified by the Department of Business Assistance, or retraining programs through apprenticeship agreements approved by the Virginia Apprenticeship Council.

**Recycling Equipment Tax Credit.** An income tax credit is available to manufacturers for the purchase of certified machinery and equipment used for processing recyclable materials in taxable years beginning on or after January 1, 1999, but before January 1, 2015. The credit is equal to 10 percent of the original total capitalized cost of the equipment. In any taxable year, the amount of credit allowed cannot exceed 40 percent of the company's Virginia income tax liability before the credit. The unused amount of the credit may be carried over for ten years.

Eligible equipment is certified by the Virginia Department of Environmental Quality as integral to the recycling process.

## STATE BUSINESS TAXES IMPOSED IN LIEU OF CORPORATE INCOME TAX

Public service corporations (other than electricity suppliers, natural gas suppliers, pipeline distribution companies, railroads and telecommunications companies) are subject to a gross receipts tax.

Insurance companies are subject to a license tax on gross premiums.

State and national banks are subject to a franchise tax based on capital.

Electing small business corporations (S corporations) are required to file a Virginia Small Business Corporation Return of Income even though they are exempt from the Virginia corporate income tax. Individual shareholders report their income on their personal income tax returns.

To the extent that limited liability companies are treated as partnerships for federal income tax purposes, they are similarly treated for Virginia income tax purposes. Members holding interest in the company must report any income on their personal income tax returns.

Partnerships are exempt from the Virginia corporate income tax. Individual partners report their income on their personal income tax return. Effective for taxable years beginning on and after January 1, 2004, partnerships and other pass-through entities are required to file information returns with the Department of Taxation.

Sole proprietors must report their business income on their personal income tax returns.

*For additional information, please contact:*

*Virginia Department of Taxation*

*Office of Customer Services*

*Post Office Box 1115*

*Richmond, Virginia 23218-1115*

*(804) 367-8037*

*<http://www.tax.virginia.gov>*

## SALES AND USE TAX

The sales and use tax is imposed at the state and local levels in Virginia. The combined state and local Virginia Retail Sales and Use Tax rate is 5.0 percent (4.0 percent state and 1.0 percent local). A seller is subject to a sales tax imposed on gross receipts derived from retail sales or leases of taxable tangible personal property unless the retail sales or leases are specifically exempt by law. When a seller does not collect the sales tax from the purchaser, the purchaser is required to pay a use tax on the purchase unless the use of the property is exempt.

Some important exemptions for manufacturers, distributors and other businesses include:

- Industrial materials that either enter into the production of or become a component part of the finished product
- Industrial materials that are coated upon or impregnated into the product at any stage of its manufacture or processing
- Machinery, tools, repair parts, fuel, power, energy or supplies used directly in manufacturing or processing products for sale or resale
- Materials, containers, labels, sacks, cans, boxes, drums or bags for packaging tangible personal property for shipment or sale
- Distributors do not pay the tax on items purchased for resale
- Tangible personal property delivered outside the Commonwealth for use or consumption outside the Commonwealth
- Tangible personal property delivered to a factor or agent for foreign export
- Tangible personal property purchased for use directly and exclusively in basic research or research and development in the experimental or laboratory sense
- Charges for planning, creating or placing advertising in newspapers, magazines, billboards, broadcasting or other media, including providing concept, writing, graphic design, mechanical art, photography and production supervision
- Tangible personal property used directly to produce any publication issued daily or regularly at intervals not exceeding three months
- Any publication issued daily or regularly at average intervals not exceeding three months and advertising

inserts or supplements and other printed matter distributed with or as part of a newspaper or other nontaxable publication (except that newsstand sales of the same are taxable)

- Custom computer software and separately stated labor charges for modifying prewritten computer programs
- Broadcasting equipment, commercial radio and television towers and cable television systems
- Gas, electricity or water delivered through mains, lines or pipes
- Any fuel used directly in manufacturing, processing, refining or converting in an industrial sense, as well as any fuel used directly and exclusively in basic research or research and development in the experimental or laboratory sense
- Certified pollution control equipment and facilities used primarily for the purpose of abating or preventing air or water pollution
- Purchases used directly and exclusively in activities performed in cooperation with the Virginia Commercial Space Flight Authority

## INTANGIBLE PERSONAL PROPERTY TAX

Intangible personal property is reserved for state taxation. It includes stocks, bonds, money and certain items that usually are not defined as intangible. In 1984, the Virginia General Assembly exempted intangible personal property from taxation by making the tax rate zero. Therefore, the following items are not taxed at either the state or local level.

- Inventory, including all materials used in a business (except inventory of merchants). The capital of merchants, however, is taxed at the local level.
- Tangible personal property used in manufacturing, mining, radio or television broadcasting, dairy, dry cleaning or laundry businesses (except machinery and tools, motor vehicles and delivery equipment)
- Office furniture, fixtures, computer equipment and aircraft of a manufacturer's corporate headquarters, regional offices or research and development facilities located in Virginia, even if their entire manufacturing operations are conducted outside of Virginia
- Computer application software (defined as computer instructions, in any form, designed to be read by a computer and to enable it to perform specific operations with data or information stored by the computer)
- Money
- Bonds, notes and other evidences of debts, demands and claims
- Shares of stock
- Accounts receivable
- Merchandise within a Virginia foreign trade zone
- Capital used in the commercial fishing business to harvest or catch fish. Fishing vessels, however, are classified as tangible personal property.

## OTHER STATE TAXES

The following business taxes also may apply:

- Aircraft and Watercraft Sales and Use Tax
- Beer and Wine Cooler Excise Tax
- Cigarette Tax
- Forest Products Tax
- Litter Tax
- Miscellaneous Commodities Taxes
- Soft Drink Excise Tax
- Tire Tax
- Wine Liter Tax

Companies may contact the Virginia Department of Taxation for additional information about state taxes:

*Virginia Department of Taxation  
Office of Customer Services  
Post Office Box 1115  
Richmond, Virginia 23218-1115  
(804) 367-8037  
<http://www.tax.virginia.gov>*

## REAL ESTATE TAX

Real estate in Virginia is assessed at the local level based on 100 percent of fair market value. Because of rising real estate values and periodic reassessments by localities, actual assessment ratios usually are lower than 100 percent.

The average effective tax rate on real estate (assessment ratio times nominal tax rate) ranged from a low of \$0.21 per \$100 of fair market value in a rural county in 2007 to a high of \$1.17 per \$100 in a large Virginia city. The average effective tax rate for all cities and counties in the state was \$0.58 per \$100 in 2007.

**Real Estate Tax Exemptions.** Localities may offer the following real estate tax exemptions:

- Localities have the option of exempting or partially exempting certified pollution control facilities, certified solar energy facilities, and energy-efficient buildings from real property taxes.
- Localities also may give a partial exemption from taxation for up to 15 years for qualifying real estate that has been substantially rehabilitated for commercial or industrial use. To qualify, a structure has to be at least 20 years of age (or 15 years of age in an enterprise zone).

## TANGIBLE PERSONAL PROPERTY TAX

Tangible personal property is taxed at the local level in Virginia. The tax is based on a percentage or percentages of original cost. Tangible personal property includes, but is not limited to, companies' machinery and equipment; office equipment, furniture and fixtures of nonmanufacturing businesses; trucks and automobiles; equipment used in research and development; certain computer hardware; and all tangible property used in a business unless specifically exempted. Certain machinery and tools are subject to a special machinery and tools tax and are not subject to the general personal property tax.

As described in greater detail on page 11, the tangible personal property tax does not apply to items classified as intangible personal property at the state level.

Several categories of tangible personal property are segregated for taxation at assessment ratios and rates that may be below that of other tangible personal property.

**Computer Equipment.** Localities may establish a separate class of tangible personal property for computer equipment used in businesses and tax it differently from other tangible personal property.

**Aircraft.** Localities may establish a separate class of tangible personal property for aircraft and flight simulators and levy a tax on it at a rate equal to or less than the rate on other tangible personal property.

**Heavy Construction Machinery.** Localities also may establish a separate class of tangible personal property for heavy construction machinery and levy a tax on it at a rate equal to or less than the tax rate on other tangible personal property.

**Research and Development Businesses.** Localities may separately classify tangible personal property used in a research and development business and assess and tax it at a level not to exceed that applicable to machinery and tools.

**Biotechnology Businesses.** Localities may separately classify equipment used for certain research, development, production or provision of biotechnology for the purpose of developing or providing products or processes for specific commercial or public purposes and assess and tax it at a level not to exceed that applicable to machinery and tools.

**Motor Carriers.** Localities may establish a separate class of tangible personal property for interstate motor carrier vehicles, trailers and semi-trailers with a gross vehicle weight of 10,000 pounds or more, and levy a tax on it at a rate no higher than the locality taxes machinery and tools.

**Energy Generating and Cogeneration Equipment.** Localities may separately classify generating equipment purchased to convert the energy source of a manufacturing plant from oil or natural gas to an alternative energy source and cogeneration equipment purchased to increase energy efficiency, and tax them at a different rate from other tangible personal property, provided the assessment ratio and the rate of tax do not exceed that applicable to machinery and tools. Such generating and cogeneration equipment shall include that of firms engaged in the business of generating electricity or steam or both.

**Machinery and Tools Used in Semiconductor Manufacturing.** These may be separately classified for local taxation. Localities may tax this property at rates and assessment ratios lower than other machinery and tools.

**Trucks and Automobiles.** Localities assess trucks and automobiles of manufacturing and nonmanufacturing companies as tangible personal property.

Automobiles that are registered with the Virginia Department of Motor Vehicles are valued by means of a recognized pricing guide. If the model and year of the vehicle are not listed in the pricing guide, the value is based on a percentage or percentages of original cost. The commissioner of revenue may select another method to establish the fair market value of the automobile if the percentage or percentages of original cost do not accurately reflect the fair market value.

Motor vehicles and delivery equipment that are not registered with the Department of Motor Vehicles are taxed as machinery and tools.

**Machinery and Tools.** Machinery and tools used in manufacturing, mining, processing or reprocessing, radio or television broadcasting and dry cleaning or laundry businesses are segregated as a separate class of tangible personal property and taxed at the local level. Businesses subject to the machinery and tools tax are not subject to tangible personal property tax on office equipment, furniture or fixtures.

Machinery and tools are valued by means of depreciated cost or based on a percentage or percentages of original total capitalized cost excluding capitalized interest. The tax rate imposed on machinery and tools cannot exceed the rate imposed on the general class of tangible personal property.

**Tangible Personal Property Tax Exemptions.** Localities have the option of exempting or partially exempting certified pollution control equipment; certified solar energy equipment or devices; and certified recycling equipment from personal property tax.

For more detailed information about local tax exemptions, consult A Virginia Guide to Local Taxes on Business at [http://www.yesvirginia.org/pdf/guides/2007\\_LocalTaxesGuide.pdf](http://www.yesvirginia.org/pdf/guides/2007_LocalTaxesGuide.pdf).

## MERCHANTS' CAPITAL TAX

Localities may impose a tax on the capital of merchants. Capital is defined as inventory of stock on hand, certain daily rental property owned by persons engaged in the short-term rental business, tangible personal property required to be licensed or registered by the Department of Motor Vehicles, the Department of Game and Inland Fisheries or the Department of Aviation, and all other taxable personal property. Money and tangible personal property not offered for sale as merchandise are not considered capital. Many communities only impose this tax on inventory. Forty-six of Virginia's 95 counties impose the merchants' capital tax. None of Virginia's cities impose this tax.

Goods imported in foreign commerce are not subject to the merchants' capital tax until they lose their status as imports. This occurs when the package in which they were shipped is opened or when the property has reached its second place of rest or storage after being unloaded or sold.

## LICENSE TAX

Localities may impose a license tax for the privilege of doing business on all businesses, professions and occupations within the jurisdiction provided that the locality's ordinances provide for the imposition of the tax. Examples of such businesses include retail firms, wholesale firms, warehousing and distribution firms, personal and repair services firms, professional services firms, contractors, research and development firms and many other businesses and occupations. The license tax is usually based on gross receipts generated during the previous tax year; however, it is imposed on gross purchases of sales at wholesale, and in some localities is imposed as a fee or at a flat rate. If a town and county both impose a license tax, a company located in a town within such a county pays the tax only to the town unless the governing body of the town votes to permit the additional collection of a county license tax. 42 of Virginia's 95 counties and all 39 Virginia cities impose a license tax.

For more detailed information on license taxes, consult A Virginia Guide to Local Taxes on Business at [http://www.yesvirginia.org/pdf/guides/2007\\_LocalTaxesGuide.pdf](http://www.yesvirginia.org/pdf/guides/2007_LocalTaxesGuide.pdf)

## UTILITY TAX

All cities, counties and towns have the authority to levy a tax on the utility bills of business firms, e.g., electric, gas, water, telephone and sewer bills. Most of the localities that currently impose the tax have a modest ceiling on the amount of tax that can be collected. If a town and county charge utility taxes, a company pays the utility tax only to the town.

For more detailed information on utility taxes, consult A Virginia Guide to Local Taxes on Business at [http://www.yesvirginia.org/pdf/guides/2007\\_LocalTaxesGuide.pdf](http://www.yesvirginia.org/pdf/guides/2007_LocalTaxesGuide.pdf).

## PERSONAL TAXES

Virginia residents pay state individual income and estate taxes and local real estate, tangible personal property, utility and excise taxes. They also pay a combined state and local sales and use tax.

**Individual Income Tax.** The individual income tax rate is two percent on the first \$3,000 of Virginia taxable income, three percent on the next \$2,000, five percent on the next \$12,000, and 5.75 percent on amounts over \$17,000.

Virginia's taxable income is based on an individual's federal adjusted gross income with modifications, if applicable, and with subtractions for personal exemptions and standard or itemized deductions. If taxpayers use itemized deductions on their federal return, they must use them on their state return. If they use standard deductions for federal purposes, they must use them for state purposes.

**Sales and Use Tax.** The combined state and local sales and use tax rate is 5.0 percent (4.0 percent state and 1.0 percent local).

**Real Estate Tax.** The local real estate tax is imposed on land, minerals, standing timber trees, buildings and improvements. The nominal tax rates and assessment ratios vary by locality.

**Tangible Personal Property Tax.** The local tangible personal property tax applies primarily to motor vehicles, aircraft, mobile homes, campers, trailers, boats and other watercraft, farm machinery and livestock. Many localities, however, either exempt farm machinery and/or livestock from taxation or tax these items at a lower tax rate than the rate on other tangible personal property. Nominal tax rates and the percentage of tangible personal property that is taxable vary by locality.

Virginia's Personal Property Tax Relief Act of 1998 established a phased plan to eliminate the personal property tax on the first \$20,000 of the value of all automobiles, trucks (weighing 7,500 pounds or less) and motorcycles owned or leased for personal use.

**Utility Tax.** All cities, counties and towns have the authority to levy a tax on the utility bills of individuals' electric, gas, water, telephone and sewer bills.

**Excise Tax.** Localities may impose local excise taxes on cigarettes, admissions, room rentals and meals. The rates vary by locality.

For additional information about personal taxes, please contact:

*Virginia Department of Taxation*

*Office of Customer Services*

*Post Office Box 1115*

*Richmond, Virginia 23218-1115*

*(804) 367-8031*

*<http://www.tax.virginia.gov>*

## UNEMPLOYMENT INSURANCE

Unemployment compensation offers workers some protection against loss of earnings while partially employed or when released from their jobs temporarily or permanently through no fault of their own. In Virginia, industrial and commercial employers must register with the Virginia Employment Commission and pay the unemployment insurance tax if they have one or more persons employed for some portion of a day for 20 or more weeks during a calendar year, or if they pay wages of \$1,500 or more in a calendar quarter.

Under Virginia law, the entire cost is paid by the employer. Tax rates are based on the employer's past unemployment experience (known as the employer's experience rating) and on the state's unemployment compensation experience as reflected by the condition of the State Unemployment Compensation Trust Fund. Basic computed tax rates range from a minimum of 0.17 percent on the first \$8,000 of each employee's annual wages to a maximum of 6.27 percent. Additions to the basic rate can include fund building and pool cost factors. New employers pay a rate of 2.57 percent (plus any additional charges to cover fund building and pool cost factors) on the \$8,000 wage base for as little as two years.

According to United States Department of Labor estimates, employers in Virginia paid an average tax rate of 0.4 percent of total wages in 2006, compared with the national average of 0.8 percent.

In Virginia, the weekly benefit paid to eligible unemployed workers ranges from a minimum of \$54 to a maximum of \$363. Any wages in excess of \$50 that individuals earn while drawing benefits are deducted from the weekly benefit amount.

For additional information about unemployment insurance, please contact:

*Virginia Employment Commission*

*Customer Service*

*Post Office Box 1358*

*Richmond, Virginia 23218-1358*

*(804) 786-4359*

*(800) 828-1140*

*<http://www.vec.virginia.gov/vecportal/unins/insemp.cfm>*

## WORKERS' COMPENSATION INSURANCE

Workers' compensation insurance provides indemnity and medical benefits to workers or their dependents if the workers become disabled or die from accidental injury or occupational disease due to their employment, and it is compensable under the Virginia Workers' Compensation Act.

Employers must carry workers' compensation insurance with a private insurance carrier, have a certificate of self-insurance issued by the Virginia Workers' Compensation Commission or be a member of a group self-insurance association approved by the State Corporation Commission, or enter into an agreement with a professional employer organization (PEO) as provided in §65.2-801.A.4 of the Code of Virginia if they have three or more employees regularly in service in the same business in Virginia. Employers cannot deduct any part of the cost of workers' compensation insurance from the wages of any employee.

Any sole proprietor or independent contractor, and all partners of a business, whose employees are eligible for benefits, may purchase workers' compensation insurance and elect to be included as employees under the workers' compensation coverage by notifying the insurer. Officers of corporations and managers of limited liability companies are generally employees of the corporation for purposes of the Virginia Workers' Compensation Act as a matter of law. Executive officers of corporations and managers of limited liability companies can reject coverage under the Act as to accidental injury only, but are still included in the employee count. Special provisions apply to unpaid officers.

**Workers' Compensation Rates.** The cost of workers' compensation insurance varies by industry, by occupation, and by state. Effective January 1, 1994, Virginia partially deregulated its rate-making system for workers' compensation insurance, going to a "competitive rate" or "loss costs" estimate. For information on loss cost multipliers, please refer to the State Corporation Commission Bureau of Insurance's Web page: <http://www.scc.virginia.gov/division/boi/index.htm>. Consequently, it is no longer possible to quote the full voluntary market rate as a cost estimate. However, Virginia's workers' compensation costs for manufacturers consistently rank among the lowest in the nation, according to an annual study published by Actuarial & Technical Solutions, Inc., a noted workers' compensation actuarial consulting firm. As of January 1, 2007, Virginia's average comparative cost of workers' compensation for manufacturers was \$2.47 per \$100 of payroll, compared with the national average of \$4.11 per \$100.

**Medical Treatment.** Employers are required to provide necessary medical treatment for disabled employees for as long as necessary with no cost limitations. The employee has the right to choose one physician from a panel of at least three physicians selected by the employer.

The employer and insurance carrier may appeal physician charges related to the treatment of workers' compensation patients to medical peer review committees in each of the five health system areas of the state. The committees have been effective in keeping charges in line with the usual and customary charges for similar treatment or services within the community.

The employer also is required to provide reasonable and necessary vocational rehabilitation training services, at the direction of the Virginia Workers' Compensation Commission.

The statute of limitations for a workers' compensation claim for an accident is two years from the date of the accident. The statute may be tolled if the employer fails to file an Employer's Accident Report, resulting in prejudice to the employee. If a change in condition occurs, a claim for additional benefits must be filed within two years of the date compensation was last paid pursuant to an award. For an occupational disease, the limitations period is generally two years from the date of communication of the condition, or five years from the date of last injurious exposure during employment, whichever occurs first. Certain conditions such as coal miners' pneumoconiosis, asbestosis and mesothelioma have extended limitations periods.

**Compensation Payments.** Injured employees are entitled to a compensation payment dependent upon the severity of the injury:

***Total Disability.*** When an injury totally disables an employee for over seven days, the employee may draw a weekly compensation equal to 2/3 of his or her average weekly wage. Beginning July 1, 2007, the weekly compensation payment ranges from \$204 or the average weekly wage, whichever is less, to \$816. If the disability exceeds three weeks, the first week's compensation must be paid. Generally, the period covered by compensation cannot exceed 500 weeks.

***Partial Disability.*** When an injury partially disables an employee, the employee may draw weekly compensation during the incapacity equal to 2/3 of the difference between his or her average weekly wage before the injury and the average weekly wage he or she is able to earn after returning to work. The amount cannot exceed the maximum weekly compensation rate. The period covered by compensation cannot exceed 500 weeks. If the partial incapacity begins after a period of total incapacity, the former period will be deducted from the maximum period allowed for the partial incapacity.

***Permanent Disability.*** When an injury causes a permanent disability, an employee is entitled to the same maximum and minimum weekly benefits as a total disability. The specific body parts and the number of weeks for which compensation will be paid is specified in the Virginia Workers' Compensation Act. An employee is entitled to further compensation for loss of time after payment of the specified number of weeks if he or she is again incapacitated for work.

***Total and Permanent Disability.*** When an injury arising out of a single accident causes the loss of use of two members, total paralysis, or permanent brain injury, an employee may receive lifetime compensation benefits.

***Death.*** When an injury results in death, the surviving spouse and/or dependent children are entitled to 500 weeks of compensation from the date of the injury. They are also entitled to a funeral benefit, not to exceed \$10,000, and up to \$1,000 for transportation of the body.

**Second Injury Fund.** The purpose of the second injury fund is to allow an employer to hire an employee with a prior permanent disability of not less than 20 percent to a specific member scheduled in the Act.

The employer or insurance carrier may file a claim against the fund if the employee sustains a compensable second accident resulting in not less than a 20 percent permanent disability to a member scheduled in the Act. This claim can be for a portion of the compensation, medical service or rehabilitative training service that the employer or carrier has paid.

**Uninsured Employer's Fund.** The uninsured employer's fund exists to satisfy awards by the Virginia Workers' Compensation Commission when the employer is required by law to have compensation coverage but has not complied.

In 2007, the fund is financed by a tax of up to 0.20 percent on compensation premiums. The tax is suspended for one year when the fund exceeds the next year's budget expenditures. Claims against the fund are administered by Compmanagement, and medical bills are audited.

For additional information about the Virginia Workers' Compensation Act, please contact:

*Virginia Workers' Compensation Commission*  
1000 DMV Drive  
Richmond, Virginia 23220  
(877) 664-2566  
<http://www.vwc.state.va.us/insurance.htm>

For answers to questions concerning workers' compensation classifications and rates, please contact:

*National Council on Compensation Insurance*  
901 Peninsula Corporate Circle  
Boca Raton, Florida 33487  
(800) 622-4123  
<http://www.ncci.com>

## INCOME TAX WITHHOLDING

Employers paying wages to one or more employees in Virginia are required to register with the Virginia Department of Taxation and to deduct and withhold state income taxes from employees' wages.

For additional information, please contact:

*Virginia Department of Taxation*  
*Office of Customer Services*  
Post Office Box 1115  
Richmond, Virginia 23218-1115  
(804) 367-8037  
<http://www.tax.virginia.gov>

## PAYROLL AND WAGES

Employers operating a business in Virginia must establish regular pay periods and rates of pay for all employees except executive personnel. Salaried employees must be paid at least once each month and employees paid on an hourly rate must be paid at least once every two weeks or twice a month. Students enrolled in a work-study program or its equivalent administered by any secondary school, institution of higher education or trade school may be paid once each month if the institution so chooses.

Upon termination of employment, employees must be paid all money due for work performed prior to their termination date. They must be paid either on or before the date that their next payday would have occurred had their employment not been terminated.

Any employer who knowingly fails to make payment of wages will be subject to a civil penalty. The employer also will be liable for the payment of all wages due plus interest accruing from the date the wages were due.

Payment of wages or salaries must be in lawful money of the United States or with a check payable at face value. An employer may also make payment by direct deposit, but only if the employee agrees and designates a financial account in his/her name for deposit of the wage or salary amount.

An employer may not withhold any part of the wages or salary of any employee except for payroll, wage or withholding taxes or legal lien unless the employer has a written and signed authorization by the employee.

## MINIMUM WAGE

All employees in Virginia not covered by the federal Fair Labor Standards Act (F.L.S.A.) are covered by the Virginia Minimum Wage Law if the employer has four or more employees and is not specifically excluded. The federal minimum wage is currently \$5.85 per hour and will increase to \$6.55 per hour in July 2008, and again to \$7.25 per hour in July 2009. The Virginia Minimum Wage Law, which covers many employers not falling under the federal F.L.S.A., provides for a minimum wage rate identical to the federal minimum wage. The law allows a wage rate lower than the standard minimum wage rate in certain situations in which the employee is in training.

## EQUAL PAY

Under the Equal Pay Act of 1963, employers may not discriminate in pay on the basis of gender for equal work requiring equal skill, effort and responsibility, and that is performed under similar working conditions. Exceptions to the law include payments based on a bona fide seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a differential based on any factor other than gender. If this law is violated and the violation is found to be willful, the employee whose wages were wrongfully withheld has a right to recover damages to the extent of two times the amount of wages withheld. This Act does not apply to employers covered by the federal Fair Labor Standards Act of 1938, as amended.

## THE RIGHT-TO-WORK LAW

Virginia is one of 22 states with a Right-to-Work Law. The law prohibits a closed shop, where employers may hire only members of the contracting union, and a union shop, where the employee who is not a member of a union must join after a certain period of employment and must remain a member as a condition of employment.

Under the Virginia statute, the right to work cannot be denied to an individual based upon membership or nonmembership in a labor union or organization. An employer cannot require employees to become or remain members of a labor union or require that dues or fees be paid to a union or labor organization as a condition of employment.

Virginia law prohibits the use of force, violence or intimidation to induce or attempt to induce any employee to quit employment or refrain from seeking employment. It also prohibits a person from engaging in picketing by force or violence, singly or with others, in such a way as to obstruct free passage to or from any premises. A court of equity may prohibit any picketing or interference with lawful picketing to prevent disorder, restrain coercion, protect life or property or promote the general welfare.

For additional information about equal pay legislation, minimum wages, the right-to-work law, or any other information pertaining to the labor and employment law, please contact:

*Virginia Department of Labor and Industry  
Division of Labor and Employment Law*

*Powers-Taylor Building*

*13 South Thirteenth Street*

*Richmond, Virginia 23219*

*(804) 371-2324*

*[http://www.doli.virginia.gov/whatwedo/labor\\_law/lla\\_p1.html](http://www.doli.virginia.gov/whatwedo/labor_law/lla_p1.html)*

## UNLAWFUL DISCRIMINATION

The Council on Human Rights enforces the Virginia Human Rights Act. The Act safeguards individuals within the Commonwealth from unlawful discriminatory practices. Unlawful practices under the Act include any actions based on race, color, religion, national origin, sex, age, disability, or pregnancy, childbirth or related medical conditions that violate a Virginia or federal statute or regulation governing discrimination. The Act guards against unlawful discrimination in places of public accommodation including educational institutions, in real estate transactions and in employment.

The Council has the authority to investigate, seek to conciliate, hold hearings and make findings and recommendations on complaints of unlawful discriminatory practices.

For additional information, please contact:

*Human Rights Council  
202 North 9th Street  
9th Street Office Building, 11th Floor  
Richmond, Virginia 23219  
(804) 225-2292  
<http://www.chr.virginia.gov>*

## RIGHTS OF PERSONS WITH DISABILITIES

The Virginians with Disabilities Act (VDA) protects the civil rights of persons with disabilities. Among other things, the provisions prohibit employers from discriminating against job applicants or employees on the basis of disability and require employers to provide reasonable accommodations to accommodate a person's known physical and mental impairments. The Virginia Office for Protection and Advocacy (VOPA) provides information, referral and technical assistance for individuals who have a disability-related employment discrimination complaint. VOPA may provide legal representation for persons who have experienced employment discrimination when the employer has less than 15 employees and therefore is not covered under Title I of the Americans with Disabilities Act (ADA) and when the issue meets the agency's case selection and/or litigation criteria. VOPA staff is also available to provide training to consumer groups and employers regarding the VDA and the ADA, upon request.

For additional information, please contact:

*The Virginia Office for Protection and Advocacy  
1910 Byrd Avenue, Suite 5  
Richmond, Virginia 23230  
(804) 225-2042 (Voice/TTY)  
(800) 552-3962 (in Virginia, Voice/TTY)  
<http://www.vopa.virginia.gov>*



## CHILD LABOR

Most minors under 16 years of age are required to obtain employment certificates before they may begin working. These certificates (“work permits”) are issued by designated Issuing Officers, located at most public high schools and many private high schools throughout the Commonwealth. The Department of Labor and Industry’s Division of Labor and Employment Law publishes a Guide for the Employment of Teenagers, which is available online through the agency’s website. The publication can also be obtained directly from the agency.

For minors who are 16 and 17 years of age, there are no restrictions on the hours of work. In addition, they are not required to obtain work permits prior to beginning work. However, the rules and regulations pertaining to hazardous occupations apply to all minors under the age of 18. More specific information pertaining to these regulations is available from the Division of Labor and Employment Law.

For additional information, please contact:

*Virginia Department of Labor and Industry  
Division of Labor and Employment Law  
13 South Thirteenth Street  
Richmond, Virginia 23219  
(804) 371-2324  
[http://www.doli.virginia.gov/whatwedo/labor\\_law/lla\\_p1.html](http://www.doli.virginia.gov/whatwedo/labor_law/lla_p1.html)*

## EMPLOYMENT OF ALIENS

The federal Immigration and Reform Control Act of 1986 preempts state law governing the employment of illegal aliens. The Department of Labor and Industry no longer enforces laws pertaining to the hiring of an alien who cannot provide documents indicating that he or she is legally eligible for employment in the United States.

Information regarding the employment of aliens may be obtained from a Virginia office of the U.S. Immigration and Naturalization Service.

## APPRENTICESHIP TRAINING

Virginia’s Registered Apprenticeship Program provides a framework for Virginia’s employers to develop a highly skilled workforce in a customized and employer-driven environment. Apprenticeship also enables Virginia’s workers to expand their opportunities in a nationally recognized program that combines on-the-job training and related classroom instruction provided by a local school system, community college, vocational-technical center or by the employer.

For additional information on apprenticeship or student apprenticeship, please contact:

*Virginia Department of Labor and Industry  
Division of Registered Apprenticeship  
13 South Thirteenth Street  
Richmond, Virginia 23219  
(804) 786-8418  
[http://www.doli.virginia.gov/whatwedo/apprenticeship/apprenticeship\\_p1.html](http://www.doli.virginia.gov/whatwedo/apprenticeship/apprenticeship_p1.html)*

## BULLETIN BOARD POSTER REQUIREMENTS

Employers operating in Virginia are required to display certain posters as prescribed by state and federal law. The required state and federal posters should be ordered directly from the issuing agency and include the following:

### STATE POSTERS

**Occupational Safety and Health.** “Job Safety and Health Protection” advises employees of their rights and responsibilities under the Virginia Occupational Safety and Health (VOSH) law. The poster must be posted by all private and public employers.

*Virginia Department of Labor and Industry  
Office of VOSH Research and Analysis  
13 South Thirteenth Street  
Richmond, Virginia 23219  
(804) 371-6524  
<http://www.doli.virginia.gov>*

**Unemployment Insurance.** “Notice To Workers” (VEC-B-29) advises employees of their unemployment insurance benefits and application procedures to claim the benefits. Must be posted by every employer subject to the unemployment insurance law.

*Virginia Employment Commission  
Customer Service  
Post Office Box 1358  
Richmond, Virginia 23218  
(804) 786-1485  
<http://www.vec.virginia.gov>*

**Workers’ Compensation Insurance.** “Workers’ Compensation Notice” (VWC-1) advises employees and employers of their rights and responsibilities under the Workers’ Compensation Law. Must be posted by every employer within the jurisdiction of the Virginia Workers’ Compensation Act.

Virginia Workers’ Compensation Commission  
*1000 DMV Drive  
Richmond, Virginia 23220  
(877) 664-2566  
<http://www.vwc.state.va.us>*

## FEDERAL POSTERS

**Equal Employment Opportunity.** “Equal Employment Opportunity Is the Law” advises employees of their rights under Title VII of the Civil Rights Act of 1964, as amended; the Age Discrimination in Employment Act of 1967, as amended; the Equal Pay Act of 1963, as amended; the Americans with Disabilities Act (effective July 26, 1992); and other EEO laws. Should be posted by (1) all employers of 15 or more employees; (2) all government contractors and sub-contractors regardless of number of employees; (3) federal, state and local governments without regard to the number of employees in the employing unit; (4) employment agencies serving such employers; (5) labor organizations with 15 or more members.

*Equal Employment Opportunity Commission  
Richmond Area Office  
830 East Main Street, 6th Floor  
Richmond, Virginia 23219  
(800) 669-4000  
<http://www.eeoc.gov>  
or  
Equal Employment Opportunity Commission  
Norfolk Area Office  
Federal Building, Suite 739  
200 Granby Street  
Norfolk, Virginia 23510  
(800) 669-4000  
<http://www.eeoc.gov>*

**Davis-Bacon Act and the Contract Work Hours and Safety Standards Act.** “Notice to All Employees Working on Federal or Federally Financed Construction Projects” (WH Publication 1321) advises laborers and mechanics of minimum wage and overtime information. Must be posted by all construction contractors and subcontractors working on federally financed construction where the project is \$2,000 or more. A copy of the specification section of the contract with the federal government setting forth applicable prevailing wage rates for laborers and mechanics as determined by the Secretary of Labor also must be posted.

**Fair Labor Standards Act.** “Your Rights Under the Fair Labor Standards Act” (WH Publication 1088) advises covered and nonexempt employees of the federal minimum wage, the payment of time-and-a-half for overtime hours and regulations governing the employment of minors under the age of 18. Must be posted by employers who are covered by the Act.

**Service Contract Act and Public Contracts Act.** “Notice to Employees Working on Government Contracts” (WH Publication 1313) advises employees that they may be entitled to receive certain minimum wages and fringe benefits and may be entitled to overtime compensation. Also contains certain safety and health regulations and child labor requirements. Must be posted by any company performing government contract work subject to the Service Contract Act or the Public Contracts Act.

**Family and Medical Leave Act.** “Your Rights Under the Family and Medical Leave Act” (WH Publication 1420) advises employees of their rights and responsibilities under the FMLA. Must be posted by employers who are covered by the Act.

For additional information on the Davis-Bacon and the Contract Work Hours and Safety Standards Act, the Fair Labor Standards Act, the Service Contract and Public Contracts Acts, and the Family and Medical Leave Act, please contact:

*U.S. Department of Labor, ESA  
Wage and Hour Division  
Federal Building, Room 416  
400 North 8th Street  
Richmond, Virginia 23240  
(804) 771-2995 or (866) 487-9243  
<http://www.dol.gov>*

## BUSINESS AND OCCUPATIONAL LICENSES

The Department of Professional and Occupational Regulation issues state licenses and certificates and administers Virginia's fair housing laws. The Agency regulates the following businesses, occupations and programs:

Architects, Asbestos/Lead Workers, Auctioneers, Barbers, Branch Pilots, Cemetery Companies and Sales Personnel, Contractors/Tradesmen, Cosmetologists, Fair Housing, Geologists, Hearing Aid Specialists, Home Inspectors, Interior Designers, Land Surveyors, Landscape Architects, Opticians, Polygraph Examiners, Professional Boxers/Wrestlers, Professional Engineers, Property Registration/Community Associations, Real Estate Brokers and Sales People, Real Estate Appraisers, Soil Scientists, Waste Management Facility Operators, Water and Wastewater Works Operators, Wetland Delineators

For additional information, please contact:

*Department of Professional and  
Occupational Regulation (DPOR)*  
9960 Mayland Drive, Suite 400  
Richmond, Virginia 23233  
(804) 367-8500  
<http://www.dpor.virginia.gov>

## SPECIAL PERMITS

The Department of Agriculture is composed of the Division of Consumer Protection, the Division of Animal and Food Industry Services and the Division of Marketing. Each of these divisions regulates, registers, licenses, certifies and/or issues special permits involving different types of businesses, occupations and programs.

The three divisions, and their individual offices and areas of responsibility within the Virginia Department of Agriculture are listed below:

### I. Division of Consumer Protection

#### *A. Office of Consumer Affairs*

*(804) 786-2042*

*<http://www.vdacs.virginia.gov/consumers>*

#### *B. Office of Pesticide Services*

*(804) 371-6558*

*<http://www.vdacs.virginia.gov/pesticides>*

#### *C. Office of Plant & Pest Services*

*(804) 786-3515*

*<http://www.vdacs.virginia.gov/plant&pest>*

#### *D. Office of Product & Industry Standards*

*(804) 786-2476*

*<http://www.vdacs.virginia.gov/standards>*

For additional information, please contact:

*Department of Agriculture and Consumer Services  
Division of Consumer Protection  
102 Governor Street  
Richmond, Virginia 23219  
(800) 552-9963 or (804) 786-3523  
<http://www.vdacs.virginia.gov>*

### II. Division of Animal and Food Industry Services

#### *A. Office of Dairy and Foods*

*(804) 786-8899*

*<http://www.vdacs.virginia.gov/dairy&foods>*

#### *B. Office of Meat & Poultry Services*

*(804) 786-4569*

*<http://www.vdacs.virginia.gov/meat&poultry>*

For additional information, please contact:

*Department of Agriculture and Consumer Services  
Division of Animal and Food Industry Services  
102 Governor Street  
Richmond, Virginia 23219  
(804) 786-2483  
<http://www.vdacs.virginia.gov>*

### III. Division of Marketing

*A. Grain Marketing Services  
(804) 786-3939  
<http://www.vdacs.virginia.gov/grain>*

For additional information, please contact:

*Department of Agriculture and Consumer Services  
Division of Marketing  
102 Governor Street  
Richmond, Virginia 23219  
(804) 786-3530  
<http://www.vdacs.virginia.gov>*

## VIRGINIA TRADESMAN PROGRAM

The Tradesman Program exists to ensure the competency of tradesmen and to authorize each license holder to work throughout the Commonwealth by licensing and regulating tradesmen engaging in the trades of electrical, plumbing, gas fitting, and heating, ventilation and air-conditioning (HVAC).

For additional information, please contact:

*Department of Professional and Occupational  
Regulation (DPOR)  
Board for Contractors, Tradesman Program  
9960 Mayland Drive, Suite 400  
Richmond, Virginia 23233  
(804) 367-8511  
[tradesmen@dpor.virginia.gov](mailto:tradesmen@dpor.virginia.gov)*

## TRANSPORTING OVERSIZED AND/OR OVERWEIGHT VEHICLE LOADS

Motor vehicle transporters moving equipment or loads that, when reduced to their smallest dimensions, exceed state statutory limits, must obtain a hauling permit from the Virginia Department of Motor Vehicles, Hauling Permit Section. The permit will contain information such as allowable times of travel, routes of travel, safety requirements and speed limitations while traveling on state-maintained highways. Additional requirements such as flags, warning lights, escorts and other operational provisions may be required depending on the overall size and the vehicle configuration. Additional travel restrictions may be imposed by localities or on specific road segments, bridges or tunnels.

For additional information, please contact:

*Virginia Department of Motor Vehicles  
Hauling Permit Section  
2300 West Broad Street, 6th Floor  
Richmond, VA 23220  
(804) 497-7135  
<http://www.vahaulingpermits.com>*

## OCCUPATIONAL SAFETY AND HEALTH

The Virginia Occupational Safety and Health (VOSH) Program of the Department of Labor and Industry has full authority from the U.S. Department of Labor to administer occupational safety and health plan enforcement through the VOSH program for general industry, construction, agriculture and public-sector employers. Authority of the above action is granted under the Federal Occupational Safety and Health (OSHA) Act of 1970.

For the Commonwealth to comply with its federal agreement, the Virginia Safety and Health Codes Board has the responsibility for the regulatory promulgation of occupational safety and health standards that are at least as stringent as those standards promulgated by federal OSHA for general industry (29 CFR Part 1910), construction (29 CFR Part 1926) and agriculture (29 CFR Part 1928). It should be noted that federal OSHA retains jurisdiction and exercises direct enforcement for private-sector employers in maritime, shipyard, marine terminal, longshoring and gear certification. It also retains jurisdiction for employment at worksites on certain federal military facilities or federal enclaves.

## OFFICE OF COOPERATIVE PROGRAMS

The Department of Labor and Industry's Office of Cooperative Programs offers free, on-site consultation services and helps employers establish effective safety and health programs. The Virginia Voluntary Protection Program (VPP) recognizes employers with exceptional safety and health practices.

The Consultation Services Program helps employers apply VOSH regulations and allows them to make corrections and voluntarily comply. Staff provides on-site safety and health consultation at no cost to Virginia businesses with 250 or fewer employees.

Virginia companies demonstrating exemplary safety and health programs may be recognized for their efforts and exempted from general schedule inspections. The VPP is primarily for larger businesses, but is open to any size business that meets the rigorous qualifications for maintaining a safety and health program.

For additional information, please contact:

*Virginia Department of Labor and Industry  
Office of Cooperative Programs  
Powers-Taylor Building  
13 South Thirteenth Street  
Richmond, Virginia 23219  
(804) 786-8418  
<http://www.doli.virginia.gov>*

Also available through consultation services are training opportunities in locations throughout the state. More information is available from:

*Training Coordinator  
Powers-Taylor Building  
13 South Thirteenth Street  
Richmond, Virginia 23219  
(804) 692-0096  
[http://www.doli.virginia.gov/whatwedo/coop\\_prog/coop\\_prog.html](http://www.doli.virginia.gov/whatwedo/coop_prog/coop_prog.html)*

## OCCUPATIONAL SAFETY AND HEALTH COMPLIANCE

Safety compliance officers and industrial hygienists from the divisions of Occupational Safety and Health Compliance in the Department of Labor and Industry make randomly scheduled inspections of general industry firms and construction sites throughout the state. They also investigate complaints from employees or their representatives, fatal accidents and catastrophes. (Fatalities and catastrophes must be reported to VOSH within eight hours.) The Department of Labor and Industry's mission is to make all workplaces in Virginia safer and healthier.

Virginia law states that the Commissioner of the Department of Labor and Industry has the authority to assess civil penalties for cited violations. In determining the amount of any proposed penalty, the Commissioner gives due consideration to the size of the business, the gravity of the violation, the history of previous violations and the good faith of the employer being charged.

Virginia has also adopted several unique state standards. These include standards for the construction industry and the telecommunications industry concerning entry into confined spaces such as manholes, tanks, vaults, vessels, etc. The confined space standards require employers to establish a written permit entry system, and to provide training, atmospheric testing, mechanical ventilation and personal protective equipment.

For additional information, please contact:

*Virginia Department of Labor and Industry  
Occupational Safety and Health Compliance  
Powers-Taylor Building  
13 South Thirteenth Street  
Richmond, Virginia 23219  
(804) 371-6524  
[http://www.doli.virginia.gov/whatwedo/coop\\_prog/coop\\_prog.html](http://www.doli.virginia.gov/whatwedo/coop_prog/coop_prog.html)*

## RADIATION CONTROL

The Virginia Department of Health's Radiological Health Program conducts inspections of workplaces containing potential radiation health hazards. The inspection schedule is based on requests, complaints, previous inspection reports and facility size and type. Additionally, consultation services are available from the program.

For additional information, please contact:

*Virginia Department of Health  
Radiological Health Program  
109 Governor Street, Room 730  
Richmond, Virginia 23219  
(804) 864-8150  
<http://www.vdh.virginia.gov/Epidemiology/RadiologicalHealth/>*

## WATER SUPPLY

Water that is made available to a company's employees or visitors must be taken from a waterworks that has been approved by the Virginia Department of Health.

If water cannot be supplied from an approved municipal system, the company must contact the Department of Health's Office of Drinking Water to obtain a permit to create or establish a public water system.

For additional information, please contact:

*Virginia Department of Health  
Office of Drinking Water  
109 Governor Street, 6th Floor  
Richmond, Virginia 23219  
(804) 864-7500  
<http://www.vdh.virginia.gov/DrinkingWater>*

## EXPLOSIVES

Outside of a mine or quarry operation, individuals are required to obtain a permit to store, handle or use explosives or blasting agents in Virginia. In localities electing to enforce the Statewide Fire Prevention Code, permits may be obtained from the local fire official. In localities where the State Fire Marshal's Office has enforcement authority, a separate application is required for each city or county in which the applicant intends to use or store explosives.

Certification of the blaster in charge through the Department of Housing and Community Development is required prior to the detonation of explosives, fireworks excepted.

For permit applications, certification as a blaster and information identifying whether or not a given locality is enforcing the Code, please contact:

*Virginia Department of Housing and Community  
Development  
State Fire Marshal's Office  
501 North Second Street  
Richmond, Virginia 23219-1321  
(804) 371-7170  
<http://www.dhcd.virginia.gov/StateFireMarshalsOffice/>*

## BOILERS AND PRESSURE VESSELS

The Boiler Safety Compliance Program, in the Department of Labor and Industry, is responsible for inspecting and certifying the construction, installation, operation, maintenance, repair and alteration of all boilers and pressure vessels in the Commonwealth. Examples of pressure vessels are air compressor tanks, water heaters, and hydro-pneumatic tanks.

For additional information, please contact:

*Virginia Department of Labor and Industry  
Boiler Safety Compliance Program  
Powers-Taylor Building  
13 South Thirteenth Street  
Richmond, Virginia 23219  
(804) 786-3169  
[http://www.doli.virginia.gov/whatwedo/boiler\\_safety/  
boiler\\_safety.html](http://www.doli.virginia.gov/whatwedo/boiler_safety/boiler_safety.html)*



## ADMINISTRATION

With a few exceptions, most of Virginia's environmental regulatory programs are the result of nationwide environmental and health regulations developed by the U.S. Environmental Protection Agency under federal law.

Virginia administers its environmental programs chiefly through independent state agencies, the Department of Environmental Quality (DEQ) and the Virginia Marine Resources Commission and their voluntary citizen boards, appointed by the Governor.

Citizen boards have statutory authority to promulgate regulations, approve certain permits, seek information and impose administrative sanctions or initiate legal action. The agencies administer the day-to-day operations of Virginia's environmental programs and have considerable authority over issuance of permits, interpretation of regulations, fee setting and initiation of enforcement actions. The agencies also serve as the primary point of contact for regulated industries.

The mission of the Department of Environmental Quality is to protect Virginia's environment and promote the health and well-being of the citizens of the Commonwealth. To accomplish this, DEQ administers state and federal environmental programs; issues environmental permits and ensures compliance with regulations; coordinates planning among the Commonwealth's environmental programs; and resolves issues efficiently, openly, fairly and consistently.

Under the complex system of state and federal environmental programs and procedures, it is highly recommended, if not absolutely necessary, that any business or industry that is new to Virginia, modifying an existing facility or modifying a process, seek early guidance from the appropriate regulatory agency before proceeding with prospective activity. By doing so, the business has the advantage of incorporating regulatory requirements into initial planning for the project. In any event, permits must be obtained before construction or installation of equipment can begin. The timing of an individual decision depends on the type of permit required and the time when a complete application is submitted to the DEQ.

## REGULATORY METHODS

A wide variety of regulatory devices are employed in Virginia to protect public health and conserve natural resources:

**Permitting.** Businesses may have to obtain a permit from the state to construct and operate a facility if it will produce air or water pollution, has the potential to be hazardous, involves dredging or filling in waterways or includes ground water withdrawal. The permit binds the owners to design requirements and the operators to performance procedures and standards.

**Certification.** Under certain programs, businesses can be required to document or provide affidavits of compliance with a regulation or standard.

**Registration.** Owners or operators may have to provide notice and describe facilities that are in operation at the time a new regulation becomes effective.

**Monitoring.** Businesses may be required to sample and record levels of facility emissions, including air pollutants, wastewater, noise and dust.

**Reporting.** Businesses can be required to report such facts as the operation of certain types of equipment, emissions of specific pollutants, or storage or use of toxic substances.

**Environmental Impact Reporting.** Private-sector projects do not require state environmental impact reports.

**Licensing.** Persons who perform certain tasks in a business may be required to obtain an occupational license.

## INFORMATION AND ASSISTANCE PROGRAMS FOR INDUSTRY

The Department of Environmental Quality provides extensive compliance services through the use of staff and technical information for existing and prospective business clients. Through the Virginia Environmental Excellence Program, DEQ uses incentives and assistance efforts to promote environmental stewardship beyond regulatory compliance. The goal of this initiative is to help develop more efficient technologies and business operations by reducing the amount of emissions released to the environment and improving how the raw materials are managed.

Online assistance in identifying permits that may be required for certain activities can be obtained from DEQ's website at <http://www.deq.virginia.gov/permitexpert>. DEQ's website features DEQ Permit Expert, an online interactive tool that asks questions to assist applicants with identifying which permits they need to obtain. DEQ Permit Expert provides contact information, links, web resources, and possible regulations that may apply to your activity in response to questions you answer.

The Virginia Department of Environmental Quality is committed to streamlining the steps that companies must take to obtain air, water and waste permits. Virginia Economic Development Partnership project managers and DEQ will work with the company during the application process to speed up the completion of the application and the approval process. In addition, Virginia's local governments offer streamlined permitting processes and provide dedicated project managers to assist companies through the planning and construction process.

For detailed information on regulations and fees, please contact:

*Virginia Department of Environmental Quality  
Director of Environmental Education  
629 East Main Street  
Richmond, Virginia 23219  
(804) 698-4000  
<http://www.deq.virginia.gov>*

For information on regulations and permitting requirements regarding wetlands and navigable waterways, please contact:

*Virginia Marine Resources Commission  
2600 Washington Avenue, 3rd Floor  
Newport News, Virginia 23607-0756  
(757) 247-2200  
<http://www.mrc.state.va.us>*

For information about regulations and permitting requirements for construction in wetlands, please contact:

*Virginia Department of Environmental Quality  
Virginia Water Protection Permit Program  
529 East Main Street  
Richmond, Virginia 23219  
(804) 698-4000  
<http://www.deq.virginia.gov/wetlands>*

For information concerning erosion and sediment control requirements, please contact local authorities or:

*Virginia Department of Conservation and Recreation  
Soil and Water Conservation Programs  
203 Governor Street, Suite 213  
Richmond, Virginia 23219  
(804) 786-2064  
[http://www.dcr.virginia.gov/soil\\_&\\_water](http://www.dcr.virginia.gov/soil_&_water)*



## **BUILDING CODE AND CONSTRUCTION REGULATIONS**

Construction of new buildings requires a building permit, which effectively implements a number of local and state-wide regulations.

State building codes require building construction to conform to the Virginia Uniform Statewide Building Code, which is based on the 2000 edition of the International Building Code. The Virginia Uniform Statewide Building Code is approved by the Virginia Board of Housing and Community Development and is enforced by the local building departments.

For additional information, please contact:

*Virginia Department of Housing and  
Community Development*

*Division of Building and Fire Regulation*

*501 North Second Street*

*Richmond, Virginia 23219-1321*

*(804) 371-7160*

*<http://www.dhcd.virginia.gov/StateBuildingCodesandRegulations>*