



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

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

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

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

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

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

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

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

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

Contractor's Certificate of Workers' Compensation Insurance

(Form 61-A)



www.workcomp.virginia.gov

PLEASE COMPLETE FULLY AND LEGIBLY

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

INSTRUCTIONS ON REVERSE SIDE

Locality Issuing License: City <input type="checkbox"/> Town <input type="checkbox"/> County <input checked="" type="checkbox"/>	Name of Locality: FREDERICK	Business or Trade Name	Business License Number:
Name of Business Owner/ Contractor Last: _____ First: _____		Business Federal Employer ID (FEIN) or Tax ID Number:	
Business Owner / Contractor's Home Mailing Address:		Business Address if different from Business Owner Address:	
City: _____ State: _____ Zip: _____		City: _____ State: _____ Zip: _____	
Home Telephone: _____		Business: Corp. <input type="checkbox"/> L.L.C. <input type="checkbox"/> Sole Prop <input type="checkbox"/> Partnership <input type="checkbox"/> Other <input type="checkbox"/>	

WORKERS' COMPENSATION INSURANCE <i>If you have workers' compensation insurance check type and complete below:</i>		Type of Trade or Industry:	
List ONLY WORKERS' COMPENSATION, not General Liability <input type="checkbox"/> Insurance Carrier licensed in Virginia <input type="checkbox"/> Self-insured with certificate of authorization issued by the Virginia Workers' Compensation Commission <input type="checkbox"/> Group Self-Insurance Association (GSIA) licensed by the State Corporation Commission <input type="checkbox"/> A Professional Employer Organization (PEO) registered in Virginia		Business Telephone:	E-mail Address:
Name of Insurance Carrier, Self-Insured, GSIA or PEO: Policy, Master Policy or Certificate Number: Policy Effective Date and Policy Period:		<p style="text-align: center;">If you do not list workers' compensation insurance you <u>must</u> answer below:</p> <p>1. Do you have more than two part-time or full-time employees? <small>(Note: Corporate officers, LLC managers, part-time employees and employees of your subcontractors generally count as your employees for Workers' compensation purposes. Filing of a 1099, payment of cash wages or designating a worker an "Independent Contractor" does not necessarily Eliminate or alter employee status under the Workers' Compensation Act.)</small></p> <p style="text-align: center;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>2. Do you hire Independent Contractors or subcontractors with employees to assist you in your work?</p> <p style="text-align: center;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><small>Failure to insure when required by law shall subject an employer to civil penalties of up to \$250 per day uninsured, subject to a maximum penalty of \$50,000.00 plus costs, pursuant to Virginia Code § 65.2-805</small></p>	

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

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

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

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

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

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

INSTRUCTIONS FOR COMPLETING THE VWC FORM 61-A

To be completed by the official issuing the business license.

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

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

2. Enter the Business owner / Contractor's name, mailing address and phone number, all information is required.
3. Enter the complete name of business. Additionally list the trade name under which the business operates if a trade name is used.
4. Enter the business address that is used to receive mail by the U.S. Postal Service, if this address is different from the business owner / contractor's address.
5. Provide the Federal Employer Identification Number (FEIN) for the business. If one has not been issued, list the Temporary FEIN issued by the Virginia Tax Dept. If you are a sole proprietor with neither, list your social security number; however it is best to obtain a FEIN, given the restrictions on the use of social security numbers.
6. Check the legal status of the business.
7. Provide the type of trade or industry in which the business is classified.
8. Enter the business phone number if there is one and the business e-mail if there is one.
9. Provide the workers' compensation insurance information if you have coverage. Enter **only** workers' compensation insurance. No other form of insurance substitutes. Provide the complete name of the insurance company or other insuring entity providing workers' compensation insurance coverage for the business. Also enter the policy or member number and policy effective dates.

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

10. **Out of state employers**, please note, Virginia requires valid Virginia workers' compensation coverage for work performed in Virginia. For a business that has a valid policy based outside Virginia, if the business either performs or subcontracts work in Virginia, the business needs valid Virginia coverage and may usually secure valid Virginia coverage with the proper Virginia Amendatory Endorsement, adding Virginia to Item 3A of the policy. An employer from a monopolistic state must usually obtain separate coverage from a Virginia licensed insurance carrier.
11. **If you do not have / list workers' compensation insurance on your form you must answer additional questions**, please answer whether you have more than two employees and whether you hire subcontractors to assist in your work. A response to these questions is required.
12. **Virginia workers' compensation insurance coverage requirements.** Virginia law requires that every employer who regularly employs more than two part-time or full-time employees purchase and maintain workers' compensation insurance. A business that hires subcontractors to assist in the work of the business or fulfill a contract of the business must count the subcontractor's employees when counting employees to determine if / when coverage is required. This is true even if the subcontractor has their own workers' compensation coverage. A contractor should gather proof of coverage from **all** subcontractors hired and should not be charged insurance premium for subcontractors that have their own coverage. Regardless, a contractor that hires subcontractors with employees must count the subcontractor's employees when counting total employees and determining when and whether the contractor is required to carry coverage.
13. Please ensure that the form is signed, the name of the person signing the form is printed on it and the form is properly dated.
14. For workers' compensation insurance questions please contact the Virginia Workers' Compensation Commission at 804 205-3586.
15. **Return your completed form to the licensing authority where your business license was obtained.**

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

www.workcomp.virginia.gov

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