
TITLE 4 ALCOHOLIC BEVERAGES AND MARIJUANA

DELAWARE ADMINISTRATIVE CODE

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DEPARTMENT OF STATE

OFFICE OF THE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER

800 Suspension of License; Sanctions and Fines

804 (Formerly Rule 71) A Rule Pertaining To Voluntary Fine Assessment

1.0 Purpose

This rule implements the grant of authority to the Commissioner contained in 4 **Del.C.** §915 to create a voluntary fine assessment plan for any licensee who pleads guilty to any violation of the Commissioner's rules.

2.0 Applicability

- 2.1 In accordance with 4 **Del.C.** §915 agents of DATE shall have authority to offer a voluntary fine assessment agreement to any licensee who violates any of the Commissioner's rules.
- 2.2 When a licensee chooses to plead guilty to violating a Commissioner rule and pay a voluntary fine under this plan, said licensee shall be deemed to have waived his/her right to and shall forego a hearing in accordance with 29 **Del.C.** §10125, before the Commissioner and any appeal.

3.0 Procedure

- 3.1 Licensees cited for a violation of Commissioner rules who accept the investigating agent's offer to participate in the voluntary fee assessment plan shall sign the voluntary fee assessment form.
- 3.2 The execution of said form shall constitute an admission of guilt to the violation, and the licensee shall send the appropriate remittance by check or money order to the Commissioner on or before the due date stated on the voluntary fee assessment form unless the licensee withdraws their consent to participate in the voluntary assessment program in writing prior to the due date. In all cases, the due date shall be thirty (30) days from the date of signing the voluntary fee assessment form.
- 3.3 The Director of DATE shall establish the form(s) and procedures within DATE that are necessary to carry out the requirements of this rule.

4.0 Penalties and Administrative Cost

- 4.1 The schedule of penalties and administrative cost established for violations covered by the voluntary fine assessment plan are as follows:
 - 4.1.1 First Violation: A two hundred fifty (\$250) dollar fine.
 - 4.1.2 Second Violation of the Same Offense Within Five (5) Years: A five hundred (\$500) dollar fine.
 - 4.1.3 Third and Subsequent Violations of the Same Offense Within Five (5) Years: A fine of one thousand (\$1,000) dollars or a mandatory hearing before the Commissioner with penalties, if any, pursuant to provisions of the Liquor Control Act and, where prescribed, the specific penalty ranges of the violated rule.
 - 4.1.4 Administrative costs for all voluntary fine assessments shall be added at a rate of 15% of the amount of the fine.
- 4.2 The aforementioned schedule of penalties, when used as part of a guilty plea under the voluntary fine assessment plan, shall supersede any provision of any Delaware Alcoholic Beverage Control Commissioner rules that prescribes specific penalties.
- 4.3 Where a licensee chooses to pay a fine under this plan, such licensee shall have waived all rights to the calculation of fines pursuant to 4 **Del.C.** §914.
- 4.4 Failure by a licensee to pay a fine, as agreed, by the due date, as indicated on the voluntary fee assessment form, may result in the licensee being cited for a violation of Rule 805 and a hearing being scheduled before the Commissioner. The violation shall be treated as a separate violation to the underlying violation listed on the voluntary assessment form.

5.0 Reporting

The Director of DATE shall report to the Commissioner on a monthly basis the name, violation(s), fine, and date of all voluntary assessments that are issued.

