

Voluntary Disclosure Program

The Iowa Alcoholic Beverages Division (ABD) Voluntary Disclosure Program encourages compliance with the laws and rules administered by the ABD by allowing license and/or permit holders to voluntarily disclose potential and actual violations of said laws and rules. In return for disclosure, license and/or permit holders may receive reduced penalties or other special considerations if the ABD proposes administrative action be taken.

What is voluntary disclosure?

The ABD defines voluntary disclosure as the intentional disclosure to authorized ABD officials of material facts by license and/or permit holders regarding potential and actual noncompliance with the laws and rules administered by the ABD.

How do voluntary disclosures differ from other disclosures of information by license and/or permit holders?

Under the Voluntary Disclosure Program, license and/or permit holders initiate voluntary disclosures of noncompliance with laws and rules administered by the ABD, as well as any irregularities they discover in their operations that are potential violations of said laws or rules. These voluntary disclosures are distinct from disclosures that are required by law or rule, such as submissions of tax reports and other reports of operations.

What are the benefits of voluntary disclosure?

Voluntary disclosures provide several benefits to license and/or permit holders by:

1. Reducing costs (time and money) associated with legal investigation and action;
2. Potentially resulting in reduced penalties or other special considerations when and if the ABD proposes administrative action;
3. Providing an incentive for detecting and correcting errors early;
4. Allowing the opportunity to obtain special guidance on future compliance;
5. Promoting a fair and level playing field; and
6. Demonstrating credibility, good faith, trust, and confidence that fosters goodwill and a positive working relationship with the ABD.

Voluntary disclosures also benefit the ABD by:

1. Protecting public health, safety, and welfare;
2. Achieving results at reduced cost to the ABD;
3. Promoting compliance and a fair and level playing field;
4. Fostering cooperative relationships between the ABD and license and/or permit holders; and

5. Enhancing the ABD's abilities to educate license and/or permit holders on compliance issues and reduce future irregularities.

When should license and/or permit holders make voluntary disclosures?

License and/or permit holders should make voluntary disclosures as soon as possible after they discover any noncompliance with the law or rule.

When does the ABD accept voluntary disclosures?

The ABD considers and may accept voluntary disclosures when a license and/or permit holder meets any of the following conditions:

1. Disclosure is made **before** the ABD:
 - a. Discovers irregularities;
 - b. Begins a formal audit or investigation in which irregularities fall within the scope of the audit or investigation; or
 - c. Finds irregularities that fall outside the scope of a formal audit or investigation.
2. Information is provided to the ABD on noncompliant activities, including the details, circumstances, and attempts to prevent recurrences;
3. Demonstration is made of steps taken to remedy the irregularities;
4. Payment is made of the correct amount of tax owed, if the irregularities involved underpayments or nonpayments of tax.

When do formal audits or investigations start?

A **formal audit** begins on the date of the pre-audit letter sent by an ABD official to the license and/or permit holder.

A **formal investigation** begins either on the date of the letter by which an ABD official notifies a license and/or permit holder of an investigation, or, in the case of an unannounced investigation, the date on which the ABD official arrives without notice at the licensed premises to conduct the investigation.

How long does a license and/or permit holder have to pay taxes due if voluntary disclosures involve a tax underpayment or nonpayment?

License and/or permit holders should submit any tax underpayments or unpaid taxes when irregularities are disclosed. If a license and/or permit holder is unsure of the exact tax liability at the time of disclosure, they may elect to have the ABD calculate the tax liability. In such cases, license and/or permit holders must pay the ABD the calculated tax within 30 days' notice of the amount due.

Does the ABD always allow special consideration for voluntary disclosures?

No. License and/or permit holders are not eligible if irregularities:

1. Involve fraud or represent willful violations of law that may be referred for criminal investigation/prosecution; or
2. Exist as part of a pattern that involves the same type of conduct that resulted in an earlier voluntary disclosure.

How does the ABD handle accepted voluntary disclosures?

The ABD's senior management discusses such matters with the license and/or permit holder before deciding on administrative action in response to disclosed irregularities. During the decision-making process, the ABD takes into account:

1. The nature and extent of tax deficiencies or other irregularities;
2. The timing and completeness of disclosures;
3. The license and/or permit holder's cooperation;
4. The prior compliance history of the license and/or permit holder;
5. The actions taken by the license and/or permit holder to prevent future noncompliance; and
6. Any other contributing factors, mitigating or otherwise.

What type of administrative action may the ABD take?

The ABD may:

1. Keep written records of the circumstances on file, without issuance of admonitory or warning letters;
2. Issue admonitory or warning letters that document irregularities;
3. Approve settlements of civil liabilities;
4. Suspend a license and/or permit; or
5. Revoke a license and/or permit.

Additionally, the ABD may recommend criminal prosecution where it is warranted. Examples where criminal prosecution may be recommended include bribery of public officials, involvement in organized criminal activities, previous obstruction of justice, and particularly flagrant violations of Iowa Code chapter 123.

Does the ABD consider completed voluntary disclosures as first violations in future administrative actions?

No. The ABD does not consider such completed actions as first violations.

Does the ABD maintain a record of voluntary disclosures?

Yes. Because the ABD treats accepted voluntary disclosures as admissions of noncompliance with laws or rules, records of such matters are maintained for future reference.

Are voluntary disclosures privileged communications?

No. Oral and written statements of voluntary disclosure of noncompliance are not privileged communication.

Where should license and/or permit holders send voluntary disclosures?

All voluntary disclosures must be in writing and sent to:

Iowa Alcoholic Beverages Division
Bureau of Regulatory Compliance
Attn: Voluntary Disclosure
1918 SE Hulsizer Rd.
Ankeny, IA 50021-3941

Voluntary disclosures may be sent electronically to compliance@iowaabd.com, however, a hard copy mailing is required. License and/or permit holders may also make oral disclosures to appropriate ABD officials if the required written disclosure is made within 10 calendar days of the verbal disclosure.

Who should license and/or permit holders contact with additional questions?

Additional questions on voluntary compliance should be emailed to compliance@iowaabd.com.