



**Please read the instructions carefully and answer all questions completely.**

Accuracy and thoroughness will assist us in processing the application and avoid delays of licensure.

1. Check appropriate box that applies to your submission. Representatives must apply independently of employer.
2. Answer questions and sections thoroughly for the type of license you wish to obtain. **100% ownership must be disclosed.**
3. Application must be signed and notarized. Please follow the instructions for signature process.
4. If physical location is within West Virginia, a manager must be listed on the application.
5. If a "yes" response is noted for questions 9-12, a written explanation must be attached.
6. Attach a copy of the applicant's Federal Approval (Brewer's Notice/Basic Permit).
7. Licenses are effective July 1st to June 30th, with the exception of Representative Permits; October 1 to September 30th. License fees are prorated semi-annually (January 1 - June 30) for new applications only (half year fee).
8. License and Operational fees are noted in appropriate box for the type of license/permit for which application is being made. \*Permit fees are not required for Representatives. \*Operational fees are not prorated and are non-refundable.
9. New submissions applying as a corporation, association, and/or limited liability company must submit certified copies of supporting documents filed with the state in which that entity was formed. This may include Corporate Charter/Articles; LLC Certificate/Articles of Formation/Organization.
10. Foreign Business' must include Certified copy of Certificate of Authority from the West Virginia Secretary of State (WVSOS) to transact business in West Virginia. You may contact the West Virginia Secretary of State Office at 304-558-8000 for further direction and information.
11. Compliance with the WV State Tax Department is required. You may contact the Tax department at 800-982-8297 for further information. A Letter of Good Standing may be necessary if our office cannot verify compliance.
12. Resident Brewers must include zoning form, floor plan, estimation of production report and copy of valid lease, if applicable. Wholesalers must include copy of valid lease, if applicable.
13. Please follow the instructions on the enclosed Malt Beverage Label Approval Policy to ensure timely processing of labels and franchise agreements.
14. All license fees must be paid by cashier's check, certified check, or money order.

**Representatives should be knowledgeable of W.Va. Code §11-16-1 *et seq.* and the rule at 176 CSR 1. Further, Representatives must be familiar with trade practice policies, standards, and limitations.**

*Mail completed packet and supporting documents to:*

*WVABCA - Attn: Beer Division  
900 Pennsylvania Ave., 4<sup>th</sup> Floor  
Charleston, WV 25302*

*If you have any questions, you may contact this office at 304-356-5500 for further assistance.*



## Section I

*Brewer/Imports located outside of West Virginia*

Date and State Formed: \_\_\_\_\_

Date qualified to transact business in West Virginia: \_\_\_\_\_

*\*Attach Certified copies of Corporate Charter/Articles, LLC Certificate of Formation/Articles of Organization, copy of Certificate of Authority filed with the West Virginia Secretary of State Office; This applies to all entitles formed outside the State of West Virginia.*

## Section II

*Representatives for Brewer/Importers,  
Resident Brewers and Wholesalers*

Employer: \_\_\_\_\_

Employer Address: \_\_\_\_\_

Employer Telephone Number: \_\_\_\_\_

Applicant Telephone Number: \_\_\_\_\_

Applicant E-mail \_\_\_\_\_

Date of current employment: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Applicant Residence Address: \_\_\_\_\_

Have you ever had a license with any other licensed Brewer/Importer or Wholesaler?  Yes  No

If yes, name and address of such: \_\_\_\_\_

**Affix 2" x 3"  
color photo of  
Brewer Representative  
Applicant here.**

## Section III

*Distributors and Resident Brewers*

West Virginia County in which business is physically located: \_\_\_\_\_

*\*Attach Certified copies of Corporate Charter/Articles, LLC Certificate of Formation/Articles of Organization.*

Does applicant hold a valid lease? \_\_\_\_\_ Expiration date of lease: \_\_\_\_\_

*\*Attach copy of valid lease.*

Property owner/Leaser name/address and phone number: \_\_\_\_\_

Do the premises conform to all health, fire and zoning regulations? \_\_\_\_\_

*Should the applicant fail to fully carry out and fulfill in every respect the laws of West Virginia, then the Commissioner shall have the right to terminate or revoke this license or permit and declare forfeited the penalty of the bond (if a bond is required for the selected license type). However, it is agreed and understood by and between the parties hereto that before such bond shall be forfeited a hearing shall be held in the Office of the West Virginia Alcohol Beverage Control Commissioner in the City of Charleston, Kanawha County, West Virginia, after ten (10) days written notice to the applicant, setting forth the charge or charges and the time and place of hearing thereon and which said notice shall be served the applicant by registered mail at the address hereinabove set forth.*

### Instructions for signing application (attach additional sheet if necessary)

- 1) Partnership/Limited Partnership: Must be signed by all partners;
- 2) Ltd. Liability Company: Must be signed by all members;
- 3) Association: Must be signed by all members;
- 4) Corporation: Must be signed by an officer in the corporation;
- 5) Individual: Signature of that individual;
- 6) \*Representatives must sign on their own behalf

\_\_\_\_\_  
*Signature(s), Title(s) of applicant(s) thereunto duly authorized*

State of: \_\_\_\_\_ County of: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(Notary Public) \_\_\_\_\_

My commission expires the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.



**STATE OF WEST VIRGINIA**  
**Alcohol Beverage Control Administration**

900 Pennsylvania Ave., 4th Floor, Charleston, West Virginia 25302 (304) 356-5500

**ESTIMATION OF PRODUCTION FORM**

Fiscal Year July 1, 20\_\_\_\_ - June 30, 20\_\_\_\_

Brewer or Resident Brewer Name: \_\_\_\_\_

License Number: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Brewers and Resident Brewers may request a reduced licensure fee based on production. To qualify, they are required to submit documentation with regards to production in gallons and barrels in order to determine the license fee for fiscal year beginning July 1 and ending June 30. License fee is as follows and based on the estimation submitted within this form.

<i>Estimated production - 12,500 barrels or less:</i>	<b>\$250.00</b>
<i>Estimated Production - 12,501 barrels and up to 25,000 barrels:</i>	<b>\$1,000.00</b>
<i>Estimated Production - More than 25,001 barrels:</i>	<b>\$1,500.00</b>

Note: On or before July 15, every Resident Brewer is required to file a final report of prior year's production in gallons and barrels (form provided by the Commissioner). If the actual total production exceeded the estimation submitted with application or renewal, the Brewer or Resident Brewer shall include a remittance for the balance of the license fee that would be required for the final, higher level of production.

1. Estimate the number of gallons that the brewer or resident brewer will produce during <u>year</u> .	
2. Estimate the number of barrels that the brewer or resident brewer will produce during <u>year</u> . (# Gallons ÷ 31 = # Barrels)	
3. What is the production capacity of brewer or resident brewer's manufacturing facility?	
4. What was the prior year's total production?	
5. What was the prior year's total sales volume?	
6. What quantity of product in gallons did the brewer or resident brewer self-distribute last year?	
7. What quantity of product in barrels did the brewer or resident brewer self-distribute last year?	
8. What quantity of product in gallons did the brewer or resident brewer sell to an authorized West Virginia Distributor?	
9. What quantity of product in barrels did the brewer or resident brewer sell to an authorized West Virginia Distributor?	
10. What quantity of product in gallons did the brewer or resident brewer sell through their licensed brewpub?	
11. What quantity of product in barrels did the brewer or resident brewer sell through their licensed brewpub?	

**In support of the foregoing document, the undersigned makes oath that the statements contained herein are true, accurate and complete.**

\_\_\_\_\_  
*Signature, Title of applicant thereunto duly authorized* *Date*

MAIL TO: WVABCA, 900 Pennsylvania Ave., 4th Floor, Charleston, WV 25302 ATTN: Beer Division

For more information visit our web site at: [abca.wv.gov](http://abca.wv.gov)

# WEST VIRGINIA MALT BEVERAGE PRODUCT LABEL APPROVAL

In order to effectively enforce the provisions of Chapter 11, Article 16 of the West Virginia State Code, specifically the regulation of the three tier system, the below procedures are promulgated by the West Virginia Alcohol Beverage Control Administration.

## CONCEPT

West Virginia operates in a three tier distribution system for the beer industry. The laws, rules and regulations of the State of West Virginia provide for protection for each tier of the distribution system: brewer, distributor and retailer. Fairness and equality are the overriding principles of the laws and regulations of the State of West Virginia.

Brewers are free to select distributors and must assign exclusive territories. After the brewer makes the distributor designations, the brewer must treat each distributor equally. W.Va. Code §11-16-21(a) states in part "...having entered into an equitable franchise agreement with such distributor...(such agreement) shall be identical as to terms and conditions with all other franchise agreements and any amendment between such brewer and its other distributors in this state..."

Therefore, if a brewer offers a new brand to one distributor through a franchise amendment, then the brewer must offer the same brand to all distributors within that franchised network. Further, if a brewery or brand is acquired by another brewer, the distributors that hold the distribution rights to the selling brewer's products or in the case of a brand being sold, those distributors will continue to distribute under the existing franchise agreements entered into by the selling brewer.

W.Va. Code §11-16-21(a)(3) states in part, "Whenever the manufacturing, bottling or other production rights for the sale of nonintoxicating beer at wholesale of any brewer is acquired by another brewer, the franchised distributor of the selling brewer shall be entitled to continue distributing the selling brewer's beer products as authorized in the distributor's existing franchise agreement and the acquiring brewer shall market all the selling brewer's beer products through said franchised distributor as though the acquiring brewer had made the franchise agreement and the acquiring brewer may terminate said franchise agreement only in accordance with subdivision (2), subsection (b) of this section: *Provided*, That the acquiring brewer may distribute any of its other beer products through its duly authorized franchises in accordance with all other provisions of this section:..."

The approval of new product labels by the Commissioner is a mechanism by which the agency can enforce the law with respect to the assignment of brands.

## POLICY

It is the policy of the West Virginia Alcohol Beverage Control Administration that before a label is approved for a new product, ***the following items must be submitted for review*** by the brewer/importer or resident brewer to the WVABCA, to determine if the brewer/importer or resident brewer is in compliance with the provisions of W. Va. Code §11-16-1 *et seq.*:

- Color labels in duplicate (***affixed or printed on 8½ by 11 sheet***). Please state if labels reference cans or bottles.
- Copy of Federal Label Approval (COLA) referencing the proposed label if being transported across state lines from place of manufacture.
- In the case of those products that don't require COLA's but fall under the federal definition of beer, please supply a copy of the formula approval, more specifically the "Formula Online" approval. **Do not** submit the recipe or formula, only the approval which defines the product as an **IRC Beer**, or does so within the statement of class and type to reflect that determination. The name of the product must be listed on the document. In the case of an import that does not require COLA or Formula Approval, a copy of US Customs documentation with determination is required.
- Proof of who owns the product is necessary. If the submitting brewer is not the owner of the product, include an appointment letter from the brand **owner**.
- Lab Analysis regarding the contents of the proposed product declaring the percentage of alcohol by volume (*may not exceed 15% by volume*). Note: A tolerance of 0.3% above or below the alcohol content stated on the label is allowable. However, if the product is below .5% ABV, the actual content may not exceed that which is stated on the label.
- Copies of all distributor franchise agreements with initial brewer entry into West Virginia, or amendments to the franchise agreements thereafter for the proposed products, executed by the brewer and offered to each of the brewer's distributors within that franchise network. Each product must be listed individually. Blanket statements of "family of brands" or similar declaration cannot be accepted.
- 12-Digit UPC Codes for each and **retail package configuration**. (*Example: 12-Digit UPC Code from 12-pack*)
- Prices + WV State Excise Tax for each label and their retail packages configurations (*Example: 2/12/12 bottles, 4/6/12 cans, 1/6 keg...*). Note: WV State Excise Tax (\$5.50 per barrel).
- In the case of products being submitted to be sold **only** in a variety pack, please state that fact in the cover letter. These products must be submitted in the same manner as all others, with the following exceptions: price will not be included, and the 12-Digit UPC Code should be from the bottle/can.
- Variety Packs must be submitted for review and approval. Include a color graphic of the variety pack, list all products contained in the package, state the package configuration (*Example: 6-pack, 12-pack...*), provide the price + WV State Excise Tax as it will be shipped (*Example: 4/6/12 oz., 2/12/12 oz....*), and the 12-Digit UPC Code from the variety pack. Note: All products included in the variety pack must follow the same franchise network.
- Products that are under .5% ABV must be submitted for review to determine if in fact the product falls outside of the West Virginia definition of Nonintoxicating Beer (.5% ABV - 15% ABV). A specific form is available for submission.



## BREWER/IMPORTER and RESIDENT BREWER PRICING

Brewer/Importer and Resident Brewer pricing, which is the first tier of the three-tier system of distribution in West Virginia, must be submitted during and for specific date range.

- Front Line Base Prices are required and due no later than December 15th, annually. This required form is used in a dual capacity to not only meet the requirement as outlined in the rule at 176 CSR 1 - 6.3.g.3. but also acts to renew product labels as required in W.Va. Code §11-16-10(g).

176 CSR 1 - 6.3.g.3. A brewer or a resident brewer shall file with the Commissioner on or before December 15<sup>th</sup> of any year a complete price listing along with UPC Codes of each nonintoxicating beer product by package size and brand sold to licensed distributors. This filing is in addition to any other filing required pursuant to these rules. Failure to timely file the price list may result in fines and penalties.

- Quarterly prices are not required but may be submitted when a Brewer/Importer or Resident Brewer desires to alter any Front Line Base Price. Quarterly prices are submitted three months prior to the effective date and are in effect for three months. At the conclusion of the Quarter, prices will return to the Front-Line Base Price.

W.Va. Code §11-16-20

(a) It is unlawful:

(2) For any brewer or manufacturer, or any other person, firm or corporation engaged in the business of selling non-intoxicating beer, ale or other malt beverage or malt cooler to a distributor or wholesaler, to sell or deliver non-intoxicating beer, ale or other malt beverage or malt cooler to any licensed distributor or wholesaler unless and until such brewer, manufacturer, person, firm or corporation, as the case may be, shall have filed the brewery or dock price of such beer, ale or other malt beverage or malt cooler, by brands and container sizes, with the commissioner. The pricing submitted to the commissioner shall also be submitted contemporaneously to the licensed distributor or wholesaler. No price schedule shall be put into effect until ninety days after receipt of same by the commissioner and shall be submitted on or before the following quarterly dates of January 1, April 1, July 1 and October 1 of the calendar year to be effective: Provided, That any price shall remain in effect not less than ninety days.

All price postings are to be submitted on a specific form supplied by the West Virginia Alcohol Beverage Control Administration (WVABCA).

The WVABCA does not provide or make available submitted pricing to wholesale distributors. As such, all price postings must be provided to your wholesale distributors when submitted to the WVABCA.

Filing Dates	Effective Date
Required Price Posting	Front Line Base Price Effective Date
<b>December 15th - Required price posting.</b>	<b>Front Line Base Prices are in effect for the entire next calendar year (January 1 - December 31). Price may only be changed via Quarterly Price Postings.</b>
Optional Quarterly Price Postings	Quarterly Effective Date
January 1	April 1 - June 30
April 1	July 1 - September 30
July 1	October 1 - December 31
October 1	January 1 - March 31 (next calendar year)



# West Virginia Alcohol Beverage Control Administration

## Resident Brewer Floor Plan

License period: \_\_\_\_\_ - \_\_\_\_\_

Applicant Entity Name: \_\_\_\_\_

Doing Business As (DBA) Name: \_\_\_\_\_

County: \_\_\_\_\_

Floor plan **must** include **all areas under the control or lease of the applicant** where alcohol is to be manufactured, stored, sold or consumed. All areas under control or lease of the licensee must be licensed.

Submit (1) copy to ABCA.

(Give Dimensions)

Keep (1) copy at licensed premises.



**\*If there are attached drawings please check: \_\_\_\_\_ (additional drawings must be signed).**

**\*Complete information on reverse side of form.**

Room or Outside Structure (Width, Length) (example: 24x 36)	Located on level of building (floor number)	Seating Capacity	Purpose of room or location (brewing, storage, etc...)

I or we hereby certify that the floor plan above and/or attached is the only area where nonintoxicating beer or nonintoxicating craft beer will be manufactured, sold, dispensed, consumed, and/or stored. And, I or we further understand that any violation of this provision will mean immediate revocation or suspension of my license.

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

# ZONING FORM

## WEST VIRGINIA RESIDENT BREWER

(Original copy must be submitted to the WVABCA Beer Division)

**Note: If an establishment's location is not situated within a municipality, this office will need a letter from the County Commission stating that the establishment location is zoned properly. All applicants must complete the front portion (page 1) of this form.**

### To: Municipal Clerk or Recorder

Applicant is intending to apply for a West Virginia Resident Brewer with the West Virginia Alcohol Beverage Control Administration. This license will allow, if obtained, the applicant to operate a manufacturing facility of nonintoxicating beer and/or nonintoxicating craft beer with the legal limit to be and to not exceed 12% by volume .

Entity Name: \_\_\_\_\_

DBA (Doing Business As): \_\_\_\_\_

Address of Establishment: \_\_\_\_\_

(Street/Route) (City) (State) (Zip Code) \_\_\_\_\_

Applicant's Name (s): \_\_\_\_\_

(Last)

(First)

(Middle)

\_\_\_\_\_  
(Last)

(First)

(Middle)

General Description of Premises: \_\_\_\_\_

**This Notice has been filed with the Clerk or Recorder of the City/Town of \_\_\_\_\_  
on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.**

Applicant's Signature (s): \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_

(Municipality to fill out reverse side of form)

**(FOR USE BY MUNICIPAL AUTHORITIES ONLY)**

1. Is the proposed location for a West Virginia Resident Brewery (manufacturing facility) described consistent with the zoning ordinances or your municipality as either a permitted use or a conditional use of such premises?

Yes \_\_\_\_\_ No \_\_\_\_\_

1. (a) If the answer to the first question is “no,” does your municipality provide within its business zones suitable alternative locations for a West Virginia Resident Brewery (manufacturing facility)?

Yes \_\_\_\_\_ No \_\_\_\_\_

2. Is the proposed location for the a West Virginia Resident Brewery (manufacturing facility) herein described situated in an area designated for the use of community development block grant funds in the municipality?

Yes \_\_\_\_\_ No \_\_\_\_\_

2. (a) If yes, is the planned use of the premises at the location herein described consistent with any plan adopted by the governing body of the municipality for revitalization of the area wherein the premises are situated?

Yes \_\_\_\_\_ No \_\_\_\_\_

3. Additional comments to the Alcohol Beverage Control Administration:

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**Approved by (Authorized Official Signature and Title):**

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**City/Town**

**Date:** \_\_\_\_\_

**Return Original To: WVABCA**

**Beer Division  
900 Pennsylvania Avenue, 4<sup>th</sup> Floor  
Charleston, WV 25302**