



West Virginia Alcohol Beverage Control Administration

900 Pennsylvania Avenue, Charleston, West Virginia 25302

(304)356-5500

Instructions for Completing Non-Retail Nonintoxicating Beer License Application

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

Your accuracy and thoroughness will assist us in processing the application and avoid delays in the licensure process.

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 a "yes" response is noted for questions 9-12, a written explanation must be attached.
5. Federal Approval (Brewer's Notice/Basic Permits) are required.
6. License's are effective July 1st to June 30th, with the exception of Representative Permits; October 1 to September 30th. License fees are prorated from January 1 to June 30 for new applications only.
7. License and Operational fees are noted in appropriate box for the type of license/permit applying for. Permit fees are not required for Representatives. Operational fees are not prorated.
8. 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.
9. 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 States Office at 304-558-8000 for further information.
10. Compliance with the WV State Tax Department is required. You may contact the Tax department at 304-558-0678; 5585-0689, 558-8695, 558-1114 for further information. A Letter of Good Standing may be necessary if our office cannot verify compliance.
11. 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.
12. Please follow the instructions on the enclosed Malt Beverage Label Approval Policy to ensure timely processing of labels and franchise agreements.
13. 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 and 176 CSR 1.
Further, Representative must be familiar with trade practice policies, standards and limitations.**

Mail completed packet and supporting documents to the address above; Attn: Beer Division

If you have any questions or need additional assistance, you may contact the number listed above.



Licensing Period _____ to _____

Business Type:

- Individual, Partnership, Limited Partnership, Limited Liability Co., Corporation, Association

Office Use Only
Application Number:
License Number:

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Non-Retail Nonintoxicating Beer License Application

Grid of license options: Brewer/Importer License, Resident Brewer License, Representative Permit, Distributor License. Includes questions to answer, sections to complete, and fees.

- 1. Licensee (Representative):
2. Employer Name:
3. Employer Mailing Address:
4. EIN #:
5. Business Telephone:
6. Employer Physical Address:

* 7. Supply the following information about owners, officers, directors, members and/or managers. 100% Ownership must be disclosed.

Table with 5 columns: Title, Name, Residence Address, Yrs. WV Residency, Date of Birth, Social Security Number, Telephone Number, % Ownership, **US Citizen. Multiple rows for listing owners/officers.

*Use a separate sheet if necessary. **If not a US Citizen, please attach a written explanation of when and where naturalized.

- 8. Contact Person:
Telephone Number:
E-Mail:

If questions 9-13 are answered yes, a written statement must be attached to the application for license.

- 9. Has the applicant, or any officer, member, or director been convicted of any of the following within the last five (5) years?:
A) Felony? B) Violation of Federal or State Alcohol Laws? C) Criminal Offense (misdemeanor) within the last 5 years?
10. Has the applicant, or any officer, member, or director been refused any type of alcohol license or permit in any state?
11. Has the applicant, or any officer, member, or director had:
A) A hearing before the WVABCA Commissioner? B) Any type of WVABCA license or permit sanctioned?
12. Does the applicant, or any officer, member, director, or any blood relative own any of the following used by any retail licensee:
A) Real estate? B) Buildings? C) Equipment?
13. Does the applicant, or any officer, member, director, or any blood relative have any connection or interest, directly or indirectly with the following:
A) Brewer or Resident Brewer B) Distributor/Wholesaler of Nonintoxicating Beer C) Retailer of Nonintoxicating Beer

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 _____, _____.

Affix notary stamp/seal

WEST VIRGINIA MALT BEVERAGE LABEL APPROVAL POLICY

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, certain procedures must be adopted 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, then the brewer must treat each distributor equally. West Virginia Code §11-16-21(a) referencing nonintoxicating beer 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 between such brewer and its 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 purchased by another brewer, the distributor(s) that hold the distribution rights to the selling brewer's products or in the case of a brand being sold, those distributor(s) will continue to distribute under the existing franchise agreements entered into by the selling brewer.

Code of West Virginia §11-16-21(a)(2) states "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 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 to the Commissioner, in order that the Commissioner may determine if the brewer is in compliance with the provisions of 11-16-21 of the Code of West Virginia:

- 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 referencing the proposed label (all sizes) if being transported across state line from place of manufacture.
- In the case of those products that don't require Federal Label Approval but fall under the Federal definition of beer, please supply a copy of the formulation 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. The name of the product must be listed on the document.
- Lab Analysis of the contents of the proposed product declaring the percentage of alcohol by volume (*may not exceed fifteen percent (15%) by volume*).
- Copies of all distributor agreements or amendments for the proposed product(s), executed by the brewer and offered to each of the brewer's distributors within that franchise network. Each product must be listed individually. Blanket statement of "family of brands" or similar declaration will not be accepted.
- 12-Digit UPC Codes for each label and **retail package configuration**. (*example - 12-Digit UPC Code from 12-pack*)
- FOB prices + WV State Excise Tax for each label and their retail packages configuration (*example - 2/12/12 bottles, 4/6/12 cans, 1/6 bbl keg...*). Note: WV State Excise Tax (\$5.50 per barrel).

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, is submitted quarterly. These quarterly prices need to be submitted on a specific form supplied by the WVABCA.

Below is the section of West Virginia Code which references the pricing format.

§11-16-20(a)(2)

“...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.”

<i>Price filed:</i>	<i>Price effective:</i>
Filed on or before January 1	April 1 - June 30
Filed on or before April 1	July 1 - September 30
Filed on or before July 1	October 1 - December 31
Filed on or before October 1	January 1 - March 31 (next calendar year)

**** In addition to the quarterly pricing, a brewer/importer is required to file “Front Line/Base Prices” during the Month of December on all products and configurations. This price is before any increases/decreases or quarterly price promotions.***

* If a brewer/importer doesn't post a quarterly price - it will revert back to the “Front Line/Base Price”.

* If a brewer/importer or resident brewer does not intent to post quarterly prices, please send an email to ABCC.Beer@wv.gov informing this office.

Following is a **NON-Year Specific** Calendar that may be used as an example and visual guide regarding price posting dates and effective dates through color coordination.

NON-YEAR SPECIFIC

Example of First Tier Pricing Schedule for West Virginia.

Prices posted on or before January 1 will be effective April 1

January						
		1	2	3	4	
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

February						
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	

March						
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Prices posted on or before April 1 will be effective July 1

April						
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

May						
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

June						
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

Prices posted on or before July 1 will be effective October 1

July						
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

August						
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

September						
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

Prices posted on or before October 1 will be effective January 1 of next calendar year.

October						
		1	2	3	4	
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

November						
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

December						
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

Front line prices filed in December will continue to be submitted.

