



## 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 all instructions carefully and answer all questions in full.

Your accuracy and thoroughness in completing the application form will assist us in processing the application in a timely manner.

1. Check all appropriate boxes that apply to your submission
2. Answer all questions thoroughly in addition to completing all sections for the type of license you wish to obtain.
3. Application must be signed and notarized. Please follow the instructions for signature process.
4. If a yes answer applies to questions 9-12, a written explanation must be attached.
5. Fiscal year runs from July 1 to June 30, with the exception of brewery representatives which run from October 1 to September 30. License fees are prorated from January 1 to June 30 for new applications only and do not apply to brewery representative permits.
6. Bonds, required in the following amounts, must be completed, signed and notarized. If an existing bond has been approved by the West Virginia Attorney General's Office, this office will accept a continuation certificate with power of attorney attached for said bond for renewal applications only.

Brewer/Importer Bond:	\$25,000.00
Resident Brewer Bond:	\$5,000.00
Brewer Representative Bond:	\$500.00
Distributor Bond:	\$5,000.00
Brew Pub Bond (Retail):	\$5,000.00

7. When applying as a corporation, association, and/or limited liability company, copies of such documentation must accompany submission.
8. Copy of Certificate of Authority to transact business in West Virginia.
9. Please follow the instructions on the enclosed Malt Beverage Label Approval Policy to ensure approval of labels, franchise agreements, etc. in a timely manner.
10. Brew Pubs are required to submit a floor plan, zoning form, distance form and \$24.00 processing fee for each individual listed on the application for Live Scan Fingerprinting in addition to their application, fee and bond.
11. All license fees must be paid by way of cashier's check, certified check or money order.

*Mail completed application, fee, bond and all other requested documents to this office, attn: **Rebecca Bassham***

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



Licensing Period \_\_\_\_\_ to \_\_\_\_\_

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

Acceptable forms of payment for license fee:

- >Certified Check
- >Cashier's Check
- >Money Order

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### Non-Retail Nonintoxicating Beer License Application

<input type="checkbox"/> Brewer/Importer License Answer Questions 1-12 Complete Section I License Fee: \$1,500.00	<input type="checkbox"/> Brewer Representative Permit Answer Questions 1-6 & 8-12 Complete Section II License Fee: \$50.00	<input type="checkbox"/> Distributor License Answer Questions 1-12 Complete Section III License Fee: \$1,000.00	Applying As: <input type="checkbox"/> Individual <input type="checkbox"/> Ltd. Liability <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Ltd. Partnership <input type="checkbox"/> Association
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1. Licensee (Entity): \_\_\_\_\_ 4. Business FEIN: \_\_\_\_\_
2. Business Name: \_\_\_\_\_ 5. Business Telephone: \_\_\_\_\_
3. Mailing Address: \_\_\_\_\_ 6. Physical Address: \_\_\_\_\_

City	State	Zip	City	State	Zip
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7. Supply the following information about owners, officers, directors, members and/or managers.

Title	Name	Resident Address	Yrs. WV Residency
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Date of Birth	Social Security Number	Telephone Number	% Ownership	*US Citizen
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Title	Name	Resident Address	Yrs. WV Residency
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Date of Birth	Social Security Number	Telephone Number	% Ownership	*US Citizen
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Title	Name	Resident Address	Yrs. WV Residency
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Date of Birth	Social Security Number	Telephone Number	% Ownership	*US Citizen
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**\*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 9-12 are answered yes, a written statement must be attached to the application for license.**

9. Has the applicant or any officer been convicted of:  
 A) Felony? \_\_\_\_\_ B) Violation of Federal or State Alcohol Laws? \_\_\_\_\_ C) Criminal Offense (misdemeanor) within the last years? \_\_\_\_\_
10. Has applicant been refused any type of alcohol license or permit in any state? \_\_\_\_\_
11. Has applicant or any officer had:  
 A) A hearing before the WVABCA Commissioner? \_\_\_\_\_ B) Any type of WVABCA license or permit sanctioned? \_\_\_\_\_
12. Does the applicant, officers, directors or any blood relative own any of the following used by any retail licensee:  
 A) Real estate? \_\_\_\_\_ B) Buildings? \_\_\_\_\_ C) Equipment? \_\_\_\_\_

## Section I

Date and State Incorporated: \_\_\_\_\_

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

*\*Please include copies of corporate charter/articles, and/or organization papers along with copies of certificate of authority filed with the West Virginia Secretary of State Office; This applies to all entitles formed outside this state.*

## Section II

Name of Brewer/Importer employed by: \_\_\_\_\_

Address of employer: \_\_\_\_\_

Telephone Number (Brewer): \_\_\_\_\_

Telephone Number (Applicant): \_\_\_\_\_

E-mail of applicant: \_\_\_\_\_

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

Social Security Number: \_\_\_\_\_

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

Resident (Applicant) Address: \_\_\_\_\_

Have you ever had a license with any other licensed Brewer/Importer? If yes, name and address of such: \_\_\_\_\_

Affix Picture Here

Picture not  
required for  
renewal submissions

## Section III

County within West Virginia distributorship located: \_\_\_\_\_

Date and State your business incorporated or organized: \_\_\_\_\_

*\*Please include copies of corporate charter/articles, and/or organization papers along with copies of certificate of authority filed with the West Virginia Secretary of State Office; This applies to all entitles formed outside this state.*

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

Property owner name/address: \_\_\_\_\_

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:

1) Partnership/Limited Partnership: Must be signed by all partners; 2) Ltd. Liability Company: Must be signed by member (s); 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 \_\_\_\_\_, \_\_\_\_\_.



West Virginia Alcohol Beverage Control Administration

Brewer/Importer Bond

July 1, \_\_\_\_\_ to June 30, \_\_\_\_\_

Bond Number: \_\_\_\_\_

That we, \_\_\_\_\_, \_\_\_\_\_  
(Name of Brewer/Importer) (Address: Street, Route or P.O. Box)

\_\_\_\_\_, a corporation as principal, and  
(City) (State) (Zip Code)

\_\_\_\_\_, a corporation authorized to do business in the State of West Virginia,  
(Surety Company)

as surety, are firmly bound unto the State of West Virginia in the just and full sum of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00), to the payment whereof well and truly to be made, we bind ourselves, our successors and assigns, jointly and severally, firmly by these presents. This bond to run concurrent with the Brewer/Importer License.

WHEREAS, the condition of the above obligation is such that the above bound principal is about to obtain, in pursuance of the provisions of Chapter 11, Article 16 of the Code of West Virginia, as amended, and the Regulations promulgated by the Commissioner, a Brewer's License from the WEST VIRGINIA ALCOHOL BEVERAGE CONTROL COMMISSIONER, authorizing the principal to ship and/or sell beer, ale and other malt beverages to West Virginia licensed distributors, as provided by Chapter 11, Article 16, of the Code of West Virginia as amended, and the Regulations promulgated by the WEST VIRGINIA ALCOHOL BEVERAGE CONTROL COMMISSIONER.

NOW, THEREFORE, if the principal shall faithfully observe the State of West Virginia Nonintoxicating Beer Act and the Regulations promulgated by the WEST VIRGINIA ALCOHOL BEVERAGE CONTROL COMMISSIONER, then this obligation is void; otherwise this obligation shall remain in full force and effect, and I the license of the principal shall be revoked, then the full amount of this bond shall be forfeited to the State of West Virginia, and the full amount, when received by the State, shall be credited to the State's general revenue fund.

This bond is executed in pursuance of the provisions of said Chapter 11, Article 16 of the Code of West Virginia, as amended, and pertinent provisions of Article and Regulations promulgated by the WEST VIRGINIA ALOCHOL BEVERAGE CONTROL COMMISSIONER are made a part of this bond.

IN WITNESS WHEREOF, the principal and the surely have caused their corporate names to be signed and affixed by their officials or agents duly authorized, and this bond is dated as of \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Principal: \_\_\_\_\_  
(Name of Brewer/Importer)

By: \_\_\_\_\_  
(Signature and Title)

Embossed Corporate Seal

Surety: \_\_\_\_\_  
(Name of Surety Company)

By: \_\_\_\_\_  
(Signature and Title)

Embossed Corporate Seal

**BREWER/IMPORTER BOND**

**BREWER/IMPORTER ACKNOWLEDGEMENT (to be completed by principal)**

STATE OF: \_\_\_\_\_

*To-Wit:*

COUNTY OF: \_\_\_\_\_

I, \_\_\_\_\_ a Notary Public in and for the county and state aforesaid, do hereby certify that \_\_\_\_\_, who signed the writing hereto annexed, for \_\_\_\_\_, a \_\_\_\_\_, bearing date on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, has this day in my said county, before me, acknowledged the said writing to be the act and deed of said principal.

GIVEN under my had and official seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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

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

**CORPORATE ACKNOWLEDGEMENT (To be completed by Surety Company)**

STATE OF: \_\_\_\_\_

*To-Wit:*

COUNTY OF: \_\_\_\_\_

I, \_\_\_\_\_ a Notary Public in and for the county and state aforesaid, do hereby certify that \_\_\_\_\_, who signed the writing hereto annexed, for \_\_\_\_\_, a \_\_\_\_\_, bearing date on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, has this day in my said county, before me, acknowledged the said writing to be the act and deed of said corporation.

GIVEN under my had and official seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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

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

Approved as to sufficiency of form and manner of execution this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
By: \_\_\_\_\_

# 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 in part "Whenever the manufacturing, bottling or other reproduction rights for the sale of nonintoxicating beer at wholesale of any brewer is acquired by another brewer, the franchise 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 of the selling brewer's beer products through said franchised distributor as though the acquiring brewer had made the franchise agreement..."

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:

- Labels in duplicate (***affixed to 8 1/2 by 11 sheet***).
- Copy of BATF approval of the proposed label (all sizes).
- Certified Lab Analysis of the contents of the proposed product declaring the percentage of alcohol by volume (***may not exceed twelve percent (12%) by volume***).
- Copies of all distributor agreements or amendments to those agreements for the proposed product executed by the brewer and offered to each of the brewer's distributors within that franchise network; amendments not referencing territory assignments do not require the signature of the distributor.
- UPC Codes for each label.
- FOB prices for each label.
- Listing Presentation Sheet for each label.

# WEST VIRGINIA NON-INTOXICATING BEER LISTING PRESENTATION SHEET

Brewer/Importer: \_\_\_\_\_

WV License Number: \_\_\_\_\_

Brand Name: \_\_\_\_\_

Sizes: \_\_\_\_\_

% of Alcohol by Volume: \_\_\_\_\_

Delivery Case Cost (Including State Tax) \$ \_\_\_\_\_

UPC Code (per package) \_\_\_\_\_

Suggested Retail Price \$ \_\_\_\_\_

New Brand                       Seasonal                       Promotional

Type of Advertising that will reach the WV consumer: \_\_\_\_\_

*(ex.: print; television; radio; POS, etc...)* \_\_\_\_\_

Will Post Offs be offered on this listing? \_\_\_\_\_

Available ship date: \_\_\_\_\_

Is the product sold in any of the surrounding border states to WV, if yes, please list the states: \_\_\_\_\_

Reason for listing request:     Local Demand                       Growth Category

High Profile                       Other: \_\_\_\_\_

WV Sales Projections (first six (6) months): \_\_\_\_\_ cases

WV Sales Projections (first twelve (12) months): \_\_\_\_\_ cases

Distributors: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_