

WEST VIRGINIA MALT BEVERAGE LABEL APPROVAL POLICY

In order to effectively enforce the provisions of Chapter 11-16 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 licensed retailer. Fairness and equality are the overriding principle 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. Section 11-16-21 (a) of the West Virginia Code 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 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 is purchased by another brewer, the distributors that hold the distribution rights to the selling brewer products will continue to distribute under the existing franchise agreements entered into by the selling brewer. Also, any new products that are developed and marketed under the selling brewer's name will be assigned to the distributor that holds the distribution agreement with the selling brewer.

Section 11-16-21(a)(2) states in part "Whenever the manufacturing bottling or other reproductions 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 brewing had made the franchise agreement..."

The approval of new labels by the Commissioner is a mechanism by which the West Virginia Alcohol Beverage Control Commissioner can enforce the franchise 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 West Virginia Alcohol Beverage Control Administration determine the brewer's compliance with provisions of 11-16-21 of the Code of West Virginia:

- Labels in duplicate (affixed to 8 ½ x 11).
- Copy of TTB approval of the proposed label.
- Certified Lab Analysis of the contents of the proposed product, which included the percentage of alcohol by weight and volume. The legal limit in West Virginia is 4.2% by weight and 12.0% by volume.
- Copies of all distributor agreements or amendments to the distributor agreements for the proposed product executed by the brewer and offered to each of the brewer's distributors via certified mail; amendments not referencing territory assignments require only the signature of the brewery.
- 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: _____

WV Representative: _____

License Number: _____

Brand Name: _____

Sizes: _____

% of Alcohol by Volume: _____

Delivery Case Cost (Including State Tax) \$ _____

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: _____

