

H. B. 4549

(By Delegates Manchin, Moore, Eldridge and Skaff)

(By Request of the Alcohol Beverage Control
Commissioner)

[Introduced February 14, 2014; referred to the
Committee on the Judiciary.]

A BILL to amend and reenact §11-16-3 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §11-16-17a; and to amend and reenact §11-16-20 and §11-16-21 of said code, all relating to clarifying the regulation of nonintoxicating beer brewers and distributors, agreements, networks, products, brands and extensions of a line of brands; permitting the commissioner to investigate, review and approve or deny franchise agreements, labels, brands and line extensions; providing hearings; extending certain dates; establishing nonintoxicating beer, resident brewers, distributors, franchise distributor networks and line extensions standards; defining terms; providing sanctions; and authorizing rule-making.

Be it enacted by the Legislature of West Virginia:

That §11-16-3 of the Code of West Virginia, 1931, as amended,

1 be amended and reenacted; that said code be amended by adding
2 thereto a new section, designated §11-16-17a; and that §11-16-20
3 and §11-16-21 of said code be amended and reenacted, all to read as
4 follows:

5 **ARTICLE 16. NONINTOXICATING BEER.**

6 **§11-16-3. Definitions.**

7 For the purpose of this article, except where the context
8 clearly requires differently:

9 "Brand" means a nonintoxicating beer product manufactured,
10 brewed, mixed, concocted, blended, bottled or otherwise produced or
11 imported or transhipped from another country by a brewer or
12 manufacturer, and the nonintoxicating beer product and its labels
13 have been registered and approved by the commissioner with the
14 nonintoxicating beer product being offered for sale or sold in West
15 Virginia by a distributor who has been appointed in a valid
16 franchise agreement or a valid amendment to a franchise agreement.

17 ~~(1) "Brewer" or "manufacturer" means any person firm,~~
18 ~~association, partnership or corporation manufacturing, brewing,~~
19 ~~mixing, concocting, blending, bottling or otherwise producing or~~
20 ~~importing or transshipping from a foreign country nonintoxicating~~
21 ~~beer or nonintoxicating craft beer for sale at wholesale to any~~
22 ~~licensed distributor. Brewer or manufacturer may be used~~
23 ~~interchangeably throughout this article. A brewer may obtain only~~
24 ~~one brewer's license for its nonintoxicating beer or~~

1 nonintoxicating craft beer.

2 ~~(2)~~ "Brewpub" means a place of manufacture of nonintoxicating
3 beer owned by a resident brewer, subject to federal and state
4 regulations and guidelines, a portion of which premises are
5 designated for retail sales of nonintoxicating beer or
6 nonintoxicating craft beer by the resident brewer owning the
7 brewpub.

8 ~~(3)~~ "Class A retail license" means a retail license permitting
9 the retail sale of liquor at a freestanding liquor retail outlet
10 licensed pursuant to chapter sixty of this code.

11 ~~(4)~~ "Commissioner" means the West Virginia Alcohol Beverage
12 Control Commissioner.

13 ~~(5)~~ "Distributor" means and includes any person jobbing or
14 distributing nonintoxicating beer or nonintoxicating craft beer to
15 retailers at wholesale and whose warehouse and chief place of
16 business shall be within this state. For purposes of a distributor
17 only, the term "person" means and includes an individual, firm,
18 trust, partnership, limited partnership, limited liability company,
19 association or corporation. Any trust licensed as a distributor or
20 any trust that is an owner of a distributor licensee, and the
21 trustee or other persons in active control of the activities of the
22 trust relating to the distributor license, is liable for acts of
23 the trust or its beneficiaries relating to the distributor license
24 that are unlawful acts or violations of article eleven of this

1 chapter notwithstanding the liability of trustees in article ten,
2 chapter forty-four-d of this code.

3 "Franchise agreement" means the written agreement between a
4 brewer and a distributor that is identical as to terms and
5 conditions between the brewer and all its distributors, all of
6 which as approved by the commissioner. The franchise agreement
7 binds the parties so that a distributor, appointed by a brewer, may
8 distribute all of the brewer's nonintoxicating beer products,
9 brands or family of brands imported and offered for sale in West
10 Virginia, including, but not limited to, existing brands, line
11 extensions and new brands all in the brewer's assigned territory
12 for the distributor. All brands and line extensions being imported
13 or offered for sale in West Virginia must be listed by the brewer
14 in the franchise agreement or a written amendment to the franchise
15 agreement. A franchise agreement may be amended by mutual written
16 agreement of the parties as approved by the commissioner with
17 identical terms and conditions for a brewer and all of its
18 distributors. Any approved amendment to the franchise agreement
19 becomes a part of the franchise agreement. A brewer and a
20 distributor may mutually agree in writing to cancel a franchise
21 agreement. A distributor terminated by a brewer as provided in
22 this article and the promulgated rules no longer has a valid
23 franchise agreement. If a brewer has reached an agreement to cancel
24 a distributor or has terminated a distributor, then a brewer may

1 appoint a successor distributor who accedes to all the rights of
2 the cancelled or terminated distributor.

3 "Franchise distributor network" means the distributors who
4 have entered into a binding written franchise agreement, identical
5 as to terms and conditions, to distribute nonintoxicating beer
6 products, brands and line extensions in an assigned territory for
7 a brewer. A brewer may only have one franchise distributor network,
8 unless the brewer acquired the manufacturing, bottling or other
9 production rights for the sale of nonintoxicating beer at wholesale
10 from a selling brewer as specified in subdivision (2), subsection
11 (a), section twenty-one of this article then the brewer shall
12 continue to maintain and be bound by the selling brewer's separate
13 franchise distributor's network for any of its existing brands,
14 line extensions and new brands.

15 ~~(6)~~ "Freestanding liquor retail outlet" means a retail outlet
16 that sells only liquor, beer, nonintoxicating beer and other
17 alcohol-related products, as defined pursuant to section four,
18 article three-a, chapter sixty of this code.

19 ~~(7)~~ "Growler" means a glass ceramic or metal container or jug,
20 capable of being securely sealed, utilized by a brewpub for
21 purposes of off-premise sales of nonintoxicating beer or
22 nonintoxicating craft beer for personal consumption not on a
23 licensed premise and not for resale.

24 "Line extension" means any nonintoxicating beer product that

1 is an extension of brand or family of brands that is labeled,
2 branded, advertised, marketed, promoted or offered for sale with
3 the intent or purpose of being manufactured, imported, associated,
4 contracted, affiliated or otherwise related to a brewer's existing
5 brand through the use of a brewer, its subsidiaries, parent
6 entities, contracted entities, affiliated entities or other
7 related entities': name or partial name; trade name or partial
8 trade name; logos, copyrights, trademarks or trade design; product
9 codes; advertising; promotion; or pricing.

10 ~~(8)~~ "Nonintoxicating beer" means all natural cereal malt
11 beverages or products of the brewing industry commonly referred to
12 as beer, lager beer, ale and all other mixtures and preparations
13 produced by the brewing industry, including malt coolers and
14 nonintoxicating craft beers with no caffeine infusion or any
15 additives masking or altering the alcohol effect containing at
16 least one half of one percent alcohol by volume, but not more than
17 nine and six-tenths of alcohol by weight, or twelve percent by
18 volume, whichever is greater. The word "liquor" as used in chapter
19 sixty of this code does not include or embrace nonintoxicating beer
20 nor any of the beverages, products, mixtures or preparations
21 included within this definition.

22 ~~(9)~~ "Nonintoxicating beer sampling event" means an event
23 approved by the commissioner for a Class A retail Licensee to hold
24 a nonintoxicating beer sampling authorized pursuant to section

1 eleven-a of this article.

2 ~~(10)~~ "Nonintoxicating beer sampling day" means any days and
3 hours of the week where Class A retail licensees may sell
4 nonintoxicating beer pursuant to ~~sub-section (a)(1)~~ subdivision
5 (1), subsection (a), section eighteen of this article, and is
6 approved, in writing, by the commissioner to conduct a
7 nonintoxicating beer sampling event.

8 ~~(11)~~ "Nonintoxicating craft beer" means any beverage obtained
9 by the natural fermentation of barley, malt, hops or any other
10 similar product or substitute and containing not less than one half
11 of one percent by volume and not more than twelve percent alcohol
12 by volume or nine and six-tenths percent alcohol by weight with no
13 caffeine infusion or any additives masking or altering the alcohol
14 effect.

15 ~~(12)~~ "Original container" means the container used by the
16 brewer at the place of manufacturing, bottling or otherwise
17 producing nonintoxicating beer for sale at wholesale.

18 ~~(13)~~ "Person" means and includes an individual, firm,
19 partnership, limited partnership, limited liability company,
20 association or corporation.

21 ~~(14)~~ "Resident brewer" means any brewer or manufacturer of
22 nonintoxicating beer or nonintoxicating craft beer whose principal
23 place of business and manufacture is located in the State of West
24 Virginia and which does not brew or manufacture more than 25,000

1 barrels of nonintoxicating beer or nonintoxicating craft beer
2 annually, and does not self-distribute more than 10,000 barrels
3 thereof in the State of West Virginia annually.

4 ~~(15)~~ "Retailer" means any person selling, serving, or
5 otherwise dispensing nonintoxicating beer and all products
6 regulated by this article, including, but not limited to, malt
7 coolers at his or her established and licensed place of business.

8 ~~(16)~~ "Tax Commissioner" means the Tax Commissioner of the
9 State of West Virginia or the commissioner's designee.

10 **§11-16-17a. Commissioner to investigate, review and approve or**
11 **deny franchise agreements, labels, brands and line**
12 **extensions.**

13 (a) The commissioner shall investigate and review:

14 (1) All franchise agreements and any amendments to a franchise
15 agreement to verify compliance with this article and the
16 promulgated rules.

17 (2) The registration of all container labels for brands
18 manufactured, imported or sold in West Virginia.

19 (3) The registration of all brands and line extensions with
20 the commissioner which are the subject of a franchise agreement or
21 an amendment to a franchise agreement.

22 (4) The appointment of all brands or line extensions to a
23 distributor in a brewer's established franchise distributor network
24 and to that distributor's assigned territory from the brewer.

1 (5) The appointment of all brands or line extensions acquired
2 by a brewer as either an acquiring brewer, successor brewer and
3 also any successor entities of a brewer, as specified in
4 subdivision (3), subsection (a), section twenty-one of this
5 article, to the distributor in the selling brewer's established
6 franchise distributor network and to that distributor's assigned
7 territory.

8 (b) The commissioner's investigation and review under
9 subsection (a) of this section may include, but is not limited to:
10 the brewer, its subsidiaries, parent entities, contracted entities,
11 affiliated entities, associated entities or any other related
12 entities, the brewer's corporate structure, the nature of the
13 relatedness of various entities, ownership, trade names or partial
14 trade names, logos, copyrights, trademarks or trade design, product
15 codes, marketing and advertising, promotion or pricing.

16 (c) The commissioner may approve or deny any item listed in
17 subsection (a) of this section as determined by the commissioner in
18 accordance with this article sixteen, the promulgated rules and as
19 the facts and circumstances dictate.

20 (d) Any brewer adversely affected by a denial as specified in
21 subdivisions (3) or (4), subsection (a) of this section, may
22 request, in writing, a final written determination from the
23 commissioner.

24 (e) Upon receipt of final determination as provided in

1 subsection (d), a brewer may request an administrative hearing by
2 filing a written petition and as otherwise required per section
3 twenty-four of this article and the rules promulgated by the
4 commissioner. Upon filing a written petition, the brewer shall file
5 a \$1,000 hearing deposit, via certified check or money order, to
6 cover the costs of the hearing. Such certified check or money order
7 shall be made payable to the commissioner. In any such hearing held
8 by the request of a brewer, the burden of proof is on the brewer
9 and the standard of review for the administrative hearing is by a
10 preponderance of the evidence.

11 **§11-16-20. Unlawful acts of brewers or manufacturers; criminal**
12 **penalties.**

13 (a) It ~~shall be~~ is unlawful:

14 (1) For any brewer or manufacturer, or any other person, firm
15 or corporation engaging in the business of selling nonintoxicating
16 beer, ale or other malt beverage or cooler to a distributor or
17 wholesaler, to discriminate in price, allowance, rebate, refund,
18 commission, discount or service between distributors or wholesalers
19 licensed in West Virginia. "Discriminate," as used in this
20 section, shall mean granting of more favorable prices, allowances,
21 rebates, refunds, commissions, discounts or services to one West
22 Virginia distributor or wholesaler than to another.

23 (2) For any brewer or manufacturer, or any other person, firm
24 or corporation engaged in the business of selling nonintoxicating

1 beer, ale or other malt beverage or malt cooler to a distributor or
2 wholesaler, to sell or deliver nonintoxicating beer, ale or other
3 malt beverage or malt cooler to any licensed distributor or
4 wholesaler unless and until such brewer, manufacturer, person, firm
5 or corporation, as the case may be, shall have filed the brewery or
6 dock price of such beer, ale or other malt beverage or malt cooler,
7 by brands and container sizes, with the commissioner. The pricing
8 submitted to the commissioner shall also be submitted
9 contemporaneously to the licensed distributor or wholesaler. No
10 price schedule shall be put into effect until ~~fourteen~~ ninety days
11 after receipt of same by the commissioner and shall be submitted on
12 or before the following quarterly dates of January 1, April 1, July
13 1 and October 1 of the calendar year to be effective: *Provided,*
14 That any price ~~reductions~~ shall remain in effect not less than
15 ~~thirty~~ ninety days.

16 (3) For any brewer or manufacturer, resident brewer or any
17 other person, firm or corporation engaged in the business of
18 selling nonintoxicating beer, ale or other malt beverage or malt
19 cooler to a distributor or wholesaler to sell, offer for sale or
20 transport to West Virginia any nonintoxicating beer, ale or other
21 malt beverage or malt cooler unless it has first registered its
22 labels and assigned to the appropriate distributor per an equitable
23 franchise agreement, all as approved by the commissioner.

24 (4) For any brewer or manufacturer, or any other person, firm

1 or corporation engaged in the business of selling nonintoxicating
2 beer, ale or other malt beverage or malt cooler to provide,
3 furnish, transport or sell its nonintoxicating beer products,
4 brands and line extensions to any person or distributor other than
5 the appointed distributor per the franchise agreement and
6 established in the franchise distributor network in the territory
7 assigned to that appointed distributor.

8 (5) For any brewer or manufacturer, or any other person, firm
9 or corporation engaged in the business of selling nonintoxicating
10 beer, ale or other malt beverage or malt cooler to provide,
11 furnish, transport or sell its nonintoxicating beer products,
12 brands and line extensions that have been denied by the
13 commissioner.

14 (6) For any resident brewer that chooses to utilize a
15 franchise agreement and a franchise distributor network, either in
16 addition to or in conjunction with its limited quantity of
17 nonintoxicating beer for self-distribution, to violate this section
18 and the resident brewer is subject to the sanctions in subsections
19 (b) and (c) of this section.

20 (b) The violation of any provision of this section by any
21 brewer or manufacturer shall constitute grounds for the forfeiture
22 of the bond furnished by such brewer or manufacturer in accordance
23 with the provisions of section twelve of this article.

24 (c) The violation of this section by any brewer or

1 manufacturer is grounds for sanctions as determined by the
2 commissioner in accordance with sections twenty-three and twenty-
3 four of this article and the rules promulgated by the commissioner.

4 (d) Any resident brewer that chooses to utilize a franchise
5 agreement and a franchise distributor network, either in addition
6 to or in conjunction with its limited quantity of nonintoxicating
7 beer for self-distribution, shall be treated as a brewer under this
8 article and the applicable promulgated rules.

9 **§11-16-21. Requirements as to franchise agreements between**
10 **brewers and distributors; transfer of franchise by**
11 **distributor; franchise distributor network; notice**
12 **thereof to brewer; arbitration of disputes as to**
13 **such transfer; violations and penalties; limitation**
14 **of section.**

15 (a) On and after July 1, 1971, it shall be unlawful for any
16 brewer to transfer or deliver to a distributor any nonintoxicating
17 beer, ale or other malt beverage or malt cooler without first
18 having entered into an equitable franchise agreement with such
19 distributor, which franchise agreement and any amendments to that
20 agreement shall be in writing, shall be identical as to terms and
21 conditions with all other franchise agreements and any amendments
22 between such brewer and its other distributors in this state in its
23 approved franchise distributor network, all as approved by the

1 commissioner and which shall contain a provision in substance or
2 effect as follows:

3 (1) The brewer recognizes that the distributor is free to
4 manage his or her business in the manner the distributor deems best
5 and that this prerogative vests in the distributor, subject to the
6 provisions of this article, the exclusive right: ~~to~~ (A) To
7 establish his or her selling prices; (B) to ~~select~~ have the
8 distribution rights to the brands and line extensions of
9 nonintoxicating beer products that are bound by franchise
10 agreements specifying a distributor's assigned territory and which
11 are assigned to a franchise distributor network, and, further, that
12 the distributor may determine which brands and line extensions of
13 nonintoxicating beer products he or she wishes to handle; and (C)
14 to determine the efforts and resources which the distributor will
15 exert to develop and promote the sale of the brewer's
16 nonintoxicating beer products handled by the distributor. However,
17 since the ~~brewer does not expect that its products~~ brewer's
18 nonintoxicating beer products, brands and line extensions shall
19 only be handled by the distributor with a franchise agreement for
20 a certain territory in West Virginia as a part of the brewer's
21 overall franchise distributor network in West Virginia and will not
22 be sold by ~~others~~ other distributors in the territory, ~~assigned to~~
23 the distributor, the brewer is dependent upon the appointed
24 distributor alone for the sale of such products in ~~said~~ the

1 assigned territory. Consequently, the brewer expects that the
2 distributor will price competitively the nonintoxicating beer
3 products handled by the distributor, devote reasonable effort and
4 resources to the sale of such products and maintain a satisfactory
5 sales level.

6 (2) The franchise agreement binds the parties so that a
7 distributor, appointed by a brewer, may distribute all of the
8 brewer's nonintoxicating beer products, brands or family of brands
9 imported and offered for sale in West Virginia, including, but not
10 limited to: existing brands, line extensions and new brands in the
11 brewer's assigned territory for the distributor. All brands and
12 line extensions being imported or offered for sale in West Virginia
13 must be listed by the brewer in the franchise agreement or a
14 written amendment to the franchise agreement. A franchise agreement
15 may be amended by mutual written agreement of the parties as
16 approved by the commissioner with identical terms and conditions
17 for a brewer and all of its distributors. Any approved amendment to
18 the franchise agreement becomes a part of the franchise agreement.

19 ~~(2)~~ (3) Whenever the manufacturing, bottling or other
20 production rights for the sale of nonintoxicating beer at wholesale
21 of any brewer is acquired by another brewer, the franchised
22 distributor and franchise distributor network of the selling brewer
23 shall be entitled to continue distributing the selling brewer's
24 nonintoxicating beer products as authorized in the franchised

1 distributor's existing franchise agreement and the acquiring brewer
2 shall market all the selling brewer's nonintoxicating beer products
3 through said franchised distributor and franchise distributor
4 network as though the acquiring brewer had made the franchise
5 agreement and the acquiring brewer may terminate said franchise
6 agreement only in accordance with subdivision (2), subsection (b)
7 of this section: *Provided*, That the acquiring brewer may
8 distribute any of its other nonintoxicating beer products through
9 its duly authorized franchises and franchise distributor network in
10 accordance with all other provisions of this section. Further, this
11 subdivision shall apply to the brewer, successor brewers and also
12 any successor entities of a brewer who shall be bound by the
13 existing franchise agreement and the franchise distributor network,
14 unless all the parties mutually agree, in writing, to change or
15 cancel the existing franchise agreement and franchise distributor
16 network or unless the brewer terminates a distributor as provided
17 in this article and the promulgated rules.

18 (b) It shall also be unlawful:

19 (1) For any brewer, ~~or brewpub~~ resident brewer or distributor,
20 or any officer, agent or representative of any brewer, ~~or brewpub~~
21 resident brewer or distributor, to coerce or persuade or attempt to
22 coerce or persuade any person licensed to sell, distribute or job
23 nonintoxicating beer, ale or other malt beverage or malt cooler at
24 wholesale or retail, to enter into any contracts or agreements,

1 whether written or oral, or to take any other action which will
2 violate or tend to violate any provision of this article or any of
3 the rules, regulations, standards, requirements or orders of the
4 commissioner promulgated as provided in this section;

5 (2) For any brewer, ~~or brewpub~~ resident brewer or distributor,
6 or any officer, agent or representative of any brewer, ~~or brewpub~~
7 resident brewer or distributor, to cancel, terminate or rescind
8 without due regard for the equities of such brewer, ~~or brewpub~~
9 resident brewer or distributor and without just cause, any
10 franchise agreement, whether oral or written, and in the case of an
11 oral franchise agreement, whether the same was entered into on or
12 before June 11, 1971, and in the case of a franchise agreement in
13 writing, whether the same was entered into on, before or subsequent
14 to July 1, 1971. The cancellation, termination or rescission of
15 any such franchise agreement shall not become effective for at
16 least ninety days after written notice of such cancellation,
17 termination or rescission has been served on the affected party and
18 the Commissioner by certified mail, return receipt requested:
19 *Provided*, That said ninety-day period and said notice of
20 cancellation, termination or rescission shall not apply if such
21 cancellation, termination or rescission is agreed to in writing by
22 both the brewer and the distributor involved. ~~or~~

23 (c) In the event a distributor desires to sell or transfer his
24 or her franchise and assigned territory in the brewer or resident

1 brewer's franchise distributor network, such distributor shall give
2 to the brewer, or ~~brewpub~~ resident brewer at least sixty days'
3 notice in writing of such impending sale or transfer and the
4 identity of the person, firm or corporation to whom such sale or
5 transfer is to be made and such other information as the brewer or
6 resident brewer may reasonably request. Such notice shall be made
7 upon forms and contain such additional information as the
8 Commissioner by rule or regulation shall prescribe. A copy of such
9 notice shall be forwarded to the commissioner. The brewer or
10 ~~brewpub~~ resident brewer shall be given sixty days to approve or
11 disapprove of such sale or transfer. If the brewer or ~~brewpub~~
12 resident brewer neither approves nor disapproves thereof within
13 sixty days of the date of receipt of such notice, the sale or
14 transfer of such franchise shall be deemed to be approved by such
15 brewer or resident brewer. In the event the brewer or ~~brewpub~~
16 resident brewer shall disapprove of the sale or transfer to the
17 prospective franchisee, transferee or purchaser, such brewer or
18 ~~brewpub~~ resident brewer shall give notice to the distributor of
19 that fact in writing, setting forth the reason or reasons for such
20 disapproval. The approval shall not be unreasonably withheld by
21 the brewer or ~~brewpub~~ resident brewer. The fact that the
22 prospective franchisee, transferee or purchaser has not had prior
23 experience in the nonintoxicating beer business or beer business
24 shall not be deemed sufficient reason in and of itself for a valid

1 disapproval of the proposed sale or transfer, but may be considered
2 in conjunction with other adverse factors in supporting the
3 position of the brewer or ~~brewpub~~ resident brewer. Nor may the
4 brewer or ~~brewpub~~ resident brewer impose requirements upon the
5 prospective franchisee, transferee or purchaser which are more
6 stringent or restrictive than those currently demanded of or
7 imposed upon the ~~brewer's~~ brewer or ~~brewpub's~~ resident brewers or
8 other distributors in the State of West Virginia. A copy of such
9 notice of disapproval shall likewise be forwarded to the
10 commissioner and to the prospective franchisee, transferee or
11 purchaser. In the event the issue be not resolved within twenty
12 days from the date of such disapproval, either the brewer, ~~brewpub~~
13 resident brewer, distributor or prospective franchisee, transferee
14 or purchaser shall notify the other parties of his or her demand
15 for arbitration and shall likewise notify the commissioner thereof.
16 A dispute or disagreement shall thereupon be submitted to
17 arbitration in the county in which the distributor's principal
18 place of business is located by a board of three arbitrators, which
19 request for arbitration shall name one arbitrator. The party
20 receiving such notice shall within ten days thereafter by notice to
21 the party demanding arbitration name the second arbitrator or,
22 failing to do so, the second arbitrator shall be appointed by the
23 chief judge of the circuit court of the county in which the
24 distributor's principal place of business is located on request of

1 the party requesting arbitration in the first instance. The two
2 arbitrators so appointed shall name the third or, failing to do so
3 within ten days after appointment of the second arbitrator, the
4 third arbitrator may be appointed by said chief judge upon request
5 of either party. The arbitrators so appointed shall promptly hear
6 and determine and the questions submitted pursuant to the
7 procedures established by the American Arbitration Association and
8 shall render their decision with all reasonable speed and dispatch
9 but in no event later than twenty days after the conclusion of
10 evidence. Said decision shall include findings of fact and
11 conclusions of law and shall be based upon the justice and equity
12 of the matter. Each party shall be given notice of such decision.
13 If the decision of the arbitrators be in favor of or in approval of
14 the proposed sale or transfer, the brewer or ~~brewpub~~ resident
15 brewer shall forthwith agree to the same and shall immediately
16 transfer the franchise to the proposed franchisee, transferee or
17 purchaser unless notice of intent to appeal such decision is given
18 the arbitrators and all other parties within ten days of
19 notification of such decision. If any such party deems himself or
20 herself aggrieved thereby, such party shall have a right to bring
21 an appropriate action in circuit court. Any and all notices given
22 pursuant to this subsection shall be given to all parties by
23 certified or registered mail, return receipt requested.

24 (d) The violation of any provision of this section by any

1 brewer or ~~brewpub~~ resident brewer shall constitute grounds for the
2 forfeiture of the bond furnished by such brewer or ~~brewpub~~ resident
3 brewer in accordance with the provisions of section twelve of this
4 article and shall also constitute grounds for sanctions in
5 accordance with sections twenty-three and twenty-four of this
6 article. Moreover, any circuit court of the county in which a
7 distributor's principal place of business is located shall have the
8 jurisdiction and power to enjoin the cancellation, termination or
9 rescission of any franchise agreement between a brewer or ~~brewpub~~
10 resident brewer and such distributor and, in granting an injunction
11 to a distributor, the court shall provide that the brewer or
12 ~~brewpub~~ resident brewer so enjoined shall not supply the customers
13 or territory of the distributor while the injunction is in effect.

NOTE: The purpose of this bill is to clarify the regulation of nonintoxicating beer brewers and distributors, agreements, networks, products, brands and extensions of a line of brands. The bill permits the commissioner to investigate, review and approve or deny franchise agreements, labels, brands and line extensions. The bill provides hearings. The bill extends certain dates. The bill establishes nonintoxicating beer, resident brewers, distributors, franchise distributor networks and line extensions standards. The bill defines terms. The bill provides sanctions. The bill authorizes rule-making.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§11-16-17a is new; therefore, it has been completely underscored.