A BILL to amend and reenact §11-16-3, §11-16-6, §11-16-9 and §11-16-12 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §11-16-6a and §11-16-6b, all relating to brewer, resident brewer and brewpub licensing and operations; clarifying
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definitions; providing legislative findings; authorizing licensed brewers and resident brewers to offer complimentary nonintoxicating beer and nonintoxicating craft beer samples; authorizing licensed brewers and resident brewers to sell growlers with limitations; authorizing licensed brewpubs, Class A retail dealers, Class B retail dealers, private clubs, Class A retail licensees and Class B retail licensees to sell growlers with limitations; clarifying licensing and operational requirements for brewers, resident brewers and brewpubs; changing the license fee schedule for certain brewers and resident brewers; decreasing the license fee for brewpubs; requiring brewers and resident brewers to submit annual reports of production; and removing brewpub bonding requirements.
Be it enacted by the Legislature of West Virginia:

That §11-16-3, §11-16-6, §11-16-9 and §11-16-12 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto two new sections, designated §11-16-6a and §11-16-6b, all to read as follows:

ARTICLE 16. NONINTOXICATING BEER.

§11-16-3. Definitions.

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

(1) "Brand" means a nonintoxicating beer product manufactured, brewed, mixed, concocted, blended, bottled or otherwise produced, or imported or transhipped by a brewer or manufacturer, the labels of which have been registered and approved by the commissioner that is being offered for sale or sold in West Virginia by a distributor who has been
appointed in a valid franchise agreement or a valid amendment thereto.

(2) "Brewer" or "manufacturer" means any person manufacturing, otherwise producing or importing or transshipping nonintoxicating beer or nonintoxicating craft beer for sale at wholesale to any licensed distributor. Brewer or manufacturer may be used interchangeably throughout this article. A brewer may obtain only one brewer's license for its nonintoxicating beer or nonintoxicating craft beer.

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

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

(5) "Class B retail license" means a retail license
permitting the retail sale of liquor at a mixed retail liquor
outlet licensed pursuant to chapter sixty of this code.

(6) (7) "Commissioner" means the West Virginia
Alcohol Beverage Control Commissioner.

(7) (8) "Distributor" means and includes any person
jobbing or distributing nonintoxicating beer or
nonintoxicating craft beer to retailers at wholesale and whose
warehouse and chief place of business shall be within this
state. For purposes of a distributor only, the term "person"
means and includes an individual, firm, trust, partnership,
limited partnership, limited liability company, association or
corporation. Any trust licensed as a distributor or any trust
that is an owner of a distributor licensee, and the trustee or
other persons in active control of the activities of the trust
relating to the distributor license, is liable for acts of the trust
or its beneficiaries relating to the distributor license that are
unlawful acts or violations of article eleven of this chapter
notwithstanding the liability of trustees in article ten, chapter
forty-four-d of this code.

(7) (8) "Franchise agreement" means the written
agreement between a brewer and a distributor that is identical
as to terms and conditions between the brewer and all its
distributors, which agreement has been approved by the
commissioner. The franchise agreement binds the parties so
that a distributor, appointed by a brewer, may distribute all of
the brewer's nonintoxicating beer products, brands or family
of brands imported and offered for sale in West Virginia,
including, but not limited to, existing brands, line extensions
and new brands all in the brewer's assigned territory for the
distributor. All brands and line extensions being imported or
offered for sale in West Virginia must be listed by the brewer
in the franchise agreement or a written amendment to the
franchise agreement. A franchise agreement may be amended
by mutual written agreement of the parties as approved by the
commissioner with identical terms and conditions for a
brewer and all of its distributors. Any approved amendment
to the franchise agreement becomes a part of the franchise
agreement. A brewer and a distributor may mutually agree in
writing to cancel a franchise agreement. A distributor
terminated by a brewer as provided in this article and the
promulgated rules no longer has a valid franchise agreement.
If a brewer has reached an agreement to cancel a distributor
or has terminated a distributor, then a brewer may appoint a
successor distributor who accedes to all the rights of the
cancelled or terminated distributor.
(8) "Franchise distributor network" means the distributors who have entered into a binding written franchise agreement, identical as to terms and conditions, to distribute nonintoxicating beer products, brands and line extensions in an assigned territory for a brewer. A brewer may only have one franchise distributor network: Provided, That a brewer that has acquired the manufacturing, bottling or other production rights for the sale of nonintoxicating beer at wholesale from a selling brewer as specified in subdivision (2), subsection (a), section twenty-one of this article shall continue to maintain and be bound by the selling brewer's separate franchise distributor's network for any of its existing brands, line extensions and new brands.

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

"Growler" means a container or jug that is made of glass, ceramic, or metal container or jug or other material approved by the commissioner, that may be up to one hundred twenty-eight ounces or a gallon in size and must be capable of being securely sealed. The growler is utilized by a brewpub an authorized licensee for purposes of off-premise sales only of nonintoxicating beer or nonintoxicating craft beer for personal consumption not on a licensed premise and not for resale. Notwithstanding any other provision of this code to the contrary, a securely sealed growler is not an open container under federal, state and local law. A growler with a broken seal is an open container under federal, state and local law unless it is located in a region of the motor vehicle physically separated from the passenger compartment. The secure sealing of a growler requires the use of a tamper-
resistant seal, security tape or other material, as approved by
the commissioner, placed on or over the growler’s opening,
which seal, security tape or other material is clearly marked
with the date of the secure sealing.

(11) "Line extension" means any nonintoxicating beer product that is an extension of brand or family of brands that is labeled, branded, advertised, marketed, promoted or offered for sale with the intent or purpose of being manufactured, imported, associated, contracted, affiliated or otherwise related to a brewer's existing brand through the use of a brewer, its subsidiaries, parent entities, contracted entities, affiliated entities or other related entities. In determining whether a nonintoxicating beer product is a line extension, the commissioner may consider, but is not limited to, the following factors: name or partial name; trade name or partial trade name; logos; copyrights; trademarks or trade
(12) "Nonintoxicating beer" means all natural cereal malt beverages or products of the brewing industry commonly referred to as beer, lager beer, ale and all other mixtures and preparations produced by the brewing industry, including malt coolers and nonintoxicating craft beers with no caffeine infusion or any additives masking or altering the alcohol effect containing at least one half of one percent alcohol by volume, but not more than nine and six-tenths of alcohol by weight, or twelve percent by volume, whichever is greater. The word "liquor" as used in chapter sixty of this code does not include or embrace nonintoxicating beer nor any of the beverages, products, mixtures or preparations included within this definition.

(13) "Nonintoxicating beer sampling event" means an event approved by the commissioner for a Class A
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retail Licensee to hold a nonintoxicating beer sampling
authorized pursuant to section eleven-a of this article.

(14) (15) "Nonintoxicating beer sampling day" means
any days and hours of the week where Class A retail licensees
may sell nonintoxicating beer pursuant to section eleven-a
and subdivision (1), subsection (a), section eighteen of this
article, and is approved, in writing, by the commissioner to
conduct a nonintoxicating beer sampling event.

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

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

(17) "Person" means and includes an individual, firm, partnership, limited partnership, limited liability company, association or corporation.

(19) “Private club” means a license issued pursuant to article seven, chapter sixty of this code.

(18) "Resident brewer" means any brewer or manufacturer of nonintoxicating beer or nonintoxicating craft beer whose principal place of business and manufacture is located in the State of West Virginia and which does not brew or manufacture more than twenty-five thousand barrels of nonintoxicating beer or nonintoxicating craft beer annually, and does not self-distribute more than ten thousand barrels.
thereof in the State of West Virginia annually.

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

(20) (22) "Tax Commissioner" means the Tax Commissioner of the State of West Virginia or the commissioner's designee.

§11-16-6. License in one capacity only; no connection
between different licensees; when brewer may act as distributor; credit and rebates proscribed; brewer, resident brewer and brewpub requirements.

(a) No person shall be licensed in more than one capacity under the terms of this article, and there shall be no
connection whatsoever between any retailer, distributor, resident brewer or brewer, and no person shall be interested directly or indirectly through the ownership of corporate stock, membership in a partnership, or in any other way in the business of a retailer, if such person is at the same time interested in the business of a brewer, resident brewer or distributor. A resident brewer may act as distributor in a limited capacity for his or her own product from such resident brewery, place of manufacture or bottling, but a resident brewer is not permitted to act as a distributor as defined in section three of this article: Provided, That nothing in this article may prevent a resident brewer from using the services of licensed distributors as specified in this article. A resident brewer or distributor may sell to a consumer patron for personal use and not for resale, quantities of draught beer in quantities of one-eighth, one-fourth and in original
containers that are no larger in size than one-half barrels in
the original containers barrel for off-premises consumption.
A resident brewer owning who also has a brewpub license
may sell nonintoxicating beer or nonintoxicating craft beer
produced by the brewpub resident brewer in a sealed growler
cans, or bottles or sealed growlers, pursuant to section six-b
of this article, for personal consumption off of the
brewpub’s licensed premises and not for resale.
(b) It is unlawful for any brewer, resident brewer,
manufacturer or distributor to assist any retailer or for any
retailer to accept assistance from any brewer, manufacturer or
distributor, accept any gifts, or loans, or forebearance of
money or property of any kind, nature or description, or other
thing of value, or by the giving of any rebates or
discOUNTS of any kind whatsoever, except as may be permitted
by rule, regulation or order promulgated by the commissioner
in accordance with this article.

(c) Notwithstanding paragraphs subsections (a) and (b) above of this section, a brewpub may offer for retail sale nonintoxicating beer or nonintoxicating craft beer so long as the sale of the nonintoxicating beer or nonintoxicating craft beer is limited to the brewpub’s licensed premises, except for up to two growlers per customer for personal consumption off of a licensed premises and not for resale as provided in section six-b of this article.

§11-16-6a. Brewer and resident brewer license to manufacture, sell and provide complimentary samples.

(a) Legislative findings. -- The Legislature hereby finds that it is in the public interest to regulate, control and support the brewing, manufacturing, distribution, sale, consumption, transportation and storage of nonintoxicating
beer and nonintoxicating craft beer, and its industry in this
state in order to protect the public health, welfare and safety
of the citizens of this state, and promote hospitality and
tourism. Therefore, this section authorizes a licensed brewer
or resident brewer with its principal place of business and
manufacture located in this state to have certain abilities in
order to promote the sale of nonintoxicating beer and
nonintoxicating craft beer manufactured in this state for the
benefit of the citizens of this state, the state’s growing
brewing industry and the state’s hospitality and tourism
industry, all of which are vital components for the state’s
economy.

(b) Sales of nonintoxicating beer. -- A licensed brewer
or resident brewer with its principal place of business and
manufacture located in the State of West Virginia may offer
only nonintoxicating beer or nonintoxicating craft beer
manufactured by the licensed brewer or resident brewer for retail sale to customers from the brewer’s or resident brewer’s licensed premises for consumption off the licensed premises only in the form of kegs, bottles, cans or growlers for personal consumption and not for resale. A licensed brewer or resident brewer may not sell, give or furnish nonintoxicating beer for consumption on the premises of the principal place of business and manufacture located in the State of West Virginia, except for the limited purpose of complimentary samples as permitted in subsection (c) of this section.

(c) Complimentary samples. -- A licensed brewer or resident brewer with its principal place of business and manufacture located in the State of West Virginia may only offer complimentary samples of nonintoxicating beer or nonintoxicating craft beer brewed at the brewer’s or resident
brewer’s principal place of business and manufacture located in the State of West Virginia. The complimentary samples may be no greater than two ounces per sample per patron, and a sampling shall not exceed ten complimentary two ounce samples per patron per day. A licensed brewer or resident brewer providing complimentary samples shall provide complimentary food items to the patron consuming the complimentary samples; and prior to any sampling, verify, using proper identification, that the patron sampling is twenty-one years of age or over and that the patron is not visibly intoxicated.

(d) Retail sales. -- Every licensed brewer or resident brewer under this section, shall comply with all the provisions of this article as applicable to nonintoxicating beer retailers when conducting sales of nonintoxicating beer or nonintoxicating craft beer and shall be subject to all
applicable requirements and penalties in this article.

(e) Payment of taxes and fees. -- A licensed brewer or resident brewer under this section, shall pay all taxes and fees required of licensed nonintoxicating beer retailers, in addition to any other taxes and fees required, and meet applicable licensing provisions as required by this chapter and by rule of the commissioner.

(f) Advertising. -- A licensed brewer or resident brewer under this section, may advertise a particular brand or brands of nonintoxicating beer or nonintoxicating craft beer produced by the licensed brewer or resident brewer, and the price of the nonintoxicating beer or nonintoxicating craft beer subject to state and federal requirements or restrictions. The advertisement may not encourage intemperance.

(g) Growler requirements. -- A licensed brewer or resident brewer under this section, must fill a growler and
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1 patrons are not permitted to access the secure area nor fill a
growler. A licensed brewer or resident brewer under this
section, must sanitize, fill, securely seal and label any growler
prior to its sale. A licensed brewer or resident brewer under
this section, may only offer for retail sale up to four growlers
of nonintoxicating beer or nonintoxicating craft beer
manufactured by the licensed brewer or resident brewer per
customer per day for personal consumption off of the licensed
premises and not for resale. A licensed brewer or resident
brewer under this section, may refill a growler subject to the
requirements of this section.

(h) Growler labeling. -- A licensed brewer or resident
brewer under this section selling growlers, shall affix a label
on all sold and securely sealed growlers listing the name of
the licensee selling the growler, the brand of the
nonintoxicating beer or nonintoxicating craft beer in the
growler, the alcohol content by volume of the nonintoxicating beer or nonintoxicating craft beer in the growler and the date the growler was filled or refilled.

(i) Growler sanitation. -- A licensed brewer or resident brewer authorized under this section, shall clean and sanitize all growlers he or she fills or refills in accordance with all state and county health requirements prior to its sealing, and failure to do so may result in penalties under section twenty-three of this article.

(j) Fee. -- There is no additional fee for a licensed brewer or resident brewer authorized under this section, to sell growlers.

(k) Limitations on licensees. -- To be authorized under this section, a licensed brewer or resident brewer may not produce more than twenty-five thousand barrels per calendar year at the brewer’s or resident brewer’s principal place of
business and manufacture located in the State of West Virginia. No more than one brewer or resident brewer license may be issued to a single person or entity and no person may hold both a brewer and a resident brewer license. A licensed brewer or resident brewer under this section, may only conduct tours, give complimentary samples and sell growlers during the hours of operation set forth in subdivision (1), subsection (a), section eighteen of this article. A licensed brewer or resident brewer authorized under this section, shall be subject to the applicable penalties under section twenty-three of this article, for violations of this section.

(l) Rules. -- The commissioner, in consultation with the Bureau for Public Health concerning sanitation, is authorized to propose rules for legislative approval, pursuant to article three, chapter twenty-nine-a of this code, to implement this section.
§11-16-6b. Brewpub, Class A retail dealer, Class B retail dealer, private club, Class A retail licensee and Class B retail licensee’s authority to sell growlers.

(a) Legislative findings. -- The Legislature hereby finds that it is in the public interest to regulate, control and support the brewing, manufacturing, distribution, sale, consumption, transportation and storage of nonintoxicating beer and nonintoxicating craft beer, and its industry in this state in order to protect the public health, welfare and safety of the citizens of this state, and promote hospitality and tourism. Therefore, this section authorizes a licensed brewpub, Class A retail dealer, Class B retail dealer, private club, Class A retail licensee or Class B retail licensee to have certain abilities in order to promote the sale of nonintoxicating beer and nonintoxicating craft beer
manufactured in this state for the benefit of the citizens of this state, the state’s growing brewing industry and the state’s hospitality and tourism industry, all of which are vital components for the state’s economy.

(b) Sales of nonintoxicating beer. -- A licensed brewpub, Class A retail dealer, Class B retail dealer, private club, Class A retail licensee or Class B retail licensee who pays the fee in subsection (i) of this section and meets the requirements of this section, may offer nonintoxicating beer or nonintoxicating craft beer for retail sale to patrons from their licensed premises in a growler for personal consumption only off of the licensed premises and not for resale. Prior to the sale, the licensee shall verify, using proper identification that any patron purchasing nonintoxicating beer or nonintoxicating craft beer is twenty-one years of age or over and that the patron is not visibly intoxicated. A licensee
authorized under this section, may not sell, give or furnish
alcoholic liquors, including wine, for consumption off of its
licensed premises, unless it is a private club licensed to sell
sealed wine for consumption off of the licensed premises and
meets the requirements set out in subdivisions (j) and (l),
section three, article eight, chapter sixty of this code, for the
sale of wine, not liquor.

(c) **Retail sales.** -- Every licensee authorized under
this section, shall comply with all the provisions of this article
as applicable to nonintoxicating beer retailers when
conducting sales of nonintoxicating beer or nonintoxicating
craft beer and shall be subject to all applicable requirements
and penalties in this article.

(d) **Payment of taxes and fees.** -- A licensee authorized
under this section, shall pay all taxes and fees required of
licensed nonintoxicating beer retailers, in addition to any
other taxes and fees required, and meet applicable licensing
provisions as required by this chapter and by rule of the
commissioner.

(e) Advertising. -- A licensee authorized under this
section, may advertise a particular brand or brands of
nonintoxicating beer or nonintoxicating craft beer, and the
price of the nonintoxicating beer or nonintoxicating craft beer
subject to state and federal requirements or restrictions. The
advertisement may not encourage intemperance.

(f) Growler requirements. -- A licensee authorized
under this section, must fill a growler and patrons are not
permitted to access the secure area nor fill a growler. A
licensee authorized under this section, must sanitize, fill,
securely seal and label any growler prior to its sale. A
licensee authorized under this section, may only offer for
retail sale up to four growlers of nonintoxicating beer or
nonintoxicating craft beer per customer per day for personal
consumption off of the licensed premises and not for resale.
A licensee under this section, may refill a growler subject to
the requirements of this section.

(g) Growler labeling. -- A licensee authorized under
this section selling growlers, shall affix a label on all sold and
securely sealed growlers listing the name of the licensee
selling the growler, the brand of the nonintoxicating beer or
nonintoxicating craft beer in the growler, the alcohol content
by volume of the nonintoxicating beer or nonintoxicating
craft beer in the growler and the date the growler was filled
or refilled.

(h) Growler sanitation. -- A licensee authorized under
this section, shall clean and sanitize all growlers it fills or
refills in accordance with all state and county health
requirements prior to its sealing, and failure to do so may
result in penalties under section twenty-three of this article.

(i) Fee. -- Commencing July 1, 2015, and by every
July 1 thereafter, there is an annual $100 nonrefundable fee
for a licensee, except for a licensed brewpub, to sell growlers
as provided by this section. The licensee must be in good
standing with the state at the time of paying the fee.

(j) Limitations on licensees. -- A licensee under this
section, may only sell growlers during the hours of operation
set forth in subdivision (1), subsection (a), section eighteen of
this article. Any licensee licensed under this section must
maintain a secure area for the sale of nonintoxicating beer or
nonintoxicating craft beer in a growler. The secure area must
only be accessible by the licensee. Any licensee licensed
under this section shall be subject to the applicable penalties
under section twenty-three of this article, for violations of this
section.
(k) Nonapplicability of certain statutes. --

Notwithstanding any other provision of this code to the contrary, licensees under this section are permitted to break the seal of the original container for the limited purpose of filling a growler as provided in this section. Any unauthorized sale of nonintoxicating beer or nonintoxicating craft beer, or any consumption not permitted on the licensee’s licensed premises is subject to penalties under this article.

(l) Rules. -- The commissioner is authorized to propose rules for legislative approval, pursuant to article three, chapter twenty-nine-a of this code, to implement this section.

§11-16-9. Amount of license tax; Class A and Class B retail dealers; purchase and sale of nonintoxicating beer permitted; distributors; brewers; brewpubs.

There is levied and imposed an annual license tax
upon all dealers in and of nonintoxicating beer as defined by
this article, which (a) All retail dealers, distributors, brewpubs, brewers and resident brewers of nonintoxicating
beer and of nonintoxicating craft beer shall pay an annual fee
to maintain an active license as required by this article. The
license period begins on July 1, of each year and ends on June
30 of the following year. and, If the license is granted for a
less shorter period, it then the license fee shall be computed
semiannually in proportion to the remainder of the fiscal year.

(b) The annual license fees are as follows:

(1) Retail dealers shall be divided into two classes,

Class A and Class B. In the case of

(A) For a Class A retail dealer, the license fee is $150
for each place of business; the license fee for social, fraternal
or private clubs not operating for profit, and having been in
continuous operation for two years or more immediately
preceding the date of application, is $150: *Provided, That*
railroads operating in this state may dispense nonintoxicating beer upon payment of an annual license tax of $10 for each dining, club or buffet car in which the beer is dispensed.

Class A licenses issued for railroad dining, club or buffet cars authorize the licensee to sell nonintoxicating beer at retail for consumption only on the licensed premises where sold. All other Class A licenses authorize the licensee to sell nonintoxicating beer at retail for consumption on or off the licensed premises.

In the case of (B) For a Class B retailer, the license fee, for a Class B license authorizing the sale of both chilled and unchilled beer, is $150 for each place of business. A Class B license authorizes the licensee to sell nonintoxicating beer at retail in bottles, cans or other sealed containers only, and only for consumption off the licensed
premises. A Class B retailer may sell to a consumer patron, for personal use and not for resale, quantities of draught beer in quantities of one-eighth, one-fourth and in original containers that are no larger in size than one-half barrels in the original containers barrel for off-premises consumption.

A Class B license may be issued only to the proprietor or owner of a grocery store. For the purpose of this article, the term "grocery store" means and includes any retail establishment commonly known as a grocery store or delicatessen, and caterer or party supply store, where food or food products are sold for consumption off the premises, and means includes a separate and segregated portion of any other retail store which is dedicated solely to the sale of food, food products and supplies for the table for consumption off the premises. The commissioner may propose for legislative approval legislative rules pursuant to chapter twenty-nine-a.
of this code necessary to carry this provision into effect.

Caterers or party supply stores are required to purchase the appropriate licenses from the Alcohol Beverage Control Administration.

(2) In the case of distributors For a distributor, the license fee is $1,000 for each place of business.

(3) In the case of For a brewer or a resident brewer with its principal place of business or manufacture located in this state and who produces:

(A) Twelve thousand five hundred barrels (12,500) or less of nonintoxicating beer or nonintoxicating craft beer, the license fee is $500 for each place of manufacture;

(B) Twelve thousand five hundred one barrels (12,501) and up to twenty-five thousand (25,000) barrels of nonintoxicating beer or nonintoxicating craft beer, the license fee is $1,000 for each place of manufacture;
(C) More than twenty-five thousand one (25,001) barrels of nonintoxicating beer or nonintoxicating craft beer, the license fee is $1,500 for each place of manufacture. (4) In the case of

(4) For a brewer whose principal place of business or manufacture is not located in this state, the license fee is $1,500 for each place of manufacture. The brewer is exempt from the requirements set out in subsections (c), (d) and (e) of this section.

(5) For a brewpub, the license fee is $1,000 $500 for each place of manufacture.

(c) As part of the application or renewal application and in order to determine a brewer or resident brewer’s license fee pursuant to this section, a brewer or resident brewer shall provide the commissioner, on a form provided by the commissioner, with an estimate of the number of
nonintoxicating beer or nonintoxicating craft beer barrels and
gallons it will produce during the year based upon the
production capacity of the brewer’s or resident brewer’s
manufacturing facilities, and the prior year’s production and
sales volume of nonintoxicating beer or nonintoxicating craft
beer.

(d) On or before July 15 of each year, every brewer or
resident brewer who is granted a license shall file a final
report, on a form provided by the commissioner, that is dated
as of June 30 of each year, stating the actual volume of
nonintoxicating beer or nonintoxicating craft beer in barrels
and gallons produced at its principal place of business and
manufacture during the prior year.

(e) If the actual total production of nonintoxicating
beer or nonintoxicating craft beer by the brewer or resident
brewer exceeded the brewer's or resident brewer’s estimate
that was filed with the application or renewal for a brewer's
or resident brewer’s license for that period, then the brewer
or resident brewer shall include a remittance for the balance
of the license fee pursuant to this section, that would be
required for the final, higher level of production.

(f) Any brewer or resident brewer choosing not to file
or failing to file the reports required in subsections (c) and (d)
of this section, and who is not exempt from the reporting
requirements, shall pay a license fee of $1,500 for each place
of manufacture.

§11-16-12. Bond of brewer, distributor, and Class A
retail dealer; action on bond of retail
dealer upon revocation of license; duty of
prosecuting attorney.

(a) In addition to furnishing the information required
by this article, each brewer or distributor applying for a
license under this article shall furnish, as prerequisite to a license, a bond with some solvent surety company as surety, to be approved by the commissioner, payable to the State of West Virginia, conditioned for the payment of any and all additional taxes accruing during the period of such license, and conditioned further for the faithful observance of the provisions of this article, the rules, regulations and orders promulgated pursuant thereto and of any other laws of the State of West Virginia generally relating to the sale, transportation, storage and distribution of nonintoxicating beer, which said bonds shall be forfeited to the state upon the revocation of the license of any such brewer or distributor. The amount of such bond, in the case of a resident brewer or brewpub, shall be not less than $5,000, nor more than $10,000, and in the case of a distributor, not less than $2,000, nor more than $5,000 for each place of business licensed and
conducted within the state, the amount of such bond, between
the minimum and maximum amounts, to be determined in the
discretion of the commissioner. There shall be no bond for a
brewpub license, as the license privilege itself secures the
payment of taxes and is subject to suspension and revocation
for failure to pay said taxes. In the case of brewers shipping
nonintoxicating beer into the state, any brewer must also
furnish a bond in a penalty of not less than $5,000 nor more
than $25,000 conditioned as hereinabove in this subsection
provided and any bond furnished pursuant hereto shall be
forfeited to the state in the full amount of said bond upon
revocation of license of any such brewer or distributor. Such
money received by the state shall be credited to the state fund,
general revenue.

(b) Each Class A retail dealer, in addition to
furnishing the information required by this article, shall
furnish as prerequisite to obtaining a license, a bond with
some solvent surety company as surety, to be approved by the
commissioner, payable to the State of West Virginia, in the
amount not less than $500, nor more than $1000, within the
discretion of the commissioner. All such bonds shall be
conditioned for the faithful observance of the provisions of
this article, the rules, regulations and orders promulgated
pursuant thereto and of any other laws of the State of West
Virginia generally relating to the distribution, sale and
dispensing of nonintoxicating beer, and shall be forfeited to
the state in the full amount of said bond upon the revocation
of the license of any such retail dealer. Such money received
by the state shall be credited to the state fund, general
revenue.

(c) Upon the revocation of the license of any Class A
retail dealer by the commissioner or by any court of competent
jurisdiction, the commissioner or the clerk of said court shall
notify the prosecuting attorney of the county wherein such
retail dealer's place of business is located, or the prosecuting
attorney of the county wherein the licensee resides, of such
revocation, and, upon receipt of said notice, it shall be the duty
of such prosecuting attorney forthwith to institute appropriate
proceedings for the collection of the full amount of said bond.

Upon request of such prosecuting attorney, the commissioner
shall deliver the bond to him. Willful refusal without just
cause therefor by the prosecuting attorney to perform said duty
hereby imposed shall subject him to removal from office by
the circuit court of the county for which said prosecuting
attorney was elected upon proper proceedings and proof in the
manner provided by law.