

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2842**

BY DELEGATES HORNBUCKLE, PUSHKIN, WHITE, ROMINE,

C., ROHRBACH, MILLER, C., BLAIR, WESTFALL,

CANESTRARO AND LOVEJOY

[Introduced March 8, 2017; referred  
to the Committee on the Judiciary then Finance.]

1 A BILL to amend and reenact §11-16-10 of the Code of West Virginia, 1931, as amended, relating  
2 to authorizing a temporary foreign brewers import license.

*Be it enacted by the Legislature of West Virginia:*

1 That §11-16-10 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted to read as follows:

**ARTICLE 16. NONINTOXICATING BEER.**

**§11-16-10. Brewer's license for foreign corporation; application; bond; contents of application; limitations; annual license fee; renewal; suspension; license fee for sales representatives.**

1 (a) A brewer's license shall be issued by the commissioner to a foreign corporation which  
2 submits an application therefor accompanied by the license fee hereinafter prescribed, the bond  
3 required by section nine of this article, a certified copy of the certificate of authority issued by the  
4 Secretary of State authorizing such foreign corporation to transact business in the state and a  
5 certified copy of its most recent corporation charter. Such application shall be verified and shall  
6 state:

- 7 (1) The name of the corporation and the state under the laws of which it is incorporated;
- 8 (2) The date of incorporation;
- 9 (3) The address of the principal office of the corporation;
- 10 (4) The names and respective addresses of the directors and officers of the corporation;
- 11 (5) The date that such foreign corporation qualified to transact business in this state; and
- 12 (6) Such other information as the commissioner, by rule or regulation, may require.

13 (b) So long as the foreign corporation remains qualified to transact business in this state  
14 so that the Secretary of State can accept service of notice and process for such foreign  
15 corporation, then, notwithstanding any other provision of this article to the contrary, none of the  
16 officers and directors of such foreign corporation need be residents of this state.

17 (c) The license fee for a brewer's license for a foreign corporation selling any

18 nonintoxicating beer product within this state, whether or not its principal place of business be  
19 located in this state, shall be \$1,500 per annum. The license period shall begin on July 1, of each  
20 year and end on June 30, of the following year, and if granted for a lesser period, the same shall  
21 be prorated semiannually in proportion to the remainder of the fiscal year.

22 (d) All sales representatives for any brewer or manufacturer of nonintoxicating beer shall  
23 be issued a permit by the commissioner. The permit fee for each sales representative of or  
24 employed by a licensed brewer or manufacturer shall be \$50.

25 (e) The licenses and permits issued under the provisions of this section shall be renewed  
26 annually upon application for renewal on a form prescribed by the commissioner and payment of  
27 the annual license fee.

28 (f) If at any time such foreign corporation is no longer qualified to transact business in this  
29 state, the Secretary of State shall notify the commissioner of such fact and the commissioner shall  
30 thereupon suspend the brewer's license issued to such foreign corporation until such time as such  
31 foreign corporation has again qualified to transact business in this state and has otherwise  
32 complied with the provisions of this section.

33 (g) Notwithstanding any other provision of this article to the contrary, any corporation  
34 issued a brewer's license under the provisions of this article shall not engage in the business of a  
35 distributor or retailer as defined in this article.

36 (h) Notwithstanding any other provision of this article to the contrary, the commissioner  
37 may issue a special thirty-day license, known as a class T import license, authorizing foreign  
38 brewers to transact business in this state pursuant to the provisions of this article, for test  
39 marketing and sales of nonintoxicating beer in the state, for participation in festival and fair events  
40 pursuant to section eleven of this article, and sampling events pursuant to section eleven-a of this  
41 article. The fee for the T import license fee shall be \$100. No T import license may be renewed  
42 in consecutive thirty day periods, but may be reissued for up to a total of sixty days in any one-  
43 year period. The commissioner may propose additional requirements by rule for T import

44 licenses.

NOTE: The purpose of this bill is to authorize temporary thirty day licenses for out-of-state nonintoxicating beer brewers to import beer for test marketing and distribute to festivals and samplings.

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