

HB 4549

FILED

2014 MAR 31 P 8:09

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
SECOND REGULAR SESSION, 2014



**ENROLLED**

**House Bill No. 4549**

(By Delegates Manchin, Moore,  
Eldridge and Skaff)  
(By Request of the Alcohol and Beverage  
Control Commissioner)



Passed March 8, 2014

In effect ninety days from passage.

**ENROLLED**

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**H. B. 4549**

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(BY DELEGATES MANCHIN, MOORE,  
ELDRIDGE AND SKAFF)

[By Request of the Alcohol Beverage  
Control Commissioner]

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

ARTICLE 16. NONINTOXICATING BEER.

§11-16-3. Definitions.

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

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

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

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

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

26 (5) "Commissioner" means the West Virginia Alcohol  
27 Beverage Control Commissioner.

28 (6) "Distributor" means and includes any person jobbing or  
29 distributing nonintoxicating beer or nonintoxicating craft beer to

30 retailers at wholesale and whose warehouse and chief place of  
31 business shall be within this state. For purposes of a distributor  
32 only, the term "person" means and includes an individual, firm,  
33 trust, partnership, limited partnership, limited liability company,  
34 association or corporation. Any trust licensed as a distributor or  
35 any trust that is an owner of a distributor licensee, and the trustee  
36 or other persons in active control of the activities of the trust  
37 relating to the distributor license, is liable for acts of the trust or  
38 its beneficiaries relating to the distributor license that are  
39 unlawful acts or violations of article eleven of this chapter  
40 notwithstanding the liability of trustees in article ten, chapter  
41 forty-four-d of this code.

42 (7) "Franchise agreement" means the written agreement  
43 between a brewer and a distributor that is identical as to terms  
44 and conditions between the brewer and all its distributors, which  
45 agreement has been approved by the commissioner. The  
46 franchise agreement binds the parties so that a distributor,  
47 appointed by a brewer, may distribute all of the brewer's  
48 nonintoxicating beer products, brands or family of brands  
49 imported and offered for sale in West Virginia, including, but  
50 not limited to, existing brands, line extensions and new brands  
51 all in the brewer's assigned territory for the distributor. All  
52 brands and line extensions being imported or offered for sale in  
53 West Virginia must be listed by the brewer in the franchise  
54 agreement or a written amendment to the franchise agreement.  
55 A franchise agreement may be amended by mutual written  
56 agreement of the parties as approved by the commissioner with  
57 identical terms and conditions for a brewer and all of its  
58 distributors. Any approved amendment to the franchise  
59 agreement becomes a part of the franchise agreement. A brewer  
60 and a distributor may mutually agree in writing to cancel a  
61 franchise agreement. A distributor terminated by a brewer as  
62 provided in this article and the promulgated rules no longer has  
63 a valid franchise agreement. If a brewer has reached an  
64 agreement to cancel a distributor or has terminated a distributor,  
65 then a brewer may appoint a successor distributor who accedes  
66 to all the rights of the cancelled or terminated distributor.

67 (8) "Franchise distributor network" means the distributors  
68 who have entered into a binding written franchise agreement,  
69 identical as to terms and conditions, to distribute nonintoxicating  
70 beer products, brands and line extensions in an assigned territory  
71 for a brewer. A brewer may only have one franchise distributor  
72 network. *Provided*, That a brewer that has acquired the  
73 manufacturing, bottling or other production rights for the sale of  
74 nonintoxicating beer at wholesale from a selling brewer as  
75 specified in subdivision (2), subsection (a), section twenty-one  
76 of this article shall continue to maintain and be bound by the  
77 selling brewer's separate franchise distributor's network for any  
78 of its existing brands, line extensions and new brands.

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

83 (10) "Growler" means a glass ceramic or metal container or  
84 jug, capable of being securely sealed, utilized by a brewpub for  
85 purposes of off-premise sales of nonintoxicating beer or  
86 nonintoxicating craft beer for personal consumption not on a  
87 licensed premise and not for resale.

88 (11) "Line extension" means any nonintoxicating beer  
89 product that is an extension of brand or family of brands that is  
90 labeled, branded, advertised, marketed, promoted or offered for  
91 sale with the intent or purpose of being manufactured, imported,  
92 associated, contracted, affiliated or otherwise related to a  
93 brewer's existing brand through the use of a brewer, its  
94 subsidiaries, parent entities, contracted entities, affiliated entities  
95 or other related entities'. In determining whether a  
96 nonintoxicating beer product is a line extension, the  
97 commissioner may consider, but is not limited to, the following  
98 factors: name or partial name; trade name or partial trade name;  
99 logos; copyrights; trademarks or trade design; product codes;  
100 advertising promotion or pricing.

101       (12) “Nonintoxicating beer” means all natural cereal malt  
102 beverages or products of the brewing industry commonly  
103 referred to as beer, lager beer, ale and all other mixtures and  
104 preparations produced by the brewing industry, including malt  
105 coolers and nonintoxicating craft beers with no caffeine infusion  
106 or any additives masking or altering the alcohol effect containing  
107 at least one half of one percent alcohol by volume, but not more  
108 than nine and six-tenths of alcohol by weight, or twelve percent  
109 by volume, whichever is greater. The word “liquor” as used in  
110 chapter sixty of this code does not include or embrace  
111 nonintoxicating beer nor any of the beverages, products,  
112 mixtures or preparations included within this definition.

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

117       (14) “Nonintoxicating beer sampling day” means any days  
118 and hours of the week where Class A retail licensees may sell  
119 nonintoxicating beer pursuant to subdivision (1), subsection (a),  
120 section eighteen of this article, and is approved, in writing, by  
121 the commissioner to conduct a nonintoxicating beer sampling  
122 event.

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

130       (16) “Original container” means the container used by the  
131 brewer at the place of manufacturing, bottling or otherwise  
132 producing nonintoxicating beer for sale at wholesale.

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

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

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

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

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

1 (a) The commissioner shall investigate and review:

2 (1) All franchise agreements and any amendments to a  
3 franchise agreement to verify compliance with this article and  
4 the promulgated rules.

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

7 (3) The registration of all brands and line extensions with the  
8 commissioner that are the subject of a franchise agreement or an  
9 amendment to a franchise agreement.

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

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

20       (b) The commissioner's investigation and review under  
21 subsection (a) of this section may include, but is not limited to:  
22 the brewer, its subsidiaries, parent entities, contracted entities,  
23 affiliated entities, associated entities or any other related entities,  
24 the brewer's corporate structure, the nature of the relatedness of  
25 various entities, ownership, trade names or partial trade names,  
26 logos, copyrights, trademarks or trade design, product codes,  
27 marketing and advertising, promotion or pricing.

28       (c) The commissioner may approve or deny any item listed  
29 in subsection (a) of this section as determined by the  
30 commissioner in accordance with this article, the promulgated  
31 rules as the facts and circumstances dictate.

32       (d) Any brewer adversely affected by a denial as specified in  
33 subdivision (3) or (4), subsection (a) of this section, may request,  
34 in writing, a final written determination from the commissioner.

35       (e) Upon receipt of final determination as provided in  
36 subsection (d), a brewer may request an administrative hearing  
37 by filing a written petition and as otherwise required per section  
38 twenty-four of this article and the rules promulgated by the  
39 commissioner. Upon filing a written petition, the brewer shall  
40 file a \$1,000 hearing deposit, via certified check or money order,  
41 to cover the costs of the hearing. Such certified check or money

42 order shall be made payable to the commissioner. In any such  
43 hearing held by the request of a brewer, the burden of proof is on  
44 the brewer and the standard of review for the administrative  
45 hearing is by a preponderance of the evidence.

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

1 (a) It is unlawful:

2 (1) For any brewer or manufacturer, or any other person,  
3 firm or corporation engaging in the business of selling  
4 nonintoxicating beer, ale or other malt beverage or cooler to a  
5 distributor or wholesaler, to discriminate in price, allowance,  
6 rebate, refund, commission, discount or service between  
7 distributors or wholesalers licensed in West Virginia.  
8 "Discriminate," as used in this section, shall mean granting of  
9 more favorable prices, allowances, rebates, refunds,  
10 commissions, discounts or services to one West Virginia  
11 distributor or wholesaler than to another.

12 (2) For any brewer or manufacturer, or any other person,  
13 firm or corporation engaged in the business of selling  
14 nonintoxicating beer, ale or other malt beverage or malt cooler  
15 to a distributor or wholesaler, to sell or deliver nonintoxicating  
16 beer, ale or other malt beverage or malt cooler to any licensed  
17 distributor or wholesaler unless and until such brewer,  
18 manufacturer, person, firm or corporation, as the case may be,  
19 shall have filed the brewery or dock price of such beer, ale or  
20 other malt beverage or malt cooler, by brands and container  
21 sizes, with the commissioner. The pricing submitted to the  
22 commissioner shall also be submitted contemporaneously to the  
23 licensed distributor or wholesaler. No price schedule shall be put  
24 into effect until ninety days after receipt of same by the  
25 commissioner and shall be submitted on or before the following  
26 quarterly dates of January 1, April 1, July 1 and October 1 of the  
27 calendar year to be effective: *Provided*, That any price shall  
28 remain in effect not less than ninety days.

29       (3) For any brewer or manufacturer, resident brewer or any  
30 other person, firm or corporation engaged in the business of  
31 selling nonintoxicating beer, ale or other malt beverage or malt  
32 cooler to a distributor or wholesaler to sell, offer for sale or  
33 transport to West Virginia any nonintoxicating beer, ale or other  
34 malt beverage or malt cooler unless it has first registered its  
35 labels and assigned to the appropriate distributor per an equitable  
36 franchise agreement, all as approved by the commissioner.

37       (4) For any brewer or manufacturer, or any other person,  
38 firm or corporation engaged in the business of selling  
39 nonintoxicating beer, ale or other malt beverage or malt cooler  
40 to provide, furnish, transport or sell its nonintoxicating beer  
41 products, brands and line extensions to any person or distributor  
42 other than the appointed distributor per the franchise agreement  
43 and established in the franchise distributor network in the  
44 territory assigned to that appointed distributor.

45       (5) For any brewer or manufacturer, or any other person,  
46 firm or corporation engaged in the business of selling  
47 nonintoxicating beer, ale or other malt beverage or malt cooler  
48 to provide, furnish, transport or sell its nonintoxicating beer  
49 products, brands and line extensions that have been denied by  
50 the commissioner.

51       (6) For any resident brewer that chooses to utilize a franchise  
52 agreement and a franchise distributor network, either in addition  
53 to or in conjunction with its limited quantity of nonintoxicating  
54 beer for self-distribution, to violate this section and the resident  
55 brewer is subject to the sanctions in subsections (b) and (c) of  
56 this section.

57       (b) The violation of any provision of this section by any  
58 brewer or manufacturer shall constitute grounds for the forfeiture  
59 of the bond furnished by such brewer or manufacturer in  
60 accordance with the provisions of section twelve of this article.

61       (c) The violation of this section by any brewer or  
62 manufacturer is grounds for sanctions as determined by the

63 commissioner in accordance with sections twenty-three and  
64 twenty-four of this article and the rules promulgated by the  
65 commissioner.

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

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

1 (a) On and after July 1, 1971, it shall be unlawful for any  
2 brewer to transfer or deliver to a distributor any nonintoxicating  
3 beer, ale or other malt beverage or malt cooler without first  
4 having entered into an equitable franchise agreement with such  
5 distributor, which franchise agreement and any amendments to  
6 that agreement shall be in writing, shall be identical as to terms  
7 and conditions with all other franchise agreements and any  
8 amendments between such brewer and its other distributors in  
9 this state in its approved franchise distributor network, all as  
10 approved by the commissioner and which shall contain a  
11 provision in substance or effect as follows:

12 (1) The brewer recognizes that the distributor is free to  
13 manage his or her business in the manner the distributor deems  
14 best and that this prerogative vests in the distributor, subject to  
15 the provisions of this article, the exclusive right: (A) To establish  
16 his or her selling prices; (B) to have the distribution rights to the  
17 brands and line extensions of nonintoxicating beer products that  
18 are bound by franchise agreements specifying a distributor's  
19 assigned territory and that are assigned to a franchise distributor

20 network, and, further, that the distributor may determine which  
21 brands and line extensions of nonintoxicating beer products he  
22 or she wishes to handle; and (C) to determine the efforts and  
23 resources which the distributor will exert to develop and promote  
24 the sale of the brewer's nonintoxicating beer products handled  
25 by the distributor. However, since the brewer's nonintoxicating  
26 beer products, brands and line extensions shall only be handled  
27 by the distributor with a franchise agreement for a certain  
28 territory in West Virginia as a part of the brewer's overall  
29 franchise distributor network in West Virginia and will not be  
30 sold by other distributors in the territory, the brewer is dependent  
31 upon the appointed distributor alone for the sale of such products  
32 in the assigned territory. Consequently, the brewer expects that  
33 the distributor will price competitively the nonintoxicating beer  
34 products handled by the distributor, devote reasonable effort and  
35 resources to the sale of such products and maintain a satisfactory  
36 sales level.

37 (2) The franchise agreement binds the parties so that a  
38 distributor, appointed by a brewer, may distribute all of the  
39 brewer's nonintoxicating beer products, brands or family of  
40 brands imported and offered for sale in West Virginia, including,  
41 but not limited to: existing brands, line extensions and new  
42 brands in the brewer's assigned territory for the distributor. All  
43 brands and line extensions being imported or offered for sale in  
44 West Virginia must be listed by the brewer in the franchise  
45 agreement or a written amendment to the franchise agreement.  
46 A franchise agreement may be amended by mutual written  
47 agreement of the parties as approved by the commissioner with  
48 identical terms and conditions for a brewer and all of its  
49 distributors. Any approved amendment to the franchise  
50 agreement becomes a part of the franchise agreement.

51 (3) Whenever the manufacturing, bottling or other  
52 production rights for the sale of nonintoxicating beer at  
53 wholesale of any brewer is acquired by another brewer, the  
54 franchised distributor and franchise distributor network of the

55 selling brewer shall be entitled to continue distributing the  
56 selling brewer's nonintoxicating beer products as authorized in  
57 the franchised distributor's existing franchise agreement and the  
58 acquiring brewer shall market all the selling brewer's  
59 nonintoxicating beer products through said franchised distributor  
60 and franchise distributor network as though the acquiring brewer  
61 had made the franchise agreement and the acquiring brewer may  
62 terminate said franchise agreement only in accordance with  
63 subdivision (2), subsection (b) of this section: *Provided*, That the  
64 acquiring brewer may distribute any of its other nonintoxicating  
65 beer products through its duly authorized franchises and  
66 franchise distributor network in accordance with all other  
67 provisions of this section. Further, this subdivision shall apply to  
68 the brewer, successor brewers and also any successor entities of  
69 a brewer who shall be bound by the existing franchise agreement  
70 and the franchise distributor network, unless all the parties  
71 mutually agree, in writing, to change or cancel the existing  
72 franchise agreement and franchise distributor network or unless  
73 the brewer terminates a distributor as provided in this article and  
74 the promulgated rules.

75 (b) It shall also be unlawful:

76 (1) For any brewer, resident brewer or distributor, or any  
77 officer, agent or representative of any brewer, resident brewer or  
78 distributor, to coerce or persuade or attempt to coerce or  
79 persuade any person licensed to sell, distribute or job  
80 nonintoxicating beer, ale or other malt beverage or malt cooler  
81 at wholesale or retail, to enter into any contracts or agreements,  
82 whether written or oral, or to take any other action which will  
83 violate or tend to violate any provision of this article or any of  
84 the rules, regulations, standards, requirements or orders of the  
85 commissioner promulgated as provided in this section;

86 (2) For any brewer, resident brewer or distributor, or any  
87 officer, agent or representative of any brewer, resident brewer or  
88 distributor, to cancel, terminate or rescind without due regard for

89 the equities of such brewer, resident brewer or distributor and  
90 without just cause, any franchise agreement, whether oral or  
91 written, and in the case of an oral franchise agreement, whether  
92 the same was entered into on or before June 11, 1971, and in the  
93 case of a franchise agreement in writing, whether the same was  
94 entered into on, before or subsequent to July 1, 1971. The  
95 cancellation, termination or rescission of any such franchise  
96 agreement shall not become effective for at least ninety days  
97 after written notice of such cancellation, termination or  
98 rescission has been served on the affected party and the  
99 Commissioner by certified mail, return receipt requested:  
100 *Provided*, That said ninety-day period and said notice of  
101 cancellation, termination or rescission shall not apply if such  
102 cancellation, termination or rescission is agreed to in writing by  
103 both the brewer and the distributor involved.

104 (c) In the event a distributor desires to sell or transfer his or  
105 her franchise and assigned territory in the brewer or resident  
106 brewer's franchise distributor network, such distributor shall  
107 give to the brewer, or resident brewer at least sixty days' notice  
108 in writing of such impending sale or transfer and the identity of  
109 the person, firm or corporation to whom such sale or transfer is  
110 to be made and such other information as the brewer or resident  
111 brewer may reasonably request. Such notice shall be made upon  
112 forms and contain such additional information as the  
113 Commissioner by rule or regulation shall prescribe. A copy of  
114 such notice shall be forwarded to the commissioner. The brewer  
115 or resident brewer shall be given sixty days to approve or  
116 disapprove of such sale or transfer. If the brewer or resident  
117 brewer neither approves nor disapproves thereof within sixty  
118 days of the date of receipt of such notice, the sale or transfer of  
119 such franchise shall be deemed to be approved by such brewer  
120 or resident brewer. In the event the brewer or resident brewer  
121 shall disapprove of the sale or transfer to the prospective  
122 franchisee, transferee or purchaser, such brewer or resident  
123 brewer shall give notice to the distributor of that fact in writing,  
124 setting forth the reason or reasons for such disapproval. The

125 approval shall not be unreasonably withheld by the brewer or  
126 resident brewer. The fact that the prospective franchisee,  
127 transferee or purchaser has not had prior experience in the  
128 nonintoxicating beer business or beer business shall not be  
129 deemed sufficient reason in and of itself for a valid disapproval  
130 of the proposed sale or transfer, but may be considered in  
131 conjunction with other adverse factors in supporting the position  
132 of the brewer or resident brewer. Nor may the brewer or resident  
133 brewer impose requirements upon the prospective franchisee,  
134 transferee or purchaser which are more stringent or restrictive  
135 than those currently demanded of or imposed upon the brewer or  
136 resident brewers or other distributors in the State of West  
137 Virginia. A copy of such notice of disapproval shall likewise be  
138 forwarded to the commissioner and to the prospective franchisee,  
139 transferee or purchaser. In the event the issue be not resolved  
140 within twenty days from the date of such disapproval, either the  
141 brewer, resident brewer, distributor or prospective franchisee,  
142 transferee or purchaser shall notify the other parties of his or her  
143 demand for arbitration and shall likewise notify the  
144 commissioner thereof. A dispute or disagreement shall thereupon  
145 be submitted to arbitration in the county in which the  
146 distributor's principal place of business is located by a board of  
147 three arbitrators, which request for arbitration shall name one  
148 arbitrator. The party receiving such notice shall within ten days  
149 thereafter by notice to the party demanding arbitration name the  
150 second arbitrator or, failing to do so, the second arbitrator shall  
151 be appointed by the chief judge of the circuit court of the county  
152 in which the distributor's principal place of business is located  
153 on request of the party requesting arbitration in the first instance.  
154 The two arbitrators so appointed shall name the third or, failing  
155 to do so within ten days after appointment of the second  
156 arbitrator, the third arbitrator may be appointed by said chief  
157 judge upon request of either party. The arbitrators so appointed  
158 shall promptly hear and determine and the questions submitted  
159 pursuant to the procedures established by the American

160 Arbitration Association and shall render their decision with all  
161 reasonable speed and dispatch but in no event later than twenty  
162 days after the conclusion of evidence. Said decision shall include  
163 findings of fact and conclusions of law and shall be based upon  
164 the justice and equity of the matter. Each party shall be given  
165 notice of such decision. If the decision of the arbitrators be in  
166 favor of or in approval of the proposed sale or transfer, the  
167 brewer or resident brewer shall forthwith agree to the same and  
168 shall immediately transfer the franchise to the proposed  
169 franchisee, transferee or purchaser unless notice of intent to  
170 appeal such decision is given the arbitrators and all other parties  
171 within ten days of notification of such decision. If any such party  
172 deems himself or herself aggrieved thereby, such party shall  
173 have a right to bring an appropriate action in circuit court. Any  
174 and all notices given pursuant to this subsection shall be given  
175 to all parties by certified or registered mail, return receipt  
176 requested.

177 (d) The violation of any provision of this section by any  
178 brewer or resident brewer shall constitute grounds for the  
179 forfeiture of the bond furnished by such brewer or resident  
180 brewer in accordance with the provisions of section twelve of  
181 this article and shall also constitute grounds for sanctions in  
182 accordance with sections twenty-three and twenty-four of this  
183 article. Moreover, any circuit court of the county in which a  
184 distributor's principal place of business is located shall have the  
185 jurisdiction and power to enjoin the cancellation, termination or  
186 rescission of any franchise agreement between a brewer or  
187 resident brewer and such distributor and, in granting an  
188 injunction to a distributor, the court shall provide that the brewer  
189 or resident brewer so enjoined shall not supply the customers or  
190 territory of the distributor while the injunction is in effect.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Danny Wells*  
Chairman, House Committee

*[Signature]*  
~~Member~~ ~~Chairman~~ Senate Committee

Originating in the House.

In effect ninety days from passage.

*Steve M. Bond*  
Clerk of the House of Delegates

*Joseph W. Minard*  
Clerk of the Senate

*Scott M. Lee*  
Speaker of the House of Delegates

*Jeffery A. [Signature]*  
President of the Senate

The within is approved this the 31<sup>st</sup>  
day of March, 2014.

*Carl Ray Tomblin*  
Governor

PRESENTED TO THE GOVERNOR

MAR 28 2011

Time 10:45 Am