

Nonintoxicating Beer or Nonintoxicating Craft Beer Delivery

A **Class A Retail Dealer** who is licensed to sell nonintoxicating beer or nonintoxicating craft beer may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license permitting the order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer in a sealed original container of bottles or cans, and sealed beer growlers, when separately licensed for beer growler sales.

- The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when completed by the licensee or the licensee's employees to a person purchasing the nonintoxicating beer or nonintoxicating craft beer by telephone, a mobile ordering application, or a web-based software program.
- There is no additional fee for licensed Class A retail dealers to obtain a nonintoxicating beer or nonintoxicating craft beer delivery license. The order, sale, and delivery process shall meet the requirements of the code and rules and is subject to penalties.
- "Prepared food or a meal" for a Class A Retail Dealer shall, for purposes of this article, mean food that has been cooked, grilled, fried, deep-fried, air-fried, smoked, boiled, broiled, twice baked, blanched, sautéed, or in any other manner freshly made and prepared, and does **not** include pre-packaged food from the manufacturer.

A **Class B Retail Dealer** who is licensed to sell nonintoxicating beer or nonintoxicating craft beer may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license permitting the order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer in a sealed original container of bottles or cans, and sealed beer growlers, when separately licensed for beer growler sales.

- The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when completed by the licensee or the licensee's employees to a person purchasing the nonintoxicating beer or nonintoxicating craft beer by telephone, a mobile ordering application, or a web-based software program.
- There is no additional fee for licensed Class B retail dealers to obtain a nonintoxicating beer or nonintoxicating craft beer delivery license. The order, sale, and delivery process shall meet the requirements of the code and rules and is subject to penalties.
- "Food" for a Class B retail dealer shall, mean food that has been cooked, microwaved, or that is pre-packaged food from the manufacturer.

A **Third Party**, not licensed for nonintoxicating beer or nonintoxicating craft beer sales or distribution, may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license for the privilege and convenience to offer ordering and delivery services of nonintoxicating beer or nonintoxicating craft beer in the sealed original container of bottles or cans, and sealed growlers, from a licensee with a growler license.

- The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when the Class A retail dealer sells to a person purchasing the nonintoxicating beer or nonintoxicating craft beer through telephone orders, a mobile ordering application, or a web-based software program.
- The annual nonintoxicating beer or nonintoxicating craft beer delivery license **fee** for a **Third Party** is **\$200** per third party entity, with no limit on the number of drivers and vehicles. The delivery license fee is not prorated or refundable.

Sale Requirements

- When a nonintoxicating beer or nonintoxicating craft beer purchase is made from a Class A retail dealer the order must include prepared food or a meal and the completion of the sale may be accomplished by the delivery of the prepared food or meal and nonintoxicating beer or nonintoxicating craft beer by the Class A retail dealer or third party licensee;
- When a nonintoxicating beer or nonintoxicating craft beer purchase is made from a Class B retail dealer the order must include food and the completion of the sale may be accomplished by the delivery of food and the sealed nonintoxicating beer or nonintoxicating craft beer.

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- Any person purchasing nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in the code and rules for the sale of nonintoxicating beer or nonintoxicating craft beer;
- An order, sale, or delivery consisting of multiple meals shall not amount to any combination of bottles, cans, or sealed growlers in excess of **384** fluid ounces of nonintoxicating beer or nonintoxicating craft beer; and
- A third-party delivery licensee may not have a pecuniary interest in a Class A or Class B retail dealer and may only charge a convenience fee for the delivery of any nonintoxicating beer or nonintoxicating craft beer and may not be greater than **\$20.00** per delivery order where nonintoxicating beer or nonintoxicating craft beer are ordered by the purchasing person.

Delivery Requirements.

- Delivery persons employed for the delivery of nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older.
- The Class A retail dealer, Class B retail dealer and the third party delivery licensee:
 - shall file each delivery person's name, driver's license, and vehicle information with the commissioner;
 - shall train delivery persons on verifying legal identification and in identifying the signs of intoxication and shall submit certification of the training to the commissioner;
 - shall hold a retail transportation permit for each delivery vehicle delivering sealed nonintoxicating beer or nonintoxicating craft beer. A delivery driver must retain a copy of his or her permit as proof of licensure, electronic copies are permissible. may only deliver prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer orders in the **county or contiguous counties** where the Class A retail dealer or a Class B retail dealer is located;
 - may **only** deliver
 - prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer to addresses located in West Virginia from a Class A retail dealer. A Class A retail dealer or third-party delivery licensee shall pay and account for all sales and state, county and municipal taxes;
 - food, and sealed nonintoxicating beer or nonintoxicating craft beer to addresses located in West Virginia from a Class B retail dealer. A Class B retail dealer or third-party delivery licensee shall pay and account for all sales and state, county and municipal taxes;
 - may **NOT** deliver prepared food or a meal or food, and nonintoxicating beer or nonintoxicating craft beer to any other licensee, all deliveries of food or a meal or food and also alcohol are for personal use, and not for resale;
 - may **NOT** deliver and leave food or prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer at any address without verifying a person's age and identification as required by this section.

Telephone, mobile ordering application, or web-based software requirements.

- The delivery person may only permit the person who placed the order through a telephone, mobile ordering application, or web-based software to accept the prepared food or a meal, and nonintoxicating beer or nonintoxicating craft beer delivery which is subject to age verification upon delivery with the delivery person's visual review and age verification and storage of a scanned image of the purchasing person's legal identification.
- Any mobile ordering application or web-based software used shall create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the

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delivery person for verification, and shall include the delivery driver's name and vehicle information.

- Any telephone ordering system shall maintain a log or record of the purchasing person's legal identification and details of the sale, accessible by the delivery person for verification, and shall include the delivery driver's name and vehicle information.
- All records are subject to inspection by the commissioner. A Class A retail dealer or third-party delivery licensee shall retain all records for 3 years.
- Each vehicle delivering nonintoxicating beer or nonintoxicating craft beer must be issued a retail transportation permit per W. Va. Code §11-16-6d(g).

Retail Transportation Permit.

- A Class A retail dealer, Class B retail dealer or third-party delivery licensee shall obtain and maintain a retail transportation permit for the delivery of prepared food and nonintoxicating beer or nonintoxicating craft beer.
- A Class A retail dealer, Class B retail dealer or a third-party licensee shall apply for a permit and provide vehicle and driver information, as required by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the vehicle and driver information with the commissioner within 10 days of the change.

The nonintoxicating beer or nonintoxicating craft beer delivery license application shall comply with licensure requirements in W. Va. Code §11-16-8 and shall require any information as required by the commissioner.

