

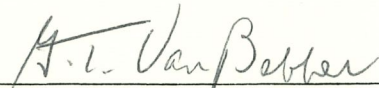
MINUTES OF THE House COMMITTEE ON Federal and State Affairs

Held in Room 510-S, at the Statehouse at 2:45 ~~a.m.~~/p.m., on March 20, 1975.

All members were present ~~except~~

The next meeting of the Committee will be held at 2:45 ~~a.m.~~/p.m., on March 24, 1975.

These minutes of the meeting held on March 19, 1975 were considered, corrected and approved.



Chairman

The conferees appearing before the Committee were:

Mr. Tom Pittner, Chief Attorney, Dept. of Administration
Mr. "Darb" Ratner, Wichita
Mr. Dale Emery
Mr. Forrest Inks, Kansas Press Association

The Committee was called to order by the Chairman, who advised the Committee that the Department of Administration had expressed interest in HB 2609, the bill proposing to transfer responsibility for Administrative Rules and Regulations to the Department of Administration from the Revisor of Statutes.

He introduced Mr. Tom Pittner, Chief Attorney for the Department of Administration, who testified that the bill is supposed to become effective May 1st, and the additional cost for this year would be around \$4500.00 and in 1976 around \$41,000.00. He explained that they have no space available for such an enterprise; that they would need additional equipment and would have to hire a full-time Clerk III who would be extremely busy for five or six months, and then they would have to find something else for that person to do for the remainder of the time because they wouldn't want to train a new person every year. In addition, he stated they would have to hire three or four seasonal people to proof and index, which people would be of limited quality because they would be hired on a part-time basis, whereas, he stated the Revisor has a pool from which he can work. He stated that the Department of Administration might well have a conflict of interest insofar as Rules and Regulations are concerned, while the Revisor does not.

The Chairman stated that Mr. Weltmer suggested the Committee might want to hold this bill over and look at it some more.

Mr. Darb Ratner appeared to discuss SB 454, a bill which would allow billboard advertising of alcoholic liquor. He stated that this would not liberalize advertising by retailers in any way, but would remove the discrimination on such advertising insofar as billboards are concerned. He pointed out that magazines and newspapers can now advertise, but not billboard people. See printed statement.

Mr. Ratner introduced the following people from the outdoor advertising media, who supported his statement: Mr. Jim Tidwell, Wichita; Mr. Harry Whitaker, Salina; Mr. Robert Humes, Topeka and Lawrence; Mr. William Gleason, Kansas City, Kansas; Mr. Harry Bates, Emporia.

Mr. Dale Emery, speaking in opposition to SB 454, asked if he could also be heard on SB 544. The Chairman explained that Senator Crofoot who is the sponsor of 544 was engaged in a Senate Floor debate and could not appear on his bill, and stated that Mr. Emery could speak in opposition to both bills at the same time. See printed statement.

Mr. Forrest Inks, stated that there is a great deal of control in Kansas, of advertising of this nature; that it is quite discriminatory, some of it by Rules and Regulations; that certain things are not run in newspapers, and in this case, no advertising is allowed on billboards.

It was moved by Mr. Ward and seconded by Mr. Hayes, that after the correction of a typographical error, the minutes of March 19 be approved. Motion carried.

The meeting was adjourned.

Consumption of alcohol results in tremendous human and economic misery because those who deal in it have convinced many persons it is just another beverage, like cola or root beer or grape juice. This story of a housewife as reported in the Kansas City Star makes the point.

"I remembered when I'd had my first drink. I was 14, and it was a happy occasion. My family was celebrating with friends and relatives. I remember the glass of amber wine that my father poured for me. I liked the taste. I liked the way the wine made me feel. It transformed an unsure teen-ager into a sophisticated woman. Drinking was a normal thing in the family I grew up in."

"My drinking began to change. I discovered what a tranquilizing effect alcohol had on me. After two or three beers or a little wine, I was no longer afraid."

"He mixed me a Tom Collins, and poured enough gin for two in it. My nerves steadied as I began to feel the warm glow of the alcohol."

"It took a final move to Johnson County, Kansas, for me to reach that despair that an alcoholic must reach before making a surrender."

"The husband of one of my new friends in A.A. took my husband to lunch and explained to him the disease of alcoholism. He told Paul, 'Don't blame the alcoholic, blame the alcohol.' For that I was most grateful."

Alcohol is the problem, not cola or root beer or grape juice.

A recent nationwide TV news broadcast indicated great alarm because one case of cancer in Minnesota may be related to drinking water obtained from Lake Superior that is contaminated with asbestos waste dumped by a large industry. The relationship between that one case of cancer and drinking asbestos fiber is not yet proven. Alcoholism happens only to persons who drink alcohol.

When traveling, I appreciate highway billboards and the information they give. Specialty items such as pens, pencils, and calendars are also appreciated, a form of advertising used by all sorts of business men to push their product. But to permit the advertising of wine and distilled spirits in this way is to assume they are harmless beverages like cola or root beer or grape juice.

The Second Special Report to the U. S. Congress on ALCOHOL & HEALTH from the Secretary of H.E.W. states, "The universal popularity of alcohol lies in its ability to produce feelings of pleasure, and relief from fears and tensions." For these reasons, alcohol promotes itself. Increased promotion is not needed. Persons who desire to be a part of the answer support reduced promotion of this product.

If SB 454 and 544 become law, concerned legislators should at least require some sort of warning such as "Consumption of alcohol can result in addiction or dependence." But it seems odd to promote a product not needed and then try to offset the damage with a warning. Better to not promote it. All Kansans benefit from less consumption.

STATEMENT IN SUPPORT OF S.B. 454

Your support of S.B. 454 would be greatly appreciated.

This bill is designed to correct a long-standing inequity to one form of advertising media--outdoor advertising.

The main thrust of S.B. 454 would be to allow the outdoor advertising companies, if they desire, to accept advertising from liquor manufacturers. Such advertising is now allowed in newspapers and magazines. Passage of this bill would not weaken control by the Alcoholic Beverage Control Board or the Director.

K.S.A. 41-714 was originally passed as part of the Kansas Liquor Control Act in 1949, shortly after prohibition was repealed by a vote of the people. The original bill (S.B.9) did not have sub-paragraph (2) nor did it have any prohibition against billboard advertising of liquor.

That particular statute apparently was designed to control and limit advertising basically by retailers or other licensees (such as wholesalers).

There are no committee minutes, but the Legislative Research Department has stated that after S.B. 9 had been worked on in the 1949 Session, a Sub. S.B. 9 was introduced and passed and Section 2 was contained in it, prohibiting billboard advertising by any "person".

It would seem logical to assume that what was actually intended was for retailers to be prohibited from advertising alcoholic liquor by billboard, just as that statute prohibits retailers from having more than one sign or too large a sign or from displaying liquor in the window, etc.

THE LAW DOES NOT PROHIBIT ADVERTISING OF ALCOHOLIC LIQUOR IN NEWSPAPERS, MAGAZINES, TELEVISION, RADIO OR ANY OTHER MEDIA.

S.B. 454 is designed to correct the arbitrary discrimination against outdoor advertising, but still to carry out the apparent original intent of prohibiting retailers from advertising liquor.

S.B. 454 does not take away in any way the right of the Secretary of Revenue, with the approval of the State Alcoholic Beverage Control Board of Review, from adopting rules and regulations regulating and controlling advertising of liquor.

The Director has adopted rules and regulations in some detail to limit to some extent radio and television advertising and, as a matter of fact, we understand that the television and radio industry itself has adopted a code and do not handle liquor advertising.

It would be anticipated that passage of S.B. 454 would allow some billboard advertising by the manufacturers or distillers. These are the only people who are advertising at this time in newspapers and magazines.

It would be anticipated that there would not be any outdoor advertising in areas which did not allow the sale of liquor.

Of course, these areas are still besieged with advertisements actually coming into the home in newspapers and magazines.

Basically, it would be anticipated that some of the budget of the liquor manufacturers which is going into magazines printed in Chicago, New York and eastern cities would be spent in Kansas on outdoor advertising. This would be new money spent in the state for the support of this state's industry and people employed by this industry in the State of Kansas. This would mean more jobs in the outdoor advertising industry and more tax money for the state.

It would not be anticipated there would be any increase in the amount of dollars spent in liquor advertising, but simply that some that is being spent in magazine advertising would be switched to outdoor advertising.

The outdoor advertising industry would not anticipate that there would be any billboards in the vicinity of schools, hospitals, churches or close to retail liquor stores. Not only would the industry police this itself, but the Secretary of Revenue would have every right to adopt rules and regulations to enforce the intent of the act to this extent.

During the 1972 session of the Legislature, S.B. 451 which deleted from K.S.A. 41-714 sub-paragraph (2) was passed by the Senate.

That Senate Bill was recommended favorably by the House Committee and was on the House Calendar. However, the calendar was struck in the early hours of the morning of the last day of the session without that bill ever having been debated or voted on by the House of Representatives.

I had some sympathy with the bill and attempted to get it brought up for action, but the House got tied up on other matters and time ran out. My sympathy was probably due primarily to the fact that I served on the Roads & Highways Committee during all of the time I was in the House, and was Vice Chairman of the Committee in the 1971 and 1972 sessions.

We were forced by the Federal Government to take some action (on the penalty of losing highway funds) against the outdoor advertising industry, and I felt that the industry was being treated unfairly as a result of Federal intervention.

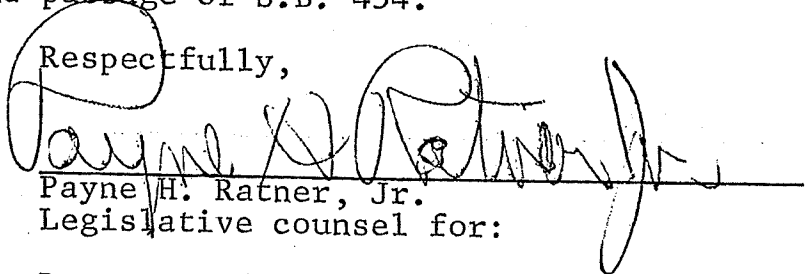
Out of the 50 states and the District of Columbia, there are only 12 states which ban outdoor advertising. 2 states ban all advertising, so of the 51 entities, only 10 single out billboards for a ban on advertising.

Comparing liquor sales in the various states which do and do not ban billboard advertising shows that outdoor advertising cannot be considered to cause any increase in consumption or availability of liquor.

States that have changed their laws and allowed outdoor advertising have not had adverse consumer reaction. Attached hereto is a letter from the President of World-Network, Inc. which is the advertising agency for Schenley Industries.

In conclusion, I would like to request that the discrimination against a completely legitimate and worthwhile industry in this state in the matter of liquor advertising be removed by favorable recommendation and passage of S.B. 454.

Respectfully,



Payne H. Ratner, Jr.
Legislative counsel for:

Donrey Outdoor Advertising, Inc.
250 North Kansas, Wichita, Kansas

Bates Advertising Company
North Kansas Outdoor Advertising Company
40 Frontier Street, Hays, Kansas

Luminous Neon, Inc.
Box 916
Hutchinson, Kansas

Whittaker Advertising Co.
Box 894
Salina, Kansas

Martin Outdoor of Kansas, Inc.
Box 1434
Topeka, Kansas

Robinson Outdoor Advertising Co.
5th and Oak Street
Leavenworth, Kansas

Dodge City Outdoor Advertising Co.
Box 18311, Wichita, Kansas



888 SEVENTH AVENUE, NEW YORK, N.Y. 10019 — (212) 957-7260

February 19, 1975

Mr. J. L. Tidwell
DONREY OUT. ADV. CO.
250 N. Kansas
Wichita, Kans. 67214

Dear Joe:

You asked about our experience with public relations in markets where once "dry" territory becomes "wet" to alcoholic beverage advertising.

I have purchased outdoor advertising for Schenley Industries for a number of years so have been involved in just such programs. As to consumer reaction, I do not know of one situation where we have had adverse effects.

I am sure you realize that we as buyers intend to operate with as much discretion as you do as sellers. Accordingly, we are careful about placement of our locations in sensitive environments such as schools, churches, etc..

Best Wishes.

Sincerely,

Richard L. Briggs,
President.

am

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regulations under the federal alcohol administration act

title 27

code of federal regulations

department of the treasury

bureau of alcohol,

tobacco and firearms



A new Bureau of Alcohol, Tobacco and Firearms was established effective July 1, 1972, by Treasury Department Order 221.

Under that Order the functions and authorities previously vested in the Alcohol, Tobacco and Firearms Division of the Internal Revenue Service were transferred to the new Bureau. The terms "Director", "Director, Alcohol and Tobacco Tax Division", "Director, Alcohol, Tobacco and Firearms Division", and "Commissioner of Internal Revenue" wherever used in this Publication shall mean the Director, Bureau of Alcohol, Tobacco and Firearms. The terms "Assistant Regional Commissioner" and "Regional Commissioner of Internal Revenue" wherever so used shall mean the Regional Director, Bureau of Alcohol, Tobacco and Firearms.



Department of the Treasury
Bureau of Alcohol, Tobacco and Firearms

ATF Publication No. 1 (Rev. 7-73)

*Regulations under
the Federal
Alcohol Administration
Act*

PART 1—BASIC PERMIT REQUIREMENTS.

PART 2—NONINDUSTRIAL USE OF DISTILLED SPIRITS AND WINE.

PART 3—BULK SALES AND BOTTLING OF DISTILLED SPIRITS.

PART 4—LABELING AND ADVERTISING OF WINE.

PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS.

PART 6—INDUCEMENTS FURNISHED RETAILERS.

PART 7—LABELING AND ADVERTISING OF MALT BEVERAGES.

PART 8—CREDIT PERIOD TO BE EXTENDED TO RETAILERS OF
ALCOHOLIC BEVERAGES.

Title 27, Code of Federal Regulations

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

Part

- 1 Basic permit requirements under the Federal Alcohol Administration Act.
- 2 Nonindustrial use of distilled spirits and wine.
- 3 Bulk sales and bottling of distilled spirits.
- 4 Labeling and advertising of wine.
- 5 Labeling and advertising of distilled spirits.
- 6 Inducements furnished to retailers.
- 7 Labeling and advertising of malt beverages.
- 8 Credit period to be extended to retailers of alcoholic beverages.

CROSS REFERENCES:

Bureau of Customs, Department of the Treasury: See 19 CFR Chapter I.

Internal Revenue Service, Department of the Treasury: See 26 CFR Chapter I.

Department of the Army liquor regulations: See 32 CFR 631.1.

Federal Trade Commission: See 16 CFR Chapter I.

Food and Drug Administration, Department of Health, Education, and Welfare: See 21 CFR Chapter I.

Foreign Trade Statistics, Bureau of the Census, Department of Commerce: See 15 CFR Part 30.

Panama Canal Zone liquor regulations: See 35 CFR Part 53.

Postal Service: See 39 CFR 123.3.

NOTE 1: Other regulations issued by the Department of the Treasury appear in Title 19 Chapter I, Title 26; Chapter I, Title 31.

NOTE 2: The regulations appearing in this title were originally issued by the Federal Alcohol Administration which was abolished by Reorganization Plan No. III, Apr. 2, 1940, 5 F.R. 2107, 3 CFR, 1940 Supp. Treasury Order 30, June 12, 1940, 5 F.R. 2212, issued under sections 2 and 8 of Reorganization Plan No. III (54 Stat. 1232) provided that these regulations continue in effect as regulations of the Bureau of Alcohol, Tobacco and Firearms.

ABBREVIATIONS: The following abbreviations are used in this chapter:

AT=*Alcohol Tax*. ATF=*Alcohol, Tobacco and Firearms*. TD=*Treasury Decision*.
Fed. Alc. Adm.=*Federal Alcohol Administration*.

SUBCHAPTER A—LIQUORS

PART 1—BASIC PERMIT REQUIREMENTS UNDER THE FEDERAL ALCOHOL ADMINISTRATION ACT

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1.3 Forms prescribed.
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- Sec.
1.52 Disposition of stocks of alcoholic beverages upon revocation, annulment, or automatic termination of basic permit.

Subpart G—Miscellaneous

- 1.55 Recalling permits for correction.
1.56 Oaths and affirmations.
1.57 Procedure.
1.58 Filing of permits.
1.59 Public information as to applications acted upon.

AUTHORITY: The provisions of this Part 1 issued under 49 Stat. 977, as amended; 27 U.S.C. 202 note.

SOURCE: The provisions of this Part 1 contained in Treasury Decision 6521, 25 F.R. 13831, Dec. 29, 1960, unless otherwise noted.

Subpart A—Scope

§ 1.1 General.

The regulations in this part relate to requirements governing the issuance, amendment, denial, revocation, suspension, automatic termination, and annulment of basic permits and the duration of permits, except that the provisions of 26 CFR Part 200, Rules of Practice in Permit Proceedings are hereby made applicable to administrative proceedings with respect to the application for, and to the suspension, revocation, or annulment of, basic permits under the Federal Alcohol Administration Act.

§ 1.2 Territorial extent.

The provisions of this part are applicable to the several States of the United States, the District of Columbia and Puerto Rico.

§ 1.3 Forms prescribed.

The Director, Alcohol and Tobacco Tax Division is authorized to prescribe all forms required by this part. Information called for shall be furnished in accordance with the instructions on the form or issued in respect thereto.

Subpart B—Definitions

§ 1.5 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this subpart.

§ 1.6 Act.

"Act" shall mean the Federal Alcohol Administration Act.

§ 1.7 Applicant.

"Applicant" shall mean any person who has filed with the Assistant Regional

Commissioner an application for a basic permit under the Federal Alcohol Administration Act.

§ 1.8 Assistant Regional Commissioner.

"Assistant Regional Commissioner" shall mean the Assistant Regional Commissioner, Alcohol and Tobacco Tax, who is responsible to, and functions under, the direction and supervision of the Regional Commissioner.

§ 1.9 Basic permit.

"Basic permit" shall mean a formal document issued under the Act in the form prescribed by the Director, Alcohol and Tobacco Tax Division authorizing the person named therein to engage in the activities specified at the location stated.

§ 1.10 Commissioner.

"Commissioner" shall mean the Commissioner of Internal Revenue, and shall include anyone authorized to act in his place and stead.

§ 1.11 Director, Alcohol and Tobacco Tax Division.

"Director, Alcohol and Tobacco Tax Division" shall mean the Director of the Alcohol and Tobacco Tax Division of the Internal Revenue Service, Washington, D.C., and shall include anyone authorized to act in his place and stead.

§ 1.12 Other term.

Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by such act.

§ 1.13 Permittee.

"Permittee" shall mean any person holding a basic permit issued under the Federal Alcohol Administration Act.

§ 1.14 Person.

"Person" shall mean any individual, partnership, joint-stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent.

§ 1.15 Regional Commissioner.

"Regional Commissioner" shall mean the Regional Commissioner of Internal Revenue of an internal revenue region.

§ 1.16 Resale at wholesale.

"Resale at wholesale" shall mean a sale to any trade buyer.

§ 1.17 Trade buyer.

"Trade buyer" shall mean any person who is a wholesaler or retailer of distilled spirits, wine or malt beverages.

Subpart C—Basic Permits

WHEN REQUIRED

§ 1.20 Importers.

No person, except pursuant to a basic permit issued under the act, shall:

(a) Engage in the business importing into the United States distilled spirits, wine, or malt beverages; or (b) while so engaged, sell, offer or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through an affiliate, distilled spirits, wine, or malt beverages so imported.

§ 1.21 Domestic producers, rectifiers, blenders, and warehousemen.

No person, except pursuant to a basic permit issued under the Act, shall:

(a) Engage in the business of distilling distilled spirits, producing wine, rectifying or blending distilled spirits or wine, or bottling, or warehousing and bottling, distilled spirits; or (b) while so engaged, sell, offer or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through an affiliate, distilled spirits or wine so distilled, produced, rectified, blended, or bottled, or warehoused and bottled.

§ 1.22 Wholesalers.

No person, except pursuant to a basic permit issued under the Act, shall:

(a) Engage in the business of purchasing for resale at wholesale, distilled spirits, wine, or malt beverages; or, (b) While so engaged, receive, sell, offer or deliver for sale, contract to sell, or ship in interstate or foreign commerce, directly or indirectly or through an affiliate, distilled spirits, wine, or malt beverages so purchased.

§ 1.23 State agencies.

This subpart shall not apply to any agency of a State or political subdivision thereof or to any officer or employee of any such agency, and no such agency or officer or employee thereof shall be required to obtain a basic permit under this subpart.

PERSONS ENTITLED TO BASIC PERMITS

§ 1.24 Qualifications of applicants.

The application of any person shall be granted and the permit issued by the

Assistant Regional Commissioner if the applicant proves to the satisfaction of the Assistant Regional Commissioner that:

(a) Such person (or in case of a corporation, any of its officers, directors, or principal stockholders) has not, within 5 years prior to the date of application, been convicted of a felony under Federal or State law, and has not, within 3 years prior to date of application, been convicted of a misdemeanor under any Federal law relating to liquor, including the taxation thereof; and

(b) Such person, by reason of his business experience, financial standing or trade connections, is likely to commence operations as a distiller, warehouseman and bottler, rectifier, wine producer, wine blender, importer, or wholesaler, as the case may be, within a reasonable period and to maintain such operations in conformity with Federal law; and

(c) The operations proposed to be conducted by such person are not in violation of the law of the State in which they are to be conducted.

APPLICATIONS FOR PERMITS

§ 1.25 General.

Applications for basic permits to engage in any of the operations set forth in §§ 1.20 to 1.22 shall be made on the appropriate form prescribed by the Director, Alcohol and Tobacco Tax Division, verified as required by § 1.56, and shall be accompanied by such affidavits, documents, and other supporting data, as the Director, Alcohol and Tobacco Tax Division or the Assistant Regional Commissioner shall require. All data, written statements, affidavits, documents, or other evidence submitted in support of the application, or upon hearing thereon, shall be deemed to be a part of the application. All applications shall be filed by mailing or delivering the same to the office of the Assistant Regional Commissioner.

§ 1.26 Incomplete or incorrectly executed applications.

Incomplete or incorrectly executed applications will not be acted upon, but the applicant shall be entitled to file a new application without prejudice, or to complete the application already filed.

§ 1.27 Change in ownership, management, or control of the applicant.

In the event of any change in the ownership, management, or control of the applicant (in case of a corporation, any change in the officers, directors, or persons holding more than 10 percent of the corporate stock), after the date of filing of any application for a basic permit and prior to final action on such application, the applicant shall notify the Assistant Regional Commissioner immediately of such change.

§ 1.28 Forms upon which to apply for basic permits.

The appropriate forms upon which to apply for basic permits may be secured from the assistant regional commissioner's office upon request.

§ 1.29 Individual plant or premises.

An application for basic permit must be filed, and permit issued, to cover each individual plant or premises where any of the businesses specified in section 3 of the act is engaged in such application to be filed with and permit issued by the Assistant Regional Commissioner for the region wherein such plant or premises is located.

§ 1.30 Power of attorney; Form 1534.

If the application and other documents in support of such application are signed by an attorney in fact of an individual, partnership, association, or corporation, or by one of the members of a copartnership or association, or, in the case of a corporation by an officer or other person not authorized by the corporation's bylaws or by its board of directors to sign such applications and supporting documents, the applications must be supported by a duly authenticated copy of the power of attorney conferring authority upon the person signing the documents to execute the same. Such powers of attorney will be executed on Form 1534, in triplicate, and submitted to the Assistant Regional Commissioner.

§ 1.31 Denial of permit applications.

If, upon examination of any application for a basic permit, the Assistant Regional Commissioner has reason to believe that the applicant is not entitled to such permit he shall institute proceedings for the denial of the application in accordance with the procedure set forth in 26 CFR Part 200, which part is made applicable to such proceedings.

Subpart D—Authorization

§ 1.35 Authority to issue, amend, deny, suspend, revoke, or annul basic permits.

The authority and power of issuing, amending, or denying basic permits, or amendments thereof, is conferred upon the Commissioner and (except as to agency initiated curtailment) upon the Assistant Regional Commissioner. The authority and power of suspending, revoking or annulling basic permits is conferred upon the Commissioner, and upon the hearing examiners referred to in 26 CFR Part 200. Any Assistant Commissioner of Internal Revenue, when designated to do so by the Commissioner, and the Director, upon consideration of appeals on petitions for review, may order the Assistant Regional Commissioner to issue, deny, suspend, revoke, and annul basic permits.

Subpart E—Amendment and Duration of Basic Permits

§ 1.40 Change of name.

In the event of any change in the name (trade or corporate name) of a permittee, or, in the event a permittee desires to engage in operations under an additional trade name, such permittee must file application (Form 1643), with the Assistant Regional Commissioner, for an amended basic permit, which application must be approved, and amended permit issued, before operations may be commenced under the new name.

§ 1.41 Change of address.

In the event of a change in address the permittee must file application (Form 1643), with the Assistant Regional Commissioner, for an amended basic permit.

§ 1.42 Change in ownership, management, or control of business.

In the event of any change in the ownership, management, or control of any business operated pursuant to a basic permit (if the permittee is a corporation, if any change occurs in the officers, directors, or persons owning or controlling more than 10 percent of the voting stock of said corporation) the permittee shall immediately notify the Assistant Regional Commissioner of such change, giving the names and addresses of all new persons participating in the ownership, management, or control of such business, or in the case of a

corporation, the names and addresses of such new officers, directors, or persons owning or controlling more than 10 percent of the voting stock. Notice to the Assistant Regional Commissioner of any such change shall be accompanied or supplemented by such data in reference to the personal or business history of such persons as the Assistant Regional Commissioner may require.

§ 1.43 Duration of permits.

A basic permit shall continue in effect until suspended, revoked, annulled, voluntarily surrendered, or automatically terminated, as provided in the act and in this part.

§ 1.44 Automatic termination of permits.

No basic permit shall be leased, sold or otherwise voluntarily transferred, and, in the event of such lease, sale, or other voluntary transfer, the said basic permit shall automatically terminate thereupon. If any basic permit is transferred by operation of law or if actual or legal control of the permittee is acquired, directly or indirectly whether by stock ownership or in any other manner, by any person, then such permit shall be automatically terminated at the expiration of 30 days thereafter: *Provided*, That if within such 30-day period application for a new basic permit is made by the transferee or permittee, respectively, then the outstanding basic permit shall continue in effect until such time as the application is finally acted upon.

Subpart F—Revocation, Suspension, or Annulment of Basic Permits

§ 1.50 Revocation or suspension.

Whenever the Assistant Regional Commissioner has reason to believe that any permittee has willfully violated any of the conditions of his basic permit or has not engaged in the operations authorized by the permit for a period of more than two years, he shall institute proceedings for the revocation or suspension of such permit, in accordance with the procedure set forth in 26 CFR Part 200, which part is made applicable to such proceedings.

§ 1.51 Annulment.

Whenever the Assistant Regional Commissioner has reason to believe that any basic permit was procured through fraud, or misrepresentation or concealment of material fact, he shall institute

proceedings for the annulment of such permit in accordance with the procedure set forth in 26 CFR Part 200, which part is made applicable to such proceedings.

§ 1.52 Disposition of stocks of alcoholic beverages upon revocation, annulment, or automatic termination of basic permit.

In the event of the revocation or annulment of a basic permit, pursuant to 26 CFR Part 200, or in the event such permit is automatically terminated by operation of law (27 U.S.C. 204(g)) and § 144, the Assistant Regional Commissioner may authorize the orderly disposition of stocks of distilled spirits, wines or malt beverages then held by the permittee or former permittee upon such conditions as may be considered proper.

Subpart G—Miscellaneous

§ 1.55 Recalling permits for correction.

Whenever it shall be discovered that any basic permit has been issued authorizing acts, or combinations of acts, which may not properly, under the law and regulations, as of now or hereafter in force, be authorized, or that any material mistake has occurred in the issuance thereof, the holder of such permit shall forthwith surrender the same for correction or amendment upon demand of the Assistant Regional Commissioner.

§ 1.56 Oaths and affirmations.

Any document required by regulations or instructions of the Commissioner to be verified, shall be so verified upon oath or affirmation taken before a person authorized by the laws of the United States or by State or local law to administer oaths or affirmations in the State, Territory, or District wherein such document is to be executed.

§ 1.57 Procedure.

The procedures prescribed by the rules of practice in Permit Proceedings (26 CFR Part 200) are applicable to administrative proceedings for the issuance, amendment, denial, revocation, suspension, and annulment of basic permits, the issuance of subpoenas and the taking of depositions under the Federal Alcohol Administration Act.

§ 1.58 Filing of permits.

Every person receiving a basic permit under the provisions of this part must file the same, at the place of business

covered by the basic permit, so that it may be examined by Government officers.

§ 1.59 Public information as to applications acted upon.

The Assistant Regional Commissioner shall cause to be maintained currently in his office for public inspection, until the expiration of one year following final action on the application, the following information with respect to each application for basic permit filed:

(a) The name, including trade name or names, if any, and the address of the applicant; the kind of permit applied for and the location of the business; whether the applicant is an individual, a partnership or a corporation; if a partnership, the name and address of each partner; if a corporation, the name and address of each of the principal officers and of each stockholder owning 10 percent or more of the corporate stock.

(b) The time and place set for any hearing on the application.

(c) The final action taken on the application. In the event a hearing is held upon an application for a basic permit, the Assistant Regional Commissioner shall make available for inspection at his office, upon request therefor: the transcript of the hearing, a copy of the examiner's recommended decision, a copy of the Assistant Regional Commissioner's decision and, in the event of an appeal to the Director, Alcohol and Tobacco Tax Division, the decision on appeal with the reasons given in support thereof.

PART 2—NONINDUSTRIAL USE OF DISTILLED SPIRITS AND WINE

Subpart A—Scope of Regulations

Sec.
2.1 Nonindustrial use of distilled spirits and wine.

Subpart B—Definitions

2.5 Distilled spirits.
2.6 Wine.

Subpart C—Uses Regarded as Industrial

2.10 Use of distilled spirits.
2.11 Use of wine.
2.12 Use of distilled spirits or wine for experimental purposes and in manufacture of nonbeverage products.

Subpart D—Uses Classed as Nonindustrial

2.15 General.
2.16 Distilled spirits in containers of a capacity of one gallon or less.

AUTHORITY: The provisions of this Part 2 issued under 49 Stat. 977, as amended; 27 U.S.C. 202 note.

SOURCE: The provisions of this Part 2 contained in Treasury Decision 6521, 25 F.R. 13833, Dec. 29, 1960, unless otherwise noted.

Subpart A—Scope of Regulations

§ 2.1 Nonindustrial use of distilled spirits and wine.

The regulations in this part specify what uses of distilled spirits and wine are "nonindustrial," as that term is used in section 17 of the Federal Alcohol Administration Act. No procedural requirements are prescribed.

Subpart B—Definitions

§ 2.5 Distilled spirits.

Section 17(a) of the Federal Alcohol Administration Act defines "distilled spirits" as ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof for nonindustrial use.

§ 2.6 Wine.

Section 17(a) of the Federal Alcohol Administration Act defines "wine" as (a) wine as defined in section 610 and section 617 of the Revenue Act of 1918 (26 U.S.C. 3036, 3044, 3045), as now in force or hereafter amended, and (b) other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than the juice of sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake; in each instance only if containing not less than 7 per centum and not more than 24 per centum of alcohol by volume, and if for nonindustrial use.

Subpart C—Uses Regarded as Industrial

§ 2.10 Use of distilled spirits.

The following uses of distilled spirits are regarded as "industrial" and will be excluded from any application of the term "nonindustrial use." The use of distilled spirits:

(a) Free of tax by, and for the use of, the United States or any governmental agency thereof, any State or Territory, any political subdivision of a State or

Territory, or the District of Columbia, for nonbeverage purposes; or

(b) Free of tax for nonbeverage purposes and not for resale or use in the manufacture of any product for sale:

(1) For the use of any educational organization described in 26 U.S.C. 503(b)(2) which is exempt from income tax under 26 U.S.C. 501(a), or for the use of any scientific university or college of learning;

(2) For any laboratory for use exclusively in scientific research;

(3) For use at any hospital, blood bank, or sanitarium (including use in making analysis or test at such hospital, blood bank, or sanitarium), or at any pathological laboratory exclusively engaged in making analyses or tests, for hospitals or sanitariums; or

(4) For the use of any clinic operated for charity and not for profit (including use in compounding of bona fide medicines for treatment outside of such clinics of patients thereof); or

(c) Free of tax, after denaturation of such spirits in the manner prescribed by law for:

(1) Use in the manufacture of ether, chloroform, or other definite chemical substance where such distilled spirits are changed into some other chemical substance and do not appear in the finished product; or

(2) Any other use in the arts and industries (except for uses prohibited by 26 U.S.C. 5273 (b) or (d)) and for fuel, light, and power.

§ 2.11 Use of wine.

The following uses of wine are regarded as "industrial" and will be excluded from any application of the term "nonindustrial". The use of wine:

(a) Without payment of tax for use in the production of vinegar; or

(b) Free of tax for experimental or research purposes by any scientific university, college of learning, or institution of scientific research; or

(c) Free of tax for use by the United States or any agency thereof, and for use for analysis, testing, research, or experimentation by the governments of the several States and Territories and the District of Columbia or of any political subdivision thereof or by any agency of such governments; or

(d) Which has been rendered unfit for beverage use.

§ 2.12 Use of distilled spirits or wine for experimental purposes and in manufacture of nonbeverage products.

The use of distilled spirits or wine for experimental purposes and in the manufacture of (a) medicinal, pharmaceutical, or antiseptic products, including prescriptions compounded by retail druggists; (b) toilet preparations; (c) flavoring extracts, syrups, or food products; or (d) scientific, chemical, mechanical, or industrial products, provided such products are unfit for beverage use, is regarded as "industrial," and will be excluded from any application of the term "nonindustrial use."

Subpart D—Uses Classed as Nonindustrial

§ 2.15 General.

All uses of distilled spirits and wines, except as provided in Subpart C of this part, are regarded as "nonindustrial." Such "nonindustrial" use shall include, but not be limited to, distilled spirits or wine used for beverage purposes, or in the manufacture, rectification, or blending of alcoholic beverages; or in the preparation of food or drink by a hotel, restaurant, tavern, or similar establishment; or for sacramental purposes; or as a medicine.

§ 2.16 Distilled spirits in containers of a capacity of one gallon or less.

Distilled spirits in containers of a capacity of one wine gallon or less, except anhydrous alcohol and alcohol which may be withdrawn free of tax under the internal revenue laws, will be deemed to be for nonindustrial use.

PART 3—BULK SALES AND BOTTLING OF DISTILLED SPIRITS

Subpart A—Scope of Part

Sec.

3.1 Bulk sales and bottling of distilled spirits.

Subpart B—Definitions

3.5 Distilled spirits.
3.6 Brandy.
3.7 In bulk.
3.8 Other terms.

Subpart C—Bulk Sales and Bottling

3.10 Sales of distilled spirits in bulk.
3.11 Importation of distilled spirits in bulk.
3.12 Acquiring or receiving distilled spirits in bulk for redistillation, processing, rectification, warehousing, or warehousing and bottling.

Sec.

3.13 Acquiring or receiving distilled spirits in bulk for addition to wine.
3.14 Acquisition of distilled spirits in bulk by Government agencies.

Subpart D—Warehouse Receipts

3.20 Distilled spirits in bulk.
3.21 Bottled distilled spirits.

Subpart E—Sales of Distilled Spirits for Industrial Use

3.25 General.

AUTHORITY: The provisions of this Part 3 issued under 49 Stat. 985, as amended; 27 U.S.C. 206.

SOURCE: The provisions of this Part 3 contained in Treasury Decision 6521, 25 F.R. 13834, Dec. 29, 1960, unless otherwise noted.

Subpart A—Scope of Part

§ 3.1 Bulk sales and bottling of distilled spirits.

This part, issued pursuant to section 6 of the Federal Alcohol Administration Act (27 U.S.C. 206), contains the substantive requirements relative to bulk sales and bottling of distilled spirits under the Federal Alcohol Administration Act, including the terms of warehouse receipts for distilled spirits in bulk. No procedural requirements are prescribed.

Subpart B—Definitions

§ 3.5 Distilled spirits.

Section 17(a) of the Federal Alcohol Administration Act defines "distilled spirits" as ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whisky, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use.

§ 3.6 Brandy.

As used in this part, the term "brandy" means brandy or wine spirits for addition to wines as permitted by Internal Revenue law and the term "alcohol" means ethyl alcohol distilled at or above 190° proof.

§ 3.7 In bulk.

As used in this part, the term "in bulk" shall mean in containers having a capacity in excess of 1 wine gallon.

§ 3.8 Other terms.

Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the meaning assigned to it by such act.

Subpart C—Bulk Sales and Bottling

§ 3.10 Sales of distilled spirits in bulk.

It is unlawful for any person to sell, offer to sell, contract to sell, or otherwise dispose of distilled spirits in bulk, for nonindustrial use, except for export or to the classes of persons enumerated in §§ 3.12, 3.13 and 3.14.

§ 3.11 Importation of distilled spirits in bulk.

It is unlawful for any person to import distilled spirits in bulk, for nonindustrial use, except for sale to or for use by the classes of persons enumerated in §§ 3.12, 3.13 and 3.14.

§ 3.12 Acquiring or receiving distilled spirits in bulk for redistillation, processing, rectification, warehousing, or warehousing and bottling.

Persons holding basic permits (issued under 27 CFR Part 1) authorizing the distilling, rectifying, or warehousing and bottling of distilled spirits, or operating permits (issued under 26 CFR 201.136 et seq.) may acquire or receive in bulk distilled spirits as follows:

(a) *Proprietor of a distilled spirits plant having distilling or bonded storage facilities.* If the permittee is authorized to operate distilling or bonded storage facilities of a distilled spirits plant, he may acquire or receive in bulk, and redistill or otherwise process, or warehouse or warehouse and bottle domestic untaxed or determined distilled spirits.

(b) *Proprietor of a distilled spirits plant having bottling premises for bottling taxpaid distilled spirits.* If the permittee is authorized to operate taxpaid bottling premises of a distilled spirits plant, he may acquire or receive in bulk, and warehouse and bottle imported taxpaid distilled spirits and domestic distilled spirits on which all applicable taxes imposed by law have been determined or paid as provided by law. If he is authorized to rectify distilled spirits, he may acquire or receive in bulk taxpaid imported distilled spirits, and domestic distilled spirits on which all applicable taxes imposed by law have been determined or paid as provided by law, for use in rectifying and blending or for warehousing and bottling.

(c) *Proprietor of class 8 customs bonded warehouse.* If the permittee

operates a class 8 customs bonded warehouse, he may acquire or receive in bulk, and warehouse and bottle, imported distilled spirits, so far as permitted by the customs laws.

§ 3.13 Acquiring or receiving distilled spirits in bulk for addition to wine.

Persons holding permits as producers and blenders of wine, may, pursuant to such permit, acquire or receive in bulk alcohol or brandy for addition to wines.

§ 3.14 Acquisition of distilled spirits in bulk by Government agencies.

Any agency of the United States, or of any State or political subdivision thereof, may acquire or receive in bulk, and warehouse and bottle, imported and domestic distilled spirits in conformity with the internal revenue laws.

Subpart D—Warehouse Receipts

§ 3.20 Distilled spirits in bulk.

By the terms of the Federal Alcohol Administration Act (27 U.S.C. 206), all warehouse receipts for distilled spirits in bulk must require that the warehouseman shall package such distilled spirits, before delivery, in bottles labeled and marked in accordance with law, or deliver such distilled spirits in bulk only to persons to whom it is lawful to sell or otherwise dispose of distilled spirits in bulk.

§ 3.21 Bottled distilled spirits.

The provisions of the Federal Alcohol Administration Act, which forbid any person to sell, offer to sell, contract to sell, or otherwise dispose of warehouse receipts for distilled spirits in bulk, do not apply to warehouse receipts for bottled distilled spirits.

CROSS REFERENCE: For labeling of distilled spirits, see Part 5 of this chapter.

Subpart E—Sales of Distilled Spirits for Industrial Use

§ 3.25 General.

Distillers, rectifiers, and other permittees engaged in the sale or other disposition of distilled spirits for nonindustrial use shall not sell or otherwise dispose of distilled spirits in bulk other than alcohol for industrial use, unless such distilled spirits are shipped or delivered directly to the industrial user thereof.

PART 4—LABELING AND ADVERTISING OF WINE

Subpart A—Scope

- Sec.
4.1 General.
4.2 Territorial extent.

Subpart B—Definitions

- 4.10 Meaning of terms.

Subpart C—Standards of Identity for Wine

- 4.20 Application of standards.
4.21 The standards of identity.
4.22 Blends, cellar treatment, alteration of class or type.
4.23 Grape type designations.
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4.25 Appellations of origin.

Subpart D—Labeling Requirements for Wine

- 4.30 General.
4.31 Misbranding.
4.32 Mandatory label information.
4.33 Brand names.
4.34 Class and type.
4.35 Name and address.
4.36 Alcoholic content.
4.37 Net contents.
4.38 General requirements.
4.39 Prohibited practices.

Subpart E—Requirements for Withdrawal of Wine From Customs Custody

- 4.40 Label approval and release.
4.45 Certificates of origin and identity.

Subpart F—Requirements for Approval of Labels of Wine Domestically Bottled or Packed

- 4.50 Certificates of label approval.
4.51 Exhibiting certificates to Government officials.
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Subpart G—Advertising of Wine

- 4.60 Application.
4.61 Definitions.
4.62 Mandatory statements.
4.63 Legibility of requirements.
4.64 Prohibited statements.

Subpart H—Standards of Fill for Wine

- 4.70 Application.
4.71 Standard wine containers.
4.72 Standards of fill.

Subpart I—General Provisions

- 4.80 Exports.

AUTHORITY: The provisions of this Part 4 issued under 49 Stat. 981, as amended; 27 U.S.C. 205.

SOURCE: The provisions of this Part 4 contained in Treasury Decision 6521, 25 F.R. 13835, Dec. 29, 1960, unless otherwise noted

CROSS REFERENCES: Other regulations relating to this part are as follows:

- 27 CFR, Part 1—Basic Permit Requirements Under the Federal Alcohol Administration Act.
27 CFR, Part 5—Labeling and Advertising of Distilled Spirits.
27 CFR, Part 7—Labeling and Advertising of Malt Beverages.
26 CFR, Part 200—Rules of Practice in Permit Proceedings.
26 CFR, Part 240—Wine.
26 CFR, Part 250—Liquors and Articles from Puerto Rico and the Virgin Islands.
26 CFR, Part 251—Importation of Distilled Spirits, Wines and Beer.
26 CFR, Part 252—Exportation of Liquors.

Subpart A—Scope

§ 4.1 General.

The regulations in this part relate to the labeling and advertising of wine.

§ 4.2 Territorial extent.

This part applies to the several States of the United States, the District of Columbia, and Puerto Rico.

Subpart B—Definitions

§ 4.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this part.

(a) *Act*. "Act" means the Federal Alcohol Administration Act.

(b) *Assistant Regional Commissioner*. "Assistant Regional Commissioner" shall mean the Assistant Regional Commissioner, Alcohol and Tobacco Tax, who is responsible to, and functions under the direction and supervision of the Regional Commissioner.

(c) *Director*. "Director" shall mean the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C.

(d) *Permittee*. "Permittee" means any person holding a basic permit under the Federal Alcohol Administration Act.

(e) *Wine*. "Wine" means: (1) wine as defined in section 610 and section 617 of the Revenue Act of 1918 (26 U.S.C. 3036, 3044, 3045) and (2) other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than the juice of sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry, and sake; in each instance only if containing not less than 7 percent,

and not more than 24 percent of alcohol by volume, and if for nonindustrial use.

(f) *Pure condensed must*. "Pure condensed must" means the dehydrated juice or must of sound, ripe grapes, or other fruit or agricultural products, concentrated to not more than 80° (Balling), the composition thereof remaining unaltered except for removal of water; the term "restored pure condensed must" means pure condensed must to which has been added an amount of water not exceeding the amount removed in the dehydration process; and the term "sugar" means pure cane, beet, or dextrose sugar in dry form containing, respectively, not less than 95 percent of actual sugar calculated on a dry basis.

(g) *Added brandy or alcohol*. As used in the phrase "added brandy or alcohol" the term "brandy" means brandy or wine spirits for use in the fortification of wine as permitted by internal revenue law. The term "alcohol" means ethyl alcohol distilled at or above 190° proof.

(h) *Vintage wine*. "Vintage wine" means a wine made in accordance with the standards prescribed in Classes 1, 2, and 3 of § 4.21, deriving not less than 95 percent of its volume from grapes gathered in the same calendar year, grown in the same viticultural area, and fermented in the State in which this viticultural area is located.

(i) *Container*. "Container" means any bottle, barrel, cask or other closed receptacle irrespective of size or of the material from which made for use for the sale of wine at retail. The term "bottler" means any person who places wine in containers of a capacity of 1 gallon or less; and the term "packer" means any person who places wine in containers of a capacity in excess of 1 gallon.

(j) *Gallon*. "Gallon" means United States gallon of 231 cubic inches of alcoholic beverage at 60° F. All other liquid measures used are subdivisions of the gallon as so defined.

(k) *Brand label*. "Brand label" means the label carrying, in the usual distinctive design, the brand name of the wine.

(l) *United States*. "United States" means the several States and Territories and the District of Columbia; the term "State" includes a Territory and the District of Columbia; and the term "Territory" means Puerto Rico.

(m) *Interstate commerce*. "Interstate or foreign commerce" means commerce between any State and any place outside

thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

(n) *Person*. "Person" means any individual, partnership, joint-stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent, and including an officer or employee of any agency of a State or political subdivision thereof; and the term "trade buyer" means any person who is a wholesaler or retailer.

(o) *Use of other terms*. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by such act.

[T.D. 6521, 25 F.R. 13835, Dec. 29, 1960, as amended by T.D. 7185, 37 F.R. 7975, Apr. 22, 1972]

Subpart C—Standards of Identity for Wine

§ 4.20 Application of standards.

The standards of identity for the several classes and types of wine set forth herein shall be applicable to all regulations and permits issued under the act. Whenever any term for which a standard of identity has been established herein is used in any such regulation or permit, such term shall have the meaning assigned to it by such standard of identity.

§ 4.21 The standards of identity.

Standards of identity for the several classes and types of wine set forth in this part shall be as follows:

(a) *Class 1; grape wine*. (1) "Grape wine" is wine produced by the normal alcoholic fermentation of the juice of sound, ripe grapes (including restored or unrestored pure condensed grape must), with or without the addition, after fermentation, of pure condensed grape must, and with or without added grape brandy or alcohol, but without other addition or abstraction except as may occur in cellar treatment: *Provided*, That the product may be ameliorated before, during or after fermentation by either of the following methods:

(i) By adding, separately or in combination, dry sugar, or such an amount of sugar and water solution as will not increase the volume of the resulting product more than 35 percent; but in no event shall any product so ameliorated

have an alcoholic content, derived by fermentation, of more than 13 percent by volume, or a natural acid content, if water has been added, of less than 5 parts per thousand, or a total solids content of more than 22 grams per 100 cubic centimeters.

(ii) By adding, separately or in combination, not more than 20 percent by weight of dry sugar, or not more than 10 percent by weight of water.

(iii) In the case of domestic wine, in accordance with section 5383 of the Internal Revenue Code.

The maximum volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, shall not be, for natural red wine, more than 0.14 gram, and for other grape wine, more than 0.12 gram, per 100 cubic centimeters (20° C.). Grape wine deriving its characteristic color or lack of color from the presence or absence of the red coloring matter of the skins, juice, or pulp of grapes may be designated as "red wine," "pink (or rose) wine," "amber wine," or "white wine" as the case may be. Any grape wine containing no added grape brandy or alcohol may be further designated as "natural."

(2) "Table wine" is grape wine having an alcoholic content not in excess of 14 percent by volume. Such wine may also be designated as "light wine," "red table wine," "light white wine," "sweet table wine," etc., as the case may be.

(3) "Dessert wine" is grape wine having an alcoholic content in excess of 14 percent but not in excess of 24 percent by volume. Dessert wine having the taste, aroma and characteristics generally attributed to sherry and an alcoholic content, derived in part from added grape brandy or alcohol, of not less than 17 percent by volume, may be designated as "sherry". Dessert wines having the taste, aroma and characteristics generally attributed to angelica, madeira, muscatel and port and an alcoholic content, derived in part from added grape brandy or alcohol, of not less than 18 percent by volume, may be designated as "angelica," "madeira," "muscatel," or "port" respectively. Dessert wines having the taste, aroma, and characteristics generally attributed to any of the above products and an alcoholic content, derived in part from added grape brandy or alcohol, in excess of 14 percent by volume but, in the case of sherry, less than 17 percent, or, in other cases, less than 18 percent by volume, may be designated as "light sherry," "light angelica," "light

madeira," "light muscatel" or "light port," respectively.

(b) *Class 2; sparkling grape wine.* (1) "Sparkling grape wine" (including "sparkling wine," "sparkling red wine" and "sparkling white wine") is grape wine made effervescent with carbon dioxide resulting solely from the fermentation of the wine within a closed container, tank or bottle.

(2) "Champagne" is a type of sparkling light wine which derives its effervescence solely from the secondary fermentation of the wine within glass containers of not greater than one gallon capacity, and which possesses the taste, aroma, and other characteristics attributed to champagne as made in the champagne district of France.

(3) A sparkling light wine having the taste, aroma, and characteristics generally attributed to champagne but not otherwise conforming to the standard for "champagne" may, in addition to but not in lieu of the class designation "sparkling wine" be further designated as "champagne style" or "champagne type" or "American (or New York State, California, etc.) champagne—bulk process"; all the words in such further designation shall appear in lettering of substantially the same size and such lettering shall not be substantially larger than the words "sparkling wine".

(4) "Crackling wine," "petillant wine," "frizzante wine" (including cremant, perlant, reciotto, and other similar wine) is sparkling light wine normally less effervescent than champagne or other similar sparkling wine, but containing sufficient carbon dioxide in solution to produce, upon pouring under normal conditions, after the disappearance of air bubbles, a slow and steady effervescence evidenced by the formation of gas bubbles flowing through the wine. Crackling wine which derives its effervescence from secondary fermentation in containers greater than 1-gallon capacity shall be designated "crackling wine—bulk process," and the words "bulk process" shall appear in lettering of substantially the same size as the words "crackling wine."

(c) *Class 3; carbonated grape wine.* "Carbonated grape wine" (including "carbonated wine" "carbonated red wine," and "carbonated white wine") is grape wine made effervescent with carbon dioxide other than that resulting solely from the secondary fermentation of the wine within a closed container, tank or bottle.

(d) *Class 4; citrus wine.* (1) (i) "Citrus wine" or "citrus fruit wine" is wine produced by the normal alcoholic fermentation of the juice of sound, ripe citrus fruit (including restored or un-restored pure condensed citrus must), with or without the addition, after fermentation, of pure condensed citrus must, and with or without added citrus brandy or alcohol, but without any other addition or abstraction except as may occur in cellar treatment: *Provided*, That a domestic product may be ameliorated or sweetened in accordance with the provisions of section 5384 of the Internal Revenue Code and any product other than domestic may be ameliorated before, during, or after fermentation by adding, separately or in combination, dry sugar, or such an amount of sugar and water solution as will not increase the volume of the resulting product more than 35 percent, but in no event shall any product so ameliorated have an alcoholic content, derived by fermentation, of more than 13 percent by volume, or a natural acid content, if water has been added, of less than 5 parts per thousand, or a total solids content of more than 22 grams per 100 cubic centimeters.

(ii) The maximum volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, shall not be, for natural citrus wine, more than 0.14 gram, and for other citrus wine, more than 0.12 gram, per 100 cubic centimeters (20° C.).

(iii) Any citrus wine containing no added brandy or alcohol may be further designated as "natural."

(2) "Citrus table wine" or "citrus fruit table wine" is citrus wine having an alcoholic content not in excess of 14 percent by volume. Such wine may also be designated "light citrus wine," "light citrus fruit wine," "light sweet citrus fruit wine," etc., as the case may be.

(3) "Citrus dessert wine" or "citrus fruit dessert wine" is citrus wine having an alcoholic content in excess of 14 percent but not in excess of 24 percent by volume.

(4) Citrus wine derived wholly (except for sugar, water, or added alcohol) from one kind of citrus fruit, shall be designated by the word "wine" qualified by the name of such citrus fruit, e.g., "orange wine," "grapefruit wine." Citrus wine not derived wholly from one kind of citrus fruit shall be designated as "citrus wine" or "citrus fruit wine" qualified by a truthful and adequate statement of composition appearing in direct

conjunction therewith. Citrus wine rendered effervescent by carbon dioxide resulting solely from the secondary fermentation of the wine within a closed container, tank, or bottle shall be further designated as "sparkling"; and citrus wine rendered effervescent by carbon dioxide otherwise derived shall be further designated as "carbonated."

(e) *Class 5; fruit wine.* (1) (i) "Fruit wine" is wine (other than grape wine or citrus wine) produced by the normal alcoholic fermentation of the juice of sound, ripe fruit (including restored or un-restored pure condensed fruit must), with or without the addition, after fermentation, of pure condensed fruit must, and with or without added fruit brandy or alcohol, but without other addition or abstraction except as may occur in cellar treatment: *Provided*, That a domestic product may be ameliorated or sweetened in accordance with the provisions of section 5384 of the Internal Revenue Code and any product other than domestic may be ameliorated before, during, or after fermentation by adding, separately or in combination, dry sugar, or such an amount of sugar and water solution as will increase the volume of the resulting product, in the case of wines produced from loganberries, currants, or gooseberries, having a normal acidity of 20 parts or more per thousand, not more than 60 percent, and in the case of other fruit wines, not more than 35 percent, but in no event shall any product so ameliorated have an alcoholic content, derived by fermentation, of more than 13 percent by volume, or a natural acid content, if water has been added, of less than 5 parts per thousand, or a total solids content of more than 22 grams per 100 cubic centimeters.

(ii) The maximum volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, shall not be, for natural fruit wine, more than 0.14 gram, and for other fruit wine, more than 0.12 gram, per 100 cubic centimeters (20° C.).

(iii) Any fruit wine containing no added brandy or alcohol may be further designated as "natural."

(2) "Berry wine" is fruit wine produced from berries.

(3) "Fruit table wine" or "berry table wine" is fruit or berry wine having an alcoholic content not in excess of 14 percent by volume. Such wine may also be designated "light fruit wine," or "light berry wine."

(4) "Fruit dessert wine" or "berry dessert wine" is fruit or berry wine having an alcoholic content in excess of 14 percent but not in excess of 24 percent by volume.

(5) Fruit wine derived wholly (except for sugar, water, or added alcohol) from one kind of fruit shall be designated by the word "wine" qualified by the name of such fruit, e.g., "peach wine," "blackberry wine." Fruit wine not derived wholly from one kind of fruit shall be designated as "fruit wine" or "berry wine," as the case may be, qualified by a truthful and adequate statement of composition appearing in direct conjunction therewith. Fruit wines which are derived wholly (except for sugar, water, or added alcohol) from apples or pears may be designated "cider" and "perry," respectively, and shall be so designated if lacking in vinous taste, aroma, and characteristics. Fruit wine rendered effervescent by carbon dioxide resulting solely from the secondary fermentation of the wine within a closed container, tank, or bottle shall be further designated as "sparkling"; and fruit wine rendered effervescent by carbon dioxide otherwise derived shall be further designated as "carbonated."

(f) *Class 6; wine from other agricultural products.* (1) (i) Wine of this class is wine (other than grape wine, citrus wine, or fruit wine) made by the normal alcoholic fermentation of sound fermentable agricultural products, either fresh or dried, or of the restored or unrestored pure condensed must thereof, with the addition before or during fermentation of a volume of water not greater than the minimum necessary to correct natural moisture deficiencies in such products, with or without the addition, after fermentation, of pure condensed must, and with or without added alcohol or such other spirits as will not alter the character of the product, but without other addition or abstraction except as may occur in cellar treatment: *Provided*, That a domestic product may be ameliorated or sweetened in accordance with Subpart T of 26 CFR Part 240, and any product other than domestic may be ameliorated before, during, or after fermentation by adding, separately or in combination, dry sugar or such an amount of sugar and water solution as will not increase the volume of the resulting product more than 35 percent, but in no event shall any product so

ameliorated have an alcoholic content, derived by fermentation of more than 13 percent by volume, or a natural acid content, if water has been added, of less than 5 parts per thousand, or a total solids content of more than 22 grams per 100 cubic centimeters.

(ii) The maximum volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, shall not be, for natural wine of this class, more than 0.14 gram, and for other wine of this class, more than 0.12 gram, per 100 cubic centimeters (20° C.).

(iii) Wine of this class containing no added alcohol or other spirits may be further designated as "natural".

(2) "Table wine" of this class is wine having an alcoholic content not in excess of 14 percent by volume. Such wine may also be designated as "light".

(3) "Dessert wine" of this class is wine having an alcoholic content in excess of 14 percent but not in excess of 24 percent by volume.

(4) "Raisin wine" is wine of this class made from dried grapes.

(5) "Sake" is wine of this class produced from rice in accordance with the commonly accepted method of manufacture of such product.

(6) Wine of this class derived wholly (except for sugar, water, or added alcohol) from one kind of agricultural product shall except in the case of "sake," be designated by the word "wine" qualified by the name of such agricultural product, e.g., "honey wine," "raisin wine," "dried blackberry wine." Wine of this class not derived wholly from one kind of agricultural product shall be designated as "wine" qualified by a truthful and adequate statement of composition appearing in direct conjunction therewith. Wine of this class rendered effervescent by carbon dioxide resulting solely from the secondary fermentation of wine within a closed container, tank, or bottle shall be further designated as "sparkling"; and wine of this class rendered effervescent by carbon dioxide otherwise derived shall be further designated as "carbonated."

(g) *Class 7; aperitif wine.* (1) "Aperitif wine" is wine having an alcoholic content of not less than 15 percent by volume, compounded from grape wine containing added brandy or alcohol, flavored with herbs and other natural aromatic flavoring materials, with or without the addition of caramel for coloring purposes, and possessing the taste.

aroma, and characteristics generally attributed to aperitif wine and shall be so designated unless designated as "vermouth" under paragraph (b) of this section.

(2) "Vermouth" is a type of aperitif wine compounded from grape wine, having the taste, aroma, and characteristics generally attributed to vermouth, and shall be so designated.

(h) *Class 8; imitation and substandard wine.* (1) "Imitation wine" shall bear as a part of its designation the word "imitation," and shall include:

(i) Any wine containing synthetic materials.

(ii) Any wine made from a mixture of water with residue remaining after thorough pressing of grapes, fruit, or other agricultural products.

(iii) Any class or type of wine the taste, aroma, color, or other characteristics of which have been acquired in whole or in part, by treatment with methods or materials of any kind (except as permitted in § 4.22(c)(6)), if the taste, aroma, color, or other characteristics of normal wines of such class or type are acquired without such treatment.

(iv) Any wine made from must concentrated at any time to more than 80° (Balling).

(2) "Substandard wine" shall bear as a part of its designation the word "substandard," and shall include:

(i) Any wine having a volatile acidity in excess of the maximum prescribed therefor in §§ 4.20 to 4.25.

(ii) Any wine for which no maximum volatile acidity is prescribed in §§ 4.20 to 4.25, inclusive, having a volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, in excess of 0.14 gram per 100 cubic centimeters (20° C.).

(iii) Any wine for which a standard of identity is prescribed in this §§ 4.20 to 4.25, inclusive, which, through disease, decomposition, or otherwise, fails to have the composition, color, and clean vinous taste and aroma of normal wines conforming to such standard.

(iv) Any "grape wine" "citrus wine," "fruit wine," or "wine from other agricultural products" to which has been added sugar and water solution in an amount which is in excess of the limitations prescribed in the standards of identity for these products, unless, in the case of "citrus wine," "fruit wine" and "wine from other agricultural products" the normal acidity of the material

from which such wine is produced is 20 parts or more per thousand and the volume of the resulting product has not been increased more than 60 percent by such addition.

(1) *Class 9, retsina wine.* "Retsina wine" is grape table wine fermented or flavored with resin.

[T.D. 6521, 25 F.R. 13835, Dec. 29, 1960, as amended by T.D. 6776, 29 F.R. 16985, Dec. 11, 1964; T.D. 7185, 37 F.R. 7975, Apr. 22, 1972]

CROSS REFERENCE: For Internal Revenue regulations relating to fortified wine, see 26 CFR Part 240.

§ 4.22 Blends, cellar treatment, alteration of class or type.

(a) If the class or type of any wine shall be altered, and if the product as so altered does not fall within any other class or type either specified in §§ 4.20-4.25 or known to the trade, then such wine shall, unless otherwise specified in this section, be designated with a truthful and adequate statement of composition in accordance with § 4.34.

(b) Alteration of class or type shall be deemed to result from any of the following occurring before, during, or after production.

(1) Treatment of any class or type of wine with substances foreign to such wine which remain therein: *Provided*, That the presence in finished wine of not more than 350 parts per million of total sulphur dioxide, or sulphites expressed as sulphur dioxide, shall not be precluded under this paragraph.

(2) Treatment of any class or type of wine with substances not foreign to such wine but which remain therein in larger quantities than are naturally and normally present in other wines of the same class or type not so treated.

(3) Treatment of any class or type of wine with methods or materials of any kind to such an extent or in such manner as to affect the basic composition of the wine so treated by altering any of its characteristic elements.

(4) Blending of wine of one class with wine of another class or the blending of wines of different types within the same class.

(5) Treatment of any class or type of wine for which a standard of identity is prescribed in this article with sugar or water in excess of the quantities specifically authorized by such standard: *Provided*, That the class or type thereof shall not be deemed to be altered (1)

where such wine (other than grape wine) is derived from fruit, or other agricultural products, having a high normal acidity, if the total solids content is not more than 22 grams per 100 cubic centimeters, and the content of natural acid is not less than 7.5 parts per thousand and (ii) where such wine is derived exclusively from fruit, or other agricultural products, the normal acidity of which is 20 parts or more per thousand, if the volume of the resulting product has been increased not more than 60 percent by the addition of sugar and water solution, for the sole purpose of correcting natural deficiencies due to such acidity, and (except in the case of such wines when produced from loganberries, currants, or gooseberries) there is stated as a part of the class and type designation the phrase "Made with over 35 percent sugar solution".

(c) Nothing in this section shall preclude the treatment of wine of any class or type in the manner hereinafter specified, provided such treatment does not result in the alteration of the class or type of the wine under the provisions of paragraph (b) of this section.

(1) Treatment with filtering equipment, and with fining or sterilizing agents.

(2) Treatment with pasteurization as necessary to perfect the wines to commercial standards in accordance with acceptable cellar practice but only in such a manner and to such an extent as not to change the basic composition of the wine nor to eliminate any of its characteristic elements.

(3) Treatment with refrigeration as necessary to perfect the wine to commercial standards in accordance with acceptable cellar practice but only in such a manner and to such an extent as not to change the basic composition of the wine nor to eliminate any of its characteristic elements.

(4) Treatment with methods and materials to the minimum extent necessary to correct cloudiness, precipitation, or abnormal color, odor, or flavor developing in wine.

(5) Treatment with constituents naturally present in the kind of fruit or other agricultural product from which the wine is produced for the purpose of correcting deficiencies of these constituents, but only to the extent that such constituents would be present in normal wines of the same class or type not so treated.

(6) Treatment of any class or type of wine involving the use of volatile fruit-flavor concentrates in the manner provided in section 5382 of the Internal Revenue Code.

(7) Notwithstanding the provisions of § 4.21(b) (1), (2) and (4), (c), (d) (4), (e) (5), and (f) (6) carbon dioxide may be used to maintain counterpressure during the transfer of finished sparkling wines from (i) bulk processing tanks to bottles, or (ii) bottle to bottle: *Provided*, That the carbon dioxide content of the wine shall not be increased by more than 0.009 gm. per 100 ml. during the transfer operation.

[T.D. 6521, 25 F.R. 13835, Dec. 29, 1960, as amended by T.D. 6776, 29 F.R. 16985, Dec. 11, 1964; T.D. 7185, 37 F.R. 7976, Apr. 22, 1972]

§ 4.23 Grape type designations.

A name indicative of a variety of grape may be employed as the type designation of a grape wine if the wine derives its predominant taste, aroma, and characteristics, and at least 51 per cent of its volume, from that variety of grape. If such type designation is not known to the consumer as the name of a grape variety, there shall appear in direct conjunction therewith an explanatory statement as to the significance thereof.

§ 4.24 Generic, semi-generic, and non-generic designations of geographic significance.

(a) (1) A name of geographic significance which is also the designation of a class or type of wine, shall be deemed to have become generic only if so found by the Director.

(2) Examples of generic names, originally having geographic significance, which are designations for a class or type of wine are: Vermouth, Sake.

(b) (1) A name of geographic significance, which is also the designation of a class or type of wine, shall be deemed to have become semi-generic only if so found by the Director. Semi-generic designations may be used to designate wines of an origin other than that indicated by such name only if there appears in direct conjunction therewith an appropriate appellation of origin disclosing the true place of origin of the wine, and if the wine so designated conforms to the standard of identity, if any, for such wine contained in the regulations in this part or, if there be no such standard, to the trade understanding of such class or type.

(2) Examples of semi-generic names which are also type designations for

grape wines are Angellca, Burgundy, Claret, Chablis, Champagne, Chianti, Malaga, Marsala, Madeira, Moselle, Port, Rhine Wine (syn. Hock), Sauterne, Haut Sauterne, Sherry, Tokay.

(c) (1) A name of geographic significance, which has not been found by the Director to be generic or semi-generic may be used only to designate wines of the origin indicated by such name, but such name shall not be deemed to be the distinctive designation of a wine unless the Director finds that it is known to the consumer and to the trade as the designation of a specific wine of a particular place or region, distinguishable from all other wines.

(2) Examples of non-generic names which are not distinctive designations of specific wines are: American, California, Lake Erie Islands, Napa Valley, New York State, French, Spanish.

(3) Examples of non-generic names which are also distinctive designations of specific grape wines are: Bordeaux Blanc, Bordeaux Rouge, Graves, Medoc, St. Julien, Chateau Yquem, Chateau Margaux, Chateau Lafite, Pommard, Chambertin, Montrachet, Rhone, Liebfraumilch, Rudesheimer, Forster, Deidesheimer, Schloss Johannisberger, Lagrima, Lacryma Christi.

(4) Examples of names, not generic or semi-generic, which are distinctive designations of specific natural table wines, when qualified by the word "wine," or its French or German equivalent: Bordeaux, Medoc, St. Julien, Margaux, Graves Barsac, Pomerol, St. Emilion; Bourgogne, Grand Chablis or Bourgogne des Environs de Chablis, Cote de Nuits, Gevrey-Chambertin, Morey, Chambolle-Musigny, Flagey-Echezeaux, Vosne-Romanee, Nuits or Nuits-St. Georges, Cote de Beaune, Aloxe-Corton, Savigny, Beaune, Pommard, Volnay, Santenay, Meursault, Puligny-Montrachet, Chassagne-Montrachet, Cote Maconnaise or Maconnais, Macon, Cote Beaujolaise, Beaujolais, Rhone or Cote du Rhone, Cote Rotie, Hermitage, Chateauf-neuf-du-Pape, Tavel; Loire, Anjou, Coteaux du Layon, Coteaux de la Loire, Saumur, Anjou-Saumur, Touraine, Vouvray; Alsace or Alsatian; Mosel-Saar-Ruwer, Mosel; Swiss or Suisse.

§ 4.25 Appellations of origin.

(a) A wine shall be entitled to an appellation of origin if (1) at least 75 percent of its volume is derived from fruit or agricultural products grown in

the place or region indicated by such appellation, (2) it has been fully manufactured and finished within the State in which such place or region is located, and (3) it conforms to the requirements of the laws and regulations of such place or region governing the composition, method of manufacture, and designation of wines for home consumption.

(b) Wines subjected to cellar treatment outside the place or region of origin under the provisions of § 4.22(c), and blends of wines of the same origin blended together outside the place or region of origin (if all the wines in the blend have a common class, type or other designation which is employed as the designation of the blend) shall be entitled to the same appellation of origin to which they would be entitled if such cellar treatment or blending took place within the place or region of origin.

[T.D. 6521, 25 F.R. 13835, Dec. 29, 1960, as amended by T.D. 7185, 37 F.R. 7976, Apr. 22, 1972]

Subpart D—Labeling Requirements for Wine

§ 4.30 General.

(a) *Application.* No person engaged in business as a producer, rectifier, blender, importer, or wholesaler, directly or indirectly or through an affiliate, shall sell or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or receive therein, or remove from customs custody, any wine in containers unless such wine is packaged, branded, and such packages are marked, branded, and labeled in conformity with this article. Wine domestically bottled or packed prior to Dec. 15, 1936, and imported wine entered in customs bond in containers prior to that date shall be regarded as being packaged, marked, branded and labeled in accordance with this article, if the labels on such wine (1) bear all the mandatory label information required by § 4.32, even though such information is not set forth in the manner and form as required by § 4.32 and other sections of this title referred to therein, and (2) bear no statements, designs, or devices which are false or misleading.

(b) *Alteration of labels.* (1) It shall be unlawful for any person to alter, mutilate, destroy, obliterate or remove any mark, brand, or label upon wine held for sale in interstate or foreign commerce or after shipment therein, except as authorized by Federal law, or except

as provided in subparagraph (2) of this paragraph: *Provided*, That the Assistant Regional Commissioner, Alcohol and Tobacco Tax may, upon written application, permit additional labeling or re-labeling of wine for purposes of compliance with the requirements of this part or of State law.

(2) No application for permission to relabel wine need be made in any case where there is added to the container, after removal from customs custody or from the premises where bottled or packed, a label identifying the wholesale or retail distributor thereof, and containing no reference whatever to the characteristics of the product.

CROSS REFERENCE: For customs warehouses and control of merchandise therein, see 19 CFR Part 19.

§ 4.31 Misbranding.

Wine in containers shall be deemed to be misbranded:

(a) If the container fails to bear on it a brand label (or a brand label and other permitted labels) containing the mandatory label information as required by this part and conforming to the general requirements specified in this part.

(b) If the container or any label on the container or any individual covering, carton, or other wrapper of the container used for sale at retail (other than a shipping carton, covering or wrapper of the container) or any written, printed, graphic, or other matter accompanying the container to the consumer buyer contains any statement, design, device, or graphic, pictorial or emblematic representation that is prohibited by this article.

(c) If the container is in an individual carton, covering, or other wrapper used for sale at retail (other than a shipping carton, covering, or wrapper of the container) displaying thereon any written, printed, graphic, or other matter, other than the name and address of the producer, importer, or person by whom bottled or packed (and in addition the name and address of the person for whom bottled or packed), and such individual covering, carton, or other wrapper obscures the mandatory label information required to be stated, and such individual covering, carton or other wrapper fails to reproduce on it, in the same manner, all information so obscured; or if any statement required by this section to appear upon the label, or upon such individual covering, carton or other wrap-

per, is obscured in any other manner or is modified in any manner.

§ 4.32 Mandatory label information.

(a) Except as otherwise provided in paragraph (c) of this section, there shall be stated on the brand label:

(1) Brand name, in accordance with § 4.33.

(2) Class, type, or other designation, in accordance with § 4.34.

(3) Name and address, in accordance with § 4.35.

(4) On blends consisting of foreign and domestic wines, if any reference to the presence of foreign wine is made, the exact percentage by volume of foreign wine.

(b) There shall be stated on the brand label, or on a separate label affixed in immediate proximity thereto on the same side of the container:

(1) Alcoholic content, or type designation in lieu thereof, in accordance with § 4.36.

(2) Net contents, in accordance with § 4.37.

(c) In the case of imported wine, the name and address of the importer need not be stated upon the brand label if it is stated upon any other label affixed to the container. In the case of domestic wine, bottled or packed for a retailer or other person under his private brand, the name and address of the bottler or packer need not be stated upon the brand label if the name and address of the person for whom bottled or packed appears upon the brand label, and the name and address of the bottler or packer is stated upon any other label affixed to the container.

§ 4.33 Brand names.

(a) *General*. The product shall bear a brand name, except that if not sold under a brand name, then the name of the person required to appear on the brand label shall be deemed a brand name for the purpose of this part.

(b) *Misleading brand names*. No label shall contain any brand name, which, standing alone, or in association with other printed or graphic matter creates any impression or inference as to the age, origin, identity, or other characteristics of the product unless the Director finds that such brand name, either when qualified by the word "brand" or when not so qualified, conveys no erroneous impressions as to the age, origin, identity, or other characteristics of the product.

(c) *Trade name of foreign origin*. This section shall not operate to prohibit the use by any person of any trade name or brand of foreign origin not effectively registered in the United States Patent Office on August 29, 1935, which has been used by such person or his predecessors in the United States for a period of at least five years immediately preceding August 29, 1935: *Provided*, That if such trade name or brand is used, the designation of the product shall be qualified by the name of the locality in the United States in which produced, and such qualifications shall be in script, type, or printing as conspicuous as the trade name or brand.

§ 4.34 Class and type.

(a) The class of the wine shall be stated and such statement shall be in conformity with §§ 4.20 to 4.25 if the wine is defined therein, except that "table" ("light") and "dessert" wines need not be designated as such. In the case of still grape wine there may appear, in lieu of the class designation, any grape-type designation, semi-generic geographic type designation, or geographic distinctive designation to which the wine may be entitled. In the case of champagne, or crackling wines, the type designation "champagne" or "crackling wine" ("petillant wine", "frizzante wine") may appear in lieu of the class designation "sparkling wine." In the case of wine which has a total solids content of more than 17 grams per 100 cubic centimeters the words "extra sweet," "specially sweetened," "specially sweet" or "sweetened with excess sugar" shall be stated as a part of the class and type designation. The last of these quoted phrases shall appear where required by 26 CFR Part 240, on wines sweetened with sugar in excess of the maximum quantities specified in such regulations. If the class of the wine is not defined in §§ 4.20-4.25 a truthful and adequate statement of composition shall appear upon the brand label of the product in lieu of a class designation. In addition to the mandatory designation for the wine, there may be stated a distinctive or fanciful name, or a designation in accordance with trade understanding. All parts of the designation of the wine, whether mandatory or optional, shall be in direct conjunction and in lettering substantially of the same size and kind.

(b) An appellation of origin such as "American", "California", "Chilean",

"New York State" or "Spanish", disclosing the true place of origin of the wine, shall appear in direct conjunction with and in lettering substantially as conspicuous as the class and type designation, (1) if a grape variety name having geographic significance is employed as the type designation of the wine pursuant to § 4.23, (2) if a semi-generic type designation of geographic significance is employed as the type designation of the wine pursuant to § 4.24(b), or (3) if the label bears any statement, design, device, or representation which indicates or infers an origin other than the true place of origin of the wine.

§ 4.35 Name and address.

(a) *Domestic wine*. On labels of containers of domestic wine, there shall be stated the name of the bottler or packer and the place where bottled or packed (or in lieu of such place, the principal place of business of the bottler or packer if in the same State where the wine was bottled or packed, and, if bottled or packed on internal revenue bonded premises, the internal revenue registry number of such premises) immediately preceded by the words "Bottled by" or "Packed by" except that:

(1) If the bottler or packer is also the person who made not less than 75 percent of such wine by fermenting the must and clarifying the resulting wine, or if such person treated the wine in such manner as to change the class thereof, there may be stated, in lieu of the words "bottled by" or "packed by," the words "produced and bottled by," or "produced and packed by."

(2) If the bottler or packer has also either made or treated the wine, otherwise than as described in subparagraph (1) of this paragraph, there may be stated, in lieu of the words "Bottled by" or "Packed by" the phrases "Blended and bottled (packed) by," "Rectified and bottled (packed) by," "Prepared and bottled (packed) by," "Made and bottled (packed) by," as the case may be, or, in the case of imitation wine only, "Manufactured and bottled (packed) by."

(3) In addition to the name of the bottler or packer and the place where bottled or packed (but not in lieu thereof) there may be stated the name and address of any other person for whom such wine is bottled or packed, immediately preceded by the words "Bottled for" or "Packed for" or "Distributed by" or other similar statement; or the

name and principal place of business of the rectifier, blender, or maker, immediately preceded by the words "Rectified by," "Blended by" or "Made by," respectively, or, in the case of imitation wine only, "Manufactured by."

(b) *Imported wine.* On labels of containers of imported wine, there shall be stated the words "Imported by" or a similar appropriate phrase, and immediately thereafter the name of the permittee who is the importer, agent, sole distributor, or other person responsible for the importation, together with the principal place of business in the United States of such person. In addition, but not in lieu thereof, there may be stated the name and principal place of business of the foreign producer, blender, rectifier, maker, bottler, packer, or shipper, preceded by the phrases "Produced by," "Blended by," "Rectified by," "Made by," "Bottled by," "Packed by," "Shipped by," respectively, or, in the case of imitation wine only, "Manufactured by."

(1) If the wine is bottled or packed in the United States, there shall be stated, in addition, the name of the bottler or packer and the place where bottled or packed immediately preceded by the words "bottled by" or "packed by" except that if the wine is bottled or packed in the United States for the person responsible for the importation there may be stated, in lieu of the above-required statements, the name and principal place of business in the United States of such person, immediately preceded by the phrase "imported by and bottled (packed) in the United States for" (or a similar appropriate phrase). If, however, the wine is bottled or packed in the United States by the person responsible for the importation there may be stated, in lieu of the above-required statements, the name and principal place of business in the United States of such person, immediately preceded by the phrase "imported and bottled (packed) by" or a similar appropriate phrase.

(2) If the wine is blended, bottled, or packed in a foreign country other than the country of origin and the country of origin is stated or otherwise indicated on the label, there shall also be stated the name of the bottler, packer, or blender, and the place where bottled, packed, or blended, immediately preceded by the words "Bottled by," "Packed by," "Blended by," or other appropriate statement.

(c) *Form of address.* The "place" stated shall be the post-office address,

except that the street address may be omitted. No additional places or addresses shall be stated for the same person unless (1) such person is actively engaged in the conduct of an additional bona fide and actual alcoholic beverage business at such additional place or address, and (2) the label also contains in direct conjunction therewith, appropriate descriptive material indicating the function occurring at such additional place or address in connection with the particular product.

(d) *Trade names.* The trade name of any permittee appearing upon any label shall be identical with the name in which his basic permit is issued by the Assistant Regional Commissioner.

[T.D. 6521, 25 F.R. 13835, Dec. 29, 1960, as amended by T.D. 7185, 37 F.R. 7976, Apr. 22, 1972]

§ 4.36 Alcoholic content.

(a) Alcoholic content shall be stated in the case of wines containing more than 14 percent of alcohol by volume, and, in the case of wine containing 14 percent or less of alcohol by volume, either the type designation "table" wine ("light" wine) or the alcoholic content shall be stated. Any statement of alcoholic content shall be made as prescribed in paragraph (b) of this section.

(b) Alcoholic content shall be stated in terms of percentage of alcohol by volume, and not otherwise, as provided in either subparagraph (1) or (2) of this paragraph:

(1) "Alcohol ----% by volume." Except as provided in paragraph (c) of this section, a tolerance of 1 percent, in the case of wines containing more than 14 percent of alcohol by volume, and of 1.5 percent, in the case of wines containing 14 percent or less of alcohol by volume, will be permitted either above or below the stated percentage.

(2) "Alcohol ----% to ----% by volume." Except as provided in paragraph (c) of this section, a range of not more than 2 percent, in the case of wines containing more than 14 percent of alcohol by volume, and of not more than 3 percent, in the case of wines containing 14 percent or less of alcohol by volume, will be permitted between the minimum and maximum percentages stated, and no tolerances will be permitted either below such minimum or above such maximum.

(c) Regardless of the type of statement used and regardless of tolerances normally permitted in direct statements

and ranges normally permitted in maximum and minimum statements, alcoholic content statements, whether required or optional, shall definitely and correctly indicate the class, type and taxable grade of the wine so labeled and nothing in this section shall be construed as authorizing the appearance upon the labels of any wine of an alcoholic content statement in terms of maximum and minimum percentages which overlaps a prescribed limitation on the alcoholic content of any class, type, or taxable grade of wine, or a direct statement of alcoholic content which indicates that the alcoholic content of the wine is within such a limitation when in fact it is not.

§ 4.37 Net contents.

(a) The net contents of wine for which a standard of fill is prescribed in §§ 4.70-4.72 shall be stated in the same manner and form in which such standard of fill is set forth in said article.

(b) The net contents of wine for which no standard of fill is prescribed in §§ 4.70-4.72 shall be stated as follows, except that net contents may be expressed in the metric system of measure for containers of ½ liter, 1 liter and 1½ liter:

(1) If 1 pint, 1 quart, or 1 gallon, the net contents shall be so stated.

(2) If less than a pint, the net contents shall be stated in fractions of a pint, or in fluid ounces.

(3) If more than a pint, but less than a quart, the net contents shall be stated in fractions of a quart, or in pints and fluid ounces.

(4) If more than a quart, but less than a gallon, the net contents shall be stated in fractions of a gallon, or in quarts, pints, and fluid ounces.

(5) If more than a gallon, the net contents shall be stated in gallons and fractions thereof.

(c) All fractions shall be expressed in their lowest denomination.

(d) The net contents need not be stated on any label if the net contents are displayed by having the same blown, etched, sand-blasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the Director, in the sides, front, or back of the bottle, in letters and figures in such manner as to be plainly legible under ordinary circumstances, and such statement is not obscured in any manner in whole or in part.

(e) Statement of net contents shall indicate exactly the volume of wine

within the container, except that the following tolerances shall be allowed:

(1) Discrepancies due exclusively to errors in measuring which occur in filling conducted in compliance with good commercial practice.

(2) Discrepancies due exclusively to differences in the capacity of containers resulting solely from unavoidable difficulties in manufacturing such containers so as to be of uniform capacity: *Provided*, That no greater tolerance shall be allowed in case of containers which, because of their design, cannot be made of approximately uniform capacity than is allowed in case of containers which can be manufactured so as to be of approximately uniform capacity.

(3) Discrepancies in measure due to differences in atmospheric conditions in various places and which unavoidably result from the ordinary and customary exposure of alcoholic beverages in containers to evaporation. The reasonableness to discrepancies under this paragraph shall be determined on the facts in each case.

(f) Unreasonable shortages in certain of the containers in any shipment shall not be compensated by overages in other containers in the same shipment.

§ 4.38 General requirements.

(a) *Contrasting background.* All labels shall be so designed that all the statements thereof required by §§ 4.30-4.39 are readily legible under ordinary conditions, and all such statements shall be on a contrasting background.

(b) *Size of type.* All statements (other than alcoholic content statements upon labels of containers having a capacity of 1 gallon or less) required on labels by this article, shall be in readily legible script, type, or printing not smaller than 8-point Gothic caps except that if contained among other descriptive or explanatory reading matter, the script, type, or printing of all required material shall be of a size substantially more conspicuous than such other descriptive or explanatory reading matter: *Provided*, That in the case of labels of containers having a capacity of less than one-half pint, such script, type, or printing thereon need not be in 8-point Gothic caps, but shall be readily legible under ordinary conditions. Alcoholic content statements, whether required or optional, on labels on containers having a capacity of 1 gallon or less shall be in readily legible script, type, or printing

not smaller than 6-point Gothic caps, except in the case of containers having a capacity of less than one-half pint, in which case such script, type, or printing need not be as large as 6-point Gothic caps, but shall be readily legible under ordinary conditions. Alcoholic content statements shall not appear in script, type, or printing larger or more conspicuous than 8-point Gothic caps on labels on containers having a capacity of 1 gallon or less and shall not be set off with a border or otherwise accentuated.

(c) *English language.* All mandatory label information shall be stated on labels in the English language: *Provided*, That the brand name, the place of production, and the name of the manufacturer, producer, blander, rectifier, maker, bottler, packer, or shipper appearing on the label need not be in the English language if the words "Product of" immediately precede the name of the country of origin stated in accordance with customs' requirements. Additional statements in foreign languages may be made on labels, if no such statements in any way conflict with, or are contradictory to the requirements of §§ 4.30-4.39.

(d) *Location of label.* Labels shall not obscure government stamps nor be obscured thereby.

(e) *Labels firmly affixed.* All labels shall be affixed to containers of wine in such manner that they cannot be removed without thorough application of water or other solvents.

(f) *Additional information on labels.* Labels may contain information other than the mandatory label information required by §§ 4.30-4.39, provided such information complies with the requirements of such sections and does not conflict with, nor in any manner qualify statements required by, any regulations promulgated under the act.

(g) *Representations as to materials.* If any representation (other than representations or information required by §§ 4.30-4.39) is made as to the presence, excellence, or other characteristic of any ingredient in any wine, or used in the production thereof, the label containing such representation shall state, in print, type, or script, substantially as conspicuous as such representation, the name and amount in percent by volume of each such ingredient.

(h) *Statement of contents of containers.* Upon request of the Director, there shall be submitted to him a full and ac-

curate statement of the contents of the containers to which labels are to be or have been affixed.

[T.D. 6521, 25 F.R. 13835, Dec. 29, 1960, as amended by T.D. 7185, 37 F.R. 7976, Apr. 22, 1972]

§ 4.39 Prohibited practices.

(a) *Statements on labels.* Containers of wine, or any label on such containers, or any individual covering, carton, or other wrapper of such container, or any written, printed, graphic, or other matter accompanying such container to the consumer shall not contain:

(1) Any statement that is false or untrue in any particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant scientific, or technical matter, tends to create a misleading impression.

(2) Any statement that is disparaging of a competitor's products.

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which the Director finds to be likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which the Director finds to be likely to mislead the consumer.¹

(6) A trade or brand name that is the name of any living individual of public prominence, or existing private or public organization, or is a name that is in simulation or is an abbreviation thereof, or any graphic, pictorial, or emblematic representation of any such individual or organization, if the use of such name or representation is likely falsely to lead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of, such individual or organization; *Provided*, That this paragraph shall not apply to the use of the name of any person

¹ Under subparagraph (5) the Director has permitted the use of statements in substantially the following form: "We will refund the purchase price to the purchaser if he is in any manner dissatisfied with the contents of this package."

(Name of permittee making statement)

engaged in business as a producer, blender, rectifier, importer, wholesaler, retailer, bottler, or warehouseman of wine, nor to the use by any person of a trade or brand name that is the name of any living individual of public prominence or existing private or public organization, provided such trade or brand name was used by him or his predecessors in interest prior to August 29, 1935.

(7) Any statement, design, device, or representation (other than a statement of alcoholic content in conformity with § 4.36) which tends to create the impression that a wine is "unfortified" or has been "fortified", or contains distilled spirits, or has intoxicating qualities, except that a statement of composition, if required to appear as the designation of a product not defined in these regulations, may include a reference to the type of distilled spirits employed therein.

(8) Any coined word or name in the brand name or class and type designation which simulates, imitates, or which tends to create the impression that the wine so labeled is entitled to bear, any class, type, or permitted designation recognized by the regulations in this part unless such wine conforms to the requirements prescribed with respect to such designation and is in fact so designated on its labels.

(9) Any word in the brand name or class and type designation which is the name of a distilled spirits product or which simulates, imitates, or creates the impression that the wine so labeled is, or is similar to, any product customarily made with a distilled spirits base. Examples of such words are: "Manhattan", "Martini", "Old Fashioned", "Screwdriver", and "Daiquiri" in a class and type designation or brand name of a wine cocktail; "Cuba Libre", "Zombie", and "Collins" in a class and type designation or brand name of a wine specialty or wine highball; "creme", "cream", "de", or "of" when used in conjunction with "menthe", "mint", or "cocoa" in a class and type designation or brand name of a mint or chocolate flavored wine specialty.

(b) *Statement of age.* No statement of age or representation relative to age (including words or devices in any brand name or mark) shall be made, except that:

(1) In the case of domestic vintage wine bottled or packaged in containers by the permittee who produced and clarified the wine, the year of vintage may be stated if there is also stated on

the brand label, in direct conjunction with the designation required by § 4.32 (a) (2), and in lettering substantially as conspicuous as such designation, the name of the viticultural area in which the grapes were grown. In no event may the quantity of wine removed from the producing winery, under labels bearing a vintage date, exceed the volume of vintage wine produced in such winery during the year indicated by such date.

(2) In the case of domestic vintage wine repackaged in containers of a capacity of 1 gallon or less by a person other than the producer thereof, the year of vintage may be stated if the wine is accompanied by appropriate records from the producer indicating the year of vintage and the name of the viticultural area where the grapes were grown. If the year of vintage is stated, there shall also be stated on the brand label, in direct conjunction with the designation required by § 4.32(a)(2), and in lettering substantially as conspicuous as such designation, the name of the viticultural area in which the grapes were grown.

(3) In the case of imported wine, the year of vintage may be stated if such wine was bottled prior to importation in containers of 1 gallon or less (except that the year of vintage may be stated in the case of champagne whether or not bottled in containers of 1 gallon or less), or, if such wine is bottled in the United States in containers of 1 gallon or less from the original container of the product and such container bears the vintage date upon the brand label thereof and the bottler possess a certificate, issued by a duly authorized official of the country of origin of such wine, identifying that container as containing vintage wine as defined § 4.1(h) and certifying (i) that the laws of such country regulate the appearance of vintage dates upon the labels of wine produced for consumption therein, (ii) that the wine in question has been produced in conformity with such laws, and (iii) that such wine would be entitled, under such laws, to bear the vintage date if sold in such country: *Provided*, That, in the case of imported wine bottled prior to importation in containers of 1 gallon or less, the year of vintage may be stated only when the invoice is accompanied by a certificate identical with that required above in the case of wine bottled in the United States in containers of 1 gallon or less, if the issuance of such a certificate with

respect to such wine has been authorized by the foreign Government concerned.

(4) Truthful references of a general and informative nature relating to methods of wine production involving storage or aging, such as "This wine has been mellowed in oak casks," "Stored in small barrels" or "Matured at regulated temperatures in our cellars," may appear but only in an inconspicuous manner and then only on back labels or on other matter accompanying the container.

(c) *Statement of bottling dates.* The statement of any bottling date shall not be deemed to be a representation relative to age, if such statement appears in lettering not greater than 8-point Gothic caps and in the following form: "Bottled in ----" (inserting the year in which the wine was bottled).

(d) *Use of the word "old."* The use of the word "old" or other word denoting age, as part of the brand name, shall not be deemed to be a representation relative to age, if the word "brand" appears in direct conjunction with such brand name, in letters of equally conspicuous color and at least one-half the size of the lettering in which such brand name is printed.

(e) *Statement of miscellaneous dates.* No date, except as provided in paragraphs (b) and (c) of this section with respect to statement of vintage year and bottling date, shall be stated on any label unless in addition thereto and in direct conjunction therewith in the same size and kind of printing, there shall be stated an explanation of the significance thereof such as "established" or "founded in". If any such date refers to the date of establishment of any business or brand name, it shall not be stated, in the case of containers of a capacity of 1 gallon or less, in any printing, type, or script larger than 8-point Gothic caps, and shall be stated in direct conjunction with the name of the person, company, or brand name to which it refers if the Director finds that this is necessary in order to prevent confusion as to the person, company, or brand name to which the establishment date is applicable.

(f) *Simulation of Government stamps.* (1) No labels shall be of such design as to resemble or simulate a stamp of the United States Government or any State or foreign government. No label, other than stamps authorized or required by the United States Government or any State or foreign government, shall state

or indicate that the wine contained in the labeled container is produced, blended, bottled, packed, or sold under, or in accordance with, any municipal, State or Federal Government authorization, law, or regulation, unless such statement is required or specifically authorized by Federal, State or municipal law or regulation, or is required or specifically authorized by the laws or regulations of a foreign country. If the municipal, State, or Federal Government permit number is stated upon a label, it shall not be accompanied by any additional statement relating thereto.

(2) Bonded wine cellar and bonded winery numbers may be stated but only in direct conjunction with the name and address of the person operating such wine cellar or winery. Statement of bonded wine cellar or winery numbers may be made in the following form: "Bonded Wine Cellar No. ----", "Bonded Winery No. ----", "B. W. C. No. ----", "B. W. No. ----". No additional reference thereto shall be made, nor shall any use be made of such statement that may convey the impression that the wine has been made or matured under Government supervision or in accordance with Government specifications or standards.

(3) If imported wines are covered by a certificate of origin and/or a certificate of vintage date issued by a duly authorized official of the appropriate foreign government, the label, except where prohibited by the foreign government, may refer to such certificate or the fact of such certification, but shall not be accompanied by any additional statements relating thereto. The reference to such certificate or certification shall be substantially in the following form:

This product accompanied at the time of the importation by a certificate issued by the

(Name of government)
government indicating that the product is

(Class and type as stated on the label)
and (if label bears a statement of vintage date) that the wine is of the vintage of

(Year of vintage stated on the label)

(g) *Use of the word "Importer", or similar words.* The word "Importer", or similar words, shall not be stated on labels on containers of domestic wine except as part of the bona fide name of a permittee for or by whom, or of a retailer for whom, such wine is bottled, packed or distributed: *Provided*, That in

all cases where such words are used as part of such name, there shall be stated on the same label the words "Product of the United States", or similar words to negative any impression that the product is imported, and such negative statement shall appear in the same size and kind of printing as such name.

(h) *Flags, seals, coats of arms, crests, and other insignia.* Labels shall not contain, in the brand name or otherwise, any statement, design, device, or pictorial representation which the Director finds relates to, or is capable of being construed as relating to, the armed forces of the United States, or the American flag, or any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any label contain any statement, design, device, or pictorial representation of or concerning any flag, seal, coat of arms, crest or other insignia, likely to mislead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

(i) *Curative and therapeutic effects.* Labels shall not contain any statement, design, or device representing that the use of any wine has curative or therapeutic effects if such statement is untrue in any particular or tends to create a misleading impression.

(j) *Individual coverings and cartons.* Individual coverings, cartons, or other wrappers of containers of wine, or any written, printed, graphic, or other matter accompanying the container, shall not contain any statement or any graphic pictorial, or emblematic representation or other matter which is prohibited from appearing on any label or container of wine.

[T.D. 6521, 25 F.R. 13841, Dec. 29, 1960, as amended by T.D. 6976, 33 F.R. 15025, Oct. 8, 1968; T.D. 7185, 37 F.R. 7976, Apr. 22, 1972]

Subpart E—Requirements for Withdrawal of Wine From Customs Custody

§ 4.40 Label approval and release.

(a) *Applications.* On or after December 15, 1936, imported wine shall not be released from customs custody for consumption, except pursuant to procedure and forms prescribed by this section.

(b) *Certificate of Label Approval.* No imported wine shall be released from

customs custody unless there shall have been deposited with the appropriate customs officer at the port of entry the original or a photostatic copy of a "Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1649). Such certificate shall be issued by the Director upon application made on the form designated "Application for Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1649), properly filled out and certified to by the importer or transferee in bond.

(c) *Release.* If the original or photostatic copy of the "Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1649) bears the signature of the Director, then the brand or lot of imported wine bearing labels identical with those shown thereon may be released from customs custody.

(d) *Relabeling.* Imported wine in customs custody which is not labeled in conformity with certificates of label approval issued by the Director must be relabeled prior to release, under the supervision and direction of the customs officers of the port at which such wine is located.²

§ 4.45 Certificates of origin and identity.

Imported wine shall not be released from customs custody for consumption unless the invoice is accompanied by a certificate of origin issued by a duly authorized official of the appropriate foreign government, if the issuance of such certificates with respect to such wine has been authorized by the foreign government concerned, certifying as to the identity of the wine and that the wine has been produced in compliance with the laws of the respective foreign government regulating the production of such wine for home consumption.

Subpart F—Requirements for Approval of Labels of Wine Domestically Bottled or Packed

§ 4.50 Certificates of label approval.

(a) No person shall bottle or pack wine, other than wine bottled or packed in customs custody, or remove such wine from the plant where bottled or packed, unless upon application to the Director he has obtained and has in his posses-

² See footnote on p. 28.

sion a "Certificate of label approval under the Federal Alcohol Administration Act" (Form 1649), covering such wine. Such certificate of label approval shall be issued by the Director upon application made upon the form designated "Application for certificate of label approval under the Federal Alcohol Administration Act" (Form 1649), properly filled out and certified to by the applicant.

(b) Any bottler or packer of wine shall be exempt from the requirements of this section if upon application he shows to the satisfaction of the Director that the wine to be bottled or packed by him is not to be sold, offered for sale, or shipped or delivered for shipment, or otherwise introduced in interstate or foreign commerce. A "Certificate of exemption from label approval under the Federal Alcohol Administration Act" (Form 1650) shall be issued by the Director upon application upon the form designated "Application for certificate of exemption from label approval under the Federal Alcohol Administration Act" (Form 1648), properly filled out and certified to by the applicant.²

§ 4.51 Exhibiting certificates to Government officials.

Any bottler or packer holding an original or duplicate original of a certificate of label approval or a certificate of exemption shall, upon demand, exhibit such certificate to a duly authorized representative of the United States Government.

§ 4.52 Photoprints.

Photoprints or other reproductions of certificates of label approval or certificates of exemption are not acceptable, for the purposes of §§ 4.50-4.52, as substitutes for an original or duplicate original of a certificate of label approval, or a certificate of exemption. The Director will, upon the request of the bottler or packer, issue duplicate originals of certificates of label approval or of certificates of exemption if wine under the same brand is bottled or packed at more than one plant by the same person, and if the necessity for the duplicate originals is shown and there is listed with the Director the name and address of the additional bottling or

² Copies of Forms 1648 and 1649 may be secured from the Assistant Regional Commissioners, Alcohol and Tobacco Tax, on request.

packing plant where the particular label is to be used.

Subpart G—Advertising of Wine

§ 4.60 Application.

No person engaged in business as a producer, rectifier, blender, importer, or wholesaler of wine, directly or indirectly or through an affiliate, shall publish or disseminate or cause to be published or disseminated by radio broadcast, or in any newspaper, periodical, or other publication, or by any sign or outdoor advertisement, or any other printed or graphic matter any advertisement of wine, if such advertisement is in, or is calculated to induce sales in, interstate or foreign commerce, or is disseminated by mail, unless such advertisement is in conformity with §§ 4.60-4.64: *Provided*, That such sections shall not apply to outdoor advertising in place on June 18, 1935, but shall apply upon replacement, restoration, or renovation of any such advertising: *And provided further*, That such sections shall not apply to the publisher of any newspaper, periodical, or other publication, or radio broadcaster, unless such publisher or radio broadcaster is engaged in business as a producer, rectifier, blender, importer, or wholesaler of wine, directly or indirectly or through an affiliate.

§ 4.61 Definitions.

As used in §§ 4.60-4.64 the term "advertisement" includes any advertisement of wine through the medium of radio broadcast; or of newspapers, periodicals, or other publications; or of any sign or outdoor advertisement; or of any other printed or graphic matter, including trade booklets, menus, and wine cards—if such advertisement is in, or is calculated to induce sales in, interstate or foreign commerce; or is disseminated by mail; except that such term shall not include:

(a) Any label affixed to any container of wine; or any individual covering, carton, or other wrapper of such container or any written, printed, graphic, or other matter accompanying the container which constitutes a part of the labeling under §§ 4.30-4.39.

(b) Any editorial or other reading matter in any periodical or publication or newspaper for the publication of which no money or other valuable consideration is paid or promised, directly or indirectly, by any permittee.

§ 4.62 Mandatory statements.

(a) *Responsible advertiser*. The advertisement shall state the name and address of the permittee responsible for its publication or broadcast. Street number and name may be omitted in the address.

(b) *Class, type, and distinctive designation*. The advertisement shall contain a conspicuous statement of the class, type, or distinctive designation to which the product belongs, corresponding with the statement of class, type, or distinctive designation which is required to appear on the label of the product.

§ 4.63 Legibility of requirements.

Statements required under §§ 4.60-4.64 to appear in any written, printed, or graphic advertisement shall be in lettering or type of a size sufficient to render them both conspicuous and readily legible.

NOTE: Mandatory information should be stated at least in type or lettering which is the equivalent of eight-point type. The size of the type should be increased proportionately with the size of the advertisement, and should not be smaller or less conspicuous than promotional copy or other unrequired descriptive matter appearing in the advertisement. In the case of signs, billboards, and displays, the mandatory information should be conspicuous and readily legible from the distance at which the advertisement is intended to be and is customarily viewed.

Mandatory information should be so stated as to be clearly a part of the advertisement and should not be separated in any manner from the remainder of the advertisement.

Mandatory information for two products should not be stated in direct conjunction unless clearly distinguished.

Mandatory information should not be buried or concealed by including it in unrequired descriptive matter.

In every case mandatory information should be stated so that it will come to the attention of persons viewing the advertisement.

§ 4.64 Prohibited statements.

(a) *Restrictions*. The advertisement of wine shall not contain:

(1) Any statement that is false or misleading in any material particular.

(2) Any statement that is disparaging of a competitor's products.

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity,

which the Director finds to be likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which the Director finds to be likely to mislead the consumer.

(6) Any statement that the wine is produced, blended, bottled, packed, or sold under, or in accordance with, any municipal, State, or Federal Government authorization, law, or regulations; and if a municipal, State, or Federal permit number is stated, the permit number shall not be accompanied by any additional statement relating thereto.

(7) Any statement of bonded winecellar and bonded winery numbers unless stated in direct conjunction with the name and address of the person operating such winery or storeroom. Statement of bonded winecellar and bonded winery numbers may be made in the following form: "Bonded Winecellar No. ----," "Bonded Winery No. ----," "B. W. C. No. ----," "B. W. No. ----." No additional reference thereto shall be made, nor shall any use be made of such statement that may convey the impression that the wine has been made or matured under Government supervision or in accordance with Government specifications or standards.

(8) Any statement, design, device, or representation which relates to alcoholic content or which tends to create the impression that a wine is "unfortified" or has been "fortified," or contains distilled spirits, or has intoxicating qualities, except that a statement of composition, if required to appear as a designation of a product not defined in these regulations, may include a reference to the type of distilled spirits employed therein.

(9) Any word in the brand name or class and type designation which is the name of a distilled spirits product or which simulates, imitates, or creates the impression that the wine so labeled is, or is similar to, any product customarily made with a distilled spirits base.

(b) *Statements inconsistent with labeling*. The advertisement shall not contain any statement concerning a brand or lot of wine that is inconsistent with any statement on the labeling thereof.

(c) *Statement of age*. No statement of age or representation relative to age (including words or devices in any brand

name or mark) shall be made, except that:

(1) In the case of domestic vintage wine bottled or packed and labeled in accordance with the provisions of § 4.39 (b) (1), (2), the year of vintage may be stated but only if there is likewise stated, in direct conjunction with the class, type, or distinctive designation of the wine, in lettering substantially as conspicuous as such designation and in the same manner and form as such statements appear on the brand label of the container, the name of the viticultural area in which the grapes were grown and the wine fermented.

(2) In the case of imported vintage wine bottled and labeled in accordance with the provisions of § 4.39(b) (3) the year of vintage may be stated.

(3) Truthful references of a general and informative nature relating to methods of wine production involving storage or aging, such as "This wine has been mellowed in oak casks," "Stored in small barrels" or "Matured at regulated temperatures in our cellars" may be made.

(d) *Statement of bottling dates.* The statement of any bottling date shall not be deemed to be a representation relative to age, if such statement appears without undue emphasis in the following form: "Bottled in ----" (inserting the year in which the wine was bottled).

(e) *Use of the word "old."* The use of the word "old" or other word denoting age, as part of the brand name, shall not be deemed to be a representation relative to age, if the word "brand" appears in direct conjunction with such brand name, in letters of equally conspicuous color and at least one-half the size of the lettering in which such brand name appears.

(f) *Statement of miscellaneous dates.* No date, except as provided in paragraphs (c) and (d) of this section, with respect to statement of vintage year and bottling date, shall be stated unless, in addition thereto, and in direct conjunction therewith, in the same size and kind of printing there shall be stated an explanation of the significance of such date: *Provided*, That if any date refers to the date of establishment of any business, such date shall be stated without undue emphasis and in direct conjunction with the name of the person to whom it refers.

(g) *Flags, seals, coats of arms, crests, and other insignia.* No advertisement shall contain any statement, design, de-

vice, or pictorial representation of or relating to, or capable of being construed as relating to, the armed forces of the United States, or of the American flag, or of any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any advertisement contain any statement, device, design, or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia likely to mislead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crests, or insignia is associated.

(h) *Statements indicative of origin.* No statement, design, device, or representation which tends to create the impression that the wine originated in a particular place or region, shall appear in any advertisement unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement in direct conjunction with the class and type designation.

(i) *Use of the word "importer" or similar words.* The word "importer" or similar words shall not appear in advertisements of domestic wine except as part of the bona fide name of the permittee by or for whom, or of a retailer for whom, such wine is bottled, packed or distributed: *Provided*, That in all cases where such words are used as part of such name, there shall be stated the words "Product of the United States" or similar words to negate any impression that the product is imported, and such negating statements shall appear in the same size and kind of printing as such name.

(j) *Curative and therapeutic effects.* The advertisement shall not contain any statement, design, or device representing that the use of any wine has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.

(k) *Confusion of brands.* Two or more different brands or lots of wine shall not be advertised in one advertisement (or in two or more advertisements in one issue of a periodical or newspaper, or in one piece of other written, printed, or graphic matter) if the advertisement tends to create the impression that rep-

resentations made as to one brand or lot apply to the other or others, and if as to such latter the representations contravene any provision of §§ 4.60-4.64 or are in any respect untrue.

[T.D. 6521, 25 F.R. 13843, Dec. 29, 1960, as amended by T.D. 6976, 33 F.R. 15025, Oct. 8, 1968]

Subpart H—Standards of Fill for Wine

§ 4.70 Application.

(a) Except as provided in paragraph (b) of this section, no person engaged in business as a producer, rectifier, blender, importer, or wholesaler of wine, directly or indirectly or through an affiliate, shall sell or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or receive therein, or remove from customs custody, any wine unless such wine is bottled or packed in the standard wine containers herein prescribed.

(b) Sections 4.70-4.72 shall not apply (1) to sake, or (2) to wine packed in containers of 5 gallons or more, or (3) to imported wine in the original containers in which entered in customs custody, or (4) to wine domestically bottled or packed, either in or out of customs custody, prior to the effective date of this article, if the container, or the label on the container, bears a conspicuous statement of the net contents thereof, and if the actual capacity of the container is not substantially less than the apparent capacity upon visual examination under ordinary conditions of purchase or use.

§ 4.71 Standard wine containers.

(a) A standard wine container shall be made, formed and filled to meet the following specifications:

(1) *Design.* It shall be so made and formed as not to mislead the purchaser. Wine containers shall be held (irrespective of the correctness of the net contents specified on the label) to be so made and formed as to mislead the purchaser if the actual capacity is substantially less than the apparent capacity upon visual examination under ordinary conditions of purchase or use; and

(2) *Fill.* It shall be so filled as to contain the quantity of wine specified in one of the standards of fill prescribed in § 4.72; and

(3) *Headspace.* It shall be made and filled as to have a headspace not in excess of 6 percent of its total capacity

after closure if the net contents of the container is $\frac{2}{5}$ pint or more, and a headspace not in excess of 10 percent of such capacity in the case of all other containers.

§ 4.72 Standards of fill.

(a) The standards of fill for wine shall be the following, subject to the tolerances hereinafter allowed:

(1) For all wines:

| | |
|-----------------------|----------------------|
| 4.9 gallons. | 1 pint. |
| 3 gallons. | $\frac{1}{2}$ pint. |
| 1 gallon. | $\frac{1}{4}$ pint. |
| $\frac{1}{2}$ gallon. | $\frac{1}{8}$ pint. |
| $\frac{1}{4}$ gallon. | $\frac{1}{16}$ pint. |
| $\frac{2}{5}$ gallon. | 4 ounces. |
| 1 quart. | 3 ounces. |
| $\frac{1}{2}$ quart. | 2 ounces. |

(2) In addition, for aperitif wines only: $\frac{15}{16}$ quart.

(2) In addition, for aperitif wines only: $\frac{15}{16}$ quart:

(b) The tolerances in fill shall be the same as are allowed by § 4.37 in respect to statement of net contents upon labels. [T.D. 6521, 25 F.R. 13835, Dec. 29, 1960, as amended by T.D. 7185, 37 F.R. 7976, Apr. 22, 1972]

Subpart I—General Provisions

§ 4.80 Exports.

The regulations in this part shall not apply to wine exported in bond.

PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS

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Subpart H—Advertising of Distilled Spirits

- 5.61 Application.
 5.62 Definition.
 5.63 Mandatory statements.
 5.64 Lettering.
 5.65 Prohibited statements.

AUTHORITY: The provisions of this Part 5 issued under 49 Stat. 981, as amended; 27 U.S.C. 205.

SOURCE: The provisions of this Part 5 contained in Treasury Decision 7020, 34 F.R. 20337, Dec. 30, 1969, unless otherwise noted.

Subpart A—Scope

§ 5.1 General.

The regulations in this part relate to the labeling and advertising of distilled spirits. This part applies to the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, but does not apply to distilled spirits for export.

§ 5.2 Related regulations.

Regulations relating to this part are listed below:

- 27 CFR Part 1—Basic Permit Requirements under the Federal Alcohol Administration Act.
 27 CFR Part 2—Nonindustrial Use of Distilled Spirits and Wine.
 27 CFR Part 3—Bulk Sales and Bottling of Distilled Spirits.
 27 CFR Part 4—Labeling and Advertising of Wine.
 27 CFR Part 7—Labeling and Advertising of Malt Beverages.
 26 CFR Part 173—Returns of Substances, Articles or Containers.
 26 CFR Part 200—Rules of Practice in Permit Proceedings.
 26 CFR Part 201—Distilled Spirits Plants.

- 26 CFR Part 250—Liquors and Articles from Puerto Rico and the Virgin Islands.
 26 CFR Part 251—Importation of Distilled Spirits, Wines and Beer.
 26 CFR Part 252—Exportation of Liquors.

Subpart B—Definitions

§ 5.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by such Act.

Act. The Federal Alcohol Administration Act.

Age. The period during which, after distillation and before bottling, distilled spirits have been stored in oak containers. "Age" for bourbon whisky, rye whisky, wheat whisky, malt whisky, or rye malt whisky, and straight whiskies other than straight corn whisky, means the period the whisky has been stored in charred new oak containers.

Assistant regional commissioner. An assistant regional commissioner (alcohol, tobacco, and firearms) who is responsible to, and functions under the direction and supervision of, the regional commissioner.

Bottle. Any container, irrespective of the material from which made, used for the sale of distilled spirits at retail.

Brand label. The principal display panel that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale, and any other label appearing on the same side of the bottle as the principal display panel. The principal display panel appearing on a cylindrical surface is that 40 percent of the circumference which is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

Director. The Director, Alcohol, Tobacco, and Firearms Division, Internal Revenue Service, Washington, D.C. 20224.

Distilled spirits. Ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whisky, rum, brandy, gin, and other distilled spirits, including all dilutions and

mixtures thereof, for nonindustrial use, except that this term shall not include mixtures containing wine, bottled at 48° proof or less, if the mixture contains more than 50 percent wine on a proof gallon basis.

CAUTION: The exception clause becomes effective July 1, 1972.

Gallon. U.S. gallon of 231 cubic inches of alcoholic beverage at 60° F. All other liquid measures used are subdivisions of the gallon as so defined.

In bulk. In containers having a capacity in excess of 1 wine gallon.

Interstate or foreign commerce. Commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

Permittee. Any person holding a basic permit under the Federal Alcohol Administration Act.

Person. Any individual, partnership, joint stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent and including an officer or employee of any agency of a State or political subdivision thereof; and the term "trade buyer" means any person who is a wholesaler or retailer.

Produced at. As used in §§ 5.22 and 5.52 in conjunction with specific degrees of proof to describe the standards of identity, means the composite proof of the spirits after completion of distillation and before reduction in proof.

Proof gallon. A gallon of liquid at 60° F. which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60° F. referred to water at 60° F. as unity, or the alcoholic equivalent thereof.

United States. The several States and Territories and the District of Columbia; the term "State" includes a Territory and the District of Columbia; and the term "Territory" means the Commonwealth of Puerto Rico.

Subpart C—Standards of Identity for Distilled Spirits

§ 5.21 Application of standards.

The standards of identity for the several classes and types of distilled spirits set forth in this part shall be applicable only to distilled spirits for beverage or other nonindustrial purposes.

§ 5.22 The standards of identity.

Standards of identity for the several classes and types of distilled spirits set forth in this section shall be as follows (see also § 5.35, class and type):

(a) **Class 1; neutral spirits or alcohol.** "Neutral spirits" or "alcohol" are distilled spirits produced from any material at or above 190° proof, and, if bottled, bottled at not less than 80° proof.

(1) "Vodka" is neutral spirits so distilled, or so treated after distillation with charcoal or other materials, as to be without distinctive character, aroma, taste, or color.

(2) "Grain spirits" are neutral spirits distilled from a fermented mash of grain and stored in oak containers.

CAUTION: Section 5.22(a)(2) becomes effective July 1, 1972.

(b) **Class 2; whisky.** "Whisky" is an alcoholic distillate from a fermented mash of grain produced at less than 190° proof in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to whisky, stored in oak containers (except that corn whisky need not be so stored), and bottled at not less than 80° proof, and also includes mixtures of such distillates for which no specific standards of identity are prescribed.

(1) (i) "Bourbon whisky", "rye whisky", "wheat whisky", "malt whisky", or "rye malt whisky" is whisky produced at not exceeding 160° proof from a fermented mash of not less than 51 percent corn, rye, wheat, malted barley, or malted rye grain, respectively, and stored at not more than 125° proof in charred new oak containers; and also includes mixtures of such whiskies of the same type.

(ii) "Corn whisky" is whisky produced at not exceeding 160° proof from a fermented mash of not less than 80 percent corn grain, and if stored in oak containers stored at not more than 125° proof in used or uncharred new oak containers and not subjected in any manner to treatment with charred wood; and also includes mixtures of such whisky.

(iii) Whiskies conforming to the standards prescribed in subdivisions (i) and (ii) of this subparagraph, which have been stored in the type of oak containers prescribed, for a period of 2 years or more shall be further designated as "straight"; for example, "straight bourbon whisky", "straight corn whisky", and whisky conforming to the standards pre-

scribed in subdivision (i) of this subparagraph, except that it was produced from a fermented mash of less than 51 percent of any one type of grain, and stored for a period of 2 years or more in charred new oak containers shall be designated merely as "straight whisky". No other whiskies may be designated "straight". "Straight whisky" includes mixtures of straight whiskies which are homogeneous under section 5025(e)(5), Internal Revenue Code (26 U.S.C. 5025(e)(5)), and implementing regulations in 26 CFR Part 201, and also mixtures of straight whiskies of the same type produced by the same proprietor at the same distillery all of which are not less than 4 years old.

(2) "Whisky distilled from bourbon (rye, wheat, malt, or rye malt) mash" is whisky produced in the United States at not exceeding 160° proof from a fermented mash of not less than 51 percent corn, rye, wheat, malted barley, or malted rye grain, respectively, and stored in used oak containers; and also includes mixtures of such whiskies of the same type. Whisky conforming to the standard of identity for corn whisky must be designated corn whisky.

(3) "Light whisky" is whisky produced in the United States at more than 160° proof, on or after January 26, 1968, and stored in used or uncharred new oak containers; and also includes mixtures of such whiskies. If "light whisky" is mixed with less than 20 percent of straight whisky on a proof gallon basis, the mixture shall be designated "blended light whisky" (light whisky—a blend).

CAUTION: Section 5.22(b)(3) becomes effective July 1, 1972.

(4) "Blended whisky" (whisky—a blend) is a mixture which contains at least 20 percent of straight whisky on a proof gallon basis and, separately or in combination, whisky or neutral spirits. A blended whisky containing not less than 51 percent on a proof gallon basis of one of the types of straight whisky shall be further designated by that specific type of straight whisky; for example, "blended rye whisky" (rye whisky—a blend).

(5) "A blend of straight whiskies" (blended straight whiskies) is a mixture of straight whiskies. A blend of straight whiskies consisting entirely of one of the types of straight whisky, and not conforming to the standard for "straight whisky", shall be further designated by

that specific type of straight whisky; for example, "a blend of straight rye whiskies" (blended straight rye whiskies).

(6) "Spirit whisky" is a mixture of neutral spirits and not less than 5 percent on a proof gallon basis of whisky, or straight whisky, or straight whisky and whisky, if the straight whisky component is less than 20 percent on a proof gallon basis.

(7) "Scotch whisky" is whisky which is a distinctive product of Scotland, manufactured in Scotland in compliance with the laws of the United Kingdom regulating the manufacture of Scotch whisky for consumption in the United Kingdom: *Provided*, That if such product is a mixture of whiskies, such mixture is "blended Scotch whisky" (Scotch whisky—a blend).

(8) "Irish whisky" is whisky which is a distinctive product of Ireland, manufactured either in the Republic of Ireland or in Northern Ireland, in compliance with their laws regulating the manufacture of Irish whisky for home consumption: *Provided*, That if such product is a mixture of whiskies, such mixture is "blended Irish whisky" (Irish whisky—a blend).

(9) "Canadian whisky" is whisky which is a distinctive product of Canada, manufactured in Canada in compliance with the laws of Canada regulating the manufacture of Canadian whisky for consumption in Canada: *Provided*, That if such product is a mixture of whiskies, such mixture is "blended Canadian whisky" (Canadian whisky—a blend).

(c) *Class 3; gin*. "Gin" is a product obtained by original distillation from mash, or by redistillation of distilled spirits, or by mixing neutral spirits, with or over juniper berries and other aromatics, or with or over extracts derived from infusions, percolations, or maceration of such materials, and includes mixtures of gin and neutral spirits. It shall derive its main characteristic flavor from juniper berries and be bottled at not less than 80° proof. Gin produced exclusively by original distillation or by redistillation may be further designated as "distilled". "Dry gin" (London dry gin), "Geneva gin" (Hollands gin), and "Old Tom gin" (Tom gin) are types of gin known under such designations.

(d) *Class 4; brandy*. "Brandy" is an alcoholic distillate from the fermented juice, mash, or wine of fruit, or from the residue thereof, produced at less than

190° proof in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to the product, and bottled at not less than 80° proof. Brandy, or mixtures thereof, not conforming to any of the standards in subparagraphs (1) through (8) of this paragraph shall be designated as "brandy", and such designation shall be immediately followed by a truthful and adequate statement of composition.

(1) "Fruit brandy" is brandy distilled solely from the fermented juice or mash of whole, sound, ripe fruit, or from standard grape, citrus, or other fruit wine, with or without the addition of not more than 20 percent by weight of the pomace of such juice or wine, or 30 percent by volume of the lees of such wine, or both (calculated prior to the addition of water to facilitate fermentation or distillation). Fruit brandy shall include mixtures of such brandy with not more than 30 percent (calculated on a proof gallon basis) of lees brandy. Fruit brandy, derived from grapes, shall be designated as "grape brandy" or "brandy", except that in the case of brandy (other than neutral brandy, pomace brandy, marc brandy or grappa brandy) distilled from the fermented juice, mash, or wine of grapes, or the residue thereof, which has been stored in oak containers for less than 2 years, the statement of class and type shall be immediately preceded, in the same size and kind of type, by the word "immature". Fruit brandy, other than grape brandy, derived from one variety of fruit, shall be designated by the word "brandy" qualified by the name of such fruit (for example, "peach brandy"), except that "apple brandy" may be designated "applejack". Fruit brandy derived from more than one variety of fruit shall be designated as "fruit brandy" qualified by a truthful and adequate statement of composition.

(2) "Cognac", or "Cognac (grape) brandy", is grape brandy distilled in the Cognac region of France, which is entitled to be so designated by the laws and regulations of the French Government.

(3) "Dried fruit brandy" is brandy that conforms to the standard for fruit brandy except that it has been derived from sound, dried fruit, or from the standard wine of such fruit. Brandy derived from raisins, or from raisin wine, shall be designated as "raisin brandy". Other brandies shall be designated in the same manner as fruit brandy from the corresponding variety or varieties of

fruit except that the name of the fruit shall be qualified by the word "dried".

(4) "Lees brandy" is brandy distilled from the lees of standard grape, citrus, or other fruit wine, and shall be designated as "lees brandy", qualified by the name of the fruit from which such lees are derived.

(5) "Pomace brandy", or "marc brandy", is brandy distilled from the skin and pulp of sound, ripe grapes, citrus, or other fruit, after the withdrawal of the juice or wine therefrom, and shall be designated as "pomace brandy", or "marc brandy", qualified by the name of the fruit from which derived. Grape pomace brandy may be designated as "grappa" or "grappa brandy".

(6) "Residue brandy" is brandy distilled wholly or in part from the fermented residue of fruit or wine, and shall be designated as "residue brandy" qualified by the name of the fruit from which derived. Brandy distilled wholly or in part from residue materials which conforms to any of the standards set forth in subparagraphs (1), (3), (4), and (5) of this paragraph may, regardless of such fact, be designated "residue brandy", but the use of such designation shall be conclusive, precluding any later change of designation.

(7) "Neutral brandy" is brandy produced at more than 170° proof and shall be designated in accordance with the standards in this paragraph, except that the designation shall be qualified by the word "neutral"; for example, "neutral citrus residue brandy".

(8) "Substandard brandy" shall bear as a part of its designation the word "substandard", and shall include:

(i) Any brandy distilled from fermented juice, mash, or wine having a volatile acidity, calculated as acetic acid and exclusive of sulfur dioxide, in excess of 0.20 gram per 100 cubic centimeters (20° C.); measurements of volatile acidity shall be calculated exclusive of water added to facilitate distillation.

(ii) Any brandy which has been distilled from unsound, moldy, diseased, or decomposed juice, mash, wine, lees, pomace, or residue, or which shows in the finished product any taste, aroma, or characteristic associated with products distilled from such material.

(e) *Class 5; blended applejack*. "Blended applejack" (applejack—a blend) is a mixture which contains at least 20 percent of apple brandy (applejack) on a proof gallon basis, stored in

oak containers for not less than 2 years, and not more than 80 percent of neutral spirits on a proof gallon basis if such mixture at the time of bottling is not less than 80° proof.

(f) *Class 6; rum.* "Rum" is an alcoholic distillate from the fermented juice of sugar cane, sugar cane syrup, sugar cane molasses, or other sugar cane by-products, produced at less than 190° proof in such manner that the distillate possesses the taste, aroma and characteristics generally attributed to rum, and bottled at not less than 80° proof; and also includes mixtures solely of such distillates.

(g) *Class 7; Tequila.* "Tequila" is an alcoholic distillate from a fermented mash derived principally from the Agave Tequilana Weber ("blue" variety), with or without additional fermentable substances, distilled in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to Tequila and bottled at not less than 80° proof, and also includes mixtures solely of such distillates.

(h) *Class 8; cordials and liqueurs.* Cordials and liqueurs are products obtained by mixing or redistilling distilled spirits with or over fruits, flowers, plants, or pure juices therefrom, or other natural flavoring materials, or with extracts derived from infusions, percolation, or maceration of such materials, and containing sugar, dextrose, or levulose, or a combination thereof, in an amount not less than 2½ percent by weight of the finished product.

(1) "Sloe gin" is a cordial or liqueur with the main characteristic flavor derived from sloe berries.

(2) "Rye liqueur", "bourbon liqueur" (rye, bourbon cordial) are liqueurs, bottled at not less than 60° proof, in which not less than 51 percent, on a proof gallon basis, of the distilled spirits used are, respectively, rye or bourbon whisky, straight rye or straight bourbon whisky, or whisky distilled from a rye or bourbon mash, and which possess a predominant characteristic rye or bourbon flavor derived from such whisky. Wine, if used, must be within the 2½ percent limitation provided in § 5.23 for coloring, flavoring, and blending materials.

(3) "Rock and rye", "rock and bourbon", "rock and brandy", "rock and rum" are liqueurs, bottled at not less than 48° proof, in which, in the case of rock and rye and rock and bourbon, not less than 51 percent, on a proof gallon

basis, of the distilled spirits used are, respectively, rye or bourbon whisky, straight rye or straight bourbon whisky, or whisky distilled from a rye or bourbon mash, and, in the case of rock and brandy and rock and rum, the distilled spirits used are all grape brandy or rum, respectively; containing rock candy or sugar syrup, with or without the addition of fruit, fruit juices, or other natural flavoring materials, and possessing, respectively, a predominant characteristic rye, bourbon, brandy, or rum flavor derived from the distilled spirits used. Wine, if used, must be within the 2½ percent limitation provided in § 5.23 for harmless coloring, flavoring, and blending materials.

(4) The designation of a cordial or liqueur may include the word "dry" if the sugar, dextrose, or levulose, or a combination thereof, are less than 10 percent by weight of the finished product.

(5) Cordials and liqueurs shall not be designated as "distilled" or "compound".

(i) *Class 9; flavored brandy, flavored gin, flavored rum, flavored vodka, and flavored whisky.* "Flavored brandy," "flavored gin," "flavored rum," "flavored vodka", and "flavored whisky" are brandy, gin, rum, vodka, and whisky, respectively, to which have been added natural flavoring materials, with or without the addition of sugar, and bottled at not less than 70° proof. The name of the predominant flavor shall appear as a part of the designation. If the finished product contains more than 2½ percent by volume of wine, the kinds and percentages by volume of wine must be stated as a part of the designation, except that a flavored brandy may contain an additional 12½ percent by volume of wine, without label disclosure, if the additional wine is derived from the particular fruit corresponding to the labeled flavor of the product.

(j) *Class 10; imitations.* Imitations shall bear, as a part of the designation thereof, the word "imitation" and shall include the following:

(1) Any class or type of distilled spirits to which has been added coloring or flavoring material of such nature as to cause the resultant product to simulate any other class or type of distilled spirits;

(2) Any class or type of distilled spirits (other than distilled spirits required under § 5.35 to bear a distinctive or fanciful name and a truthful and adequate statement of composition) to which has

been added flavors considered to be artificial or imitation. In determining whether a flavor is artificial or imitation, recognition will be given to what is considered to be "good commercial practice" in the flavor manufacturing industry;

(3) Any class of type of distilled spirits (except cordials, liqueurs and specialties marketed under labels which do not indicate or imply, that a particular class or type of distilled spirits was used in the manufacture thereof) to which has been added any whisky essence, brandy essence, rum essence, or similar essence or extract which simulates or enhances, or is used by the trade or in the particular product to simulate or enhance, the characteristics of any class or type of distilled spirits;

(4) Any type of whisky to which head- ing oil has been added;

(5) Any rum or Tequila, to which neutral spirits or distilled spirits other than rum or Tequila, respectively, have been added;

(6) Any brandy made from distilling material to which has been added any amount of sugar other than the kind and amount of sugar expressly authorized in the production of standard wine; and

(7) Any brandy to which neutral spirits or distilled spirits other than brandy have been added, except that this provision shall not apply to any product conforming to the standard of identity for blended applejack.

(k) *Class 11; geographical designations.* (1) Geographical names for distinctive types of distilled spirits (other than names found by the Director under subparagraph (2) of this paragraph to have become generic) shall not be applied to distilled spirits produced in any other place than the particular region indicated by the name, unless (i) in direct conjunction with the name there appears the word "type" or the word "American" or some other adjective indicating the true place of production, in lettering substantially as conspicuous as such name, and (ii) the distilled spirits to which the name is applied conform to the distilled spirits of that particular region. The following are examples of distinctive types of distilled spirits with geographical names that have not become generic: Eau de Vie de Dantzic (Danziger Goldwasser), Ojen, Swedish punch, Geographical names for distinctive types of distilled spirits shall be used to designate only distilled spirits conforming to the standard of identity, if any, for such

type specified in this section, or if no such standard is so specified, then in accordance with the trade understanding of that distinctive type.

(2) Only such geographical names for distilled spirits as the Director finds have by usage and common knowledge lost their geographical significance to such extent that they have become generic shall be deemed to have become generic. Examples are London dry gin, Geneva (Hollands) gin.

(3) Geographical names that are not names for distinctive types of distilled spirits, and that have not become generic, shall not be applied to distilled spirits produced in any other place than the particular place or region indicated in the name. Examples are Cognac, Armagnac, Greek brandy, Pisco brandy, Jamaica rum, Puerto Rico rum, Demerara rum.

(4) The words "Scotch", "Scots", "Highland", or "Highlands" and similar words connoting, indicating, or commonly associated with Scotland, shall not be used to designate any product not wholly produced in Scotland.

(l) *Class 12; products without geographical designations but distinctive of a particular place.* (1) The whiskies of the types specified in paragraph (b) (1), (4), (5), and (6) of this section are distinctive products of the United States, and if produced in a foreign country, shall be designated by the applicable designation prescribed in such paragraphs, together with the words "American type" or the words "produced (distilled, blended) in _____", the blank to be filled in with the name of the foreign country: *Provided*, That the word "bourbon" shall not be used to describe any whisky or whisky-based distilled spirits not produced in the United States. If whisky of any of these types is composed in part of whisky or whiskies produced in a foreign country there shall be stated, on the brand label, the percentage of such whisky and the country of origin thereof.

(2) The name for other distilled spirits which are distinctive products of a particular place or country, an example is Habanero, shall not be given to the product of any other place or country unless the designation for such product includes the word "type" or an adjective such as "American", or the like, clearly indicating the true place of production. The provision for place of production shall not apply to designations which by usage and common knowledge have lost their

geographical significance to such an extent that the Director finds they have become generic. Examples are Slivovitz, Zubrovka, Aquavit, Arrack, and Kirschwasser.

§ 5.23 Alteration of class and type.

(a) *Additions.* (1) The addition of any coloring, flavoring, or blending materials to any class and type of distilled spirits, except as otherwise provided in this section, alters the class and type thereof and the product shall be appropriately redesignated.

(2) There may be added to any class or type of distilled spirits, without changing the class or type thereof, (i) such harmless coloring, flavoring, or blending materials as are an essential component part of the particular class or type of distilled spirits to which added; and (ii) harmless coloring, flavoring, or blending materials such as caramel, straight malt or straight rye malt whiskies, fruit juices, sugar, or wine, which are not an essential component part of the particular distilled spirits to which added, but which are customarily employed therein in accordance with established trade usage, if such coloring, flavoring, or blending materials do not total more than 2½ percent by volume of the finished product.

(3) "Harmless coloring, flavoring, and blending materials" shall not include (i) any material which would render the product to which it is added an imitation, or (ii) any material whatsoever in the case of neutral spirits or straight whisky, or (iii) any material, other than caramel and sugar, in the case of Cognac brandy.

(b) *Extractions.* The removal from any distilled spirits of any constituents to such an extent that the product does not possess the taste, aroma, and characteristics generally attributed to that class or type of distilled spirits alters the class and type thereof, and the product shall be appropriately redesignated. In addition, in the case of straight whisky the removal of more than 15 percent of the fixed acids, or volatile acids, or esters, or soluble solids, or higher alcohols, or more than 25 percent of the soluble color, shall be deemed to alter the class or type thereof.

(c) *Exceptions.* This section shall not be construed as in any manner modifying the standards of identity for cordials and liqueurs, flavored brandy, flavored gin, flavored rum, flavored vodka, and

flavored whisky or as authorizing any product which is defined in § 5.22(j), Class 10, as an imitation to be otherwise designated.

Subpart D—Labeling Requirements for Distilled Spirits

§ 5.31 General.

(a) *Application.* No person engaged in business as a distiller, rectifier, importer, wholesaler, or warehouseman and bottler, directly or indirectly, or through an affiliate, shall sell or ship or deliver for sale or shipment or otherwise introduce in interstate or foreign commerce, or receive therein, or remove from customs custody, any distilled spirits in bottles, unless such bottles are marked, branded, labeled, or packaged, in conformity with §§ 5.31–5.42.

(b) *Alteration of labels.* It shall be unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark, brand, or label on distilled spirits held for sale in interstate or foreign commerce or after shipment therein, except—

(1) As authorized by Federal law,

(2) That the assistant regional commissioner or the internal revenue officer, if any, assigned to the distilled spirits plant premises may, on oral or written application, permit additional labeling or relabeling of bottled distilled spirits with labels covered by certificates of label approval which comply with the requirements of this part and with State law.

(3) That there may be added to the bottle, after removal from customs custody, or prior to or after removal from the bottling premises, without application for permission to relabel, a label identifying the wholesale or retail distributor thereof or identifying the purchaser or consumer, and containing no references whatever to the characteristics of the product.

§ 5.32 Mandatory label information.

There shall be stated:

(a) On the brand label:

(1) Brand name.

(2) Class and type, in accordance with § 5.35.

(3) Alcoholic content, in accordance with § 5.37.

(4) In the case of distilled spirits packaged in containers for which no standard of fill is prescribed in § 5.47, net contents in accordance with § 5.38(b).

(b) On the brand label or on a back label:

(1) Name and address, in accordance with § 5.36.

(2) In the case of imported spirits, the country of origin, in accordance with § 5.36.

(3) In the case of distilled spirits packaged in containers conforming to the standards of fill prescribed in § 5.47, net contents in accordance with § 5.88(a).

(4) Coloring or flavoring, in accordance with § 5.39.

(5) Percentage of neutral spirits and name of commodity from which distilled, or in the case of continuously distilled neutral spirits or gin the name of the commodity only, in accordance with § 5.39.

(6) A statement of age or age and percentage, when required, in accordance with § 5.40.

(7) State of distillation of domestic types of whisky and straight whisky, except light whisky and blends, in accordance with § 5.36.

(c) In the case of a container which has been excepted by the Director under the provisions of § 5.48(a), the information required to appear on the "brand label", as defined, may appear elsewhere on such container if it can be demonstrated that the container cannot reasonably be so designed that the required brand label can be properly affixed.

§ 5.33 Additional requirements.

(a) *Contrasting background.* Labels shall be so designed that the statements required by §§ 5.31–5.42 are readily legible under ordinary conditions, and such statements shall be on a contrasting background.

(b) *Size of type.* Statements required by §§ 5.31–5.42 (except brand names) shall appear generally parallel to the base on which the container rests as it is designed to be displayed, or shall be otherwise equally conspicuous, and shall be in script, type, or printing not smaller than 8-point Gothic caps and shall be separate and apart from any other descriptive or explanatory matter, except that, in the case of labels on bottles of less than one-half pint capacity, such script, type, or printing may be smaller than 8-point Gothic caps if readily legible under ordinary conditions. Statements of the type of distilled spirits shall be as conspicuous as the statement of the class to which it refers, and in direct conjunction therewith.

(c) *English language.* The requirements of §§ 5.31–5.42 shall be stated in the English language, except that the brand name need not be in English, and for products bottled for consumption within Puerto Rico the required information may be stated in the Spanish language if the net contents and, if the product is an imitation, the word "imitation" are also stated in the English language.

(d) *Location of label.* Labels shall not obscure government stamps or be obscured thereby. Labels shall not obscure any markings or information required to be permanently marked in the bottle by other U.S. Treasury Department regulations.

(e) *Labels firmly affixed.* Labels which are not an integral part of the bottle shall be affixed to bottles in such manner that they cannot be removed without thorough application of water or other solvents.

(f) *Additional information on labels.* Labels may contain information other than the mandatory label information required by §§ 5.31–5.42 provided such information does not conflict with, nor in any manner qualify, statements required by regulations promulgated under the Act.

(g) *Contents of bottles.* A complete and accurate statement of the contents of the bottles to which labels are to be or have been affixed shall be submitted, on request, to the Director or the assistant regional commissioner.

§ 5.34 Brand names.

(a) *Misleading brand names.* No label shall contain any brand name, which, standing alone, or in association with other printed or graphic matter, creates any impression or inference as to the age, origin, identity, or other characteristics of the product unless the Director finds that such brand name (when appropriately qualified if required) conveys no erroneous impressions as to the age, origin, identity, or other characteristics of the product.

(b) *Trade name of foreign origin.* Paragraph (a) of this section does not prohibit the use by any person of any trade name or brand of foreign origin not effectively registered in the U.S. Patent Office on August 29, 1935, which has been used by such person or his predecessors in the United States for a period of at least 5 years immediately preceding August 29, 1935: *Provided,*

That if such trade name or brand is used, the designation of the product shall be qualified by the name of the locality in the United States in which produced, and such qualification shall be in script, type, or printing as conspicuous as the trade name or brand.

§ 5.35 Class and type.

(a) *Designation of product.* The class and type of distilled spirits shall be stated in conformity with § 5.22 if defined therein. In all other instances the product shall be designated in accordance with trade and consumer understanding thereof, or, if no such understanding exists, by a distinctive or fanciful name, and in either case (except as provided in paragraph (b)(2) of this section) followed by a truthful and adequate statement of composition. The word "cordial" or "liqueur" need not be stated in the case of cordials and liqueurs unless the Director finds such word is necessary to clearly indicate that the product is a cordial or liqueur.

(b) *Products designed in accordance with trade and consumer understanding.* In the case of products designated in accordance with trade and consumer understanding:

(1) A statement of the classes and types of distilled spirits used in the manufacture thereof shall be deemed a sufficient statement of composition in the case of highballs, cocktails, and similar prepared specialties when the designation adequately indicates to the consumer the general character of the product.

(2) No statement of composition is required if the designation through general and established usage adequately indicates to the consumer the composition of the product.

A product shall not bear a designation which indicates it contains a class or type of distilled spirits unless the distilled spirits therein conform to such class and type.

(c) *Origin of whiskies in mixtures.* In the case of any of the types of whisky defined in § 5.22(b), Class 2, which contains any whisky or whiskies produced in a country other than that indicated by the type designation, there shall be stated on the brand label the percentage of such whisky and the country or origin thereof. In the case of mixtures of whisky, not conforming to any type designation in § 5.22(b), Class 2, the components of which were distilled in more

than one country, there shall be stated in direct conjunction with the class designation "whisky" a truthful and adequate statement of the composition of the product.

(d) *Whisky manufactured in Scotland, Ireland, or Canada.* All whisky manufactured in Scotland, Ireland, or Canada, shall be deemed to be Scotch, Irish, or Canadian whisky, and shall be so designated, in conformity with § 5.22(b) (7), (8), and (9), unless the application of such designation to the particular product will result in consumer deception, or unless such a product is not entitled to such designation under the laws of the country in which manufactured.

(e) *Cordials and liqueurs.* The alcoholic components of cordials and liqueurs may, but need not, be stated on labels.

§ 5.36 Name and address.

(a) *"Bottled by".* (1) On labels of domestic distilled spirits there shall be stated the phrase "bottled by", "packed by", or "filled by", immediately followed by the name (or trade name) of the bottler and the place where such distilled spirits are bottled. If the bottler is the actual bona fide operator of more than one distilled spirits plant engaged in bottling operations, there may, in addition, be stated immediately following the name (or trade name) of such bottler the addresses of such other plants.

(2) Where distilled spirits are bottled by or for the distiller thereof, there may be stated, in lieu of the phrase "bottled by", "packed by", or "filled by", followed by the bottler's name (or trade name) and address, the phrase "distilled by", followed by the name, or the trade name under which the particular spirits were distilled, or (except in the case of distilled spirits bottled in bond under section 5233, Internal Revenue Code (26 U.S.C. 5233)) any trade name shown on the distiller's permit (covering the premises where the particular spirits were distilled), and the address (or addresses) of the distiller.

(3) Where distilled spirits are bottled by or for the rectifier thereof, there may be stated, in lieu of the phrase "bottled by", "packed by", or "filled by", followed by the bottler's name (or trade name) and address, the phrases "blended by", "made by", "prepared by", "manufactured by", or "produced by" (whichever may be appropriate to the act of recti-

fication involved) followed by the name (or trade name), and the address (or addresses) of the rectifier.

(b) *"Imported by".* (1) On labels of imported distilled spirits, bottled prior to importation, there shall be stated the words "imported by", "imported exclusively by", or a similar appropriate phrase, and immediately thereafter the name of the importer, or exclusive agent, or sole distributor, or other person responsible for the importation, together with the principal place of business in the United States of such person.

(2) On labels of imported distilled spirits bottled after importation there shall be stated:

(i) The name of the bottler and place where bottled, immediately preceded by the words "bottled by", "packed by", or "filled by"; or

(ii) The name of the bottler and place where bottled, immediately preceded by the words "bottled by", "packed by", or "filled by" and in conjunction therewith the name and address of the person responsible for the importation, in the manner prescribed in subparagraph (1) of this paragraph; or

(iii) The name and principal place of business in the United States of the person responsible for the importation, if the spirits are bottled for such person, immediately preceded by the phrase "imported by and bottled (packed), (filled) in the United States for" (or a similar appropriate phrase); or,

(iv) In the case of imported distilled spirits bottled after importation by the person responsible for the importation, the words "imported and bottled (packed), (filled) by", "imported and bottled (packed), (filled) exclusively by", or a similar appropriate phrase, and immediately thereafter the name of such person and the address of the place where bottled or the address of such person's principal place of business.

(c) *Post office address.* The "place" stated shall be the post office address, except that the street address may be omitted. No additional places or addresses shall be stated for the same person, firm or corporation, unless (1) such person or retailer is actively engaged in the conduct of an additional bona fide and actual alcoholic beverage business at such additional place or address, and (2) the label also contains in direct conjunction therewith, appropriate descriptive material indicating the function occurring at such additional place or address.

(d) *State of distillation.* Except in the case of "light whisky", "blended light whisky", "blended whisky", "a blend of straight whiskies", or "spirit whisky", the State of distillation shall be shown on the label of any whisky produced in the United States if the whisky is not distilled in the State given in the address on the brand label. The Director may, however, require the State of distillation to be shown on the label or he may permit such other labeling as may be necessary to negate any misleading or deceptive impression which might be created as to the actual State of distillation. In the case of "light whisky", as defined in § 5.22(b) (3), the State of distillation shall not appear in any manner on any label, when the Director finds such State is associated by consumers with an American type whisky, except as a part of a name and address as set forth in paragraph (a) of this section.

(e) *Country of origin.* On labels of imported distilled spirits there shall be stated the country of origin in substantially the following form "Product of -----", the blank to be filled in with the name of the country of origin.

(f) *Trade names.* The trade name of any permittee appearing on any label shall be identical with the name in which his basic permit is issued by the assistant regional commissioner.

§ 5.37 Alcoholic content.

The alcoholic content shall be stated by proof for distilled spirits except that it may be stated in percentage by volume for cordials and liqueurs, cocktails, highballs, bitters, and such other specialties as may be specified by the Director.

§ 5.38 Net contents.

(a) *Bottles conforming to standards of fill.* The net contents of distilled spirits for which a standard of fill is prescribed in § 5.47 shall be stated in the same manner and form in which such standard of fill is set forth. Such net contents need not be stated on the label if they are legibly blown, etched, sandblasted, marked by underglaze coloring or otherwise permanently marked by any method approved by the Director, on the side, front, or back of the container in an unobscured location. Containers of one-half pint or greater capacity must bear letters and figures of not less than one-quarter inch height.

(b) *Bottles not conforming to standards of fill.* The net contents of distilled

spirits for which no standard of fill is prescribed in § 5.47 shall be stated as follows:

(1) If 1 pint, 1 quart, or 1 gallon, the net contents shall be so stated.

(2) If less than a pint, the net contents shall be stated in fractions of a pint, or in fluid ounces.

(3) If more than a pint, but less than a quart, the net contents shall be stated in fractions of a quart, or in pints and fluid ounces.

(4) If more than a quart, but less than a gallon, the net contents shall be stated in fractions of a gallon, or in quarts, pints, and fluid ounces.

All fractions shall be expressed in their lowest denomination.

(c) *Qualifying statements.* Words or phrases qualifying statements of net contents are prohibited.

§ 5.39 Presence of neutral spirits and coloring, flavoring, and blending materials.

(a) *Neutral spirits and name of commodity.* (1) In the case of distilled spirits (other than cordials, liqueurs, and specialties) produced by blending or rectification, if neutral spirits have been used in the production thereof, there shall be stated the percentage of neutral spirits so used and the name of the commodity from which such neutral spirits have been distilled. The statement of percentage and the name of the commodity shall be made in substantially the following form: "-----% neutral spirits distilled from ----- (insert grain, cane products, or fruit, as appropriate)"; or "-----% neutral spirits (vodka) distilled from ----- (insert grain, cane products, or fruit, as appropriate)"; or "-----% grain (cane products), (fruit) neutral spirits"; or "-----% grain spirits."

(2) In the case of neutral spirits or of gin produced by a process of continuous distillation, there shall be stated the name of the commodity from which such neutral spirits or gin have been distilled. The statement of the name of the commodity shall be made in substantially the following form: "Distilled from grain", or "Distilled from cane products", or "Distilled from fruit".

(b) *Coloring materials.* The words "artificially colored" shall be stated on the label of any distilled spirits containing synthetic or natural materials which primarily contribute color, or when the

label conveys the impression that the color is derived from a source other than the actual source, except that:

(1) If no coloring material other than natural flavoring material has been added, there may be stated in lieu of the words "artificially colored" a truthful and adequate statement of the source of the color;

(2) If no coloring material other than those certified as suitable for use in foods by the Food and Drug Administration has been added, there may be stated in lieu of the words "artificially colored", the words "certified color added"; and

(3) If no coloring material other than caramel has been added, there may be stated in lieu of the words "artificially colored", the words "colored with caramel", or a substantially similar statement, but no such statement is required for the use of caramel in any brandy, rum, or Tequila, or in any type of whisky other than straight whisky.

(c) *Treatment with wood.* The words "colored and flavored with wood ----- (insert chips, slabs, etc., as appropriate)" shall be stated as a part of the class and type designation for whisky and brandy treated, in whole or in part, with wood through percolation, or otherwise, during distillation, rectification, or storage (other than through contact with the oak container).

§ 5.40 Statements of age and percentage.

(a) *Statements of age and percentage for whisky.* In the case of straight whisky bottled under section 5233, Internal Revenue Code (26 U.S.C. 5233), and domestic or foreign whisky, whether or not mixed or blended, all of which is 4 years or more old, statements of age and percentage are optional. As to all other whiskies there shall be stated the following:

(1) In the case of whisky, whether or not mixed or blended but containing no neutral spirits, the age of the youngest whisky. The age statement shall read substantially as follows: "----- years olds."

(2) In the case of whisky containing neutral spirits, if any of the straight whisky and/or other whisky is less than 4 years old, the percentage by volume of straight whisky and/or other whisky, and the age of the straight whisky (the youngest if two or more) and the age of such other whisky (the youngest if two or more). If all the straight whisky and/or other whisky is 4 years or more

old, the age and percentage statement for such whiskies is optional. The age and percentage statement for straight whiskies and/or other whisky, whether required or optional, shall be stated in immediate conjunction with the neutral spirits statement required by § 5.39, and shall read substantially as follows:

(i) If only one straight whisky and no other whisky is contained in the blend: "----- percent straight whisky ----- years old."

(ii) If more than one straight whisky and no other whisky is contained in the blend: "----- percent straight whiskies ----- years or more old." The age blank shall be filled in with the age of the youngest straight whisky. In lieu of the foregoing, a statement may be made of the ages and percentages of each of the straight whiskies contained in the blend: "----- percent straight whisky ----- years old, ----- percent straight whisky ----- years old, and ----- percent straight whisky ----- years old."

(iii) If only one straight whisky and one other whisky is contained in the blend: "----- percent straight whisky ----- years old, ----- percent whisky ----- years old."

(iv) If more than one straight whisky and more than one other whisky is contained in the blend: "----- percent straight whiskies ----- years or more old, ----- percent whiskies ----- years or more old." The age blanks shall be filled in with the ages of the youngest straight whisky and the youngest other whisky. In lieu of the foregoing, a statement may be made of the ages and percentages of each of the straight whiskies and other whiskies contained in the blend: "----- percent straight whisky ----- years old, ----- percent straight whisky ----- years old, and ----- percent whisky ----- years old."

(3) In the case of imported whiskies described in § 5.22(1), Class 12, the labels shall state the ages and percentages in the same manner and form as is required for the same type of whisky produced in the United States.

(4) Notwithstanding the foregoing provisions of this paragraph, in the case of whisky produced in the United States and stored in reused oak containers, except for corn whisky, and for light whisky produced on or after January 26, 1968, there shall be stated in lieu of the words "----- years old" the period of

storage in reused oak containers as follows: "----- stored ----- years in reused cooperage."

(5) Optional age statements shall appear in the same form as required age statements.

(b) *Statements of age for rum, brandy, and Tequila.* Age may, but need not, be stated on labels of rums, brandies, and Tequila, except that an appropriate statement with respect to age shall appear on the brand label in case of brandy (other than immature brandies and fruit brandies which are not customarily stored in oak containers) not stored in oak containers for a period of at least 2 years. If age is stated, it shall be substantially as follows: "----- years old"; the blank to be filled in with the age of the youngest distilled spirits in the product.

(c) *Statement of storage for grain spirits.* In case of grain spirits, the period of storage in oak containers may be stated in immediate conjunction with the required percentage statement; for example, "-----% grain spirits stored ----- years in oak containers."

(d) *Other distilled spirits.* Age, maturity, or similar statements or representations as to neutral spirits (except for grain spirits as stated in paragraph (c) of this section), gin, liqueurs, cordials, cocktails, highballs, bitters, flavored brandy, flavored gin, flavored rum, flavored vodka, flavored whisky, and specialties are misleading and are prohibited from being stated on any label.

(e) *Miscellaneous age representations.* (1) Age may be understated but shall not be overstated.

(2) If any age, maturity, or similar representation is made relative to any distilled spirits (such representations for products enumerated in paragraph (d) of this section are prohibited), the age shall also be stated on all labels where such representation appears, and in a manner substantially as conspicuous as such representation: *Provided*, That the use of the word "old" or other word denoting age, as part of the brand name, shall not be deemed to be an age representation: *And provided further*, That the labels of whiskies and brandies (except immature brandies) not required to bear a statement of age, and rum and Tequila aged for not less than 4 years, may contain general inconspicuous age, maturity or similar representations without the label bearing an age statement.

§ 5.41 Bottle cartons, booklets and leaflets.

(a) *General.* An individual covering, carton, or other container of the bottle used for sale at retail (other than a shipping container), or any written, printed, graphic, or other matter accompanying the bottle to the consumer buyer shall not contain any statement, design, device, or graphic, pictorial, or emblematic representation that is prohibited by §§ 5.31-5.42 on labels.

(b) *Sealed opaque cartons.* If bottles are enclosed in sealed opaque coverings, cartons, or other containers used for sale at retail (other than shipping containers), such coverings, cartons, or other containers must bear all mandatory label information.

(c) *Other cartons.* If an individual covering, carton, or other container of the bottle used for sale at retail (other than a shipping container) is so designed that the bottle is readily removable and the covering carton or container is not sufficiently transparent to permit visibility of the mandatory label information on the bottle, and if it displays any written or printed material, other than the brand name and the name and address of the manufacturer, bottler, or importer (omitting any reference to the function performed by the permittee), such covering, carton, or other container must bear all mandatory label information.

§ 5.42 Prohibited practices.

(a) *Statements on labels.* Bottles containing distilled spirits, or any labels on such bottles, or any individual covering, carton, or other container of such bottles used for sale at retail, or any written, printed, graphic, or other matter accompanying such bottles to the consumer shall not contain:

(1) Any statement that is false or untrue in any particular or that, irrespective of falsity, directly or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific, or technical matter, tends to create a misleading impression.

(2) Any statement that is disparaging of a competitor's product.

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which the Director finds to be likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which the Director finds to be likely to mislead the consumer. Enforceable money-back guarantees are not prohibited.

(6) A trade or brand name that is the name of any living individual of public prominence, or existing private or public organization, or is a name that is in simulation or is an abbreviation thereof, or any graphic, pictorial, or emblematic representation of any such individual or organization, if the use of such name or representation is likely to falsely lead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of, such individual or organization: *Provided*, That this subparagraph shall not apply to the use of the name of any person engaged in business as a distiller, rectifier, blender, or other producer, or as an importer, wholesaler, retailer, bottler, or warehouseman, of distilled spirits, nor to the use by any person of a trade or brand name that is the name of any living individual of public prominence or existing private or public organization, provided such trade or brand name was used by him or his predecessors in interest prior to August 29, 1935.

(b) *Miscellaneous.* (1) Labels shall not be of such design as to resemble or simulate a stamp of the U.S. Government or any State or foreign government. Labels, other than stamps authorized or required by this or any other government, shall not state or indicate that the distilled spirits are distilled, blended, made, bottled, or sold under, or in accordance with, any municipal, State, Federal, or foreign authorization, law, or regulations, unless such statement is required or specifically authorized by Federal, State, municipal, or foreign law or regulations. The statements authorized by this part to appear on labels for domestic distilled spirits are "Distilled (produced, barreled, warehoused, blended, or bottled, or any combination thereof, as the case may be) under United States (U.S.) Government supervision", or in the case of distilled spirits bottled under section 5233, Internal Revenue Code (26 U.S.C. 5233), "Bottled in bond under United States (U.S.) Government supervision." If the municipal, State, or Federal Government permit

number is stated on a label, it shall not be accompanied by any additional statement relating thereto.

(2) If imported distilled spirits are covered by a certificate of origin or of age issued by a duly authorized official of the appropriate foreign government, the label, except where prohibited by the foreign government, may refer to such certificate or the fact of such certification, but shall not be accompanied by any additional statement relating thereto. The reference to such certificate or certification shall, in the case of Cognac, be substantially in the following form: "This product accompanied at the time of importation by an 'Acquit Regional Jaune d'Or' issued by the French Government, indicating that this grape brandy was distilled in the Cognac Region of France"; and in the case of other distilled spirits, substantially in the following form: "This product accompanied at time of importation by a certificate issued by the _____ government (name of government) indicating that the product is _____ (class and type as required to be stated on the label), and (if label claims age) that none of the distilled spirits are of an age less than stated on this label."

(3) The words "bond", "bonded", "bottled in bond" "aged in bond", or phrases containing these or synonymous terms, shall not be used on any label or as part of the brand name of domestic distilled spirits unless such distilled spirits were in fact bottled in bond under section 5233, Internal Revenue Code (26 U.S.C. 5233).

(4) The words "bond", "bonded", "bottled in bond", "aged in bond", or phrases containing these or synonymous terms, shall not be used on any label or as part of the brand name of imported distilled spirits unless such distilled spirits meet in all respects the requirements applicable to distilled spirits bottled for domestic consumption under section 5233, Internal Revenue Code (26 U.S.C. 5233) and unless the laws and regulations of the country in which such distilled spirits are produced authorize the bottling of distilled spirits in bond and require or specifically authorize such distilled spirits to be so labeled. All spirits labeled as "bonded", "bottled in bond", or "aged in bond" pursuant to the provisions of this subparagraph shall bear in direct conjunction with such statement and in script, type or printing substantially as conspicuous as that used on such

statement, the name of the country under whose laws and regulations such distilled spirits were so bottled.

(5) The word "pure" shall not be stated in any manner on any label unless as part of the bona fide name of a permittee or retailer for whom the distilled spirits are bottled.

(6) Distilled spirit shall not be labeled as "double distilled" or "triple distilled", or any similar term.

(7) Labels shall not contain any statement, design, device, or pictorial representation which the Director finds relates to, or is capable of being construed as relating to, the armed forces of the United States, or the American flag, or any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any label contain any statement, design, device, or pictorial representation of or concerning any flag, seal, coat of arms, crest or other insignia, likely to mislead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

(8) Labels shall not contain any statement, design, or device representing that the use of any distilled spirits has curative or therapeutic effects if such statement is untrue in any particular or tends to create a misleading impression.

Subpart E—Standards of Fill for Bottled Distilled Spirits

§ 5.45 Application.

No person engaged in business as a distiller, rectifier, importer, wholesaler, or warehouseman and bottler, directly or indirectly, or through an affiliate, shall sell or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or receive therein or remove from customs custody any distilled spirits in bottles unless such distilled spirits are bottled in conformity with §§ 5.46-5.48.

§ 5.46 Standard liquor bottles.

(a) *General.* A standard liquor bottle shall be one so made and formed, and so filled, as not to mislead the purchaser. An individual carton or other container of a bottle shall not be so designed as to mislead purchasers as to the size of the bottles.

(b) *Headspace.* A liquor bottle of a capacity of one-half pint or more shall be held to be so filled as to mislead the purchaser if it has a headspace in excess of 8 percent of the total capacity of the bottle after closure.

(c) *Design.* A liquor bottle shall be held (irrespective of the correctness of the stated net contents) to be so made and formed as to mislead the purchaser, if its actual capacity is substantially less than the capacity it appears to have upon visual examination under ordinary conditions of purchase or use.

§ 5.47 Standards of fill.

(a) *Authorized standards of fill.* The standards of fill for all distilled spirits, whether domestically manufactured, domestically bottled, or imported, subject to the tolerances allowed in this section, shall be as follows:

| | |
|-----------|---------------------------|
| 1 gallon. | ¼ pint. |
| ½ gallon. | ½ pint. |
| 1 quart. | ¾ pint. |
| ¾ quart. | 10/16 pint. |
| 1 pint. | 16/16 pint (brandy only). |

(b) *Tolerances.* The following tolerances shall be allowed:

(1) Discrepancies due to errors in measuring which occur in filling conducted in compliance with good commercial practice.

(2) Discrepancies due to differences in the capacity of bottles, resulting solely from unavoidable difficulties in manufacturing such bottles to a uniform capacity: *Provided*, That no greater tolerance shall be allowed in case of bottles which, because of their design, cannot be made of approximately uniform capacity than is allowed in case of bottles which can be manufactured so as to be of approximately uniform capacity.

(3) Discrepancies in measure due to differences in atmospheric conditions in various places and which unavoidably result from the ordinary and customary exposure of alcoholic beverages in bottles to evaporation. The reasonableness of discrepancies under this paragraph shall be determined on the facts in each case.

(c) *Unreasonable shortages.* Unreasonable shortages in certain of the bottles in any shipment shall not be compensated by overages in other bottles in the same shipment.

§ 5.48 Exceptions.

(a) The provisions of the "headspace" and "design" requirements in § 5.46 shall not apply to liquor bottles of unusual design as may, from time to time, be specifically excepted from these requirements by the Director pursuant to application filed with the Director by the bottler or importer, as the case may be.

(b) Section 5.47(a) shall not apply to cordials and liqueurs, and cocktails, highballs, bitters, and such other specialties as are specified by the Director.

Subpart F—Requirements for Withdrawal From Customs Custody of Bottled Imported Distilled Spirits

§ 5.51 Label approval and release.

Bottled distilled spirits shall not be released from customs custody for consumption unless the original (or photograph or other facsimile thereof) of a certificate of label approval, Form 1649,¹ covering the labels on the bottle, issued by the Director pursuant to application on such form, shall have been deposited with the appropriate customs officer at the port of entry. Applications for certificates of approval covering labels for gin bearing the word "distilled" as a part of the designation shall be accompanied by a statement, prepared by the manufacturer, setting forth a step-by-step description of the manufacturing process.

§ 5.52 Certificates of age and origin.

(a) *Scotch, Irish, and Canadian whiskies.* Scotch, Irish, and Canadian whiskies, imported in bottles, shall not be released from customs custody for consumption unless the invoice is accompanied by a certificate of origin issued by a duly authorized official of the British, Irish, or Canadian Government, certifying (1) that the particular distilled spirits are Scotch, Irish, or Canadian whisky, as the case may be (2) that the distilled spirits have been manufactured in compliance with the laws of the respective foreign governments regulating the manufacture of whisky for home consumption, and (3) that the product conforms to the requirements of the Immature Spirits Act of such foreign

¹ Copies of Form 1649 may be secured from the assistant regional commissioners.

governments for spirits intended for home consumption. In addition, a duly authorized official of the appropriate foreign government must certify to the age of the youngest distilled spirits in the bottle. The age certified shall be the period during which, after distillation and before bottling, the distilled spirits have been stored in oak containers.

(b) *Brandy, Cognac, and rum.* Brandy (other than fruit brandies of a type not customarily stored in oak containers) or Cognac, imported in bottles, shall not be released from customs custody for consumption unless accompanied by a certificate issued by a duly authorized official of the appropriate foreign country certifying that the age of the youngest brandy or Cognac in the bottle is not less than 2 years, or if age is stated on the label that none of the distilled spirits are of an age less than that stated. If the label of any rum, imported in bottles, contains any statement of age, the rum shall not be released from customs custody for consumption unless accompanied by a certificate issued by a duly authorized official of the appropriate foreign country, certifying to the age of the youngest rum in the bottle. The age certified shall be the period during which, after distillation and before bottling, the distilled spirits have been stored in oak containers. If the label of any fruit brandy, not stored in oak containers, bears any statement of storage in other type containers, the brandy must be accompanied by a certificate issued by a duly authorized official of the appropriate foreign government certifying to such storage. Cognac, imported in bottles, shall not be released from customs custody for consumption unless the invoice is accompanied by a certificate issued by a duly authorized official of the French Government, certifying that the product is grape brandy distilled in the Cognac region of France and entitled to be designated as "Cognac" by the laws and regulations of the French Government.

(c) *Tequila.* If the label of any Tequila, imported in bottles, contains any statement of age, the Tequila shall not be released from customs custody for consumption unless accompanied by a certificate issued by a duly authorized official of the appropriate foreign government certifying to the age of the

youngest Tequila in the bottle. The age certified shall be the period during which, after distillation and before bottling, the Tequila has been stored in oak containers.

(d) *Other whiskies.* Whisky, as defined in §§ 5.22(b) (1), (4), (5), and (6), imported in bottles, shall not be released from customs custody for consumption unless accompanied by a certificate issued by a duly authorized official of the appropriate foreign government certifying:

(1) In the case of whisky, whether or not mixed or blended but containing no neutral spirits, (i) the class and type thereof, (ii) the American proof at which produced, (iii) that no neutral spirits (or other whisky in the case of straight whisky) has been added as a part thereof or included therein, whether or not for the purpose of replacing outage, (iv) the age of the whisky, and (v) the type of oak container in which such age was acquired (whether new or reused; also whether charred or uncharred):

(2) In the case of whisky containing neutral spirits, (i) the class and type thereof, (ii) the percentage of straight whisky, if any, used in the blend, (iii) the American proof at which the straight whisky was produced, (iv) the percentage of other whisky, if any, in the blend, (v) the percentage of neutral spirits in the blend, and the name of the commodity from which distilled, (vi) the age of the straight whisky and the age of the other whisky in the blend, and (vii) the type of oak containers in which such age or ages were acquired (whether new or reused; also whether charred or uncharred).

(e) *Miscellaneous.* Distilled spirits (other than Scotch, Irish, and Canadian whiskies, and Cognac) in bottles shall not be released from customs custody for consumption unless the invoice is accompanied by a certificate of origin issued by a duly authorized official of the appropriate foreign government, if the issuance of such certificates with respect to such distilled spirits has been authorized by the foreign government concerned, certifying as to the identity of the distilled spirits and that the distilled spirits have been manufactured in compliance with the laws of the respective foreign government regulating the manufacture of such distilled spirits for home consumption.

Subpart G—Requirements for Approval of Labels of Domestically Bottled Distilled Spirits

§ 5.55 Certificates of label approval.

(a) *Requirement.* Distilled spirits shall not be bottled or removed from a plant, except as provided in paragraph (b) of this section, unless the proprietor possesses a certificate of label approval, Form 1649, covering the labels on the bottle, issued by the Director pursuant to application on such form. Applications for certificates of approval covering labels for imported gin bearing the word "distilled" as a part of the designation shall be accompanied by a statement, prepared by the manufacturer, setting forth a step-by-step description of the manufacturing process.

(b) *Exemption.* Any bottler of distilled spirits shall be exempt from the requirements of paragraph (a) of this section and § 5.56 if he possesses a certificate of exemption from label approval, Form 1650, issued by the Director pursuant to application on Form 1648² showing that the distilled spirits to be bottled are not to be sold, offered for sale, or shipped or delivered for shipment, or otherwise introduced in interstate or foreign commerce.

(c) *Miscellaneous.* Photoprints or other reproductions of certificates of label approval, or certificate of exemption are not acceptable as substitutes for an original or duplicate original (issued, on request, by the Director) of a certificate. The original or duplicate original of such certificates shall, on demand, be exhibited to a duly authorized officer of the U.S. Government.

§ 5.56 Certificates of age and origin.

Distilled spirits imported in bulk for bottling in the United States shall not be removed from the plant where bottled unless the bottler possesses certificates of age and certificates of origin applicable to such spirits which are similar to the certificates required by § 5.52 for like distilled spirits imported in bottles.

² Copies of Form 1648 may be secured from the assistant regional commissioners.

Subpart H—Advertising of Distilled Spirits

§ 5.61 Application.

No person engaged in business as a distiller, rectifier, importer, wholesaler, or warehouseman and bottler of distilled spirits, directly or indirectly, or through an affiliate, shall publish or disseminate or cause to be published or disseminated by radio broadcast, or in any newspaper, periodical, or other publication, or by any sign or outdoor advertisement, or any other printed or graphic matter, any advertisement of distilled spirits if such advertisement is in, or is calculated to induce sales in, interstate or foreign commerce, or is disseminated by mail, unless such advertisement is in conformity with §§ 5.61–5.65: *Provided*, That such sections shall not apply to the publisher of any newspaper, periodical or other publication, or radio broadcaster, unless such publisher or radio broadcaster is engaged in business as a distiller, rectifier, importer, wholesaler, or warehouseman and bottler of distilled spirits, directly or indirectly, or through an affiliate.

§ 5.62 Definition.

As used in §§ 5.61–5.65, the term "advertisement" includes any advertisement of distilled spirits through the medium of radio broadcast; or of newspapers, periodicals, or other publications; or of any sign or outdoor advertisement; or of any other printed or graphic matter, including trade booklets, menus, and wine cards, if such advertisement is in, or is calculated to induce sales in, interstate or foreign commerce, or is disseminated by mail; except that such term shall not include:

(a) Any label affixed to any bottle of distilled spirits; or any individual covering, carton, or other container of the bottle, or any written, printed, graphic, or other matter accompanying the bottle, which constitutes a part of the labeling under §§ 5.31–5.42.

(b) Any editorial or other reading matter in any periodical, newspaper, or other publication for which no money or other valuable consideration is paid or promised, directly or indirectly, by any permittee.

§ 5.63 Mandatory statements.

(a) *Responsible advertiser.* The advertisement shall state the name and address of the permittee responsible for its publication or broadcast. Street number and name may be omitted in the address.

(b) *Class and type.* The advertisement shall contain a conspicuous statement of the class to which the product belongs and the type thereof corresponding with the statement of class and type which is required to appear on the label of the product.

(c) *Alcoholic content.* The alcoholic content shall be stated by proof for distilled spirits except that it may be stated in percentage by volume of cordials and liqueurs, cocktails, highballs, bitters, and such other specialties as may be specified by the Director.

(d) *Percentage of neutral spirits and name of commodity.* (1) In the case of distilled spirits (other than cordials, liqueurs, and specialties) produced by blending or rectification, if neutral spirits have been used in the production thereof, there shall be stated the percentage of neutral spirits so used and the name of the commodity from which such neutral spirits have been distilled. The statement of percentage and the name of the commodity shall be made in substantially the following form: "-----% neutral spirits distilled from ----- (insert grain, cane products, or fruit, as appropriate)"; or "-----% neutral spirits (vodka) distilled from ----- (insert grain, cane product, or fruit, as appropriate)"; or "-----% grain (cane products), (fruit) neutral spirits"; or "-----% grain spirits".

(2) In the case of neutral spirits or of gin produced by a process of continuous distillation, there shall be stated the name of the commodity from which such neutral spirits or gin has been distilled. The statement of the name of the commodity shall be made in substantially the following form: "Distilled from grain", or "Distilled from cane products", or "Distilled from fruit."

§ 5.64 Lettering.

Statements required under §§ 5.61–5.65 to appear in any written, printed, or graphic advertisement shall be in lettering or type of a size sufficient to render them both conspicuous and readily legible.

§ 5.65 Prohibited statements.

(a) *Restrictions.* An advertisement of distilled spirits shall not contain:

(1) Any statement that is false or untrue in any particular or that, irrespective of falsity, directly or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific, or technical matter, tends to create a misleading impression.

(2) Any statement that is disparaging of a competitor's product.

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards or tests, irrespective of falsity, which the Director finds to be likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which the Director finds to be likely to mislead the consumer. Enforceable money-back guarantees are not prohibited.

(6) Any statement that the distilled spirits are distilled, blended, made, bottled, or sold under or in accordance with any municipal, State, Federal, or foreign authorization, law, or regulation, unless such statement appears in the manner authorized by § 5.42 for labels of distilled spirits. If a municipal, State or Federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto.

(7) The words "bond", "bonded", "bottled in bond", "aged in bond", or phrases containing these or synonymous terms, unless such words or phrases appear, pursuant to § 5.42, on labels of the distilled spirits advertised, and are stated in the advertisement in the manner and form in which they are permitted to appear on the label.

(8) The word "pure" unless as part of the bona fide name of a permittee or retailer for whom the distilled spirits are bottled.

(9) The words "double distilled", "triple distilled", or any similar words.

(b) *Statements inconsistent with labeling.* The advertisement shall not contain any statement concerning a brand or lot of distilled spirits which is pro-

hibited from appearing on the label or which is inconsistent with any statement on the label thereof.

(c) *Statement of age.* The advertisement shall not contain any statement, design, or device directly or by implication concerning age or maturity of any brand or lot of distilled spirits unless a statement of age appears on the label of the advertised product. When any such statement, design, or device concerning age or maturity is contained in any advertisement, it shall include (in direct conjunction therewith and with substantially equal conspicuousness) all parts of the statement, if any, concerning age and percentages required to be made on the label under the provisions of §§ 5.31-5.42. An advertisement for any whisky or brandy (except immature brandies) which is not required to bear a statement of age on the label or an advertisement for any rum or Tequila, which has been aged for not less than 4 years may, however, contain inconspicuous, general representation as to age, maturity or other similar representations even though a specific age statement does not appear on the label of the advertised product and in the advertisement itself.

(d) *Curative and therapeutic effects.* The advertisement shall not contain any statement, design, or device representing that the use of any distilled spirits has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.

(e) *Place of origin.* The advertisement shall not represent that the distilled spirits were manufactured in or imported from a place or country other than that of their actual origin, or were produced or processed by one who was not in fact the actual producer or processor.

(f) *Confusion of brands.* Two or more different brands or lots of distilled spirits shall not be advertised in one advertisement (or in two or more advertisements in one issue of a periodical or newspaper, or in one piece of other written, printed, or graphic matter) if the advertisement tends to create the impression that representations made as to one brand or lot apply to the other or others, and if as to such latter the representations contravene any provisions of this subpart or are in any respect untrue.

(g) *Flags, seals, coats of arms, crests, and other insignia.* An advertisement

shall not contain any statement, design, device, or pictorial representation which the Director finds relates to, or is capable of being construed as relating to the armed forces of the United States, or the American flag, or any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any advertisement contain any statement, design, device, or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia, likely to mislead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

PART 6—INDUCEMENTS FURNISHED TO RETAILERS

Subpart A—Scope of Regulations

- Sec. 6.1 Inducements furnished to retailers
6.2 Territorial extent.

Subpart B—Definitions

- 6.10 Meaning of terms.

Subpart C—Unlawful Inducements and Exceptions

UNLAWFUL INDUCEMENTS

- 6.20 Application.

EXCEPTIONS

- 6.21 General.
6.22 Equipment.
6.23 Inside signs: malt beverages.
6.23a Inside signs: distilled spirits.
6.23b Inside signs: wine.
6.24 Supplies.
6.25 Coil cleaning service.
6.26 Advertising service.
6.27 Consumer advertising specialties.
6.28 Retailer advertising specialties.
6.29 Samples.
6.30 Newspaper cuts.
6.31 Merchandise.

AUTHORITY: The provisions of this Part 6 issued under 49 Stat. 981, as amended; 27 U.S.C. 205.

SOURCE: The provisions of this Part 6 contained in Treasury Decision 6521, 25 F.R. 13857, Dec. 29, 1960, unless otherwise noted

Subpart A—Scope of Regulations

§ 6.1 Inducements furnished to retailers.

The regulations in this part, issued pursuant to section 5 of the Federal Alcohol Administration Act 27 (U.S.C.

205), contain the substantive requirements relative to the furnishing of inducements to retailers of distilled spirits, wine and malt beverages. No procedural requirements are prescribed.

§ 6.2 Territorial extent.

This part applies to the several States of the United States, the District of Columbia, and Puerto Rico.

Subpart B—Definitions

§ 6.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meanings ascribed in this subpart.

(a) *Retailer.* "Retailer" shall mean any person engaged in the sale of distilled spirits, wine or malt beverages to consumers.

(b) *Retail establishment.* "Retail establishment" shall mean any premises where distilled spirits, wine or malt beverages are sold or offered for sale to consumers, whether for consumption on or off the premises where sold.

(c) *Industry member.* "Industry member" shall mean any person engaged in business as a distiller, brewer, rectifier, blender, or other producer, or as an importer or wholesaler, of distilled spirits, wine or malt beverages, or as a bottler, or warehouseman and bottler, of distilled spirits, but shall not include an agency of a State or political subdivision thereof, or an officer or employee of such agency.

(d) *Product.* "Product" shall mean distilled spirits, wine or malt beverages, as defined in the Federal Alcohol Administration Act.

(e) *Other terms.* Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the meaning assigned to it by such act.

Subpart C—Unlawful Inducements and Exceptions

UNLAWFUL INDUCEMENTS

§ 6.20 Application.

Except as provided in this part, it is unlawful for any industry member to induce, by furnishing, giving, renting, lending, or selling any equipment, fixtures, signs, supplies, money, services, or other thing of value, directly or indirectly or through an affiliate, any retailer to purchase any products from such industry member to the exclusion in whole or

in part of such products sold or offered for sale by other industry members in interstate or foreign commerce, if such inducement is made in the course of interstate or foreign commerce, or if such industry member engages in the practice of using such means to such an extent as substantially to restrain or prevent transactions in interstate or foreign commerce in any such products, or if the direct effect of such inducement is to prevent, deter, hinder, or restrict other industry members from selling or offering for sale any such products to such retailer in interstate or foreign commerce: *Provided*, That in the case of malt beverages, this part shall apply to transactions between a retailer in any State and a brewer, importer, or wholesaler of malt beverages outside such State only to the extent that the law of such State imposes requirements similar to the requirements of section 5 (b) of the Federal Alcohol Administration Act (27 U.S.C. 205(b)), with respect to similar transactions between a retailer in such State and a brewer, importer, or wholesaler of malt beverages in such State, as the case may be: *Provided further*, That this part shall not operate to exempt any person from the requirements of any State law or regulation.

EXCEPTIONS

§ 6.21 General.

An industry member may furnish to a retailer, under the conditions and within the limitations prescribed, the equipment, signs, supplies, services, or other things of value specified in §§ 6.22-6.31: *Provided*, That, except for such alcoholic beverages as may reasonably be required to complete a window or other interior display furnished pursuant to § 6.23 or § 6.23a, such furnishing is not conditioned directly or indirectly on the purchase of distilled spirits, wine, or malt beverages.

[T.D. 6521, 25 F.R. 13857, Dec. 29, 1960, as amended by T.D. 6901, 31 F.R. 14773, Nov. 22, 1966]

§ 6.22 Equipment.

Tapping accessories, such as rods, vents, taps, hoses, washers, couplings, vent tongues, and check valves may be sold to a retailer and installed in his establishment if such tapping accessories are sold at a price not less than the cost thereof to the industry member selling the same, and if the price thereof is collected within 30 days of the date of sale.

§ 6.23 Inside signs: malt beverages.

Signs, posters, placards, designs, devices, decorations or graphic displays, bearing advertising matter and for use in the windows or elsewhere in the interior of a retail establishment, may be given, rented, loaned, or sold to a retailer by an industry member engaged in business or as a brewer, importer or wholesaler, of malt beverages, if they have no value to the retailer except as advertisements and if the total value of all such materials furnished by any industry member and in use at any one time in any retail establishment does not exceed \$10, including all expenses incurred directly or indirectly by any industry member in connection with the purchase, manufacture, transportation, assembly, and installation of such materials and of accessories thereto: *Provided*, That the industry member shall not directly or indirectly pay or credit the retailer for displaying such materials or for any expense incidental to their operation.

[Treasury Decision 6521, 25 F.R. 13857, Dec. 29, 1960, as amended by T.D. 7013, 34 F.R. 7962, May 21, 1969]

§ 6.23a Inside signs: distilled spirits.

Signs, posters, placards, designs, devices, decorations or graphic displays, bearing advertising matter and for use in the windows or elsewhere in the interior of a retail establishment, may be given, rented, loaned, or sold to a retailer by an industry member engaged in business as a distiller, rectifier, blender, producer, importer, wholesaler, bottler, or warehouseman and bottler, of distilled spirits, (a) if they have no value to the retailer except as advertisements, (b) if the total value of all such materials furnished by any industry member and in use in any one retail establishment at any one time does not exceed \$15 in the case of materials used in window displays, or does not exceed \$30 in the case of materials used elsewhere than in the windows, and (c) if the cost of installation of such materials does not exceed that which is usual and customary in that locality: *Provided*, That the industry member shall not directly or indirectly pay or credit the retailer for displaying such materials or for any expense incidental to their operation.

§ 6.23b Inside signs: wine.

Signs, posters, placards, designs, devices, decorations, or graphic displays,

bearing advertising matter and for use in the windows or elsewhere in the interior of a retail establishment, may be given, rented, loaned, or sold to a retailer by an industry member engaged in business as a rectifier, blender, producer, bottler, importer, or wholesaler, of wine, if they have no value to the retailer except as advertisements and if the total value of all such materials furnished by any industry member and in use at any one time in any retail establishment does not exceed \$15, exclusive of all expenses incurred directly or indirectly by any industry member in connection with the transportation and installation of such materials if such costs do not exceed those which are usual and customary in the particular locality: *Provided*, That the industry member shall not directly or indirectly pay or credit the retailer for displaying such materials or for any expense incidental to their operation.

[T.D. 7013, 34 F.R. 7962, May 21, 1969]

§ 6.24 Supplies.

Carbonic acid gas or ice may be sold to a retailer, if sold in accordance with the reasonable open market price thereof in the locality where sold, and if the price thereof is collected within 30 days of the date of sale.

§ 6.25 Coil cleaning service.

Coil cleaning service may be furnished, given, or sold to a retailer of malt beverages.

§ 6.26 Advertising service.

The names and addresses of retailers selling the products of any industry member may be listed in an advertisement of such industry member, if such listing is the only reference to any retailer in the advertisement and is relatively inconspicuous in relation to the advertisement as a whole.

§ 6.27 Consumer advertising specialties.

Consumer advertising specialties, such as ash trays, bottle or can openers, corkscrews, paper shopping bags, matches, printed recipes, wine lists, leaflets, blotters, post cards, and pencils, which bear advertising matter, may be furnished, given, or sold to a retailer for unconditional distribution by him to the general public, if the retailer is not paid or credited in any manner directly or indirectly for such distribution service.

§ 6.28 Retailer advertising specialties.

Retailer advertising specialties, such as trays, coasters, beer mats, menu cards, meal checks, paper napkins, foam scrapers, back bar mats, tap markers, thermometers, clocks, and calendars, which bear advertising matter, and which are primarily valuable to the retailer as point of sale advertising media, may be furnished, given, or sold to a retailer if the aggregate cost to any industry member of such retailer advertising specialties furnished, given, or sold in connection with any one retail establishment in any one calendar year does not exceed \$10.

§ 6.29 Samples.

Not more than 2 gallons of any brand of malt beverages, not more than 1 pint of any brand of distilled spirits, and not more than 1 gallon of any brand of wine, may be furnished or given as a sample to a retailer who has not previously purchased that particular product: *Provided*, That 2 quarts of any brand of distilled spirits may be furnished or given as a sample to any agency of a State or political subdivision thereof which has not purchased that particular product.

§ 6.30 Newspaper cuts.

Newspaper cuts, mats, or engraved blocks for use in retailers' advertisements, may be furnished, given, rented, loaned, or sold by an industry member to a retailer selling his products.

§ 6.31 Merchandise.

Merchandise, such as groceries and drugs, may be sold to a retailer, without limit as to quantity or value, by an industry member who is also engaged in business as a bona fide vendor of such merchandise, if such merchandise is sold in accordance with the reasonable open market price thereof in the locality where sold, and if such merchandise is not sold in combination with distilled spirits, wine, or malt beverages and is itemized separately on the industry member's invoices and other records: *Provided*, That equipment, fixtures, signs, supplies, and consumer and retailer advertising specialties may be furnished only as provided elsewhere in this part.

PART 7—LABELING AND ADVERTISING OF MALT BEVERAGES

Subpart A—Scope

- Sec.
7.1 General.
7.2 Territorial extent.

Subpart B—Definitions

- 7.10 Meaning of terms.

Subpart C—Labeling Requirements for Malt Beverages

- 7.20 General.
7.21 Misbranding.
7.22 Mandatory label information.
7.23 Brand names.
7.24 Class and type.
7.25 Name and address.
7.26 Alcoholic content.
7.27 Net contents.
7.28 General requirements.
7.29 Prohibited practices.

Subpart D—Requirements for Withdrawal of Imported Malt Beverages From Customs Custody

- 7.30 Application.
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Subpart E—Requirements for Approval of Labels of Malt Beverages Domestically Bottled or Packed

- 7.40 Application.
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Subpart F—Advertising of Malt Beverages

- 7.50 Application.
7.51 Definitions.
7.52 Mandatory statements.
7.53 Legibility of requirements.
7.54 Prohibited statements.

Subpart G—General Provisions

- 7.60 Exports.

AUTHORITY: The provisions of this Part 7 issued under 49 Stat. 981, as amended: 27 U.S.C. 205.

SOURCE: The provisions of this Part 7 contained in Treasury Decision 6521, 25 F.R. 13859, Dec. 29, 1960, unless otherwise noted.

CROSS REFERENCES: Other regulations relating to this part are as follows:

- 27 CFR, Part 1—Basic Permit Requirements Under the Federal Alcohol Administration Act.
27 CFR, Part 4—Labeling and Advertising of Wine.
27 CFR, Part 5—Labeling and Advertising of Distilled Spirits.

- Sec
 26 CFR, Part 200—Rules of Practice in Permit Proceedings.
 26 CFR, Part 245—Beer.
 26 CFR, Part 250—Liquors and Articles From Puerto Rico and the Virgin Islands.
 26 CFR, Part 251—Importation of Distilled Spirits, Wines and Beers.

Subpart A—Scope

§ 7.1 General.

The regulations in this part relate to the labeling and advertising of malt beverages.

§ 7.2 Territorial extent.

This part applies to the several States of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

Subpart B—Definitions

§ 7.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this subpart.

(a) *Act*. "Act" means the Federal Alcohol Administration Act.

(b) *Assistant Regional Commissioner*. "Assistant Regional Commissioner" shall mean the assistant regional commissioner, alcohol and tobacco tax, who is responsible to and functions under the direction and supervision of the Regional Commissioner.

(c) *Director*. "Director" shall mean the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C.

(d) *Malt beverage*. "Malt beverage" means a beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption.

(e) *Container*. "Container" means any can, bottle, barrel, keg, or other closed receptacle, irrespective of size or of the material from which made, for use for the sale of malt beverages at re-

tail. The term "bottler" means any person who places malt beverages in containers of a capacity of 1 gallon or less; and the term "packer" means any person who places malt beverages in containers of a capacity in excess of 1 gallon.

(f) *Gallon*. "Gallon" means United States gallon of 231 cubic inches of malt beverages at 39.2° F. (4° C.). All other liquid measures used are subdivisions of the gallon as so defined.

(g) *Brand label*. "Brand label" means the label carrying, in the usual distinctive design, the brand name of the malt beverage.

(h) *United States*. "United States" means the several States and Territories and the District of Columbia; the term "State" includes a Territory and the District of Columbia; and the term "Territory" means Puerto Rico.

(i) *Interstate commerce*. "Interstate or foreign commerce" means commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

(j) *Person*. "Person" means any individual, partnership, joint-stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent, and including an officer or employee of any agency of a State or political subdivision thereof.

(k) *Any other term used*. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by such act.

Subpart C—Labeling Requirements for Malt Beverages

§ 7.20 General.

(a) *Application*. Sections 7.20-7.29 shall apply to malt beverages sold or shipped or delivered for shipment, or otherwise introduced into or received in any State from any place outside thereof, only to the extent that the law of such State imposes similar requirements with respect to the labeling of malt beverages not sold or shipped or delivered for shipment or otherwise introduced into or received in such State from any place outside thereof.

(b) *Marking, branding, and labeling*.

No person engaged in business as a brewer, wholesaler, or importer of malt beverages, directly or indirectly, or through an affiliate, shall sell or ship, or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or receive therein, or remove from customs custody any malt beverages in containers unless such malt beverages are packaged, and such packages are marked, branded, and labeled in conformity with §§ 7.20-7.29. Malt beverages domestically bottled or packed prior to December 15, 1936, and imported malt beverages entered in customs bond in containers prior to that date shall be regarded as being packaged, marked, branded, and labeled in accordance with §§ 7.20-7.29, if the labels on such malt beverages (1) bear all the mandatory label information required by § 7.22, even though such information is not set forth in the manner and form as required by § 7.22 and other sections of this part referred to therein, and (2) bear no statements, designs, or devices which are false or misleading.

(c) *Alteration of labels*. (1) It shall be unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark, brand, or label upon malt beverages held for sale in interstate or foreign commerce or after shipment therein, except as authorized by Federal law: *Provided*, That the Assistant Regional Commissioner may, upon written application, permit additional labeling or relabeling of malt beverages in containers if, in his judgment, the facts show that such additional labeling or relabeling is for the purpose of compliance with the requirements of §§ 7.20-7.29 or of State law.

(2) Application for permission to relabel shall be accompanied by two complete sets of the old labels and two complete sets of any proposed labels, together with a statement of the reasons for relabeling, the quantity and the location of the malt beverages, and the name and address of the person by whom they will be relabeled.

§ 7.21 Misbranding.

Malt beverages in containers shall be deemed to be misbranded:

(a) If the container fails to bear on it a brand label (or a brand label and other permitted labels) containing the mandatory label information as required by §§ 7.20-7.29 and conforming to the general requirements specified in this part.

(b) If the container, cap, or any label on the container, or any carton, case, or other covering of the container used for sale at retail, or any written, printed, graphic, or other matter accompanying the container to the consumer buyer contains any statement, design, device, or graphic, pictorial, or emblematic representation that is prohibited by §§ 7.20-7.29.

(c) If the container has blown, branded, or burned therein the name or other distinguishing mark of any person engaged in business as a brewer, wholesaler, bottler, or importer, of malt beverages, or of any other person, except the person whose name is required to appear on the brand label.

§ 7.22 Mandatory label information.

There shall be stated:

- (a) On the brand label:
- (1) Brand name, in accordance with § 7.23.
 - (2) Class, in accordance with § 7.24.
 - (3) Name and address (except when branded or burned in the container) in accordance with § 7.25, except as provided in paragraph (b) of this section.
 - (4) Net contents (except when blown, branded, or burned, in the container) in accordance with § 7.27.

(b) On the brand label or on a separate label (back or front):

- (1) In the case of imported malt beverages, name and address of importer in accordance with § 7.25.
- (2) In the case of malt beverages bottled or packed for the holder of a permit or a retailer, the name and address of the bottler or packer, in accordance with § 7.25.
- (3) Alcoholic content, when required by State law, in accordance with § 7.26.

§ 7.23 Brand names.

(a) *General*. The product shall bear a brand name, except that if not sold under a brand name, then the name of the person required to appear on the brand label shall be deemed a brand name for the purpose of this part.

(b) *Misleading brand names*. No label shall contain any brand name, which, standing alone, or in association with other printed or graphic matter, creates any impression or inference as to the age, origin, identity, or other characteristics of the product unless the Director finds that such brand name, either when qualified by the word

"brand" or when not so qualified, conveys no erroneous impressions as to the age, origin, identity, or other characteristics of the product.

(c) *Trade name of foreign origin.* This section shall not operate to prohibit the use by any person of any trade name or brand of foreign origin not effectively registered in the United States Patent Office on August 29, 1935, which has been used by such person or his predecessors in the United States for a period of at least 5 years immediately preceding August 29, 1935: *Provided*, That if such trade name or brand is used, the designation of the product shall be qualified by the name of the locality in the United States in which produced, and such qualification shall be in script, type, or printing as conspicuous as the trade name or brand.

§ 7.24 Class and type.

(a) The class of the malt beverage shall be stated and, if desired, the type thereof may be stated. Statements of class and type shall conform to the designation of the product as known to the trade. If the product is not known to the trade under a particular designation, a distinctive or fanciful name, together with an adequate and truthful statement of the composition of the product, shall be stated, and such statement shall be deemed to be a statement of class and type for the purposes of this part.

(b) Malt beverages which have been concentrated by the removal of water therefrom and reconstituted by the addition of water and carbon dioxide shall for the purpose of this part be labeled in the same manner as malt beverages which have not been concentrated and reconstituted, except that there shall appear in direct conjunction with, and as a part of, the class designation the statement "PRODUCED FROM ----- CONCENTRATE" (the blank to be filled in with the appropriate class designation). All parts of the class designation shall appear in lettering of substantially the same size and kind.

(c) No product shall be designated as "half and half" unless it is in fact composed of equal parts of two classes of malt beverages the names of which are conspicuously stated in conjunction with the designation "half and half".

(d) No product containing less than one-half of 1 percent of alcohol by volume shall bear the class designations "beer", "lager beer", "lager", "ale",

"porter", or "stout", or any other class or type designation commonly applied to malt beverages containing one-half of 1 percent or more of alcohol by volume.

(e) No product other than a malt beverage fermented at comparatively high temperature, possessing the characteristics generally attributed to "ale," "porter," or "stout" and produced without the use of coloring or flavoring materials (other than those recognized in standard brewing practices) shall bear any of these class designations.

(f) Geographical names for distinctive types of malt beverages (other than names found by the Director under paragraph (g) of this section to have become generic) shall not be applied to malt beverages produced in any place other than the particular region indicated by the name unless (1) in direct conjunction with the name there appears the word "type" or the word "American," or some other statement indicating the true place of production in lettering substantially as conspicuous as such name, and (2) the malt beverages to which the name is applied conform to the type so designated. The following are examples of distinctive types of beer with geographical names that have not become generic: Dortmund, Dortmunder, Vienna, Wein, Weiner, Bavarian, Munich, Munchner, Salvator, Kulmbacher, Wurtzburger, Pilsen (Pilsener and Pilsner): *Provided*, That notwithstanding the foregoing provisions of this section, beer which is produced in the United States may be designated as "Pilsen," "Pilsener," or "Pilsner" without further modification, if it conforms to such type.

(g) Only such geographical names for distinctive types of malt beverages as the Director finds have by usage and common knowledge lost their geographical significance to such an extent that they have become generic shall be deemed to have become generic, e.g., India Pale Ale.

(h) Except as provided in § 7.23(b), geographical names that are not names for distinctive types of malt beverages shall not be applied to malt beverages produced in any place other than the particular place or region indicated in the name.

[T.D. 6672, 28 F.R. 9637, Aug. 31, 1963; 29 F.R. 3572, Mar. 20, 1964]

§ 7.25 Name and address.

(a) *Domestic malt beverages.* On labels of containers of domestic malt bev-

erages there shall be stated the name of the bottler or packer and the place where bottled or packed. If such malt beverages are bottled or packed for a person other than the actual bottler or packer there may be stated in addition to the name and address of the bottler or packer (but not in lieu thereof), the name and address of such other person immediately preceded by the words "bottled for," "distributed by," or some other similar appropriate phrase.

(b) *Imported malt beverages.* On labels of containers of imported malt beverages, there shall be stated the words "imported by," or a singular appropriate phrase, and immediately thereafter the name of the permittee who is the importer, or exclusive agent, or sole distributor, or other person responsible for the importation, together with the principal place of business in the United States of such person. In addition there may, but need not, be stated unless required by State or foreign law or regulation the name and principal place of business of the foreign manufacturer, bottler, packer, or shipper.

(c) *Post-office address.* The "place" stated shall be the post-office address, except that the street address may be omitted. No additional places or addresses shall be stated for the same person, unless (1) such person is actively engaged in the conduct of an additional bona fide and actual malt beverage business at such additional place or address, and (2) the label also contains, in direct conjunction therewith, appropriate descriptive material indicating the function occurring at such additional place or address in connection with the particular malt beverage.

§ 7.26 Alcoholic content.

The alcoholic content and the percentage and quantity of the original extract shall not be stated unless required by State law. When alcoholic content is required to be stated, but the manner of statement is not specified in the State law, it shall be stated in percentage of alcohol by weight or by volume, and not by proof or by maximums or minimums. Otherwise the manner of statement shall be as specified in the State law.

§ 7.27 Net contents.

(a) Net contents shall be stated as follows:

(1) If less than 1 pint, in fluid ounces, or fractions of a pint.

(2) If 1 pint, 1 quart, or 1 gallon, the net contents shall be so stated.

(3) If more than 1 pint, but less than 1 quart, the net contents shall be stated in fractions of a quart, or in pints and fluid ounces.

(4) If more than 1 quart, but less than 1 gallon, the net contents shall be stated in fractions of a gallon, or in quarts, pints, and fluid ounces.

(5) If more than 1 gallon, the net contents shall be stated in gallons and fractions thereof.

(b) All fractions shall be expressed in their lowest denominations.

(c) The net contents need not be stated on any label if the net contents are displayed by having the same blown, branded, or burned in the container in letters or figures in such manner as to be plainly legible under ordinary circumstances and such statement is not obscured in any manner in whole or in part.

§ 7.28 General requirements.

(a) *Contrasting background.* All labels shall be so designed that all statements thereon required by §§ 7.20-7.29 are readily legible under ordinary conditions, and all such statements shall be on a contrasting background.

(b) *Size of type.* Except as to statements of alcoholic content, all statements required on labels by §§ 7.20-7.29 shall be in readily legible script, type, or printing not smaller than 8-point Gothic caps. If contained among other descriptive or explanatory reading matter, the script, type, or printing of all required material shall be of a size substantially more conspicuous than such other descriptive or explanatory reading matter. All portions of any statement of alcoholic content shall be of the same size and kind of lettering and of equally conspicuous color, and such lettering shall not be larger than 8-point Gothic caps, except when otherwise required by State law.

(c) *English language.* All information other than the brand name, required by §§ 7.20-7.29 to be stated on labels shall be in the English language. Additional statements in foreign languages may be made, if no such statements in any way conflict with, or are contradictory to, the requirements of §§ 7.20-7.29. Labels on containers of malt beverages packaged for consumption within Puerto Rico may, if desired, state the information required by

§§ 7.20-7.29, solely in the Spanish language, in lieu of the English language, except that the net contents shall also be stated in the English language.

(d) *Labels firmly affixed.* All labels shall be affixed to containers of malt beverages in such manner that they cannot be removed without thorough application of water or other solvents.

(e) *Additional information.* Labels may contain information other than the mandatory label information required by §§ 7.20-7.29, provided such information complies with the requirements of §§ 7.20-7.29, and does not conflict with, nor in any manner qualify, statements required by any regulation promulgated under the act.

§ 7.29 Prohibited practices.

(a) *Statements on labels.* Containers of malt beverages, or any labels on such containers, or any carton, case, or individual covering of such containers, used for sale at retail or any written, printed, graphic, or other matter accompanying such containers to the consumer shall not contain:

(1) Any statement that is false or untrue in any particular, or that, irrespective of falsity, directly or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific, or technical matter tends to create a misleading impression.

(2) Any statement that is disparaging of a competitor's products.

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which the Director finds to be likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which the Director finds to be likely to mislead the consumer.¹

(6) A trade or brand name that is the name of any living individual of public prominence, or existing private or public organization, or is a name that is in

¹ Under (5) the Director has permitted the use of statements in substantially the following form: "We will refund the purchase price to the purchaser if he is in any manner dissatisfied with the contents of this package.

(Name of the permittee making statement)"

simulation or is an abbreviation thereof, or any graphic, pictorial, or emblematic representation of any such individual or organization, if the use of such name or representation is likely falsely to lead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of, such individual or organization: *Provided*, That this paragraph shall not apply to the use of the name of any person engaged in business as a producer, importer, bottler, packer, wholesaler, retailer, or warehouseman, of malt beverages, nor to the use by any person of a trade or brand name that is the name of any living individual of public prominence, or existing private or public organization, provided such trade or brand name was used by him or his predecessors in interest prior to August 29, 1935.

(b) *Simulation of Government stamps.* No label shall be of such design as to resemble or simulate a stamp of the United States Government or of any State or foreign government. No label, other than stamps authorized or required by the United States Government or any State or foreign government, shall state or indicate that the malt beverage contained in the labeled container is brewed, made, bottled, packed, labeled, or sold under, or in accordance with, any municipal, State, Federal, or foreign government authorization, law, or regulation, unless such statement is required or specifically authorized by Federal, State, or municipal, law or regulation, or is required or specifically authorized by the laws or regulations of the foreign country in which such malt beverages were produced. If the municipal or State government permit number is stated upon a label, it shall not be accompanied by an additional statement relating thereto, unless required by State law.

(c) *Use of word "bonded", etc.* The words "bonded", "bottled in bond", "aged in bond", "bonded age", "bottled under customs supervision", or phrases containing these or synonymous terms which imply governmental supervision over production, bottling, or packing, shall not be used on any label for malt beverages.

(d) *Flags, seals, coats of arms, crests, and other insignia.* Labels shall not contain, in the brand name or otherwise, any statement, design, device, or pictorial representation which the Director finds

relates to, or is capable of being construed as relating to, the armed forces of the United States, or the American flag, or any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any label contain any statement, design, device, or pictorial representation of or concerning any flag, seal, coat of arms, crest or other insignia, likely to mislead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

(e) *Curative and therapeutic effects.* Labels shall not contain any statement, design, or device representing that the use of any malt beverage has curative or therapeutic effects, if such statement is untrue in any particular or tends to create a misleading impression.

(f) *Use of words "strong", "full strength", and similar words.* Labels shall not contain the words "strong", "full strength", "extra strength", "high test", "high proof", "pre-war strength", "full oldtime alcoholic strength", or similar words or statements, likely to be considered as statements of alcoholic content, except where required by State law.

(g) *Use of numerals.* Labels shall not contain any statements, designs, or devices whether in the form of numerals, letters, characters, figures, or otherwise, which are likely to be considered as statements of alcoholic content, unless required by State law.

(h) *Coverings, cartons, or cases.* Individual coverings, cartons, cases, or other wrappers of containers of malt beverages, used for sale at retail, or any written, printed, graphic, or other matter accompanying the container shall not contain any statement or any graphic pictorial, or emblematic representation, or other matter, which is prohibited from appearing on any label or container of malt beverages.

Subpart D—Requirements for Withdrawal of Imported Malt Beverages From Customs Custody

§ 7.30 Application.

Sections 7.30 and 7.31 shall apply to withdrawals of malt beverages from customs custody only in the event that the laws or regulations of the State in which

such malt beverages are withdrawn for consumption require that all malt beverages sold or otherwise disposed of in such State be labeled in conformity with the requirements of §§ 7.20-7.29.

§ 7.31 Label approval and release.

(a) *Application.* On or after December 15, 1936, imported malt beverages shall not be released from customs custody for consumption, except pursuant to the procedure and forms prescribed by §§ 7.30 and 7.31.

(b) *Certificate of label approval.* No imported malt beverages shall be released from customs custody unless there shall have been deposited with the appropriate customs officer at the port of entry the original or a photostatic copy of a "Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1649). Such certificate shall be issued by the Director upon application made on the form designated "Application for Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1649), properly filled out and certified to by the importer or transferee in bond.

(c) *Release.* If the original or photostatic copy of the "Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1649) bears the signature of the Director, then the brand or lot of imported malt beverages bearing labels identical with those shown thereon may be released from customs custody.

(d) *Relabeling.* Imported malt beverages in customs custody, which are not labeled in conformity with certificates of label approval issued by the Director, must be relabeled, prior to release, under the supervision and direction of the customs officers of the port at which such malt beverages are located.²

Subpart E—Requirements for Approval of Labels of Malt Beverages Domestically Bottled or Packed

§ 7.40 Application.

Sections 7.40-7.42 shall apply only to persons bottling or packing malt beverages (other than malt beverages in customs custody) for shipment, or delivery for sale or shipment, into a State, the laws or regulations of which require that all malt beverages sold or otherwise dis-

² Copies of Form 1649 may be secured from the Assistant Regional Commissioners, Alcohol and Tobacco Tax.

posed of in such State be labeled in conformity with the requirements of §§ 7.20-7.29.

§ 7.41 Certificates of label approval.

No person shall bottle or pack malt beverages, or remove such malt beverages from the plant where bottled or packed, unless upon application to the Director, he has obtained, and has in his possession, a "Certificate of Label Approval under the Federal Alcohol Act" (Form 1649) covering such malt beverages. Such certificate of label approval shall be issued by the Director upon application made on the form designated "Application for Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1649), properly filled out and certified to by the applicant.*

§ 7.42 Exhibiting certificates to Government officials.

Any bottler or packer holding an original or duplicate original of a certificate of label approval shall, upon demand, exhibit such certificate to a duly authorized representative of the United States Government or any duly authorized representative of a State or political subdivision thereof.

Subpart F—Advertising of Malt Beverages

§ 7.50 Application.

No person engaged in business as a brewer, wholesaler, or importer, of malt beverages, directly or indirectly, or through an affiliate, shall publish or disseminate, or cause to be published or disseminated by radio broadcast, or in any newspaper, periodical, or other publication, or by any sign or outdoor advertisement, or any other printed or graphic matter any advertisement of malt beverages if such advertisement is in, or is calculated to induce sales in interstate or foreign commerce, or is disseminated by mail, unless such advertisement is in conformity with §§ 7.50-7.54: *Provided*, That §§ 7.50-7.54 shall not apply to outdoor advertising in place on June 18, 1935, but shall apply upon replacement, restoration, or renovation of any such advertising: *And provided further*, That §§ 7.50-7.54 shall apply to advertisements of malt beverages in-

* Copies of Form 1649 may be secured from the Assistant Regional Commissioners, Alcohol and Tobacco Tax.

tended to be sold or shipped or delivered for shipment, or otherwise introduced into or received in any State from any place outside thereof, only to the extent that the laws of such State impose similar requirements with respect to advertisements of malt beverages manufactured and sold or otherwise disposed of in such State: *And provided further*, That §§ 7.50-7.54 shall not apply to the publisher of any newspaper, periodical, or other publication, or radio broadcaster, unless such publisher or radio broadcaster is engaged in business as a brewer, wholesaler, bottler, or importer, of malt beverages, directly or indirectly, or through an affiliate.

§ 7.51 Definitions.

As used in §§ 7.50-7.54 the term "advertisement" includes any advertisement of malt beverages through the medium of radio broadcast; or of newspapers, periodicals, or other publications; or of any sign or outdoor advertisement; or of any other printed or graphic matter, including trade booklets, menus, and wine cards, if such advertisement is in, or is calculated to induce sale in, interstate or foreign commerce; or is disseminated by mail; except that such term shall not include:

(a) Any label affixed to any container of malt beverages; or any coverings, cartons or cases of containers of malt beverages used for sale at retail, or any written, printed, graphic, or other matter accompanying the container which constitutes a part of the labeling under §§ 7.20-7.29.

(b) Any editorial or other reading matter in any periodical or publication or newspaper for the publication of which no money or other valuable consideration is paid or promised, directly or indirectly, by any person engaged in business, as a brewer, wholesaler, or importer of malt beverages.

§ 7.52 Mandatory statements.

(a) *Responsible advertiser*. The advertisement shall state the name and address of the brewer, bottler, packer, wholesaler, or importer responsible for its publication or broadcast. Street number and name may be omitted in the address.

(b) *Class*. The advertisement shall contain a conspicuous statement of the class to which the product belongs, corresponding to the statement of class which is required to appear on the label of the product.

§ 7.53 Legibility of requirements.

Statements required under §§ 7.50-7.54 to appear in any written, printed, or graphic advertisement shall be in lettering or type of a size sufficient to render them both conspicuous and readily legible.

§ 7.54 Prohibited statements.

(a) *General prohibition*. An advertisement of malt beverages shall not contain:

(1) Any statement that is false or misleading in any material particular.

(2) Any statement that is disparaging of a competitor's products.

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which the Director finds to be likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which the Director finds to be likely to mislead the consumer.

(6) Any statement that the malt beverages are brewed, made, bottled, packed, labeled, or sold under, or in accordance with, any municipal, State, or Federal authorization, law, or regulation; and if a municipal or State permit number is stated, the permit number shall not be accompanied by any additional statement relating thereto.

(7) The words "bonded", "bottled in bond", "aged in bond", "bonded age", "bottled under customs supervision", or phrases containing these or synonymous terms which imply governmental supervision over production, bottling, or packing.

(b) *Statements inconsistent with labeling*. The advertisement shall not contain any statement concerning a brand or lot of malt beverages that is inconsistent with any statement on the labeling thereof.

(c) *Alcoholic content*. The advertisement shall not contain any statement of alcoholic content, or any statement of the percentage and quantity of the original extract, or any numerals, letters, characters, or figures, likely to be considered as designations of alcoholic content.

(d) *Class*. (1) No product containing less than one-half of 1 per centum of

alcohol by volume shall be designated in any advertisement as "beer", "lager beer", "lager", "ale", "porter", or "stout", or by any other class or type designation commonly applied to fermented malt beverages containing one-half of 1 per centum or more of alcohol by volume.

(2) No product other than a malt beverage fermented at comparatively high temperature, possessing the characteristics generally attributed to "ale", "porter", or "stout" and produced without the use of coloring or flavoring materials (other than those recognized in standard brewing practices) shall be designated in any advertisement by any of these class designations.

(e) *Curative and therapeutic effects*. The advertisement shall not contain any statement, design, or device representing that the use of any malt beverage has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.

(f) *Confusion of brands*. Two or more different brands or lots of malt beverages shall not be advertised in one advertisement (or in two or more advertisements in one issue of a periodical or a newspaper or in one piece of other written, printed, or graphic matter) if the advertisement tends to create the impression that representations made as to one brand or lot apply to the other or others, and if as to such latter the representations contravene any provision of §§ 7.50-7.54 or are in any respect untrue.

(g) *Flags, seals, coats of arms, crests, and other insignia*. No advertisement shall contain any statement, design, device, or pictorial representation of or relating to, or capable of being construed as relating to the armed forces of the United States, or of the American flag, or of any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any advertisement contain any statement, device, design, or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia, likely to mislead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

Subpart G—General Provisions

§ 7.60 Exports.

This part shall not apply to malt beverages exported in bond.

PART 8—CREDIT PERIOD TO BE EXTENDED TO RETAILERS OF ALCOHOLIC BEVERAGES

Subpart A—Scope

Sec.

8.1 General.

Subpart B—Definitions

8.10 Meaning of terms

Subpart C—Prohibited Extensions of Credit

8.20 Statutory provisions.

8.21 Circumstances in which extension prohibited.

8.22 Calculation of period.

AUTHORITY: The provisions of this Part 8 issued under 49 Stat. 981, as amended; 27 U.S.C. 205.

SOURCE: The provisions of this Part 8 contained in Treasury Decision 6521, 25 F.R. 13863, Dec. 29, 1960, unless otherwise noted.

Subpart A—Scope

§ 8.1 General.

The regulations in this part specify circumstances in which the extension of credit is prohibited. No procedural requirements are prescribed.

Subpart B—Definitions

§ 8.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this part.

(a) *Act*. "Act" means the Federal Alcohol Administration Act.

(b) *Distilled spirits*. "Distilled spirits" mean ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whisky, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for non-industrial use.

(c) *Wine*. "Wine" means (1) wine as defined in section 610 and section 617 of the Revenue Act of 1918 (U.S.C., title 26, secs. 441 and 444), as now in force or hereafter amended, and (2) other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine, wine

made from condensed grape must, wine made from other agricultural products than the juice of sound, ripe grapes, imitation wine compounds sold as wine, vermouth, cider, perry and sake; in each instance only if containing not less than 7 per centum and not more than 24 per centum of alcohol by volume, and if for non-industrial use.

(d) *Malt beverage*. "Malt beverage" means a beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption.

Subpart C—Prohibited Extensions of Credit

§ 8.20 Statutory provisions.

Pursuant to clause 6, subsection (b), section 5, Federal Alcohol Administration Act (27 U.S.C. 205(b)(6)), the credit period usual and customary to the industry is hereby ascertained to be thirty days from date of delivery in the case of all sales of distilled spirits, wine, and malt beverages.

§ 8.21 Circumstances in which extension prohibited.

The extension of credit to a retailer, by any person engaged in business as a distiller, brewer, rectifier, blender, or other producer, or as an importer or wholesaler, of distilled spirits, wine, or malt beverages, or as a bottler, or warehouseman and bottler, of distilled spirits, for a period of time in excess of thirty days from date of delivery, is prohibited when the extension of such credit induces any retailer engaged in the sale of distilled spirits, wine, or malt beverages to purchase any such products from such person to the exclusion in whole or in part of distilled spirits, wine, or malt beverages sold or offered for sale by other persons in interstate or foreign commerce, if such inducement is made in the course of interstate or foreign commerce, or if such person engages in the

practice of using such means to such an extent as to substantially restrict or prevent transactions in interstate or foreign commerce in any such products, or if the direct effect of such inducement is to prevent, deter, hinder or restrict other persons from selling or offering for sale any such products to such retailer in interstate or foreign commerce.

§ 8.22 Calculation of period.

For the purpose of the regulations in this part, the period of credit shall be calculated as the time elapsing between the date of delivery of the merchandise and the date of full legal discharge of the retailer, through the payment of cash or its equivalent, from all indebtedness arising from the transaction.

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MEMORANDUM NO. 74-119

December 16, 1974

TO: All Kansas Licensed Alcoholic Spirit and Beer Distributors
and Licensed Retailers

FROM: E.V.D. Murphy, Director, Alcoholic Beverage Control Division

SUBJECT: New Rules and Amendments to the Rules and Regulations Relating
to Alcoholic Beverage Control Act to be Effective January 1, 1975.

The following new and amended rules and regulations go into effect January 1, 1975. The necessary corrections should be made in the Rules and Regulations booklet in your possession. That part of the following Rules underlined are the changes in the old rules and in the case of new rules the entire rule is underlined.

14-3-37. Retailers; sale of beer in kegs; providing necessary equipment. Retailers may furnish to customers who purchase kegs of strong beer the necessary equipment in connection with the sale. Retailers may own their own ice tubs, pumps, and CO² units and require the customer to make a fair deposit for the equipment and beer keg. Upon return of the equipment and keg, the retailer must return the customer's full deposit. Under no circumstances may Kansas beer distributors or Kansas retailers rent or lease the equipment, provided further retailers may purchase the pumps, tubs, and CO² units from the licensed beer wholesaler if the wholesaler consents to sell the same. (Authorized by K.S.A. 71-211, 41-308; K.S.A. 1971 Supp. 41-210; effective January 1, 1974; amended January 1, 1975.)

14-4-16. Inducements from manufacturers and distributors to retailers prohibited. No manufacturer of alcoholic liquor, holding a manufacturer's license under the Act and no manufacturer of alcoholic liquor outside of this State manufacturing alcoholic liquors for sale and distribution within the State and no licensed distributor within the State, their agents, salesmen or representatives shall, directly or indirectly, offer, give or furnish any gifts, prizes, coupons, premiums, rebates, quantity discounts, entertainment, decorations, services of any employee, including errands and administrative services or any other inducement or thing of value of any kind to a licensed retailer or to an applicant for a retail liquor license who has submitted an application to the director. (Authorized by K.S.A. 41-210; 41-211, 41-702; effective Jan. 1, 1966; amended Jan. 1, 1974; amended Jan. 1, 1975.)

14-6-2. Capacities of containers. Alcoholic liquors shall only be sold or offered for sale at retail in this state in original packages of the following capacities:

(1) Beer: 6½ fluid ounces, 7 fluid ounces, 8 fluid ounces, 10 fluid ounces, 11 fluid ounces, 12 fluid ounces, 15 fluid ounces, 16 fluid ounces, 17 fluid ounces, 24 fluid ounces, 25.6 fluid ounces, 1 quart, ½ gallon, 1 gallon, 2¼ gallon (tapper), 1/8 barrel (3 7/8 gal.), ¼ barrel (7 3/4 gal.), ½ barrel (15½ gal.), 1 barrel (31 gal.).

(2) Wine: 4/5 pint, 1 pint (imports only), 4/5 quart, 1 quart, 1/2 gallon, 1 gallon, 2/5 gallon for sparkling and carbonated wines only;

Aperitif wine (including vermouth) may be sold or offered for sale at retail in this state in original packages having a capacity of 15/16 quart if the gallonage tax thereon is paid at the full quart rate per bottle.

Wine manufactured and bottled outside the borders or confines of the United States may be sold or offered for sale at retail in this state in containers of any size containing 4/5 pint or more if permitted by the bureau of internal revenue, and the gallonage tax is paid thereon as provided by paragraph (2) of 14-7-6.

For tax purposes a variance in content will be permitted within a fraction of a fluid ounce in bottles of champagne, carbonated or sparkling wines. This means that a 26-ounce bottle may be considered as 1/5 of a gallon or a 25.6 ounce bottle, or 13-ounce bottle may be considered as 1/10 of a gallon or a 12.8-ounce bottle.

(3) Alcoholic liquor other than beer and wine: 1/2 pint, 1/10 gallon, 1 pint, 4/5 quart, 1 quart, 1/2 gallon, 1 gallon: Provided, That domestic whiskey, including bonded bourbon, bonded rye, straight bourbon, straight rye, all blends of neutral spirits, corn whiskey and scotch type whiskey, alcohol, domestic and imported gin, vodka, tequila, and Canadian imported whiskey shall not be offered for sale in containers of one-tenth (1/10) gallon.

Domestic brandies, prepared cocktails, rum, American cordials, liqueurs and specialties, flavored gin, flavored vodka and flavored whiskey shall not be offered for sale in containers of one pint size.

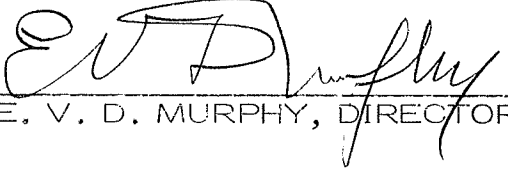
For approval purposes of containers offered for sale, a variance in content may be permitted within two fluid ounces for the above approved sizes for prepared cocktails, imported and domestic cordials, liqueurs and specialties. (Authorized by K.S.A. 41-211; K.S.A. 1971 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1967; amended Jan. 1, 1968; amended Jan. 1, 1972; amended Jan. 1, 1975.)

14-7-9. Filing of agreements; cancellation. All agreements between beer manufacturers or suppliers of beer and wholesalers or distributors of beer must be filed with the office of the Alcoholic Beverage Control Division at the time of filing application for a distributor's license. A copy of the agreement must be submitted to the director for the files of the Alcoholic Beverage Control Division: Provided, That no agreement so filed shall be cancelled or transferred except upon notice to the Director and reasonable opportunity for the Director to determine that the terminated licensee has complied with all provisions of the Alcoholic Beverage Control Act. (Authorized by K.S.A. 41-210; K.S.A. 41-211; effective Jan. 1, 1974; amended July 1, 1974; effective Jan. 1, 1975.)

14-7-10. Beer distributors must provide designated geographic territory. Before commencing or continuing business every manufacturer or distributor of beer and every importer of beer must file with the Director a diagram in a form approved by the Director, showing the designated territory within which the distributor will distribute beer to retailers. The said territory shall be agreed upon in writing by the manufacturer and distributor and a copy of the written agreement concerning the designated geographic territory must be filed with the Director. (Authorized by K.S.A. 41-210, 41-211; 41-409; effective Jan. 1, 1975.)

14-7-11. Change or modification of geographic territory. The geographic territory within which any distributor does distribute beer to retailers may not be changed, modified, or cancelled without the written consent of both the manufacturer and distributor and a verified copy of the consent must be filed by the manufacturer and distributor with the office of the Alcoholic Beverage Control Division and acknowledged before said change or modification will be effective. (Authorized by K.S.A. 41-210, 41-211, 41-409; effective Jan. 1, 1975.)

14-7-12. Beer distributor selling outside his designated geographic territory. No beer distributor shall sell beer to any retailer who is located outside the geographic territory designated in the notice filed with the Director by the distributor: Provided, That, if any beer distributor shall refuse to sell beer or provide service in connection therewith to any retailer located within such beer distributor's geographic territory, it shall be lawful for any other beer distributor to sell beer to such retailer after getting approval from the Director. (Authorized by K.S.A. 41-210, 41-211, 41-701; effective Jan. 1, 1975.)


E. V. D. MURPHY, DIRECTOR

EVDM:bd

KANSAS DEPARTMENT OF REVENUE
DIVISION OF ALCOHOLIC BEVERAGE CONTROL

RULES AND REGULATIONS

RELATING TO

**ALCOHOLIC
LIQUOR**

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JAMES T. McDONALD

Secretary of Revenue

E. V. D. MURPHY, Director

Alcoholic Beverage Control

COMPILED JANUARY 1, 1974

46-454
3-20-75

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Agency 13

Alcoholic Beverage Control Board of Review

Articles

- 13-1. GENERAL INFORMATION. 13-1-1, 13-1-2.
 13-2. APPEALS AND HEARINGS. 13-2-1 to 13-2-15.
 13-3. ORDERS OF BOARD. 13-3-1, 13-3-2.
 13-4. REGULAR MEETINGS, DUTIES. 13-4-1 to 13-4-5.
 13-5. PRICE, FREIGHT DETERMINATIONS. 13-5-1 to 13-5-3.
 13-6. STATUTES, REGULATIONS, INTERPRETATION. 13-6-1.

Article 1.—GENERAL INFORMATION

13-1-1. Communications. All communications, notices, papers required by law to be filed and all other matters pertaining to affairs under the jurisdiction of the board shall be mailed to the secretary of the board or filed in the office of the secretary provided that such matters shall be mailed or filed within the time established by law for such mailing or filing. (Authorized by K. S. A. 41-321; effective Jan. 1, 1966.)

13-1-2. Information. Upon request, the secretary of the board will furnish information as to forms, conduct and procedure before the board. (Authorized by K. S. A. 41-321; effective Jan. 1, 1966.)

Article 2.—APPEALS AND HEARINGS

13-2-1. Filing of notices. Any applicant or licensee who desires to appeal from the order of the director shall file with the secretary of the board a notice of appeal, which notice shall be mailed to the secretary by registered mail, or filed with said secretary within fifteen (15) days after the date the order appealed from was mailed by the director, or if such appeal is taken because the director has failed to enter his order on an application for license, within fifteen (15) days after the date an application for a license is deemed to have been refused as provided by law. (Authorized by K. S. A. 41-321; effective Jan. 1, 1966.)

13-2-2. Form of notice of appeal. The notice of appeal shall be typewritten. The original and seven copies of said notice shall

be filed on a form prescribed and furnished by the board. (Authorized by K. S. A. 41-321; effective Jan. 1, 1966.)

13-2-3. Signing of notices of appeals. All notices of appeal shall be personally subscribed: (1) By the party making the same or by all the parties if there be more than one; (2) if the party is a corporation, by an officer who is duly authorized to sign for such corporation. (Authorized by K. S. A. 41-321; effective Jan. 1, 1966.)

13-2-4. Director to be notified. Whenever any such notice of appeal is filed, the secretary of the board forthwith shall notify the director of such appeal in writing enclosing copies of the notice of appeal and bill of particulars. (Authorized by K. S. A. 41-321; effective Jan. 1, 1966.)

13-2-5. Docketing, titling and numbering of appeals. Upon receipt of a proper notice of appeal, the secretary of the board will record said notice in a docket. Each appeal shall be assigned a number and title and such number and title shall be used on all matter filed in the proceeding. (Authorized by K. S. A. 41-321; effective Jan. 1, 1966.)

13-2-6. Continuances. For good cause shown, continuances and extensions of time for hearings may be granted or denied by the board in its discretion and subject to the limitations prescribed by law. (Authorized by K. S. A. 41-321; effective Jan. 1, 1966.)

13-2-7. Failure to appear. If any party or parties who have originated an appeal shall fail to appear personally or by attorney or agent at the time when, and place where, the hearing of such appeal has been set, the board may dismiss such appeal upon motion of the director, provided that the board shall first find that the party or parties appealing have been notified as provided by law. (Authorized by K. S. A. 41-321; effective Jan. 1, 1966.)

13-2-8. Cross examination. After a witness has testified in chief, he may be cross-examined by the adverse party or parties. (Authorized by K. S. A. 41-321; effective Jan. 1, 1966.)

13-2-9. Rules of evidence. Rules of evidence as interpreted by the Kansas courts will be generally followed at all hearings with the exception that the board shall not be bound by the technical rules of evidence or procedure and the board may vary from the technical requirements when, in the opinion of the board, such variation is thought to be of assistance in ascertaining the facts. The presiding member of the board may at his discretion exclude

inadmissible evidence. The presiding member of the board may, when objection is made to admissibility of evidence or to the jurisdiction of the board, withhold ruling upon the question and proceed with the hearing subject to a later ruling on such objection. (Authorized by K. S. A. 41-321; effective Jan. 1, 1966.)

13-2-10. Documentary evidence. Whenever any material offered in evidence is part of a book, paper or document which contains matters that are irrelevant and immaterial to the hearing, the party offering such evidence must plainly designate the matter being offered as evidence. The relevant and material parts of such matter shall be marked for identification and may at the discretion of the presiding board member be read into and made part of the record. The presiding board member may at his discretion permit a true copy of such document to be received as an exhibit and the original document withdrawn after the original has been first marked for identification. (Authorized by K. S. A. 41-321; effective Jan. 1, 1966.)

13-2-11. Judicial notice. The board, in all hearings before it, may take judicial notice of its own public records and those of the state and federal governments. (Authorized by K. S. A. 41-321; effective Jan. 1, 1966.)

13-2-12. Subpoenas for witnesses. (a) If subpoenas for witnesses are desired by the party or parties appealing, such subpoenas shall be issued upon request to the board secretary and forwarded to the party requesting same with the requirement that such party see to the service of the subpoenas and assume the expense connected therewith. Each party will bear the expense of all his witnesses. (Authorized by K. S. A. 41-321, 41-322; effective Jan. 1, 1966.)

13-2-13. Further evidence. During any hearing or after the close of the testimony, any board member may call for further evidence and may require such evidence to be presented by the director or party or parties appealing. Such evidence may be heard at the same hearing or at an adjourned hearing. (Authorized by K. S. A. 41-321; effective Jan. 1, 1966.)

13-2-14. Final arguments. At all hearings the party or parties appealing may open and close the final arguments. The board may at its discretion depart from this order of procedure. (Authorized by K. S. A. 41-321; effective Jan. 1, 1966.)

13-2-15. Hearing; when closed. A hearing is closed and the matter submitted when the testimony of the parties had been introduced and oral arguments completed. (Authorized by K. S. A. 41-321; effective Jan. 1, 1966.)

Article 3.—ORDERS OF BOARD

13-3-1. Copy of order; to whom furnished. A copy of such opinion, decision and order shall be mailed by the secretary of the board by registered mail to the applicant at the address as shown on the application or to the licensee at the address of the premises licensed, as the case may be and a copy shall also be delivered or mailed by him to the director. (Authorized by K. S. A. 41-321; effective Jan. 1, 1966.)

13-3-2. Hearing before one board member; approval of decisions. Any matter before the board may be heard before any member of the board. All investigations, hearings, opinions, decisions, orders, promulgations and any other matter on which the board by law is authorized to act, shall be deemed to be the investigations, hearings, opinions, decisions, orders and promulgations of the state alcoholic beverage control board of review when the same have been submitted to and approved by a majority of the board members and filed in the board's office with such approval shown thereon. (Authorized by K. S. A. 41-321; effective Jan. 1, 1966.)

Article 4.—REGULAR MEETINGS, DUTIES

13-4-1. Duties of the chairman. The chairman shall preside at all regular and special meetings of the state alcoholic beverage control board of review and shall be entitled, along with the other members present, to cast one (1) vote. (Authorized by K. S. A. 41-203, 41-321; effective Jan. 1, 1966.)

13-4-2. Duties of the secretary. The secretary appointed by the state alcoholic beverage control board of review shall: (1) Attend all regular meetings and make minutes thereof, which minutes shall be signed by the chairman and attested by the secretary and furnish a copy of said minutes to each member of the board; (2) serve such notices upon the members, and other interested parties having business before the board as are necessary to carry forth the intent and spirit of the statutes relating to the conduct of appeals, affixing of pricing and other business of the board; (3) pre-

paring and furnishing an agenda for each meeting of the board, and (4) perform such other duties as the chairman of the board may, from time to time, direct. (Authorized by K. S. A. 41-203, 41-321; effective Jan. 1, 1966.)

13-4-3. Regular meetings. The state alcoholic beverage control board of review shall sit in regular meeting in the office of the alcoholic beverage control in Topeka at 9:30 o'clock a. m. on the last Friday of each and every calendar month. (Authorized by K. S. A. 41-203, 41-321; effective Jan. 1, 1966.)

13-4-4. Special meetings. The chairman may call a special meeting of the state alcoholic beverage control board of review by serving notice by mail on the other members of the board at least five days prior to the date of the special meeting, except in an emergency and a special meeting may then be called without notice. In the event of the absence of the chairman from the state or inability to act, then the remaining two members of the board may call a special meeting by giving notice as hereinbefore provided. (Authorized by K. S. A. 41-203, 41-321; effective Jan. 1, 1966.)

13-4-5. Stenographer. The chairman shall appoint a certified court reporter to attend all appeal hearings held by the state alcoholic beverage control board of review to take notes thereof and furnish the board with a transcript of the proceedings for official filing. (Authorized by K. S. A. 41-203, 41-321; effective Jan. 1, 1966.)

Article 5.—PRICE, FREIGHT DETERMINATION

13-5-1. Classes of alcoholic liquors for pricing purposes. For the purpose of carrying into effect the provisions of K. S. A. 41-1111 through 41-1121, alcoholic beverages and liquors sold and distributed in this state shall have the price determined thereon according to the following three categories:

(1) Bourbon whisky; blended whisky; bonded whisky; corn whisky; rye whisky; *light whisky*; Scotch whisky; Canadian whisky; Irish whisky; vodka; flavored gin; vodka and whisky; gin; rum; tequila; American brandy; imported brandy; cognac; alcohol; prepared cocktails;

(2) American cordials, specialties and liqueurs; imported cordials, specialties and liqueurs;

(3) American vermouth; imported vermouth; American wine; imported wine; American sparkling wine; imported sparkling wine.

The prices affixed to the three (3) separate categories above shall be in *compliance* with the provisions of chapter 241 of the 1961 session laws. (Authorized by K. S. A. 41-1118; effective Jan. 1, 1966, amended Jan. 1, 1973.)

13-5-2. Freight determination. The price listings filed by a licensed distributor with the director shall be the cash price f. o. b. the distributor's warehouse and shall show the place from where shipments will be made and the price per case and per bottle for each size of original packages of each particular brand or kind of alcoholic liquor other than beer sold or offered for sale by such distributor and shall contain such other information as the director may require: *Provided*, That the distributor shall pay the transportation costs and charges upon any shipment of alcoholic liquor to any licensed retailer that exceed 100 pounds in weight: *Provided further*, That no distributor shall ship and no retailer shall receive any shipments of less than 100 pounds. (Authorized by K. S. A. 41-408, 41-1101, 41-1118; effective Jan. 1, 1966.)

13-5-3. Alcoholic liquor, prices, when and how determined. The director shall *monthly*, after manufacturers have posted their prices with him pursuant to K. S. A. 41-1101 and 41-1112, determine and submit to the alcoholic beverage control board of review, for its approval, distributors' and retailers' *minimum* prices on all items posted into the state. (Authorized by K. S. A. 41-1112, 41-1118; effective Jan. 1, 1966; amended, E-66-9, Aug. 8, 1966; amended Jan. 1, 1967.)

Article 6.—STATUTES, REGULATIONS, INTERPRETATION

13-6-1. Director to issue memoranda interpreting statutes and regulations; when. The director shall from time to time issue interpretations of the statutes or regulations which he administers or enforces as the need arises. Such interpretations shall be in the form of memoranda and shall be distributed to the board of review, its secretary, and all licensees affected thereby. Such memoranda shall not modify, revoke or extend existing regulations as the same may only be extended, modified or revoked by regulation approved by the board of review. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

Agency 14

Director of Alcoholic Beverage Control

Articles

- 14-1. DEFINITIONS. 14-1-1.
- 14-2. LICENSEES AND VENDORS. 14-2-1 to 14-2-22.
- 14-3. RETAILERS. 14-3-1 to 14-3-40.
- 14-4. MANUFACTURERS, DISTRIBUTORS, NONBEVERAGE USERS.
14-4-1 to 14-4-25.
- 14-5. TRANSPORTATION; CARRIERS; STORAGE. 14-5-1 to 14-5-6.
- 14-6. CONTAINERS AND LABELS. 14-6-1 to 14-6-6.
- 14-7. TAX, TAX STAMPS; CROWNS, LIDS. 14-7-1 to 14-7-9.
- 14-8. ADVERTISING. 14-8-1 to 14-8-13.
- 14-9. SALESMAN'S PERMITS. 14-9-1 to 14-9-10.
- 14-10.
to
- 14-15. RESERVED FOR FUTURE USE.
- 14-16. LICENSEES: SUSPENSION, REVOCATION. 14-16-1 to 14-16-6.
- 14-17. MISCELLANEOUS. 14-17-1 to 14-17-4.
- 14-18. CLASS A AND CLASS B CLUBS. 14-18-1 to 14-18-23.
- 14-19. CLASS A CLUBS. 14-19-1 to 14-19-10.
- 14-20. CLASS B CLUBS. 14-20-1 to 14-20-9.

Article 1.—DEFINITIONS

14-1-1. Definitions. As used in these rules and regulations, unless the context clearly requires otherwise, the following words and phrases shall have the meanings ascribed to them in this section:

(1) "Church" means a building owned or leased by a religious organization and used exclusively as a place for religious worship and other activities ordinarily conducted by a religious organization.

(2) "Public bonded liquor warehouse" shall mean a public bonded warehouse bonded and licensed as provided in K. S. A. 82-161 through 82-171, both sections inclusive, within the state of Kansas and which warehouse shall have filed with the director a corporate surety bond in the amount to be fixed by the director, but never less than \$15,000, executed by a company authorized to do business in this state and signed by a resident agent, conditioned

that said licensed and bonded warehouse will in all respects comply with the provisions of the Kansas liquor control act and the rules and regulations of the director insofar as the same are applicable to said warehouse. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

Article 2.—LICENSEES AND VENDORS

14-2-1. Living quarters connected with licensed premises prohibited. No licensee shall have living quarters or any room containing any equipment for living quarters connected with his licensed premises, and all entrances, doorways, and other apertures between said licensed premises and living quarters shall be securely and permanently sealed. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-2-2. Lessor of premises deemed partner when beneficially interested in business. Whenever any person shall lease premises to any licensee upon terms which result in such lessor having a beneficial interest in the business licensed, such lessor shall be deemed to be a partner in the licensed business. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-2-3. Licensees, eligibility; interest of individual or corporation stockholder in cereal malt beverage license as disqualification. (1) For the purpose of determining the eligibility of an individual for a license of any kind under the act, except a beer distributor's license, a person who is a stockholder in any corporation to which has been issued and has a license under the laws of this state relating to cereal malt beverages and malt products shall be deemed to have a beneficial interest in and to be the holder of a license under the laws of this state relating to cereal malt beverages and malt products.

(2) For the purpose of determining the eligibility of a corporation for a distributor's license under the act, except a beer distributor's license, if any stockholder of the corporation applying for or holding a license under the act, is also a stockholder in any corporation to which has been issued and has a license under the laws of this state relating to cereal malt beverages and malt products, said stockholder shall be deemed to have a beneficial interest in and to be the holder of a license under the laws of this state relating to cereal malt beverages and malt products; and any corporation in which he is a stockholder shall not be eligible to receive or have

a distributor's license other than a beer distributor's license under the act.

(3) For the purpose of determining the eligibility of a corpora-

tion for a manufacturer's or nonbeverage user's license under the act, if any stockholder of the corporation applying for or holding a license under the act who owns in the aggregate more than twenty-five percent of the stock of such corporation is also a stockholder in any corporation to which has been issued and has a license under the laws of this state relating to cereal malt beverages and malt products, said stockholder shall be deemed to have a beneficial interest in and to be the holder of a license under the laws of this state relating to cereal malt beverages and malt products; and any corporation in which he owns more than twenty-five percent of the stock shall not be eligible to receive or have a manufacturer's or nonbeverage user's license under the act. (Authorized by K. S. A. 41-211, 41-311; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-2-4. Licensee must pay city or township license tax before making sales. No licensee shall sell or offer for sale any alcoholic liquor until such time as he shall have paid the annual occupation or license tax imposed by the city or township wherein the licensed premises are located. (Authorized by K. S. A. 41-211, 41-310; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-2-5. Licensed premises; sanitation. Sanitary conditions, conducive to public health and welfare, must be maintained at all times in, on, or about licensed premises of all licensees. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-2-6. Licensees; responsibility for conduct of business and of employees. Licensees are at all times responsible for the conduct of their business and are at all times directly responsible for any act or conduct of any employee while engaged in and acting in the course of employment, which is in violation of the act or the rules and regulations of the director. No person shall be employed by a retail licensee in a managerial capacity or as a sales clerk who has the same disqualifications of persons to whom licenses may not be issued as set forth in subsection 1 (b) through (h) inclusive and (l) of K. S. A. 41-311. Retail licensees must submit signatures of all authorized employees on a form approved by the director at the time said person first becomes an employee. *Retail licensees are required to submit signatures of all authorized employees on a form approved by the director upon each renewal.* Only those persons whose names appear therein shall be permitted employment in a retail liquor store. No retailer shall employ in any capacity a person

who is an employee of a licensed distributor or a person who is the spouse of an employee of a licensed distributor. (Authorized by K. S. A. 41-211; K. S. A. 1970 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1971.)

14-2-7. Conduct prohibited in licensed premises. No licensee shall engage in, allow, permit, or suffer in or upon the licensed premises any disturbances, lewdness, immoral activities or displays, brawls, or unnecessary noises, or allow, permit, or suffer the licensed premises to be conducted in such a manner as to create public censure or become a nuisance. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-2-8. Gambling and gambling devices and certain other devices on licensed premises prohibited. No licensee shall permit gambling of any kind or character on or in the licensed premises; nor shall he permit the operation or possession of any slot machine, or pay-off gambling device, or punchboard of any kind or character, or any pinball machine or game of skill or chance in, on, or about the licensed premises. (Authorized by K. S. A. 41-211, 41-308; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-2-9. Delivery of liquor and removal of empty containers on Sunday prohibited. No licensee shall accept the delivery of alcoholic liquor, or permit the loading and removal of empty cases, kegs, barrels, or bottles at his licensed premises on any Sunday. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-2-10. Tie-in sales prohibited. No licensee of any class shall, as a condition for the sale or delivery of alcoholic liquor to any other licensee or to a customer, require that such other licensee or customer purchase or contract to purchase alcoholic liquor of another form, quantity or brand in addition to or partially in lieu of that specifically ordered or desired by such other licensee or customer. No licensee of any class shall sell or deliver alcoholic liquor in any form or quantity or of any brand to another licensee or to a customer, under any arrangement, agreement or understanding, direct or implied, that such sale or delivery will be made only if such other licensee or customer also buys or accepts delivery of a quantity of alcoholic liquor of another form or brand. (Authorized by K. S. A. 41-211, 41-1101; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-2-11. Political advertising on licensed premises prohibited. No licensee shall permit or allow any political advertising of any character designed to advance or promote the candidacy of any individual seeking a public elective office in, or upon the licensed premises. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-2-12. Donations of alcoholic liquor by licensees prohibited. No licensee shall donate alcoholic liquor for any purpose. Authorized by K. S. A. 41-211; K. S. A. 1972 Supp. 41-210; effective Jan. 1, 1966.)

14-2-13. Suspension and revocation of licenses for licensee's failure to make monthly reports. If any manufacturer, distributor, nonbeverage user, or retail licensee of alcoholic liquor shall fail, neglect or refuse to file the reports of liquor manufactured, sold or purchased as required by the act and the rules and regulations of the director, on or before such fifteenth day of the month, the license of such delinquent licensee may be suspended or revoked by the director. (Authorized by K. S. A. 41-211, 41-601; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-2-14. Suspension and revocation of licenses for licensee's refusal to permit inspection of premises or liquor. If any licensee shall refuse to permit the director or any agent or employee of the director to inspect the licensed premises and any alcoholic liquor in his possession or under his control upon the premises covered by the license, or upon any other premises upon which he may have such liquor stored, said refusal shall be grounds for the revocation of the license of the licensee. (Authorized by K. S. A. 41-209, 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-2-15. Alteration or repair of licensed premises; permission of director required. *Any retailer installing refrigeration units of any kind must report this fact to the director in writing. Before any permanently installed refrigeration unit may be placed in any retail store, the written request must state the dimensions of the unit and illustrate on a diagram of the premises the permanent location of the unit.* No alteration or repairs to the licensed premises which change the physical character of said premises as reported in the application for a license shall be made, unless and until the licensee shall receive written permission from the director. (Authorized by K. S. A. 41-211; K. S. A. 1970 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1971.)

14-2-16. Change of location of business; application to director; permission to be endorsed on license. Any licensee desiring to change the location of his place of business must make application for such change to the director. Such application shall contain a statement that he owns or has a proper lease on the new premises and shall contain such other information as the director may require, including a copy of the new lease if such premises are leased. No licensee shall change the location of his place of business unless and until the director shall endorse on the license of such licensee his approval of such change of location. (Authorized by K. S. A. 41-211, 41-315; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-2-17. Licenses, loss or destruction of; application for and issuance of duplicate. Whenever any license issued by the director shall become lost or destroyed before the expiration thereof, the licensee to whom such license was issued may make written application to the director for a duplicate license. Said application shall set forth all the facts and circumstances concerning the loss or destruction of such license and shall be sworn to by the person applying for such duplicate. Upon the receipt of such application, the director may cause an investigation to be made, and if satisfied that the application is made in good faith and is true and correct, shall issue a duplicate license in lieu of the license that was lost or destroyed. Such duplicate license shall show on its face that it is a duplicate license. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-2-18. Transfer of stock of liquor of licensee whose license has terminated; applications for permission to director by seller and purchaser; inventory and reports. When a licensee has discontinued business under his license and his license has been terminated, he may apply in writing to the director for permission to transfer his stock of alcoholic liquors to another qualified licensee. He shall furnish the director with an inventory of the alcoholic liquors contemplated in such transfer. The licensee who desires to purchase such stock of alcoholic liquor, shall also apply in writing to the director for permission to make such purchase, and he shall report to the director in writing, the quantity, brands, and types of such liquor purchased and the address to which it was actually delivered after the purchase. No such sale or purchase shall be made by any licensee until written permission has been granted by the director: *Provided*, That where any license has expired and the holder of said license has a stock of alcoholic liquor

in the premises, or where any license has been revoked and no appeal taken from the order of revocation, the director may, pending a sale and transfer to another qualified licensee, take possession of all such alcoholic liquors. (Authorized by K. S. A. 41-211, 41-1102; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-2-19. Licenses not issued to persons beneficially interested in illegal businesses. No license shall be issued to a person who has a beneficial interest, directly or indirectly, in any business or enterprise which is contrary to or operated in violation of any of the laws of this state or of the United States relating to public morals and decency, lotteries, gambling devices or bookmaking. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-2-20. Applications of former licensees, or concerning former premises, with outstanding citations; director may refuse issuance of license. The director may refuse to issue a license to any applicant who has previously owned in either an individual, corporate or representative capacity any type of license authorized by the Kansas liquor control act, if at the time such prior license ceased to exist or was surrendered, said licensee had been ordered to appear and show cause why his or its license to operate should not be revoked or suspended pursuant to the regulatory power conferred upon the director in other sections of the rules and regulations and by the Kansas liquor control act. The director may also refuse to license a premises if the premises is the same premises concerned with the alleged license violation as set forth above, if it shall appear that the new application for license covering such premises is an attempt to circumvent or avoid any possible remedial action taken by the director against the former licensee of such premises. (Authorized by K. S. A. 41-211; K. S. A. 1968 Supp. 41-210; effective Jan. 1, 1969.)

14-2-21. Refund upon cancellation. In the event the license of any licensee is cancelled, except through revocation or suspension, the licensee shall be eligible for a refund of a portion of the annual license fee which is equal to the total of one-twelfth of the annual license fee for each full calendar month of the license year which remains at the time of the cancellation. Said refund shall only be made upon application to the director made at the time notice of cancellation is forwarded to the director. (Authorized by K. S. A. 41-211, 41-326; K. S. A. 1971 Supp. 41-210; effective Jan. 1, 1972.)

14-2-22. Defective liquor containers. Liquor containers, except beer, that are leakers, contain foreign matter in bottle, are short-filled, have broken federal seals, badly soiled or stained labels, or otherwise are not fit for resale to the general public, may not be knowingly sold by distributors. Suppliers' representatives shall not arrange to have retailers accept such merchandise. (Authorized by K. S. A. 41-211; K. S. A. 1971 Supp. 41-210; effective Jan. 1, 1972.)

Article 3.—RETAILERS

14-3-1. Retail premises must be located at ground level. All premises used for the sale of alcoholic liquors at retail shall be located *at ground or street level*. All entrances for the use of the public shall open immediately into the room used for retail sales purposes. *Any arrangement that allows customer access to a retail sales room from another place of business is prohibited.* (Authorized by K. S. A. 41-211; 41-711; K. S. A. 1972 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1973.)

14-3-2. No retail license issued for premises within 200 feet of school, college or church; method of measurement of distance. No license shall be issued for the sale at retail of any alcoholic liquor on premises which are located within two hundred (200) feet of any public or parochial school or college or church. Such distance shall be measured in a straight line from the closest point on the boundary of the real property upon which is situated any public or parochial school or college or church to the closest point of premises sought to be licensed. (Authorized by K. S. A. 41-211, 41-710; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-3-3. Applicant for retailer's license must furnish certificate showing premises comply with zoning and building ordinances. Each applicant for a retail license shall furnish to the director, at the time of making his application for a license, a certificate from the city clerk or the township clerk wherein the licensed premises are to be located, or other satisfactory evidence, showing that said premises and building are located in conformity with all city or township zoning and building ordinances. (Authorized by K. S. A. 41-211, 41-710; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-3-4. Notice of applications for retailer's licenses to cities and townships by director; advisory recommendations by cities and townships; hearings on applications; city or township may appear. Whenever a proper application for a retailer's license is

filed with the director and the same is accompanied by the necessary registration and license fees and sufficient bond, the director shall notify the governing body of the city if the premises sought to be licensed are located in a city and the township board of the township if the premises sought to be licensed are located outside an incorporated city by mailing a notice which shall be on a form prescribed by the director and which shall show the time and place when a hearing will be held on such application. The governing body of any such city or the township board of any such township may make such advisory recommendations to the director in regard to the issuance or refusal of such retailer's license as it shall deem advisable. If such recommendations are made, they shall be in writing and attested by the city clerk or township clerk, as the case may be. The governing body of any such city or the township board of any such township may appear at any such hearing on an application for a retailer's license and be represented thereat by a member of the governing body of the city or of the township board or by an attorney. (Authorized by K. S. A. 41-211, 41-318; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-3-5. Placing of objects in front windows which obstruct view of interior of licensed premises prohibited. No retail licensee shall place or permit the placing of any object on or within the *front* windows of the licensed premises, which will obstruct vision from the exterior into the interior of the licensed premises: *Provided*, That nothing contained herein shall prohibit the placing of transparent tinted window shades on the *front* windows of a licensed premises or other device to shield against the morning or afternoon sun provided the device is installed in such a manner that it does not obstruct vision into the interior from the outside. (Authorized by K. S. A. 41-211; K. S. A. 1970 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1968; amended Jan. 1, 1971.)

14-3-6. Sales and deliveries on certain days and during certain hours prohibited. The sale, *removal* or delivery of alcoholic liquor into or from the licensed premises of a retail licensee on any day other than a legal day for sale of alcoholic liquor at retail or after the legal closing hour or before the legal opening hour is prohibited. (Authorized by K. S. A. 41-211, 41-712; K. S. A. 1971 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1973.)

14-3-7. Sales and deliveries must be made within licensed premises. Sales of alcoholic liquor by a retail licensee shall be made only on and within the licensed premises, and deliveries of

alcoholic liquor sold by a retail licensee shall be made only within the licensed premises. (Authorized by K. S. A. 41-211, 41-308; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-3-8. Transactions, agreements and deliveries by retailer for sale or resale off licensed premises prohibited. No retail licensee shall engage, directly or indirectly, in any conspiracy, transaction or agreement having as its object the sale or resale, away from or off the licensed premises, of any alcoholic liquor owned, sold or delivered by such retail licensee; nor shall any such licensee sell or deliver any alcoholic liquor to any person with knowledge of or with reasonable cause to believe, that the person to whom such liquor is sold or delivered has acquired the same for the purpose of peddling or reselling the same. (Authorized by K. S. A. 41-211, 41-722; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-3-9. Retailer prohibited from acting as bailee of liquor of others for delivery when sales are illegal. No retail licensee shall act as retainer or keeper of alcoholic liquor for customers or other persons for the purpose of delivering such liquor before the legal opening hour or after the legal closing hour or on any day when sales are prohibited. (Authorized by K. S. A. 41-211, 41-308, 41-712; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-3-10. Cashing of checks regulated. No retail licensee shall accept or cash any check other than the personal check of the person making a purchase of alcoholic liquor. (Authorized by K. S. A. 41-211, 41-717; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-3-11. Liquor must be stored in licensed premises; exception. All alcoholic liquor of a retail licensee shall be stored and maintained in the licensed premises of the licensee in a safe manner, and no such liquors shall be stored in *the licensed premises after the sale thereof, or be stored in* or transported to any other place, except upon written authority of the director. (Authorized by K. S. A. 41-210, 41-211; effective Jan. 1, 1966; amended Jan. 1, 1974.)

14-3-12. Storage of liquor of retailer in public bonded liquor warehouse permitted, when; reports of retailer and warehouseman. A retail licensee, who desires to remove some of his alcoholic liquor from his licensed premises to a public bonded liquor warehouse, shall first obtain the written permission of the director. After the delivery of the alcoholic liquor, he shall send to the director an itemized list showing the quantity and brands of the types of

alcoholic liquor delivered to the warehouse. A public bonded liquor warehouse shall report in writing to the director, all receipts of alcoholic liquor from retail licensees, giving the name, address, and license number of the licensee delivering the same, the date of such delivery, and the description of the quantity and brands of the types of alcoholic liquor delivered. A public bonded liquor warehouse shall report in writing to the director, all withdrawals of alcoholic liquor from its warehouse by a retail licensee, giving the name, address, and license number of the licensee who is withdrawing such alcoholic liquor, the date of such withdrawal, and a description of the quantity and brands of the types of alcoholic liquor so withdrawn. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-3-13. Records of purchases; invoices or sales tickets to be furnished by distributor; retention; records subject to inspection. Every retail licensee purchasing alcoholic liquor shall, at the time of delivery of such alcoholic liquor and at no other time, demand and receive from the licensed distributor selling such alcoholic liquor, and such distributor shall furnish and deliver in duplicate a serially numbered invoice, purchase order or sales ticket truly and correctly showing the kind, brand, quantity, and price of such alcoholic liquor purchased or sold, the date and place of purchase or sale, the name and address of the distributor and the name and address of the retail licensee. *At the time of delivery of such alcoholic liquor the retail licensee or his authorized agent shall sign the aforementioned invoice, purchase order or sales ticket.* Such retail licensee shall keep one copy of each such invoice, purchase order or sales ticket for the period of three years thereafter, which shall be open at all times to inspections by the director, his deputies or agents, or any other law-enforcing officer of the state of Kansas. The other copy of such invoices, purchase orders or sales tickets shall accompany the retailer's monthly report to the director. (Authorized by K. S. A. 41-211; K. S. A. 1971 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1972.)

14-3-14. Monthly report to director of liquor purchased. Every retail dealer in alcoholic liquors shall between the first and the fifteenth day of each calendar month make return to the director all alcoholic liquor purchased by him in the course of such business during the preceding calendar month. Such return shall be upon forms prescribed and furnished by the director, and shall contain the names and license numbers of the persons from whom

he purchased such alcoholic liquor, the price paid therefor, and such other information as the director may reasonably require. The licensee shall certify that the return is true and correct. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-3-15. Inducements with sale of alcoholic liquor prohibited. No retail licensee shall, directly or indirectly, offer or furnish any gifts, prizes, coupons, premiums, rebates, or similar inducements with the sale of any alcoholic liquor nor shall any retailer directly or indirectly offer, furnish, or sell any beer at less than their cost plus enforcement tax. (Authorized by K. S. A. 41-210, 41-211, 41-308; effective Jan. 1, 1966; amended Jan. 1, 1974.)

14-3-16. Opened containers of liquor on licensed premises prohibited. No retail licensee shall permit the original package or container of any alcoholic liquor to be opened in or on the licensed premises; nor shall he keep or permit to be kept on said premises any unsealed container or original package containing alcoholic liquor. The presence of any unsealed container or original package containing alcoholic liquor on the premises shall be considered as prima facie evidence of a violation of the act. The word "container" as used herein shall not include a shipping container of wine. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-3-17. Untaxed or unstamped liquor prohibited on licensed premises. No retail licensee shall have or permit on the licensed premises any alcoholic liquor other than beer or wine which does not have the Kansas identification stamp affixed as required by law and the rules and regulations of the director. (Authorized by K. S. A. 41-210, 41-211; effective Jan. 1, 1966; amended Jan. 1, 1973; amended Jan. 1, 1974.)

14-3-18. Drinking on premises prohibited. No retail licensee shall permit the drinking of alcoholic liquor in, on, or about the premises covered by said license. (Authorized by K. S. A. 41-211, 41-713; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-3-19. Intoxicated persons on licensed premises; retailer shall not permit. No retail licensee shall permit or allow an intoxicated person to frequent, loiter, or be employed upon the licensed premises. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210, 41-715; effective Jan. 1, 1966.)

14-3-20. Use of licensed premises for conduct of business of others prohibited. No retail licensee, his agent or employees, shall

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permit any other person to use his licensed premises for the purpose of carrying on, within such licensed premises, any business activity of such other person in any of its phases, including but not by way of limitation, solicitation, sale, service, delivery or storage, nor shall said retail licensee, his agent or employees, carry on any type of business other than the sale of alcoholic liquor on the retail premises. (Authorized by K. S. A. 41-211, 41-308; K. S. A. 1970 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1971.)

14-3-21. Retailer shall not consume or possess alcoholic liquor on premises of cereal malt beverage licensee. No retail licensee shall possess, have on his person or consume alcoholic liquor in, on, or about the licensed premises of any retail cereal malt beverage licensee unless said cereal malt beverage licensee is also a club licensed by the director under the authority of chapter 316, Laws of 1965. (Authorized by K. S. A. 41-103, 41-211; K. S. A. 1965 Supp. 41-210, 41-2634; effective Jan. 1, 1966.)

14-3-22. Certain rebates, agreements and transactions prohibited between retailers and distributors. No retail licensee shall accept or receive from any licensed distributor, his agent, servant, employee or any other person, any cash rebate or other thing of value, or enter into or be a party to any agreement or transaction whatsoever with any licensed distributor, directly or indirectly, which would result in, or have as its purpose, the purchase of any alcoholic liquors by such retailer at a price less than the listed price which has been filed by said distributor in the office of the director. (Authorized by K. S. A. 41-211, 41-712, 41-1101; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-3-23. Insufficient fund checks prohibited. No licensed retailer shall give a check drawn upon any bank to a licensed distributor in payment for alcoholic liquors purchased without having sufficient funds on deposit in said bank to pay said check upon presentment for payment. Any check which is not paid when presented for payment by reason of insufficient or no funds being on deposit in said bank with which to pay the same shall be prima facie evidence that the maker of said check has accepted and received credit from the distributor to whom said check was issued. (Authorized by K. S. A. 41-211, 41-702; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-3-24. Insufficient fund checks; how paid. If any licensed retailer shall give an insufficient or no-fund check to a licensed

distributor in payment for alcoholic liquors purchased by said retailer, said check shall be paid only by bank draft, cashier's check, express or postal money order. Under no circumstances shall another personal check of said retailer be accepted or received by said distributor in payment of said check. (Authorized by K. S. A. 41-211, 41-702; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-3-25. Requirements for deposit of checks; credit extension.

All checks, given in payment for alcoholic liquor purchased by a licensed retailer from a licensed distributor, shall be deposited for payment by the distributor *on or before the next distributor business day* after receipt of said check by said distributor, its salesman, agent or representative. The failure of a licensed distributor to

deposit any such check for payment *on or before the next distributor business day* after receipt thereof by said distributor, its salesman, agent or representative, shall be deemed a voluntary extension of credit by said distributor to a licensed retailer and a violation of the provisions of section 41-702 of the Kansas liquor control act. (Authorized by K. S. A. 41-211, 41-702; K. S. A. 1969 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1970.)

14-3-26. Insufficient fund checks; notice to director; extension of credit by distributor. Whenever a licensed distributor shall receive from a licensed retailer a check in payment for alcoholic liquors purchased and which check is returned and not paid by reason of insufficient or no funds being on deposit in the bank upon which said check is drawn with which to pay said check, said distributor shall immediately notify the director in writing of such fact and shall furnish in duplicate the following information to the director:

- (1) Name, address and license number of the licensee issuing the check.
- (2) The date and amount of said check.
- (3) Copy of invoice or invoices for which said check was given in payment.
- (4) The name and address of the bank upon which said check was drawn.
- (5) The name and address of the bank in which said check was deposited by the distributor.
- (6) The dates upon which said check was deposited and returned.

If any distributor shall fail, neglect or refuse to notify the director or furnish the information required by this rule, such failure, neglect or refusal shall be deemed an extension of credit from said distributor to said retailer and a violation of K. S. A. 41-702. (Authorized by K. S. A. 41-211, 41-702; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-3-27. Insufficient fund check; notice to director on payment. Whenever a licensed distributor has received an insufficient or no-fund check from a licensed retailer and has notified the director of such fact and as required by rule No. 14-3-26 and the retailer issuing such check shall subsequent thereto pay said check to the distributor, said distributor shall immediately upon receipt of payment notify the director in writing of the receipt of such

payment. (Authorized by K. S. A. 41-211, 41-702; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-3-28. Insufficient fund check; future sales for cash. If a licensed distributor has received an insufficient or no-fund check from a licensed retailer and the same has not been paid by the maker of said check, the distributor shall not sell or deliver any alcoholic liquor to said retailer except upon payment in cash, bank draft, cashier's check, or postal money order until notified by the director. (Authorized by K. S. A. 41-211, 41-702; K. S. A. 1970 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1971.)

14-3-29. Distributor must ship on C. O. D. basis; when. Any licensed distributor who has knowledge or information that a licensed retailer has issued an insufficient or no-fund check to any other licensed distributor in payment for alcoholic liquors shall not sell or deliver alcoholic liquors to any such retailer except on a cash or C. O. D. basis until notified by the director. (Authorized by K. S. A. 41-211, 41-702; K. S. A. 1970 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1971.)

14-3-30. C. O. D. shipments; payment for. All C. O. D. (collect on delivery) shipments of alcoholic liquors from a licensed distributor to a licensed retailer shall be paid for in cash, bank draft, cashier's check, or postal money order. (Authorized by K. S. A. 41-211, 41-702; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-3-31. Holding of checks prohibited. Any arrangement or agreement, express or implied, between a licensed distributor and a licensed retailer whereby the distributor holds or retains a check received by him from such retailer in payment of alcoholic liquors sold shall be deemed an extension of credit and a violation by both such retailer and distributor. (Authorized by K. S. A. 41-211, 41-702; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-3-32. Postdated checks prohibited. No licensed retailer shall give and no licensed distributor shall receive or accept any postdated or undated check in payment of alcoholic liquors. (Authorized by K. S. A. 41-211, 41-702; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-3-33. Payments from retailer to distributor; requirements for deposit of. All payments for alcoholic liquors sold by a licensed distributor to a licensed retailer shall be deposited by said distrib-

utor in a bank in the city in which the distributor's licensed premises are located.

If a distributor is the holder of more than one license issued for premises located in different cities within the state, all payments received from licensed retailers in payment for alcoholic liquors sold shall be deposited by said distributor in a bank in the city where the distributor's premises are located and from which said alcoholic liquors were sold and invoice issued. (Authorized by K. S. A. 41-211, 41-702; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-3-34. Requirement for payment by retailer to distributor. No alcoholic liquors shall be delivered to a licensed retailer by a licensed distributor, his agent, servant or employee without receiving payment therefor at the time of making such delivery or payment having been made by said retailer prior to such delivery. (Authorized by K. S. A. 41-211, 41-702; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-3-35. Sales to licensed clubs maintaining a liquor pool, retailer's reports. At the time each retailer files his return under regulation 14-3-14, the retailer shall also file with the director on forms supplied by the director a list of all sales, *including beer sales*, to persons acting as agents of a liquor pool maintained by a class A club licensed by the director under the authority of chapter 316, laws of 1965.

Retailers must give class A clubs an itemized sales slip in connection with all pool purchases. Sales slips must show the date of purchase, club's name and address, quantity, brand, bottle size, cost of each bottle, total cost of order after discount, if applied, and the total cost of order plus enforcement tax. The permit number of the club pooling agent must also be placed on the sales slip. (Authorized by K. S. A. 41-211, 41-702; K. S. A. 1971 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1972.)

14-3-36. Retailers; sales to or for minors prohibited. No retailer shall knowingly or unknowingly sell, give, or deliver any intoxicating liquor to any person under the age of twenty-one (21) years nor shall any retailer sell, give, or deliver any intoxicating liquor to any person if the retailer knows or has reason to know that said intoxicating liquor is being obtained for a person under twenty-one (21) years of age. (Authorized by K. S. A. 41-211; K. S. A. 1971 Supp. 41-210; effective, E-66-1, Jan. 14, 1966; effective Jan. 1, 1967.)

14-3-37. Retailers; sale of beer in kegs; providing necessary equipment. Retailers may furnish to customers who purchase kegs

of strong beer the necessary equipment in connection with the sale. Retailers may own their own ice tubs and pumps and require the customer to make a fair deposit for the equipment and beer keg. Upon return of the pump, ice tub and keg, the retailer must return the customer's full deposit. Under no circumstances may Kansas retailers rent or lease the equipment. (Authorized by K. S. A. 41-211, 41-308; K. S. A. 1971 Supp. 41-210; effective Jan. 1, 1972.)

14-3-38. Retailer shall not be employed by a licensed club. No retail licensee shall be employed by a club which is licensed by the director under the authority of chapter 316, Laws of 1965 in the capacity of an officer, a manager, or in connection with the mixing and dispensing of alcoholic liquor. (Authorized by K. S. A. 41-210, 41-211; effective Jan. 1, 1974.)

14-3-39. Retail parking signs. No retailer shall have any sign on the outside of the retail premises or upon the property where the premise is located without written approval of the director for said sign. (Authorized by K. S. A. 41-210, 41-211, 41-714; effective Jan. 1, 1974.)

14-3-40. Retailers requesting close-outs. No retailer after requesting permission to close out merchandise for the purpose of discontinuing the sale thereof, shall re-order the merchandise closed out for a period of 12 months from the date approval of the request is received from the director. (Authorized by K. S. A. 41-210, 41-211, 41-1117; effective Jan. 1, 1974.)

Article 4.—MANUFACTURERS, DISTRIBUTORS, NONBEVERAGE USERS

14-4-1. Manufacturers and distributors shipping alcoholic liquor (except beer) into state required to furnish affidavits and reports to director. Every manufacturer or distributor making shipment of alcoholic liquor, except beer, into the state of Kansas shall be required to furnish the director with an affidavit of the liquor shipment or other commercial document or form approved and authorized by the director covering each consignment of liquor made into this state. Said affidavit, document or form to be mailed at the time shipment leaves the warehouse and to contain such information as the director may require and a copy of the commercial document or form shall also be mailed to the consignee at the time of shipment. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1968.)

14-4-2. Manufacturers and distributors shipping beer into state required to furnish invoices to director. Every manufacturer or distributor making shipment of beer into the state of Kansas is required to furnish the director with a copy of the invoice covering each shipment of beer made into the state, which invoice shall be mailed at the time the shipment leaves the warehouse or brewery. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-4-3. Distributor must maintain in state an established place of business and stock of alcoholic liquor; records of sales and purchases. Every licensed distributor shall establish and maintain a place of business in this state and at which place his licensed business shall be carried on in good faith. Every licensed distributor shall keep and store in such established place of business a stock of alcoholic liquor in quantities reasonably adequate for and usually carried for the requirements of the type of business for which he is licensed. All records of alcoholic liquor bought and sold and all invoices and sales tickets shall be kept and be available in such established place of business for a period of three years. (Authorized by K. S. A. 41-211, 41-401; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-4-4. Licensed manufacturers' and distributors' reports of sales to nonbeverage users. Every licensed manufacturer or distributor shall between the first and fifteenth day of each calendar month make a return under oath to the director of all alcohol or wine sold by him in the course of such business during the preceding calendar month to a nonbeverage licensee. Such reports shall show the total amount of alcohol or wine received by such manufacturer or distributor for nonbeverage purposes, the quantities sold to any nonbeverage licensee, the name, address, and license number of such licensee, and such other and further information as the director may require. Such report shall be accompanied by certified copies of the receiving and withdrawal tickets. (Authorized by K. S. A. 41-211, 41-601; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-4-5. Reports by nonbeverage user licensees. Every nonbeverage user licensee shall between the first and fifteenth day of each calendar month make return to the director of all alcohol or wine purchased by him in the course of such business during the preceding calendar month. Such return shall be upon forms prescribed and furnished by the director and shall contain the names

and addresses of the persons from whom he purchased such alcohol or wine and such other information as the director may require. The licensee shall certify that the return is true and correct. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-4-6. Corporations; stock ownership records; inspection of records; change of ownership or control; notices to director. (1) Every corporation holding a manufacturer's, distributor's, or non-beverage user's license shall keep a register of all stockholders,

which shall contain their names, current addresses, amount of stock owned by each, and also the amount which may be voted by power of attorney or proxy. Said register shall also show the date of acquisition, or transfer of any stock and the date of execution or revocation of any power of attorney or proxy. Such register shall be open for inspection by the director, his agents or employees at all reasonable business hours.

(2) The records of every corporation holding a manufacturer's, distributor's, or nonbeverage user's license shall reflect the election of all directors, the appointment of all officers of the corporation and the employment of managers; and each corporation applying for any license of the classes above mentioned shall, at the time of application, furnish a certified statement containing: (a) The classes and amounts of stock authorized to be issued, the amount issued by class, and the names and addresses of stockholders with the class and amount held by each; (b) the names and addresses of all directors of the corporation; (c) the names and addresses of all officers of the corporation; (d) the names and addresses of any managers employed by the corporation; and (e) the names and addresses of persons authorized by proxy or power of attorney who vote any stock issued by the corporation.

(3) Every corporation holding a manufacturer's, distributor's or nonbeverage user's license shall notify the director within twenty days after the transfer of any stock, furnishing the name of the new stockholder and his address and amount of stock acquired. Notice shall also be given within twenty days after the election of new directors, changes in the officers of the corporation, and the employment of new or additional managers. As a part of said notice to the director there shall be included for each such stockholder, director, officer or manager an application on a form prescribed and furnished by the director setting forth such information as will enable the director to investigate the qualifications of the person submitting the same.

(4) Any transfer of the stock of a corporation holding a manufacturer's or nonbeverage user's license which results in any person holding in the aggregate more than twenty-five percent of all the stock of such corporation, if such person would be ineligible under the act to receive a manufacturer's license or nonbeverage user's license, as the case may be, for any reason other than citizenship and residence requirements of the act, shall constitute a change of ownership or transfer of control of such licensed business, and shall be deemed a sale of the business and shall require the sub-

mission of a new application in behalf of the corporation, its stockholders, officers, directors and managers within twenty days after the transfer of said stock.

(5) Any transfer of the stock of a corporation holding a distributor's license which results in any person holding any of the stock of such corporation, if such person would be ineligible under the act to receive a distributor's license, shall constitute a change of ownership or transfer of control of such licensed business and shall be deemed a sale of the licensed business and a new application shall be submitted in behalf of the corporation, stockholders, directors, officers, and managers within twenty days after the transfer of the stock, except that if such transfer of stock is occasioned by the death of a stockholder or is subject to any trust, it shall not constitute a change of ownership or sale for the purpose of determining the qualification of the corporation as a licensee until fourteen months shall have expired after the death of said stockholder or the effective date of the trust; but if during said fourteen months period, said stock shall be transferred to an eligible person as provided by subsection (4) (a) of section 41-311 of the act, said original transfer shall not constitute a change of ownership or sale to an ineligible person.

(6) The sale of the majority of the corporate stock or the transfer of control of a corporation holding a manufacturer's, distributor's, or nonbeverage user's license, shall constitute a change of ownership, and insofar as the act itself is concerned, shall be deemed a sale of the licensed business and shall require the submission of a new application in behalf of the corporation, each of its stockholders, directors, officers and managers within twenty days after the sale of said stock or transfer of control.

(7) On receipt of an application for a manufacturer's, distributor's or nonbeverage user's license, or application in behalf of any stockholder, director, officer or manager, the director shall cause an investigation to be completed to determine the eligibility of the corporation, partnership or individual applying for said license or applying for approval as a stockholder, director, officer or manager, and he may hold a hearing for that purpose. Five days notice of the time and place of the hearing shall be given to the applicant and the applicant shall be required to appear at any such hearing in support of his application. (Authorized by K. S. A. 41-211, 41-311, 41-316, 41-326; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-4-7. Unlawful discrimination by manufacturers among distributors; sales in bulk; price listings; schedules of minimum prices to retailers; penalties. (1) As used in this rule, the word "manufacturer," shall mean a manufacturer of alcoholic liquor other than beer and shall also include: (a) A corporate subsidiary of any such manufacturer who markets his products solely through a subsidiary or subsidiaries; and

(b) A distributor of alcoholic liquor, other than beer, manufactured or bottled in a foreign country.

(2) Every manufacturer, before selling or offering to sell any alcoholic liquor, except beer, to a licensed distributor, shall file with the director a written statement sworn to by him, or in case of a corporation, one of its principal officers, in which he shall agree that he will sell any of the brands or kinds of such alcoholic liquor manufactured or distributed by him to any licensed distributor, and that all such sales will be made to all such licensed distributors in this state at the same current price and without discrimination and that price lists showing the current prices will be filed by him in the office of the director each month.

(3) The price listings filed by a manufacturer with the director hereunder shall be the cash price for alcoholic liquors except beer, sold by the case and the cash and/or wholly or partly deferred payment price for alcoholic liquors, when sold in bulk, F. O. B. the manufacturer's warehouse or the point from which the manufacturer will make shipment and shall not include the gallonage tax imposed by the act. Said listings as to alcoholic liquors in cases shall show the place from where shipments will be made and the price per case for each size of original packages of each particular brand or kind of alcoholic liquor, other than beer, sold or offered for sale by such manufacturer; and shall contain such other information as the director may require. Said listings as to alcoholic liquors in bulk, posted by the barrel, shall show the age, price per proof gallon and original gauge in bond, for each class and type of particular brand or brands, if any, under which such alcoholic liquors in bulk will be bottled; and shall contain such other information as the director may require. Whenever a brand name or label of alcoholic liquor is offered in bulk it shall also be offered by the case at the time any proceeds of bulk purchases are imported into Kansas. All price projections required to be filed by manufacturers with the director shall be based on the manufacturer's case price to distributors. A certified copy of each contract used

for the sale of such alcoholic liquors must be filed with the director by the manufacturer making such sales. All contracts shall be uniform by individual suppliers to all wholesalers, except terms of credit.

(4) The director shall furnish each licensed distributor, as often as may be necessary, a list of the names and addresses of the manufacturers who have filed agreements and price lists in accordance with section 41-1101 of the act and this rule. The director shall notify each licensed distributor, except beer distributors, by registered mail, whenever any manufacturer violates or fails to comply with the provisions of section 41-1101 of the act or of this rule.

(5) A manufacturer shall be deemed to have discriminated against licensed distributors if he shall, directly or indirectly, or by any agent or employee: (a) Offer to sell or sell alcoholic liquor, except beer, on credit or in any manner to a distributor at a price less than the listed current price which he has filed with the director;

(b) Pay or offer to pay any of the transportation cost of such alcoholic liquor sold or offered for sale by him to a licensed distributor;

(c) Make or offer to make any secret rebate to, or enter into any transaction in any manner whatsoever with any distributor which would result in, or having as its purpose, the purchase of any such alcoholic liquor by a licensed distributor at a price less than the current price which he has filed with the director. The furnishing and distribution of free samples of alcoholic liquors shall be deemed a rebate;

(d) Require a licensed distributor to purchase in excess of one case lot of any brand, or kind, or container size of such alcoholic liquor sold by the case;

(e) Refuse to sell any brand or kind of alcoholic liquor, except beer, to a licensed distributor in any quantity ordered by a distributor in lots of one or more cases of such alcoholic liquor sold to distributors by the case, or in lots of the minimum number of barrels, which shall not be less than 10, offered for sale by the manufacturer on his price listing for any alcoholic liquor sold to distributors in bulk;

(f) Refuse to sell for cash at the listed current price any alcoholic liquor, except beer, to a licensed distributor, if such alcoholic liquor is ordered in a lot of one case or more when price listed

to distributors by the case; or, refuse to sell at the listed cash or wholly or partly deferred payment current price any bulk alcoholic liquor to a licensed distributor, if such bulk alcoholic liquor is ordered in a lot of the minimum number of barrels, which shall not be less than 10, offered for sale by the manufacturer on his price list to distributors;

(g) Refuse to sell any brand or kind of alcoholic liquor, other than beer, to a licensed distributor unless the licensed distributor shall purchase or agree to purchase alcoholic liquor of another kind, form, quantity, or brand in addition to, or partially in lieu of, the brand or kind of alcoholic liquor specifically ordered by the licensed distributor;

(h) Fails to fill orders of distributors for alcoholic liquor, other than beer, in the sequence and order in which such purchase orders from distributors are received by him: *Provided*, That this paragraph shall not apply where the manufacturer is operating under a rationing plan approved by the director under the provisions of section 41-1101 of the act;

(6) (a) No manufacturer, supplier, or licensed distributor of alcoholic beverages shall sell, offer for sale or deliver to any licensee, any alcoholic beverage unless a schedule of prices therefor shall first have been filed in the office of the director as designated in 14-4-7 (2) by the manufacturer or supplier of such brand;

(b) Schedules of prices to wholesalers required to be filed with the director shall be filed, in form to be prescribed by the director, not later than the first day of each month commencing September 1, 1966;

(c) Each licensed distributor shall file with the director a notarized statement, in form to be prescribed by the director, that the distributor shall not discriminate among retailers; and such distributor shall also file with such notarized statement a schedule of minimum prices to retailers in form to be prescribed by the director;

(d) Schedules of minimum prices to retailers and of minimum consumer resale prices shall be published periodically by the director, to become effective at the time as printed thereon and shall remain in effect from that time until changed through a subsequent publication by the director, and shall list by type and brand name the minimum prices to retailers and the minimum consumer resale prices. Said schedule of minimum prices to retailers and minimum consumer resale price lists shall be printed in

pamphlet form and mailed to all Kansas retailers not later than seven (7) days before the effective date of such price lists. All manufacturers who have filed such price schedules and lists shall be chargeable with a proportionate cost of the printing and mailing of the pamphlet so published and mailed;

(e) Application by a licensee privileged to sell alcoholic beverages at wholesale for a special permit authorizing the sale of any particular item affected by the price listed in the schedule of minimum prices to retailers at less than the price stipulated therein will be entertained by the director in the following situation: (1) Where the item was actually possessed by the licensee prior to the initial listing of the item in the schedule of minimum prices to retailers;

(2) Where the licensee is actually closing out his stock for the purpose of completely discontinuing sale of such item for a period of not less than twelve months;

(3) Where the item is damaged or deteriorated in quality and notice is given to the public thereof; and,

(4) Where sale of the item is by an officer acting under order of any court; and

(f) No licensee shall sell or offer for sale at wholesale, directly or indirectly, any alcoholic beverage listed in the then currently effective schedule of minimum prices to retailers published by the director at less than its listed price: *Provided, however,* That a special permit so to do may be granted by the director for special cause shown pursuant to (e) hereof.

The penalty for any violation of the requirements in 14-4-7 (6) (a) through (f) will result in suspension or revocation of license after due hearing provided in 14-16-1. (Authorized by K. S. A. 41-210, 41-211, 41-306, 41-1101, 41-1111 through 41-1121; effective Jan. 1, 1966; amended, E-66-10, Aug. 8, 1966; amended Jan. 1, 1967; amended Jan. 1, 1974.)

14-4-8. Unlawful discrimination by distributors among retailers. (1) Every licensed distributor before selling or offering to sell any alcoholic liquor, except beer, to any licensed retailers, shall file with the director a written statement sworn to by him, or, in case of a corporation, one of its principal officers, in which he shall agree that he will sell any of the brands or kinds of alcoholic liquor, except beer, distributed by him to any licensed retailer, and that all such sales will be made to all such licensed retailers in this state at the same current price and without discrimination.

(2) The director shall furnish each licensed retailer, as often as may be necessary, a list of the names and addresses of the licensed distributors who have filed agreements in accordance with section

41-1101 of the act and this rule. The director shall notify each licensed retailer, by registered mail, whenever any distributor violates or fails to comply with the provisions of section 41-1101 of the act or of this rule.

(3) A licensed distributor shall be deemed to have discriminated among licensed retailers if he shall, either directly or indirectly or by any agent or employee:

(a) Make an offer to make any secret rebate to or enter into any transaction in any manner whatsoever with any licensed retailer which would result in, or having as its purpose the purchase of any such alcoholic liquor by a licensed retailer at a price less than the current price which is filed with the director;

(b) Require a licensed retailer to purchase in excess of one-case lot of any brand, or kind, or container size of such alcoholic liquor;

(c) Refuse to sell any brand or kind of alcoholic liquor, except beer, to a licensed retailer for cash at the listed current price in any quantity ordered by the licensed retailer in lots of one or more cases;

(d) Refuse to sell any brand or kind of alcoholic liquor, other than beer, to a licensed retailer unless the licensed retailer shall purchase or agree to purchase alcoholic liquor of another kind, quantity, or brand in addition to, or partially in lieu of the brand or kind of alcoholic liquor specifically ordered by the licensed retailer;

(e) Fails to fill and ship orders of licensed retailers for alcoholic liquor, other than beer, in the sequence and order in which such purchase orders from licensed retailers are received by him: *Provided*, That this paragraph shall not apply where the distributor is operating under a rationing plan approved by the director under the provisions of section 41-1101 of the act. (Authorized by K. S. A. 41-211, 41-1101, 41-1111 through 41-1121; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-4-9. Manufacturers, wholesalers and distributors; possession of returned empty packages. No manufacturer, wholesaler, or distributor shall accept or have in his possession any returned empty original containers or packages of alcoholic liquor, except beer, unless authorized by the director. Empty beer containers or packages redeemed for deposit at a retail liquor store shall be redeemed only by persons legally authorized to purchase beer and the redemption amount shall only be the amount deposited and must be

paid as a credit on a simultaneous beer purchase. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-4-10. Licensed distributor's warehouse to be separate. Every licensed distributor of alcoholic liquor shall provide at his own expense a warehouse to be situated on and to constitute a part of his premises. Said warehouse shall be used solely and exclusively for the purpose of storage of alcoholic liquor, and shall be separate and apart from any and all other business or businesses operated in any such building wherein such warehouse is located. Alcoholic liquor shall not be stored in any other place except as provided in 14-5-4 of the rules and regulations. (Authorized by K. S. A. 41-211, 41-401; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-4-11. Manufacturer's price lists; requirements for filing. On the *fifteenth* day of each month every manufacturer or vendor filing prices pursuant to subsection (1) of K. S. A. 41-1101 and required to be filed under the provisions of 14-4-7 of the rules and regulations as amended shall file the current price, F. O. B. point of shipment, of each item of alcoholic liquor and the price so filed shall be the price for which said item shall be sold by such manufacturer or vendor to licensed distributors during the *second* calendar month immediately following the month in which said price is required to be filed. The price so filed shall be as low as the lowest price for which said item will be sold in any other state in the continental United States by the manufacturer of the item and by any vendor of the item who sells the item under any contract or arrangement with said manufacturer (after deducting therefrom all advertising, depletion and promotional allowances and rebates of every kind whatsoever made to purchasers in such other states) during the period in which such filing is in effect. As used herein the term "advertising, depletion and promotional allowances and rebates" shall only mean allowances and rebates made to wholesalers, distributors, retailers or other purchasers in those instances when such allowances or rebates actually result in the reduction of the purchase price. When the price of an item being filed is the same as the price was theretofore filed in this state, the director may require the manufacturer or vendor of said item to file and affirm the price by reference to such prior same price filing.

At the time of the filing of said prices every manufacturer or vendor who has filed prices of alcoholic liquor on the *fifteenth* day of said month shall file an affirmation that the price of each and

every item of alcoholic liquor so filed is as low as the lowest price (determined as hereinbefore provided) for which said item of alcoholic liquor will be sold in any other state in the continental United States by the manufacturer of the item and by any vendor of the item who sells the item under any contract or arrangement with said manufacturer or vendor during the period in which such filing is in effect.

Each such price list shall contain a complete description of the alcoholic liquors to be offered for sale during *the month concerned*. Said description as to the listing of alcoholic liquors in cases shall include brand, type, container size, number of containers in each case, the actual weight per each case, and shall show the proof of all alcoholic liquors, except wines and champagnes. Said description as to the listing of alcoholic liquors in bulk shall include the class and type, brand or brands, if any, state in which manufactured, and location of warehouse or warehouses in which stored. Price lists of all wines and champagnes shall show the alcoholic content. The container for all alcoholic liquors shall be in compliance with the container sizes specified in 14-6-2 of the rules and regulations as amended. Except as hereinbefore provided, no such price list shall be changed, altered, or amended after being filed in the office of the director without written approval of the director: *Provided*, At any time after the filing of any such price list and before the effective date thereof, such price list or any item shown thereon, with the written approval of the director, may be withdrawn upon written application of the manufacturer or vendor filing such price list.

Each manufacturer shall on the same day and date said price list or any amendment thereof is forwarded to the office of the director forward by certified mail to each and every licensed distributor within the state of Kansas, a true and correct copy of such price list or amendment which said manufacturer or vendor has forwarded to the office of the director. Each said manufacturer or vendor shall also file with the director an affidavit stating that true and correct copies of said price list or amendment have been forwarded by certified mail to each and every licensed distributor within the state of Kansas. The failure to mail copies of such price list or amendment or to file the required affidavit herein shall render such price list ineffective, and such manufacturer or vendor upon such failure to comply with this provision may be denied authority

to sell alcoholic liquors to licensed distributors within the state of Kansas.

The sale of, or the offer to sell, alcoholic liquors to a licensed distributor at the prices quoted in such price list or amendment before any such price list or amendment is in force and effect shall be deemed a discrimination among licensed distributors in the state of Kansas. (Authorized by K. S. A. 41-211, 41-1101, 41-1112, 41-1118, 41-1119; K. S. A. 1970 Supp. 41-210; effective Jan. 1, 1966; amended, E-66-11, Aug. 8, 1966; amended Jan. 1, 1967; amended Jan. 1, 1968; amended Jan. 1, 1971.)

14-4-12. Alcoholic liquor rationing; requirements for. If any manufacturer, or corporate subsidiary of any manufacturer who markets his products solely through a subsidiary or subsidiaries, rectifier, distiller or fermenter or a distributor of alcoholic liquor bottled in a foreign country shall not have a sufficient supply of alcoholic liquor, except beer, of any of the brands or kinds which he manufactures or distributes to fill and ship orders of all licensed distributors in this state in the sequence and order in which such purchase orders are received within forty-five (45) calendar days from the date the order of the licensed distributor bears, such manufacturer or distributor shall immediately advise the director of such fact and shall submit for the approval or rejection of the director an equitable plan of distribution of all such alcoholic liquors in short supply. The failure of any such manufacturer or distributor to notify the director or to submit a plan of distribution shall be grounds for the revocation of the authority of such manufacturer or distributor to sell or offer for sale any and all of the brands and kinds of alcoholic liquors manufactured or sold by said manufacturer or distributor. (Authorized by K. S. A. 41-1101; effective Jan. 1, 1966.)

14-4-13. Licensed distributor's orders for alcoholic liquor; requirements for filing. (1) Every licensed distributor in this state at the time of ordering and purchasing alcoholic liquor, except beer, from any manufacturer, or corporate subsidiary of any manufacturer who markets his products solely through a subsidiary or subsidiaries, rectifier, distiller or fermenter or a distributor of alcoholic liquor bottled in a foreign country shall mail to the office of director of alcoholic beverage control a full, true and correct copy of the said purchase order. No such order shall be shipped to any licensed distributor by any manufacturer or distributor unless said order shall affirmatively show on its face that a copy thereof has been filed in

the office of director of alcoholic beverage control. No orders shall be valid to require shipment after the last day of the next calendar month after that in which the order is placed: *Provided*, That if a manufacturer, distributor or vendor fails to ship an item which has been so purchased and shipment directed within the time aforesaid, then the manufacturer, distributor or vendor must place the order on back order and notify the director thereof and shall ship the same when available unless the licensed distributor shall authorize the cancellation of the order and notify the director thereof. *No subsequent orders for merchandise back ordered may be filled and shipped to any distributor until such time as all back orders of this merchandise have been filled: Provided further*, That no such back order shall be valid to require shipment after the last day of the next calendar month after that in which said order is placed on back order. In the event orders of more than one licensed distributor are placed on back order, the orders of such licensed distributors shall be filled in the sequence in which the original orders were received.

(2) If a supplier contemplates an increase in the price of an item, said supplier shall notify the director and all licensed distributors at least sixty (60) days prior to the commencement of the month in which the intended price increase is to be effective. Said notice of intent does not constitute a formal filing with the director; therefore, no specific price need be included. To insure the orderly sale of alcoholic liquor by avoiding conflict with the affirmation laws of other states, the director may require shipments of an item to licensed distributors at the current price to be made only in the month or months in which the price is posted. Further, in such instances, the director shall fix the time in which the distributor's orders must be placed with the supplier.

(3) In the event the licensed distributor's original order (a) was part of a carload or truckload shipment by common or contract carrier, the manufacturer, distributor or vendor shall be required to make shipment, or partial shipment if agreed to by the purchasing licensed distributor, by less than truckload or less than carload lot and adjust the freight on the basis of the carload or truckload shipment rate to Wichita, Kansas, unless the purchasing licensed distributor shall agree that such shipment may be delayed until the next carload or truckload shipment is made; or (b) was part of a truckload shipment by private carrier, the manufacturer, distributor or vendor shall be required to make shipment, or partial shipment

if agreed to by the purchasing licensed distributor, by less than truckload lot and prepay the freight thereon unless the purchasing licensed distributor shall agree that such shipment may be delayed until the next truckload shipment is made. No such freight adjustments or prepayments of freight shall be made unless the same are approved by the director. (Authorized by K. S. A. 41-211, 41-1101, 41-1111, 41-1119; K. S. A. 1971 Supp. 41-210; effective Jan. 1, 1966; amended, E-66-12, Aug. 8, 1966; amended Jan. 1, 1967; amended Jan. 1, 1970; amended Jan. 1, 1971; amended Jan. 1, 1972.)

14-4-14. Transportation of alcoholic liquor by distributors.

(1) A licensed manufacturer or distributor of alcoholic liquor shall ship or transport alcoholic liquor from his bonded warehouse to the premises of any other licensee by any common, contract or private carrier who holds a carrier's permit issued by the director. All beer consigned to a retail licensee shall be delivered during the hours and upon the days said retail premises are legally open. A licensed distributor of strong beer may, in addition to the above methods of delivery, deliver strong beer to a retail licensee at the warehouse of the beer distributor during the above-mentioned hours and the days when written permission for said retailer to pick up said beer is obtained from the director and exhibited to the beer distributor. *All orders from licensed retailers for alcoholic liquor, except beer: (a) Received in the office of a licensed distributor prior to or by 2:00 p. m. on any day shall not be delivered to any such licensed retailer until on or after the next business day; (b) received in the office of a licensed distributor after 2:00 p. m. on any day shall not be delivered to any such licensed retailer until on or after the second business day next following the receipt of such order: Provided, No delivery authorized to be made under clause (a) or (b) hereof shall be made to a retail licensee on any such authorized day unless such delivery is made after the legal opening hour and before the legal closing hour for such licensed retailer and unless such day is a legal day for the sale of alcoholic liquor at retail.*

(2) When alcoholic liquor, except beer, is shipped or transported by a private carrier, no other goods, wares or merchandise shall be transported in the same conveyance at the time such alcoholic liquor is being transported.

(3) No holder of an alcoholic beverage control salesman's permit shall be authorized to make deliveries to retail licensees. (Authorized by K. S. A. 41-210, 41-211, 41-401, 41-402, 41-1119;

effective Jan. 1, 1966; amended, E-73-21, June 29, 1973; amended Jan. 1, 1974.)

14-4-15. Sales and transfers of alcoholic liquor, except beer, between licensed distributors; requirements for. A licensed distributor may sell or transfer any alcoholic liquor (except beer) to another licensed distributor or to another of the transferor's licensed premises. The director may require a distributor to make written application for permission to sell or transfer any such alcoholic liquor by filing in duplicate an application giving the name, license number and location of the consignee, quantity, size of container, brands and kinds, and such other information as the director may require. All sales or transfers of alcoholic liquor from one licensed premise to another licensed premise shall be evidenced by proper withdrawal and receiving tickets which shall be filed forthwith in the office of the director. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-4-16. Inducements from manufacturers and distributors to retailers prohibited. No manufacturer of alcoholic liquor, holding a manufacturer's license under the act and no manufacturer of alcoholic liquor outside of this state manufacturing alcoholic liquors for sale and distribution within the state and no licensed distributor within this state, their agents, salesmen or representatives shall, directly or indirectly, offer, give or furnish any gifts, prizes, coupons, premiums, rebates, *quantity discounts*, entertainment, services of any employee, decorations, or any other inducement or thing of value of any kind to a licensed retailer. (Authorized by K. S. A. 41-210; 41-211, 41-702; effective Jan. 1, 1966; amended Jan. 1, 1974.)

14-4-17. Inducements from manufacturers to distributors prohibited. No manufacturer outside of this state manufacturing alcoholic liquor for sale and distribution within this state shall, directly or indirectly, offer, furnish or give any gifts, prizes, premiums, rebates, *price promotions*, entertainment, cash discounts, samples of alcoholic liquors, or any other inducement or thing of value to a licensed distributor, his spouse, agent, salesman or representative; and no licensed distributor, his spouse, agent, salesman or representative shall, directly or indirectly, accept or receive any such gift, prize, premium, rebate, *price promotions*, entertainment, cash discount, samples of alcoholic liquor, or any other inducement or thing of value. (Authorized by K. S. A. 41-210, 41-211, 41-1101; effective Jan. 1, 1966; amended Jan. 1, 1974.)

14-4-18. Records of distributor; requirements for keeping. Where a licensed distributor of alcoholic liquor is engaged in any other type or class of business or businesses, such distributor shall set up and keep a separate and complete set of records covering all alcoholic liquors bought and sold. Such records shall not be commingled with the records of any other type or class of business or businesses. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-4-19. Distributor; records of sales; requirements. Every licensed distributor of alcoholic liquor shall keep full, complete and accurate records of all sales of and receipts for alcoholic liquors. The minimum required records shall include a "sales and cash receipt record" showing clearly the following information:

- (1) Date of sale.
- (2) Invoice number.
- (3) Name of retailer or distributor.
- (4) Amount of sale.
- (5) Terms (cash or C. O. D.).
- (6) Date of payment.
- (7) Method of payment (cash, money order, check, cashier's check, bank draft).
- (8) Merchandise returned from customer.

The distributor may maintain a separate sales record and cash receipt record showing the information required in "1" through "8" in lieu of the single "sales and cash receipt record." If separate records are maintained, there shall be cross-references between entries on the sales record and cash receipt record. Supporting invoices for each sale shall be filed in an orderly and consistent manner to permit the matching of invoices with the entries on the sales and receipt records. (Authorized by K. S. A. 41-211, 41-602; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-4-20. Distributor; records of expenditures; requirements. Every licensed distributor of alcoholic liquor shall keep a full, separate, complete and accurate record of all expenditures. No such expenditures of a distributor shall be commingled with the expenditures of any other business or businesses operated by the distributor. The minimum required records shall show clearly and accurately for each expenditure the following information:

- (1) Date of payment.
- (2) Name of payee.

(3) Purpose of the expenditure in sufficient detail to permit a clear identification of the reason for the expenditure.

(4) Petty cash fund reimbursements must be supported by receipts, vouchers, other documents, showing the purpose of expenditure.

(5) Cross references to supporting documents.

All expenditures shall be supported by vouchers, invoices, bills, expense reports, or other documentary evidence properly cross-referenced and filed in an orderly and consistent manner to permit the matching of these documents with the entries on the expenditure record. (Authorized by K. S. A. 41-211, 41-602; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-4-21. Distributor; records of accounts. Every licensed distributor of alcoholic liquor shall have and keep a chart of accounts. All entries from the original document, invoice, receipt, voucher, bill or report shall be so designated on the face of the original instrument to clearly identify and classify its charge or credit into the records. (Authorized by K. S. A. 41-211, 41-602; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-4-22. Distributors; daily report and state copy of invoices; when to be sent. Every licensed distributor of alcoholic liquors, except distributors of beer, shall mail, postage prepaid, to the office of the director of alcoholic beverage control at the close of each business day a report of each and every invoice covering the sale or withdrawal of alcoholic liquors from the warehouse of said licensee on that day. Such report shall list in numerical order each and every *such* invoice issued that particular day and also shall show (1) date of sale, (2) invoice number, (3) name of retailer, distributor or supplier, and (4) dollar amount of sale. *The director may require that state copies of invoices shall accompany such reports.* (Authorized by K. S. A. 41-211; K. S. A. 1969 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1970.)

14-4-23. Director may withdraw, suspend or revoke authority of manufacturer or other supplier to do business in state, when; director may freeze sale of items of such manufacturer or supplier; licensees prohibited from selling frozen items; licenses may be suspended or revoked for violations. (1) The director may withdraw, suspend or revoke the authority of a manufacturer or other supplier to do business in this state whenever the director shall find that any such manufacturer or supplier is violating any provision of the act or any rule, regulation or order of the director promulgated there-

under or is failing to observe in good faith the provisions and purposes of the act and the rules, regulations and orders promulgated thereunder.

(2) Whenever the director shall withdraw, suspend or revoke the authority of a manufacturer or other supplier to do business in this state for any reason, the director may also issue an order against the continued sale by licensed distributors of any item or items supplied or sold by such manufacturer or supplier which order shall be known as a "freeze order." Notice of all such freeze orders shall be given all licensed distributors and thereupon, such licensed distributors shall not sell or offer for sale the item or items covered by such freeze order except as therein or thereafter authorized by the director. The director may require each licensed distributor to furnish the director with an inventory, by size, of each item covered by the freeze order.

(3) No licensee shall sell or offer for sale at wholesale, directly or indirectly, any alcoholic liquor against which there exists a freeze order issued by the director as authorized by subsection (2) of this rule and regulation.

(4) Any licensee violating the provisions of subsection (3) of this rule and regulation shall be subject to the suspension or revocation of his license after due citation and hearing as provided in rule and regulation 14-16-1. (Authorized by K. S. A. 41-211, K. S. A. 1972 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1973.)

14-4-24. Director authorized to issue "freeze orders," when. Whenever the director finds that discrimination has occurred or is occurring by manufacturers or suppliers of alcoholic liquor or to maintain and insure an orderly market or to properly administer and enforce the provisions of the Kansas liquor control act or acts supplementing or amending it or the rules and regulations promulgated thereunder, he shall issue an order against the continued sale by licensed distributors of any item or items supplied or sold by the offending manufacturer or supplier, which order shall be known as a freeze order. Notice of all such freeze orders shall be given all licensed distributors and thereupon such licensed distributors shall not sell or offer for sale the item or items covered by such freeze order except as therein or thereafter authorized by the director. The director upon issuance of a freeze order may require each licensed distributor to furnish the director with an inventory, by size, of each item covered by the freeze order. (Au-

thorized by K. S. A. 41-211, 41-1101, 41-1111, 41-1119; K. S. A. 1969 Supp. 41-210; effective E-66-13, Aug. 8, 1966; effective Jan. 1, 1967.)

14-4-25. Inspection of floor stock and coolers by beer distributors. A beer distributor, salesman or driver may inspect coolers in retail liquor stores and rotate beer located on the floor or in the stockroom to insure the quality of the beer contained therein, if permission is received from the retailer: *Provided*, That a beer distributor, salesman or driver is not allowed to stock beer coolers or rotate beer that is in said coolers except they may deposit the beer on the floor of walk-in coolers. (Authorized by K. S. A. 41-210, 41-211; effective Jan. 1, 1974.)

Article 5.—TRANSPORTATION; CARRIERS; STORAGE

14-5-1. Alcoholic liquor (except beer) transported into state or federal area only by bonded carriers. All alcoholic liquor, except beer, shipped into the state of Kansas shall be transported only by common, contract or private carriers which have been bonded and hold liquor carrier permits issued by the director. All alcoholic liquor which is taxable under the act and shipped into this state or a federal area in interstate commerce and which is consigned to a consignee or person located, residing, or stationed on or at a federal area shall be transported into this state or a federal area only by common, contract or private carriers which have been bonded and hold liquor carrier permits issued by the director: *Provided*, That where a licensed distributor is the holder of a valid private carrier permit issued by the Kansas corporation commission and is also the holder of a valid bonded liquor carrier permit issued by the director, such distributor may transport only alcoholic liquor owned exclusively by said distributor into the state of Kansas in compliance with the laws, rules and regulations of the interstate commerce commission and the Kansas corporation commission. (Authorized by K. S. A. 41-211, 41-408, 41-501a; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-5-2. Bonded carriers' permits; application; bond; vehicle certificates; fees. No carrier of merchandise, or other transportation line or route, for the transportation of merchandise in or into the state of Kansas or a federal area, his agent or employee, shall carry or transport alcoholic liquors, for the final release of which liquors, from a bonded warehouse in the state of Kansas, a permit has not been issued without first being designated by the director as a carrier of such liquors.

All applicants for carrier's permit shall file with their application, a bond executed by an incorporated surety company, authorized to do business in the state of Kansas, and signed by a Kansas resident agent on a form approved by the director in the following amounts:

| | |
|---|---------|
| For the operation of not more than two trucks | \$3,000 |
| For the operation of three or more trucks | 5,000 |
| For the operation of a railroad | 5,000 |
| For express companies | 5,000 |

No vehicle, other than an express or railroad car, shall be used by such carrier for the transportation of alcoholic liquor for the final release of which liquors, from a bonded warehouse in the state of Kansas, a permit has not been issued, unless there is displayed therein a certificate issued by the director identifying such vehicle as licensed for the transportation of such alcoholic liquor; and no vehicle, other than an express or railroad car, shall be used by such bonded carrier that is not owned or leased and used exclusively by such bonded carrier: *Provided*, That any carrier, using more than two trucks and having the name under which his permit is issued prominently painted on a permanent part of each vehicle that is being used to transport alcoholic liquor, will not be required to secure such certificate.

The following charges will be made for identification cards or certificates: \$0.50 each for the first three vehicles; and \$0.25 each for all additional vehicles. All monies received from such charges shall be paid into the state treasury by the director, and the state treasurer shall credit the same to the *state general fund*. (Authorized by K. S. A. 41-210, 41-211, 41-408, 41-501a; effective Jan. 1, 1966; amended Jan. 1, 1974.)

14-5-3. Bonded carriers' reports of liquor transported; suspension or revocation of permit for failure to make. (a) Every person holding a bonded carriers' permit for the transportation of alcoholic liquor, *except licensed Kansas distributors of alcoholic liquor*, shall make and furnish to the director upon such forms, as shall be provided by said director, monthly reports of all such alcoholic liquor hauled or transported by such bonded carrier. Such reports shall contain the names and addresses of the consignor and consignee, date and place received, destination, date of delivery, quantity of alcoholic liquor, and such other information as the director may require, and shall have duplicate bills of lading attached.

If any such carrier shall fail, neglect, or refuse to make such

reports regularly and promptly and deliver the same to the director by the tenth day of the following month, the permit of such carrier may be suspended or revoked after notice in writing and hearing by the director.

(b) Notwithstanding the foregoing provisions of this section, whenever a carrier shall make delivery in interstate commerce of alcoholic liquor which is taxable under the act to a consignee or person located, residing, or stationed on or at a federal area, said carrier shall within forty-eight (48) hours after such delivery (Saturdays, Sundays and holidays excepted), make and furnish to the director, upon such forms as shall be provided by the director, a report of the alcoholic liquor so delivered and if the tax imposed

by the act is collected by said carrier from said consignee or person a remittance of such tax shall accompany said report. If the consignee shall present to the carrier written evidence signed by the director that the tax on such alcoholic liquor has been paid, such written evidence shall accompany such report. Such reports shall contain the names and addresses of the consignor and consignee, date and place received, destination, date and hour of delivery, quantity of alcoholic liquor which shall be itemized by kind, brand name, proof, number of bottles or containers of each item and size, and such other information as the director may require, and shall have duplicate bills of lading attached. If any such carrier shall fail, neglect or refuse to make and deliver to the director such report within the time hereinbefore prescribed, the permit of such carrier may be suspended or revoked by the director after notice in writing and hearing. (Authorized by K. S. A. 41-211, 41-501a, K. S. A. 1968 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1969.)

14-5-4. Storage of alcoholic liquor in transit in public bonded liquor warehouses; reports of warehouseman. Whenever alcoholic liquor shall be transported into this state, consigned to a licensed distributor or licensed manufacturer of alcoholic liquor, such alcoholic liquor shall be deemed and considered to remain in transit until it is delivered to the bonded warehouse of the consignee thereof, and such alcoholic liquor may be stored in transit in a public bonded liquor warehouse within the state of Kansas, upon the following terms and conditions:

(1) That said public bonded liquor warehouse in which any alcoholic liquor shall be stored in transit, shall within forty-eight (48) hours of receipt of such alcoholic liquor give written notice to the director of receipt thereof, stating the names and addresses of the consignor and consignee, the description of the liquor, and the name of the carrier which delivered such liquor to said warehouse.

(2) That said public bonded liquor warehouse shall make delivery of such alcoholic liquor, or any part thereof, only to a carrier which has been designated by the director as a bonded alcoholic liquor carrier, for delivery by such carrier to a licensed manufacturer or licensed distributor who is the consignee of such liquor.

(3) That within forty-eight (48) hours after such alcoholic liquor has been removed from such public bonded liquor warehouse for delivery to the consignee thereof, said warehouse shall make written

report to the director setting out the name of the carrier to which such liquor has been delivered, the name and address of the consignee thereof, and a description of the liquor so delivered. (Authorized by K. S. A. 41-211, 41-408; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-5-5. Removal of alcoholic liquor from bonded warehouses restricted to hours between sunrise and sunset. No person shall remove any alcoholic liquor from any bonded warehouse at any time other than after sunrise and before sunset. (Authorized by K. S. A. 41-211, 41-407; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-5-6. Required delivery of alcoholic liquor to distributor by bonded common carrier. All alcoholic liquor transported into this state and consigned to a licensed distributor or a licensed manufacturer of alcoholic liquor shall be delivered to the consignee in the state of Kansas and shall be received into the consignee's bonded warehouse; and no part thereof shall remain in the hands of the carrier nor shall any carrier acquire any property rights in such alcoholic liquor. (Authorized by K. S. A. 41-211, 41-408; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

Article 6.—CONTAINERS AND LABELS

14-6-1. Containers, nature and form; change of original containers or labels. (1) All original packages of alcoholic liquors, *except beer*, sold or offered for sale in this state shall be constructed of such material and be in such form as has been generally found by the industry and recognized by federal and state enforcement officers to be safe, sanitary, and in no manner prejudicial to the health or interests of the public. All such original packages of alcoholic liquors shall, before being offered for sale or sold, be approved by the director as to nature and form. Effective September 10, 1955, all manufacturers, or corporate subsidiaries of any manufacturer who markets his products through a subsidiary, rectifiers, distillers, fermenters and distributors of alcoholic liquors bottled in foreign countries, shall submit a photograph of each container offered for sale in this state; said photographs shall be attached to and be a part of the price list of each such manufacturer or corporate subsidiary. Such photographs shall be no smaller than five inches by seven inches, nor larger than eight inches by ten inches. Several photographs will not be required by reason of different sized containers

of the same item, unless the nature and form of the container differ with the size. Each manufacturer or corporate subsidiary of a manufacturer who markets his products through a subsidiary, rectifier, distiller, fermenter and distributor of alcoholic liquors bottled in foreign countries, who wishes to offer alcoholic liquors for sale in this state shall, upon requesting authority to do so, furnish a copy of the price list containing such information as is required by the regulations for price lists, and it shall be accompanied by a photograph of each item contained on said price list for approval as to nature and form. After a container has been approved as to nature and form for sale in Kansas, it need not again be submitted for approval. No new container embodying changes as to nature and form for the same brand or kind of merchandise shall be sold or offered for sale until a photograph of said container shall have been submitted to the director for his approval. Only one (1) container for each brand, type, age and size will be offered for sale in Kansas, except in the case of Christmas decanters. Imported containers embodying substantially the same brand, type and age of alcoholic liquor as that offered domestically by the same manufacturer or supplier, or a subsidiary of same, may be approved for sale in Kansas at the discretion of the director. No container shall be offered for sale in this state at a price in excess of any other approved container for the same quantity of the same brand or kind of alcoholic liquor. No container shall be approved for sale in this state which, because of its novel design, composition or form, is, in the opinion of the director, an inducement to the public for the purpose of purchasing alcoholic liquors. It is the intent and purpose of this regulation to require the approval of containers as to composition, nature and form.

(2) Whenever any original package of alcoholic liquors which has been approved as provided by subsection (1) of this rule and regulation is changed by different labeling, closure, container, age or proof or changed in any other respect which in the opinion of the director constitutes a significant package change, the following procedure shall be followed: The new package, which reflects such change or changes, must, before being offered for sale or sold, be approved by the director as to nature and form and shall be subject to all of the provisions of subsection (1) of this rule and regulation. No shipments of the new package into this state will be permitted or shall be made unless and until the manufacturer or supplier concerned shall file in the office of the director a written statement in

which the manufacturer or supplier shall agree that he will remove from the state all of the old packages remaining in the inventories of the various distributors at the time the new package is offered for sale by the distributors. The manufacturer or supplier must agree that he will reimburse the distributors for the original cost thereof plus any shipping, transportation and delivery charges which have been paid by said distributors on said old packages: *Provided*, That in order to insure the orderly depletion of old packages in the inventories of licensed distributors, the manufacturer or supplier, subject to the approval by the director, shall have the right to redistribute, at the expense of the manufacturer or supplier, among licensed distributors, the remaining stocks of the old packages prior to the release of the new packages. The manufacturer or supplier, in connection with the offering of the new packages, shall advise the distributors, subject to the approval by the director, of the date on which the manufacturer or supplier proposes that the distributors offer the new package for sale to retailers and at the same time shall furnish each such distributor a copy of the agreement which the manufacturer or supplier has filed with the director with respect to the taking back and reimbursement for all of the old packages. All inventories of the old package in the hands of the distributors on the date fixed for the offering for sale of the new package by the distributor shall be shipped out of the state at a time mutually agreed upon by the distributor and the manufacturer or supplier concerned, subject to the approval by the director: *Provided*, *If any distributor shall fail to have the old packages at the approved points of shipment on the date approved by the director, the obligation of the manufacturer or supplier to reimburse said distributor for any shipping, transportation, and delivery charges which said distributor paid on old packages shall cease: Provided further, Failure of a distributor to have the old packages at the points for shipment on the date approved by the director may be grounds for suspension of the license of said offending distributor.* (Authorized by K. S. A. 41-211; K. S. A. 1970 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1970; amended Jan. 1, 1971.)

14-6-2. Capacities of containers. Alcoholic liquors shall only be sold or offered for sale at retail in this state in original packages of the following capacities:

(1) *Beer*: 6½ fluid ounces, 7 fluid ounces, 8 fluid ounces, 10 fluid ounces, 11 fluid ounces, 12 fluid ounces, 15 fluid ounces, 16 fluid ounces, 24 fluid ounces, 25.6 fluid ounces, 1 quart, ½ gallon, 1 gallon,

2¼ gallon (tapper), ⅓ barrel (3¾ gal.), ¼ barrel (7½ gal.), ½ barrel (15½ gal.), 1 barrel (31 gal.).

(2) *Wine*: ⅓ pint, 1 pint (imports only), ¼ quart, 1 quart, ½ gallon, 1 gallon, ⅔ gallon for sparkling and carbonated wines only; Aperitif wine (including vermouth) may be sold or offered for sale at retail in this state in original packages having a capacity of 15/16 quart if the gallonage tax thereon is paid at the full quart rate per bottle.

Wine manufactured and bottled outside the borders or confines of the United States may be sold or offered for sale at retail in this state in containers of any size containing ⅓ pint or more if permitted by the bureau of internal revenue, and the gallonage tax is paid thereon as provided by paragraph (2) of 14-7-6.

For tax purposes a variance in content will be permitted within a fraction of a fluid ounce in bottles of champagne, carbonated or sparkling wines. This means that a 26-ounce bottle may be considered as ⅓ of a gallon or a 25.6 ounce bottle, or 13-ounce bottle may be considered as ¼ of a gallon or a 12.8-ounce bottle.

(3) Alcoholic liquor other than beer and wine: ½ pint, ¼ gallon, 1 pint, ¼ quart, 1 quart, ½ gallon, 1 gallon: *Provided*, That domestic whiskey, including bonded bourbon, bonded rye, straight bourbon, straight rye, all blends of neutral spirits, corn whiskey and scotch type whiskey, alcohol, domestic and imported gin, vodka, tequila, and Canadian imported whiskey shall not be offered for sale in containers of one-tenth (⅒) gallon.

Domestic brandies, prepared cocktails, rum, American cordials, liqueurs and specialties, flavored gin, flavored vodka and flavored whiskey shall not be offered for sale in containers of one pint size.

For approval purposes of containers offered for sale, a variance in content may be permitted within two fluid ounces for the above approved sizes for prepared cocktails, imported and domestic cordials, liqueurs and specialties. (Authorized by K. S. A. 41-211; K. S. A. 1971 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1967; amended Jan. 1, 1968; amended Jan. 1, 1972.)

14-6-3. Labels on containers of alcoholic liquor except beer, nature. Each original package of alcoholic liquor, except beer, offered for sale in this state shall bear a label setting forth in plain and legible print in the English language:

(a) The quantity of such liquors in such original package;

(b) The class and type of such liquors together with their alcoholic content;

(c) If the liquor be a blended product (except wine), the labels shall include the percentages of all ingredients contained in such blended product: *Provided*, That if any of the provisions of this regulation are contrary to or in violation of regulation No. 5 relating to labeling of distilled spirits as amended to April 1, 1942, of the federal alcohol administration act, the federal regulation shall be followed in all labeling of alcoholic liquor sold or offered for sale in the state of Kansas. (Authorized by K. S. A. 41-209, 41-211, 41-706; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-6-4. Labels on containers of beer, nature. Each original package of beer offered for sale in this state shall bear a label setting forth in plain and legible print in the English language, and in the manner permitted by federal laws and regulations with respect to the labeling of beer, the word "beer" or "ale" or other name listed in subsection (3) of section 2 of the act, the number of fluid ounces contained therein, and such additional information as may be required by such laws and regulations. (Authorized by K. S. A. 41-209, 41-211, 41-706; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-6-5. Labels, false representations prohibited. No label on any original package of alcoholic liquor shall contain any false or misleading representations. (Authorized by K. S. A. 41-209, 41-211, 4-706; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-6-6. Private labels, requirements for use of. A licensed distributor may be authorized to bottle, label and sell to licensed retailers, under labels owned by the distributor, alcoholic liquors except beer purchased in bulk by class or type providing such liquors are labeled in accordance with the following:

(1) Before a distributor shall offer for sale or sell such liquor, said distributor shall submit an application, verified positively, for approval of each label to be used in the bottling of alcoholic liquors purchased by class or type.

(2) Said application shall consist of the following:

(a) *Ownership.* The application shall include a statement that the label, including brand name, designs, pictures, slogans and descriptive phraseology, is the exclusive property of the applicant. If the label or any component part thereof has been used previously, full particulars relating to said use shall be given including prior users, where used, and how said label or part thereof was acquired.

(b) *Copyright or trademark.* If said label or any brand name, design, picture, slogan or phraseology has been the subject of a

copyright, patent or trademark under the laws of the United States or the various states, the application shall show where and by whom such action was taken with dates and identifying numbers being given.

(c) *Acquisition of label.* A statement shall be included stating that the label was created and designed by the distributor or setting out from whom said label including brand name, designs, pictures, slogans or phraseology was secured. Copies of contracts or agreements relating to the acquisition of said label and relating to the bottling of said liquors shall be attached. If said contracts or agreements are implemented by letters of intent, oral or other commitments, copies of all instruments with a statement of the details of oral commitments shall be attached.

(d) *Resemblance to other labels.* A statement shall be included that the proposed label including brand name, designs, pictures, slogans and phraseology bears no resemblance in any material manner to any label now used by any person, association or corporation in this or another state in the knowledge and belief of the applicant.

(e) *Submission of copies.* Two copies of each front and back label, neck label and any other design, picture, slogan or descriptive phraseology which shall be attached to the container shall be submitted with the application, with a photostatic or certified copy of the formal certificate of label approval issued by the United States government.

(3) All labels to be affixed to alcoholic liquors for bottling and labeling pursuant to this regulation shall include thereon the statement, "distilled and bottled by" or "bottled by" as the case may be, followed by the name of the person, association or corporation first offering said alcoholic liquors for sale in Kansas to licensed distributors for bottling under labels owned by a distributor.

(4) On receipt of the foregoing, the director shall approve or disapprove said label. Additional information may be required in support of the application. If after approval, the label is changed, a new application shall be submitted.

(5) If it shall appear that the information upon which approval was given is incorrect or that a label exists resembling the approved label in a material feature, an inquiry shall be made and approval of the label may be withdrawn if the facts warrant. Misrepresentation, withholding of information, or fraud shall be cause for the issuance of a citation for the purpose of suspension or revocation of

the applicant's license. (Authorized by K. S. A. 41-211, 41-306, 41-1101; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

Article 7.—TAX, TAX STAMPS; CROWNS, LIDS

14-7-1. Tax, nature of; paid only once; purchased by, sale and delivery of tax stamps to a consignee located or stationed on or at a federal area, etc. (a) The tax imposed by the act is a tax imposed upon the manufacturing, using, selling, storing or purchasing of alcoholic liquors in this state or a federal area. Said tax shall be paid only once. The payment of the tax by a consignee located, residing or stationed on or at a federal area on alcoholic liquor delivered in interstate commerce to such consignee and the payment of the tax on all beer, regardless by whom payable or paid, shall be evidenced by the affixing of the proper Kansas alcoholic liquor tax stamps to the original package or shipping container as provided in the act and the rules and regulations of the director.

(b) All orders for liquor tax stamps, by a consignee located, residing or stationed on or at a federal area shall be on a form provided by the director and shall be signed by said consignee or his authorized agent. All such orders for stamps shall be accompanied by a remittance for the stamps which shall be by cash, certified check, bank draft, post office or express money order. Liquor tax stamps ordered and paid for by a consignee located, residing, or stationed on or at a federal area to evidence the payment of the tax imposed by the act on alcoholic liquor delivered in interstate commerce to such consignee on or at a federal area, and stamps necessary to evidence the payment of the tax paid by such consignee to a carrier, shall be delivered by an agent of the director and shall be affixed by said agent to the containers or packages of alcoholic liquor subject to such tax. Such delivery and affixation of stamps shall be made and executed within forty-eight (48) hours after receipt of order and payment (Saturdays, Sundays and holidays excepted) unless said consignee shall request a later delivery. The consignee shall be required to pay the actual cost of the delivery and the affixing of such stamps and the director may require payment or guarantee of payment prior to delivery. Immediately after receipt of and payment for an order of stamps from such a consignee the director shall mail to said consignee written evidence in duplicate, signed by the director, that the tax imposed on certain alcoholic liquors has been paid by said consignee. The original of such written evidence shall be presented to and given to the carrier

when such alcoholic liquor is delivered to the consignee on or at such federal area.

(c) The tax on alcoholic liquor which is transported in interstate commerce into this state or a federal area without the tax thereon having been paid for delivery to a consignee or person located, residing or stationed on or at a federal area, shall be evidenced by the affixing of a Kansas tax-paid stamp to each individual original package by the director or agent of the director at the federal area where the same is delivered.

(d) Alcoholic liquor delivered in interstate commerce to a consignee or person located, residing, or stationed on or at a federal area and which is subject to the tax imposed by the act, shall not be opened, used, or dispensed until and unless there is affixed on the original container a Kansas tax-paid stamp showing that the tax on such individual original package has been paid: *Provided*, This provision shall not apply to alcoholic liquor on which the Kansas liquor tax has been paid. (Authorized by K. S. A. 41-211, 41-501a, 41-502; K. S. A. 1965 Supp. 41-210, 41-501; effective Jan. 1, 1966.)

14-7-2. Beer, crowns, lids, and labels; stamping of master carton, keg shipments. Effective on and after January 1, 1962, beer containing more than three and two-tenths percent (3.2%) of alcohol by weight will not be required to have an identifying mark on each container evidencing Kansas tax paid. All labels attached to the original package must have the approval of the director of alcoholic beverage control before said package may be sold in the state of Kansas. Each case of bottled or canned beer shipped into the state of Kansas by a beer manufacturer or supplier must have the legend, "Kansas strong," or other appropriate language, stamped in black lettering on the exterior master carton in any position normally used for code dates, or as approved by the director. Labels, crowns and lids used for the packaging of strong beer for the state of Kansas need not indicate the alcoholic content. All kegs of strong beer shipped into the state of Kansas must be identified by a distinctive bung or have the tax identification stamp affixed thereto. Said stamps to be obtained from the director of alcoholic beverage control, state of Kansas. (Authorized by K. S. A. 41-211, 41-503; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-7-3. Beer, payment of tax, penalty, refund. Effective January 1, 1962, the tax on beer containing more than three and two-tenths percent (3.2%) of alcohol by weight as levied by the act shall be payable by each beer manufacturer or supplier on or

before the tenth day of the calendar month next succeeding the month in which the beer manufacturer or supplier ships said beer from his warehouse or point of shipment. Said payment shall be by check and shall be accompanied by a report under oath to the director upon forms to be furnished by the director, showing separately the total amount of beer shipped in each size to licensed Kansas distributors during the preceding calendar month. (Authorized by K. S. A. 41-211, 41-504, 41-505; K. S. A. 1972 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1968; amended Jan. 1, 1973.)

14-7-4. Alcoholic liquor other than beer; payment of tax; penalty; bond required; credit. The tax on alcoholic liquor, other than beer as levied by the act and payable by a distributor shall be paid by the distributor on or before the fifteenth day of the calendar month next succeeding the month in which the distributor acquires possession of said alcoholic liquors upon which the tax has not been paid. Said payment shall be by check and shall be accompanied by a report to the director upon forms to be furnished by the director, showing separately the exact total amount in gallons of: (1) Wine and other dilute alcoholic beverages containing 14% or less of alcohol by volume; (2) wine and other dilute beverages containing more than 14% of alcohol by volume; (3) alcohol and spirits of 100 proof or less; and (4) alcohol and spirits of more than 100 proof or fractional parts thereof received by said distributor during the preceding calendar month.

The tax on all alcoholic liquors, except beer, upon which the tax has not been paid, in the possession of a sheriff which is to be sold under an order of the court having jurisdiction thereof, shall be paid by the sheriff before such sale by the filing of a report upon forms to be furnished by the director setting forth the description and the amount of all alcoholic liquors to be sold, and remitting therewith the amount of the tax by cash, certified check, bank draft, post office or express money order.

That in addition to the bond required by the act, every licensed distributor shall furnish a bond running to the director for the term of the license of said distributor in a penal sum fixed and in a form approved by the director, executed by the distributor as principal and by a corporate surety authorized to do business in the state of Kansas as surety and conditioned upon the payment of the tax and penalties imposed by the act and this section upon such distributor. That in fixing the amount of the bond, the director shall require a bond equivalent in amount to twice such

distributor's estimated highest monthly tax ascertained in such reasonable manner as the director may deem proper: *Provided*, That the total amount of the bond required of the distributor shall in no event be less than \$15,000: *Provided further*, That said additional bond may be combined with the surety bond required by section 41-317 of the act.

No licensed distributor shall accept any money from a manufacturer or another distributor to be used for the payment of the tax on alcoholic liquor, nor shall any distributor or manufacturer advance any money to a licensed distributor for the purpose of paying said tax. (Authorized by K. S. A. 41-210, 41-211, 41-502; effective Jan. 1, 1966; amended Jan. 1, 1968; amended Jan. 1, 1973; amended Jan. 1, 1974.)

14-7-5. (Authorized by K. S. A. 41-211, 41-502; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked Jan. 1, 1974.)

14-7-6. **Kansas liquor stamps; securing, affixation to original package; who shall affix, placing of stamps.** All alcoholic liquor other than beer and wine shall be identified by a Kansas liquor identification stamp which shall be placed thereon for identification only in accordance with the rules and regulations of the director. All orders for Kansas liquor identification stamps shall be made by a licensed distributor, or manufacturer authorized to do business in Kansas, or a sheriff, the cost, including handling charges, of which shall be paid by the distributor, or manufacturer or sheriff. Said orders shall be on a form provided by the director and shall be signed by a licensed distributor, manufacturer, sheriff, or their authorized agents. The liquor stamps so ordered shall be furnished by the director: *Provided, however*, That no liquor stamps will be furnished to sheriffs until the tax as levied by the act shall have been paid to the director.

The Kansas liquor identification stamp shall be affixed to each original package of such alcoholic liquor at the place where such alcoholic liquor, other than beer and wine, is manufactured, or such original package is filled: *Provided*, That in all cases where such alcoholic liquor, other than beer and wine, is bottled in a foreign country and is imported into the United States, such Kansas liquor identification stamps may be affixed to such original packages by the person importing the same into the United States at the place within the United States where the shipment of such alcoholic liquor, other than beer and wine, into the state of Kansas originated. A licensed distributor or licensed manufacturer may stamp

in his bonded warehouse any alcoholic liquor, other than beer and wine, bottled in a foreign country, within 96 hours after receiving such alcoholic liquor in his bonded warehouse in the manner prescribed by the act and the rules and regulations of the director. Nothing contained in this rule and regulation shall be construed as changing or altering the provisions of the act or rules and regulations of the director, which require that all consignments of alcoholic liquor shall be made to licensed manufacturers or distributors in the state of Kansas or which prescribe and fix any other duties and responsibilities of such licensed distributors or manufacturers with reference to alcoholic liquor.

Each Kansas liquor identification stamp on alcoholic liquor, other than beer and wine, shall be placed in a horizontal position upon a smooth surface on the front side, neck or shoulder of each original package in such manner that the stamp will be plainly visible. Discretion shall be exercised in selecting the location for the Kansas liquor stamp to avoid mutilation of the stamp and the covering of any age designation, bottled-in-bond identification, brand name or other required information. (Authorized by K. S. A. 41-210, 41-211, 41-502; effective Jan. 1, 1966; amended Jan. 1, 1974.)

14-7-7. (Authorized by K. S. A. 41-211, 41-502; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966; revoked Jan. 1, 1974.)

14-7-8. Beer; manufacturer's contract and bond; reports. The director may enter into a contract with any beer manufacturer or supplier of beer who desires to do business in the state of Kansas. The contract shall extend to such manufacturer the privilege of paying the state of Kansas the tax as set forth by the Kansas liquor control act, as amended, in K. S. A. 1965 Supp. 41-501, and in the manner as provided by the rules and regulations of the director, in particular, 14-7-3. Nonlicensed manufacturers or suppliers of beer, in addition to entering in the contract shall submit a corporate surety bond issued by a company authorized to transact business in the state of Kansas, and in the sum as set forth in K. S. A. 41-409, on behalf of the state of Kansas for the payment of all taxes or duties required to be paid to the state of Kansas, and such bond shall be countersigned by a Kansas resident agent for the surety. All beer manufacturers or suppliers shall appoint an agent residing in Kansas, upon whom process may be served relating to any action growing out of this contract and to supply documentary evidence of the appointment of such agent to the director. The manufac-

turer shall make such monthly reports and in such form as required by the director. (Authorized by K. S. A. 41-211, 41-409, 41-505; K. S. A. 1965 Supp. 41-210, 41-501; effective Jan. 1, 1966.)

14-7-9. Filing of agreements; cancellation. All agreements between beer manufacturers or suppliers of beer and wholesalers or distributors of beer must be filed with the office of the alcoholic beverage control division at the time of filing application for a distributor's license. If oral, a detailed written explanation of its terms must be furnished to the director. If written, a copy of the agreement must be submitted to the director for the files of the alcoholic beverage control division: *Provided*, That no agreement so filed shall be cancelled or transferred except upon notice to the director and reasonable opportunity for the director to determine that the terminated licensee has complied with all provisions of the alcoholic beverage control act. (Authorized by K. S. A. 41-210, 41-211; effective Jan. 1, 1974.)

Article 8.—ADVERTISING

14-8-1. "Advertisement" defined. The word "advertisement," as used in this article shall mean and include any advertisement, of alcoholic liquor through the medium of newspapers, periodicals, circulars, pamphlets, or other publications or any sign or outdoor advertisement or any other printed or graphic matter. (Authorized by K. S. A. 41-211, 41-714; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-8-2. Prohibited statements and restrictions in the advertising of alcoholic liquor. No advertisement of alcoholic liquor shall contain:

- (1) Any statement that is false or misleading in any manner;
- (2) Any statement, design, device, or representation which is obscene or indecent;
- (3) Any statement concerning the brand of alcoholic liquor that is inconsistent with any statement on the labeling thereof;
- (4) Any statement of or reference to the price of such alcoholic liquor, if the advertisement is directed to the public;
- (5) Any statement concerning or illustrations of women, children, or family scenes *which are immodest, undignified, or in bad taste*;
- (6) Any statement, *design, device, or representation of or relating to any guaranty, irrespective of falsity, which is likely to mislead the consumer*;

for
Children
Sports
Regulation

(7) *Any statement, design, or device representing that the use of any alcoholic liquor has curative or therapeutic effects, if such statement is untrue in any particular or tends to create a misleading impression;*

(8) *Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity which is likely to mislead the customer;*

(9) *Any statement that the product is produced, blended, made, bottled, packed, or sold under, or in accordance with, any authorization, law, or regulation of any municipality, county, or state, federal or foreign government unless such statement is required or specifically authorized by the laws or regulations of such government; and if a municipal, county, state, or federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto;*

(10) *Any statement that alcoholic liquor was manufactured in, or imported from, a place or country other than that of its actual origin or was produced or processed by one who was not in fact the actual producer or processor;*

(11) *Any statement, design, device, or pictorial representation of or relating to, or capable of being construed as relating to the armed forces of the United States, or of the American flag, any state flag, or of any emblem, seal, insignia, or decoration associated with any such flag or the armed forces of the United States; nor shall any advertisement contain any statement, device, design or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia, likely to falsely lead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated;*

(12) *Restrictions: An advertisement for alcoholic liquor shall not contain: (a) The words "bond," "bonded," "bottled in bond," "aged in bond," or phrases containing these or synonymous terms, unless such words or phrases appear upon the labels of the distilled spirits advertised and are stated in the advertisement in the manner and form in which they appear upon the label; or*

(b) Any statement, design, or device directly or by implication concerning age or maturity of any brand or lot of alcoholic liquor unless a statement of age appears on the labels of the advertised product. When any such statement, design, or device concerning

age or maturity is contained in any advertisement, it shall include (in direct conjunction therewith and with substantially equal conspicuousness) all parts of the statement concerning age and percentages, if any, which appear on the label. However, an advertisement for any whisky or brandy, which does not bear a statement of age on the label, or an advertisement for rum which is four years or more old, may contain general inconspicuous age, maturity or other similar representations, e. g., "aged in wood" or "mellowed in fine oak casks."

(13) No Kansas licensee shall be allowed to advertise any alcoholic liquor by brand name: Provided, however, That this restriction shall not apply to the advertising of private labels when the same are advertised by the licensed distributor owning such label. (Authorized by K. S. A. 41-211, 41-714; K. S. A. 1970 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1971.)

14-8-3. Public display of alcoholic liquor regulated. No public display of alcoholic liquor shall be made in any place or at any other location than the licensed premises. (Authorized by K. S. A. 41-211, 41-714; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-8-4. Retail licensees; marking price on original packages; use of price and/or inventory control tags; shelf markings. The retail selling price may be legibly marked on the original package by means of crayon, grease pencil or other similar method. Retail licensees may affix to an original package a price and/or inventory control paper tag not to exceed two inches by two inches in size. No luminous nor fluorescent nor similar paper shall be used for price and/or inventory control tags. The use of black on white or white on black removable numbers not exceeding three-fourths ($\frac{3}{4}$) inch in height may be attached to the shelf edge or edges designating the retail selling price. *Retail licensees having authorized coolers or refrigerators may place on such refrigerator or cooler or on a nearby wall the list of cold items available and the price per item, pack or case provided the numbers and letters are black on white or white on black and do not exceed three-fourths ($\frac{3}{4}$) inch in height.* (Authorized by K. S. A. 41-211, 41-714; K. S. A. 1970 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1971.)

14-8-5. Signs inside licensed premises and display of "dummy" bottles prohibited. No licensee shall display on the inside of such licensed premises any sign, poster, placard, design, or decoration advertising alcoholic liquor; nor shall any such licensee use any "dummy" bottle for any display purposes; *nor shall any such licensee*

use any rotating or motor-driven apparatus on the licensed premises without first obtaining the written approval of the director. (Authorized by K. S. A. 41-210, 41-211, 41-714; effective Jan. 1, 1966; amended Jan. 1, 1974.)

14-8-6. Advertising on vehicles prohibited. The advertising of alcoholic liquor *except beer* on any vehicle is prohibited. (Authorized by K. S. A. 41-210, 41-211, 41-714; effective Jan. 1, 1966; amended Jan. 1, 1974.)

14-8-7. House-to-house solicitation prohibited. No manufacturer, importer, distributor or retailer shall, directly or indirectly, solicit from house to house, personally, by telephone or mail the purchase or sale of alcoholic liquor, nor allow, permit, or suffer any such solicitation. (Authorized by K. S. A. 41-211, 41-714; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-8-8. Signs on buildings prohibited. No signs advertising alcoholic liquor shall be painted or in any manner exhibited on the exterior or interior of any building. (Authorized by K. S. A. 41-211, 41-714; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-8-9. Lighting of exterior of licensed premises. The use of any neon electric lighting to illuminate the exterior of any licensed premises, regardless of where such neon light may be located, is prohibited. A retailer may install exterior lighting, except neon, on the exterior of said licensed premises for safety purposes after first having obtained permission and approval for such lighting from the director. (Authorized by K. S. A. 41-211, 41-714; K. S. A. 1970 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1968; amended Jan. 1, 1971.)

14-8-10. Advertising referring to certain holidays and special days prohibited. No manufacturer, distributor, or retailer shall publish or cause to be published or otherwise circulate in the state of Kansas any advertisement referring to the days popularly known as Mother's Day, Easter or Holy Week. It is the intent and purpose of this regulation to prohibit any form of advertisement of alcoholic liquor which makes any use of or reference to any of the days or occasions named herein by the names set forth or by other names or appellations. (Authorized by K. S. A. 41-211, 41-714; K. S. A. 1970 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1971.)

14-8-11. Advertising by radio, television, motion pictures, gifts, etc. prohibited. No licensee shall advertise any alcoholic liquor *nor place of business* over the radio, television, public ad-

dress system; or by means of motion pictures, still slides, or film strips; or by the gift or distribution of recipe books, matches or similar advertising media: *Provided, however,* That a retail licensee may provide shirts or jackets for bowling, baseball, or other athletic teams so long as the advertising to be placed on the garment consists solely of the name and address of the liquor store as it appears on the retail license: *Provided further,* That any manufacturer or supplier may advertise wine or beer over the radio, television, public address system, or by means of motion pictures, still slides or film strips. (Authorized by K. S. A. 41-210, 41-211, 41-714; effective Jan. 1, 1966; amended Jan. 1, 1968; amended Jan. 1, 1970; amended Jan. 1, 1972; amended Jan. 1, 1974.)

14-8-12. Advertising by photographs of licensed premises prohibited. No photograph of the interior or exterior of a retailer's or a distributor's licensed premises shall be used in any manner to advertise or display alcoholic liquors. (Authorized by K. S. A. 41-211, 41-714; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-8-13. Advertising by decorated or undecorated boxes, cartons, bags, etc.; prohibitions. No licensed manufacturer of alcoholic liquor under this act and no manufacturer of alcoholic liquor outside of this state manufacturing alcoholic liquor for sale and distribution within this state shall sell, furnish, give, distribute or deliver to any licensed distributor or retailer within this state and no licensed distributor or retailer shall accept, receive, use or display any boxes, cartons or bags which bear any symbols, designs, pictures, slogans or descriptive phraseology which may in any manner be construed as having any connotation with any of the following days: Mother's day, Easter or *Holy Week*. The use of colors or combination of colors with geometric or artistic designs is not prohibited hereunder providing the designs and colors do not result in a design or symbol prohibited herein. No licensed manufacturer of alcoholic liquor and no manufacturer of alcoholic liquor outside Kansas shall sell, furnish, give, distribute or deliver to such distributor or retailer and no such distributor or retailer shall accept, receive, use or display any wrapping paper or other display material of any kind. (Authorized by K. S. A. 41-211, 41-712, 41-714; K. S. A. 1970 Supp. 41-210; effective Jan. 1, 1966; amended Jan. 1, 1971.)

Article 9.—SALESMAN'S PERMITS

14-9-1. Salesman, representative or agent defined. "Salesman," "representative" or "agent" shall mean and include any natural person who procures or seeks to procure an order, bargain, contract or agreement for the sale of alcoholic liquors, or who is engaged in promoting the sale of alcoholic beverages, or in promoting the busi-

ness of any person, firm or corporation engaged in the manufacturing and selling of alcoholic liquors, whether the seller resides within the state of Kansas and sells to licensed buyers within the state of Kansas, or whether the seller resides without the state of Kansas and sells to licensed buyers within the state of Kansas. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-9-2. Salesman's permits required. Any natural person may act as the salesman, representative or agent for the sale of, or the taking or soliciting of orders for, the sale of alcoholic liquors in the state of Kansas after such person shall have first applied for and received a permit therefor from the director of alcoholic beverage control: *Provided*, That no such permit shall be required of a licensed retailer or his employee. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-9-3. Application for permit, fee. Any natural person over the age of twenty-one (21) years, except the holder of a license to sell alcoholic liquor at retail and his or her spouse, who does not have the same disqualifications of persons to whom licenses may not be issued as set forth in subsection (1), (b) through (i) inclusive and (l) of section 41-311 of the Kansas liquor control act, may make application to the director for a salesman's permit, which application shall be in such form and shall include such terms as the director may prescribe, and shall include a provision that the holder will comply with the Kansas liquor control act and the rules and regulations of the director: *Provided*, Such disqualification set forth in said subsection (1), (b) through (i) inclusive and (l) of section 41-311 of the Kansas liquor control act shall not apply to any natural person who is an applicant for a salesman's permit who has held a salesman's permit for the preceding year and has not, within the preceding twelve (12) months become disqualified under this subsection (1), (b) through (h) inclusive and (l) of said section 41-311 of the Kansas liquor control act. The application and the permit issued pursuant thereto shall set forth the name and address of the person, firm or corporation whom said applicant represents and also the name, address and a description of the applicant. Said applicant shall not represent any person, firm or corporation whose name does not appear on said permit as his employer. No person shall act as salesman, representative or agent for more than one person, firm or corporation under one permit. Additional permits may be granted the same applicant for additional principals. Upon approval of any application by the director, the director shall issue

a permit to said applicant for one (1) year upon the payment of an annual fee of \$10.00, which fee shall accompany the application. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-9-4. Salesmen required to exhibit permit on demand. All salesmen, representatives or agents shall exhibit their permits at any time while engaged in soliciting, taking orders for, or promoting the sale of alcoholic liquors upon demand of any agent or employee of the director, or upon request of any licensee. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-9-5. Licensees prohibited from purchasing from other than a permit holder. No licensee shall purchase alcoholic liquor from, or give an order to, any person who is not the holder of a permit duly issued hereunder. This shall not prohibit an employee of a licensed distributor from soliciting while on the licensed premises of his employer. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-9-6. Notice required upon severance of employment by salesman and employer. If a salesman shall leave the employ of the employer specified on his permit, he shall immediately notify the director and surrender his permit within five (5) days. Failure to surrender the permit within the said five (5) days shall make such salesman ineligible for any other permit for a period to be determined by the director. It shall also be the duty of the employer whose name is specified on the salesman's permit to notify the director within five (5) days of the termination of said salesman's employment. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-9-7. Notice required upon change of address. If the holder of a salesman's permit changes his address from that noted on his application, he shall notify the director of such change of address within five (5) days. Failure to so notify the director of a change of address shall make the salesman's permit subject to revocation. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-9-8. Revocation or suspension of salesman's permit, authority or license of employer. If the holder of a salesman's permit shall violate the provisions of the Kansas liquor control act or any of the rules and regulations promulgated thereunder, the director may suspend or revoke any and all permits issued to said salesman,

and in addition thereto, may suspend or revoke the authority of the employer to sell alcoholic liquors to licensed distributors within the state of Kansas, and may also revoke or suspend the license of any licensed distributor where such salesman is an employee of a licensed distributor. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-9-9. Permit, restriction on issuance. No permit shall be issued except to a person who, in good faith, devotes a major part of his time to selling, or taking or soliciting of orders for the sale of alcoholic liquors and whose principal occupation is that of a salesman, representative or agent of the person, firm or corporation on whose behalf the application is filed: *Provided, however,* That the foregoing shall not prohibit the issuance of a permit to a person regularly employed on a full-time basis by a manufacturer or licensed distributor of alcoholic liquors and who as an incident to his regular employment for said manufacturer or distributor may sell, take or solicit orders for the sale of alcoholic liquors. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-9-10. Salesman, representative or agent of manufacturers, distributors and wholesalers; certain sales, gifts and retail interests prohibited. No salesman, representative or agent of a manufacturer, distributor or wholesaler shall directly or indirectly: (1) sell, supply, furnish, give or pay for, or loan or lease, any furnishing, fixture or equipment on the premises of a place of business of another licensee authorized under this act to sell alcoholic liquor at retail; (2) pay for any such license, or advance, furnish, lend or give money for payment of such license; (3) purchase or become the owner of any note, mortgage or other evidence of indebtedness of such licensee or any form of security therefor; (4) be interested in the ownership, conduct or operation of the business of any licensee authorized to sell alcoholic liquor at retail; or (5) be interested, directly or indirectly, or as owner, part owner, lessee or lessor thereof, in any premises upon which alcoholic liquor is sold at retail; *Provided,* that any person having any such interest as described above shall not be eligible to receive or to hold a salesman, representative or agent's permit for a manufacturer, distributor or wholesaler. (Authorized by K. S. A. 41-211; K. S. A. 1969 Supp. 41-210; effective, E-69-22, Sept. 16, 1969; effective Jan. 1, 1970.)

Articles 10-15.—RESERVED FOR FUTURE USE

Article 16.—LICENSES: SUSPENSION, REVOCATION

14-16-1. Director may revoke licenses for violations of act or rules and regulations; citation to licensees; hearing. If it is found by the director that any licensee is violating any provisions of the Kansas liquor control act or the rules of the director promulgated thereunder, or is failing to observe in good faith the provisions and purposes of the act, the license of such licensee may be suspended or revoked by the director after due citation and opportunity to be heard at a public hearing. (Authorized by K. S. A. 41-209, 41-211, 41-320, 41-702, 41-709; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-16-2. Cities and townships may file complaints with director against licensees violating act; hearing; notices. The governing body of any city or the township board of any township may file a complaint with the director stating that any licensee has been, or is violating the provisions of the act or the rules and regulations issued pursuant thereto. Such complaint shall be in writing and shall specifically state the violations complained of or the rules and regulations violated. Upon receipt of such a complaint, the director shall cause an investigation to be made, and if the director finds that there are reasonable grounds to believe that such licensee has violated the provisions of the act or the rules and regulations promulgated thereunder, he shall set the matter for hearing by issuing and serving a citation on the licensee. The governing body making such complaint shall also be notified of such hearing and may appear and offer evidence in support of such charges or complaints. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-16-3. Proceedings for suspension or revocation of licenses; notice to licensee of time and place of hearing; right of licensee to appear at hearing. All proceedings and hearings for the suspension or revocation of licenses shall be before the director or deputy director upon a citation issued by the director or deputy director and under the seal of the director. The citation shall be in writing and shall state the charges or complaints the licensee is called upon to answer. Said citation shall be served upon the licensee by mailing the same, by registered mail, properly addressed to the licensee at the address of the licensed premises or may be served upon such

licensee by the director or any agent or employee of the director or by a sheriff of the county in which the licensed premises are situated in the manner provided by the code of civil procedure for the service of summons in civil actions. Said citation shall state the date, time and place where said proceeding and hearing will be held, which date shall be not less than ten days from the date of the mailing or service of the citation. The licensee may appear in person and by counsel at said proceeding and hearing and produce such witnesses and evidence as he deems necessary or advisable in the protection of his interests. (Authorized by K. S. A. 41-211, 41-320; K. S. A. 1965 Supp. 41-201, 41-210; effective Jan. 1, 1966.)

14-16-4. Notice to certain state, county, city and township officers when license suspended or revoked. Upon the suspension or revocation of a license, if the licensed premises are within an incorporated city, the governing body of such city shall be notified of such suspension or revocation and, if said licensed premises are located outside of an incorporated city, the county attorney and

the sheriff of the county and the township clerk of the township in which the licensed premises are located shall be notified of such suspension or revocation. The director of revenue of the state commission of revenue and taxation shall be notified of all suspensions and revocations of retailers' licenses. (Authorized by K. S. A. 41-211, 79-4104; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-16-5. Operation of business while license suspended or revoked forbidden; when order of suspension or revocation effective. No person whose license has been suspended or revoked shall operate under such license during the period of such suspension or revocation except as provided by the act; and any such suspension or revocation shall be effective from the date such order is determined and fixed by the director and as set out in said order. (Authorized by K. S. A. 41-211, 41-323; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-16-6. Service of orders, decisions, directives and notices of director on licensees and applicants for licenses. All orders, decisions, directives and notices of the director issued to or affecting a licensee or an applicant for a license shall be served upon said licensee or applicant by mailing, by registered mail properly addressed, to the licensee or applicant a copy of such order, decision, directive or notice, signed by the director or deputy director and under the seal of the director. If the service is to be made on a licensee, the copy shall be mailed to the licensee at the address of the licensed premises. If the service is to be made on an applicant for a license, the copy shall be mailed to the applicant at his address as shown on the application for the license. (Authorized by K. S. A. 41-211, 41-321; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

Article 17.—MISCELLANEOUS

14-17-1. Surety bonds; form and requirements. All bonds required to be executed under the provisions of the act or the rules and regulations of the director shall be to the state director of alcoholic beverage control for and on behalf of the state of Kansas, and executed by good and sufficient corporate sureties licensed to do business within the state of Kansas. Each said bond shall be countersigned by a Kansas resident agent whose authority to sign

said bond shall be evidenced by a duly and properly executed power of attorney, and said power of attorney shall be attached to each said bond at the time of filing the same with the director. (Authorized by K. S. A. 41-211, 41-317, 41-404, 41-408, 41-409, 41-505; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-17-2. Sacramental wine, importation, sale, transportation, and delivery. No license of any kind shall be required of any person to ship wine into this state which is to be used exclusively for sacramental purposes, when such wine is shipped by common carrier and consigned to any bona fide priest, pastor, bishop, rabbi, preacher or minister of the gospel of any religious faith or denomination, and the container, barrel, case, or carton thereof is plainly and legibly labeled: "Wine to be used exclusively for sacramental purposes"; and no licenses or transportation permit, shall be required for the importation and the delivery, transportation, or distribution within this state of any such wine when it is consigned to any such bona fide priest, pastor, bishop, rabbi, preacher or minister of the gospel, and the container, barrel, case, or carton is plainly and legibly labeled as above required. (Authorized by K. S. A. 41-211; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-17-3. Sheriffs' sales of confiscated liquor; sheriff to make report of sales to director. Whenever any identification stamps shall be sold to a sheriff to be placed upon confiscated alcoholic liquors which he has been authorized to sell by a court having authority to issue such an order of sale, the sheriff conducting said sale shall make a return under oath to the director which return shall show: The names and addresses of the person or persons to whom such alcoholic liquor was sold, the quantity of each particular type, brand and kind of alcoholic liquor sold to each purchaser, and if any purchaser is a licensed distributor or retailer the license number of said purchaser shall be shown upon said return. (Authorized by K. S. A. 41-211, 41-306, 41-504, 41-708, 41-1106; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

14-17-4. Subterfuge in effort to circumvent rules deemed violation. Any act which may be construed as a subterfuge in an effort to circumvent any of these rules and regulations shall be deemed a violation of the rule or regulation attempted to be circumvented. (Authorized by K. S. A. 41-211, 41-722; K. S. A. 1965 Supp. 41-210; effective Jan. 1, 1966.)

PRINTED BY
ROBERT R. (BOB) SANDERS, STATE PRINTER
TOPEKA, KANSAS

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