

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.

(4) The term "affiliate" means any one of two or more persons if one of such persons has actual or legal control, directly or indirectly, whether by stock ownership or otherwise, of the other or others of such persons; and any one of two or more persons subject to common control, actual or legal, directly or indirectly, whether by stock ownership or otherwise.

(5) The term "distilled spirits" means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for non-industrial use.

(6) The term "wine" means (1) wine as defined in section 610 and section 617 of the Revenue Act of 1918 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.

(7) The term "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.

(8) The term "bottle" means any container, irrespective of the material from which made, for use for the sale of distilled spirits, wine, or malt beverages at retail.

(b) Right to amend or repeal

The right to amend or repeal the provisions of this subchapter is expressly reserved.

(c) Separability

If any provision of this subchapter, or the application of such provision to any person or circumstance, is held invalid, the remainder of the chapter and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(Aug. 29, 1935, ch. 814, title I, § 117, formerly § 17, 49 Stat. 989; 1940 Reorg. Plan No. III, § 2, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; renumbered title I, § 117, and amended Pub. L. 100-690, title VIII, § 8001(a)(1), (2), (b)(2), Nov. 18, 1988, 102 Stat. 4517, 4521.)

REFERENCES IN TEXT

The Revenue Act of 1918, referred to in subsec. (a)(6), is act Feb. 24, 1919, ch. 18, 40 Stat. 1057. Sections 610 and

617 of the Revenue Act of 1918, relating to the definition of "wine", were originally classified to sections 441 and 444 of former Title 26, and were thereafter included as sections 3036, 3044 and 3045 of the Internal Revenue Code of 1939. Provisions of the Internal Revenue Code of 1986 relating to the definition and classification of wine appear in sections 5373(a), 5381 to 5388, and 5392 of Title 26, Internal Revenue Code.

CODIFICATION

As originally enacted subsection (a)(1) of this section defined the term "Administrator" whose appointment was authorized under section 202 of this title. This definition is no longer effective since Reorg. Plan No. III of 1940, set out in the Appendix to Title 5, Government Organization and Employees, abolished the Federal Alcohol Administration and provided that its functions, funds, personnel, and property should be transferred to the Secretary of the Treasury to be administered through the Bureau of Internal Revenue [now Internal Revenue Service]. See, also, Transfer of Functions note set out under section 201 of this title.

AMENDMENTS

1988—Pub. L. 100-690, § 8001(b)(2), substituted "this subchapter" for "this chapter" wherever appearing.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

§ 212. Omitted

CODIFICATION

Section, act June 26, 1936, ch. 830, title V, § 504, 49 Stat. 1965, proposed a transfer of the appropriations authorized for the Federal Alcohol Administration created by section 202 of this title to the Administration created by section 202b of this title. It was to have taken effect when a majority of the members authorized to be appointed under section 202b of this title took office. The members, however, were never appointed.

SUBCHAPTER II—ALCOHOLIC BEVERAGE LABELING

§ 213. Declaration of policy and purpose

The Congress finds that the American public should be informed about the health hazards that may result from the consumption or abuse of alcoholic beverages, and has determined that it would be beneficial to provide a clear, non-confusing reminder of such hazards, and that there is a need for national uniformity in such reminders in order to avoid the promulgation of incorrect or misleading information and to minimize burdens on interstate commerce. The Congress finds that requiring such reminders on all containers of alcoholic beverages is appropriate and necessary in view of the substantial role of the Federal Government in promoting the health and safety of the Nation's population. It is therefore the policy of the Congress, and the purpose of this subchapter, to exercise the full reach of the Federal Government's constitutional powers in order to establish a comprehensive Federal program, in connection with the

manufacture and sale of alcoholic beverages in or affecting interstate commerce, to deal with the provision of warning or other information with respect to any relationship between the consumption or abuse of alcoholic beverages and health, so that—

(1) the public may be adequately reminded about any health hazards that may be associated with the consumption or abuse of alcoholic beverages through a nationally uniform, nonconfusing warning notice on each container of such beverages; and

(2) commerce and the national economy may be—

(A) protected to the maximum extent consistent with this declared policy,

(B) not impeded by diverse, nonuniform, and confusing requirements for warnings or other information on alcoholic beverage containers with respect to any relationship between the consumption or abuse of alcoholic beverages and health, and

(C) protected from the adverse effects that would result from a noncomprehensive program covering alcoholic beverage containers sold in interstate commerce, but not alcoholic beverage containers manufactured and sold within a single State.

(Aug. 29, 1935, ch. 814, title II, § 202, as added Pub. L. 100-690, title VIII, § 8001(a)(3), Nov. 18, 1988, 102 Stat. 4518.)

EFFECTIVE DATE

Section 210 of title II of act Aug. 29, 1935, as added Nov. 18, 1988, Pub. L. 100-690, title VIII, § 8001(a)(3), 102 Stat. 4521, provided that: “Except as provided in section 204(a) [27 U.S.C. 215(a)], this title [enacting this subchapter] shall take effect on the date of its enactment into law [Nov. 18, 1988].”

SHORT TITLE

For short title of title II of act Aug. 29, 1935, which is classified to this subchapter, as the “Alcoholic Beverage Labeling Act of 1988”, see section 201 of act Aug. 29, 1935, set out as a note under section 201 of this title.

§ 214. Definitions

As used in this subchapter—

(1) The term “alcoholic beverage” includes any beverage in liquid form which contains not less than one-half of one percent of alcohol by volume and is intended for human consumption.

(2) The term “bottle” means to fill a container with an alcoholic beverage and to seal such container.

(3) The term “bottler” means a person who bottles an alcoholic beverage.

(4) The term “commerce” means—

(A) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, or Johnston Island and any place outside thereof;

(B) commerce between points in any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the

land, the Midway Islands, Kingman Reef, or Johnston Island, but through any place outside thereof; or

(C) commerce wholly within the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, or Johnston Island.

(5) The term “container” means the innermost sealed container irrespective of the material from which made, in which an alcoholic beverage is placed by the bottler and in which such beverage is offered for sale to members of the general public.

(6) The term “health” includes, but is not limited to, the prevention of accidents.

(7) The term “person” means an individual, partnership, joint stock company, business trust, association, corporation, or any other business or legal entity, including a receiver, trustee, or liquidating agent, and also includes any State, any State agency, or any officer or employee thereof.

(8) The term¹ “sale” and “distribution” include sampling or any other distribution not for sale.

(9) The term “Secretary” means the Secretary of the Treasury.

(10) The term “State” includes any political subdivision of any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, or Johnston Island.

(11) The term “State law” includes State statutes, regulations, and principles and rules having the force of law.

(12) The term “United States”, when used in geographical sense, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, and Johnston Island.

(Aug. 29, 1935, ch. 814, title II, § 203, as added Pub. L. 100-690, title VIII, § 8001(a)(3), Nov. 18, 1988, 102 Stat. 4518.)

§ 215. Labeling requirement

(a) Statement required on container

On and after the expiration of the 12-month period following November 18, 1988, it shall be unlawful for any person to manufacture, import, or bottle for sale or distribution in the United States any alcoholic beverage unless the container of such beverage bears the following statement:

“GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.”

¹ So in original. Probably should be “terms”.

(b) Conspicuous and prominent location of statement on container

The statement required by subsection (a) of this section shall be located in a conspicuous and prominent place on the container of such beverage, as determined by the Secretary, shall be in type of a size determined by the Secretary, and shall appear on a contrasting background. The Secretary shall make such determinations within 90 days after November 18, 1988.

(c) Alcoholic beverages intended for export; beverages intended for Armed Forces of the United States

Subsection (a) of this section shall not apply with respect to alcoholic beverages that are manufactured, imported, bottled, or labeled for export from the United States, or for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States: *Provided*, That this exemption shall not apply with respect to alcoholic beverages that are manufactured, imported, bottled, or labeled for sale, distribution, or shipment to members or units of the Armed Forces of the United States, including those located outside the United States.

(d) Powers of Secretary; rules and regulations; consultation and coordination with Surgeon General

The Secretary shall—

(1) have the power to—

(A) ensure the enforcement of the provisions of this subchapter, and

(B) issue regulations to carry out this subchapter, and

(2) consult and coordinate the health awareness efforts of the labeling requirements of this subchapter with the Surgeon General of the United States.

(Aug. 29, 1935, ch. 814, title II, § 204, as added Pub. L. 100-690, title VIII, § 8001(a)(3), Nov. 18, 1988, 102 Stat. 4519.)

REFERENCES IN TEXT

The internal revenue laws of the United States, referred to in subsec. (c), are classified generally to Title 26, Internal Revenue Code.

§ 216. Preemption

No statement relating to alcoholic beverages and health, other than the statement required by section 215 of this title, shall be required under State law to be placed on any container of an alcoholic beverage, or on any box, carton, or other package, irrespective of the material from which made, that contains such a container.

(Aug. 29, 1935, ch. 814, title II, § 205, as added Pub. L. 100-690, title VIII, § 8001(a)(3), Nov. 18, 1988, 102 Stat. 4520.)

§ 217. Report to Congress

If, after appropriate investigation and consultation with the Surgeon General carried out after the expiration of the 24-month period following November 18, 1988, the Secretary finds that available scientific information would justify a change in, addition to, or deletion of the statement, or any part thereof, set forth in sec-

tion 215(a) of this title, the Secretary shall promptly report such information to the Congress together with specific recommendations for such amendments to this subchapter as the Secretary determines to be appropriate and in the public interest.

(Aug. 29, 1935, ch. 814, title II, § 206, as added Pub. L. 100-690, title VIII, § 8001(a)(3), Nov. 18, 1988, 102 Stat. 4520.)

§ 218. Civil penalties

Any person who violates the provisions of this subchapter shall be subject to a civil penalty of not more than \$10,000, and each day shall constitute a separate offense.

(Aug. 29, 1935, ch. 814, title II, § 207, as added Pub. L. 100-690, title VIII, § 8001(a)(3), Nov. 18, 1988, 102 Stat. 4520.)

§ 219. Injunction proceedings; compromise of liability

(a) The several district courts of the United States are vested with jurisdiction, for cause shown, to prevent and restrain violations of this subchapter upon the application of the Attorney General of the United States acting through the several United States attorneys in their several districts.

(b) The Secretary is authorized, with respect to any violation of this subchapter, to compromise the liability arising with respect to such violation upon payment of a sum for each offense, to be collected by the Secretary and to be paid into the Treasury as miscellaneous receipts.

(Aug. 29, 1935, ch. 814, title II, § 208, as added Pub. L. 100-690, title VIII, § 8001(a)(3), Nov. 18, 1988, 102 Stat. 4520.)

§ 219a. Severability

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the validity of the remainder of this subchapter and this chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Aug. 29, 1935, ch. 814, title II, § 209, as added Pub. L. 100-690, title VIII, § 8001(a)(3), Nov. 18, 1988, 102 Stat. 4521.)

CHAPTER 9—LIQUOR ENFORCEMENT ACT OF 1936

§§ 221 to 228. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862

Section 221, act June 25, 1936, ch. 815, § 1, 49 Stat. 1928, related to citation of this chapter.

Section 222, act June 25, 1936, ch. 815, § 2, 49 Stat. 1928, related to definitions. See sections 1262 and 3615 of Title 18, Crimes and Criminal Procedure.

Section 223, act June 25, 1936, ch. 815, § 3, 49 Stat. 1928, related to transportation of liquor into States where sale is prohibited. See section 1262 of Title 18.

Section 224, act June 25, 1936, ch. 815, § 4, 49 Stat. 1928, related to searches and seizures. See section 3615 of Title 18.

Section 225, act June 25, 1936, ch. 815, § 5, 49 Stat. 1929, related to enforcement of this chapter. See section 1261 of Title 18.

Section 226, act June 25, 1936, ch. 815, § 10, 49 Stat. 1929, related to effect of this chapter on other laws.