

[§ 5276. Repealed. Pub. L. 109-59, title XI, § 11125(a)(3), Aug. 10, 2005, 119 Stat. 1953]

Section, added Pub. L. 100-203, title X, § 10512(e)(1), Dec. 22, 1987, 101 Stat. 1330-448; amended Pub. L. 100-647, title II, § 2004(t)(1), title VI, § 6105(a), (b), Nov. 10, 1988, 102 Stat. 3609, 3711; Pub. L. 101-239, title VII, § 7816(o), Dec. 19, 1989, 103 Stat. 2422, related to occupational tax on permit holders.

PRIOR PROVISIONS

A prior section 5281, act Aug. 16, 1954, ch. 736, 68A Stat. 651, related to regulation of business rectifier, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5282, act Aug. 16, 1954, ch. 736, 68A Stat. 651, related to rectification of spirits, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5283, act Aug. 16, 1954, ch. 736, 68A Stat. 652, related to examination of rectifying premises, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5284, act Aug. 16, 1954, ch. 736, 68A Stat. 652, related to prohibited hours for removal of distilled spirits, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5285, act Aug. 16, 1954, ch. 736, 68A Stat. 652, related to records and returns, prior to the general revision of this chapter by Pub. L. 85-859.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 2008, but inapplicable to taxes imposed for periods before such date, see section 11125(c) of Pub. L. 109-59, set out as an Effective Date of 2005 Amendment note under section 5002 of this title.

Subchapter E—General Provisions Relating to Distilled Spirits

- Part
- I. Return of materials used in the manufacture or recovery of distilled spirits.
 - II. Regulation of traffic in containers of distilled spirits.
 - III. Miscellaneous provisions.

PRIOR PROVISIONS

A prior subchapter E, Industrial Alcohol Plants, Bonded Warehouses, Denaturing Plants, and Denaturation, consisted of part I, Industrial Alcohol Plants, Bonded Warehouses, and Denaturing Plants and part II, Denaturation, and consisted of sections 5301 to 5320 and 5331 to 5334, respectively, prior to the general revision of this chapter by Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

PART I—RETURN OF MATERIALS USED IN THE MANUFACTURE OR RECOVERY OF DISTILLED SPIRITS

- Sec.
5291. General.

PRIOR PROVISIONS

A prior part I, Industrial Alcohol Plants, Bonded Warehouses, and Denaturing Plants, consisted of sections 5301 to 5320, prior to the general revision of this chapter by Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

§ 5291. General

(a) Requirement

Every person disposing of any substance of the character used in the manufacture of distilled spirits, or disposing of denatured distilled spirits or articles from which distilled spirits may be recovered, shall, when required by the Sec-

retary, render a correct return, in such form and manner as the Secretary may by regulations prescribe, showing the name and address of the person to whom each disposition was made, with such details, as to the quantity so disposed of or other information which the Secretary may require as to each such disposition, as will enable the Secretary to determine whether all taxes due with respect to any distilled spirits manufactured or recovered from any such substance, denatured, distilled spirits, or articles, have been paid. Every person required to render a return under this section shall keep such records as will enable such person to render a correct return. Such records shall be preserved for such period as the Secretary shall by regulations prescribe, and shall be kept available for inspection by any internal revenue officer during business hours.

(b) Cross references

(1) For the definition of distilled spirits, see section 5002(a)(8).

(2) For the definition of articles, see section 5002(a)(14).

(3) For penalty for violation of subsection (a), see section 5605.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1373; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, § 807(a)(40), July 26, 1979, 93 Stat. 286.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior section 5213, act Aug. 16, 1954, ch. 736, 68A Stat. 639, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Subsec. (b)(1). Pub. L. 96-39, § 807(a)(40)(A), substituted “section 5002(a)(8)” for “section 5002(a)(6)”.

Subsec. (b)(2). Pub. L. 96-39, § 807(a)(40)(B), substituted “section 5002(a)(14)” for “section 5002(a)(11)”.

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

PART II—REGULATION OF TRAFFIC IN CONTAINERS OF DISTILLED SPIRITS

- Sec.
5301. General.

PRIOR PROVISIONS

A prior part II, Denaturation, consisted of section 5331 to 5334, prior to the general revision of this chapter by Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

§ 5301. General

(a) Requirements

Whenever in his judgment such action is necessary to protect the revenue, the Secretary is authorized, by the regulations prescribed by him

and permits issued thereunder if required by him—

(1) to regulate the kind, size, branding, marking, sale, resale, possession, use, and reuse of containers (of a capacity of not more than 5 wine gallons) designed or intended for use for the sale of distilled spirits (within the meaning of such term as it is used in section 5002(a)(8) for other than industrial use; and

(2) to require, of persons manufacturing, dealing in, or using any such containers, the submission to such inspection, the keeping of such records, and the filing of such reports as may be deemed by him reasonably necessary in connection therewith.

Any requirements imposed under this section shall be in addition to any other requirements imposed by, or pursuant to, law and shall apply as well to persons not liable for tax under the internal revenue laws as to persons so liable.

(b) Disposition

Every person disposing of containers of the character used for the packaging of distilled spirits shall, when required by the Secretary for protection of the revenue, render a correct return, in such form and manner as the Secretary may by regulations prescribe, showing the name and address of the person to whom each disposition was made, with such details as to the quantities so disposed of or other information which the Secretary may require as to each such disposition. Every person required to render a return under this section shall keep such records as will enable such person to render a correct return. Such records shall be preserved for such period as the Secretary shall by regulations prescribe, and shall be kept available for inspection by any internal revenue officer during business hours.

(c) Refilling of liquor bottles

No person who sells, or offers for sale, distilled spirits, or agent or employee of such person, shall—

(1) place in any liquor bottle any distilled spirits whatsoever other than those contained in such bottle at the time of tax determination under the provisions of this chapter; or

(2) possess any liquor bottle in which any distilled spirits have been placed in violation of the provisions of paragraph (1); or

(3) by the addition of any substance whatsoever to any liquor bottle, in any manner alter or increase any portion of the original contents contained in such bottle at the time of tax determination under the provisions of this chapter; or

(4) possess any liquor bottle, any portion of the contents of which has been altered or increased in violation of the provisions of paragraph (3);

except that the Secretary may by regulations authorize the reuse of liquor bottles, under such conditions as he may by regulations prescribe. When used in this subsection the term "liquor bottle" shall mean a liquor bottle or other container which has been used for the bottling or packaging of distilled spirits under regulations issued pursuant to subsection (a).

(d) Closures

The immediate container of distilled spirits withdrawn from bonded premises, or from customs custody, on determination of tax shall bear a closure or other device which is designed so as to require breaking in order to gain access to the contents of such container. The preceding sentence shall not apply to containers of bulk distilled spirits.

(e) Penalty

For penalty for violation of this section, see section 5606.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1374; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, § 807(a)(41), July 26, 1979, 93 Stat. 287; Pub. L. 98-369, div. A, title IV, § 454(b), (c)(9), July 18, 1984, 98 Stat. 820, 821.)

PRIOR PROVISIONS

A prior section 5301, act Aug. 16, 1954, ch. 736, 68A Stat. 654, related to establishment of industrial alcohol plants, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5171(a), (b)(1), 5172, 5173(a), (b) of this title.

Provisions similar to those comprising subssecs. (a), (c), and (d) of this section were contained in prior section 5214, act Aug. 16, 1954, ch. 736, 68A Stat. 639, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5302, act Aug. 16, 1954, ch. 736, 68A Stat. 645, related to the establishment of industrial alcohol warehouses, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5171(a), (b)(1), 5172, 5173(a), (c), 5178(a)(3)(A), (B), 5201(a), and 5206(a) of this title.

A prior section 5303, act Aug. 16, 1954, ch. 736, 68A Stat. 655, related to establishment of industrial alcohol denaturing plants, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5171(a), (b)(1), 5172, 5173(a), (c), 5178(a)(5), 5241, 5242, and 5273(b)(1), (2), (d) of this title.

A prior section 5304, act Aug. 16, 1954, ch. 736, 68A Stat. 655, related to alcohol permits, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5171(b)(1), 5173(a), (e)(1), 5271(a) to (c), (e), (f), (h), and 5272(a) of this title.

A prior section 5305, act Aug. 16, 1954, ch. 736, 68A Stat. 657, related to regulations for establishing, bonding, and operations of plants and warehouses, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5171, 5172, 5173(a), 5178(a)(1)(A), (5), 5201(a), (b), 5207(a), (c), (d), 5211, 5223(a), 5235, 5273(b)(1), (2), (d), 5275, and 5312(b) of this title.

A prior section 5306, act Aug. 16, 1954, ch. 736, 68A Stat. 657, related to exemption of industrial alcohol plants and warehouses from certain laws, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5025(d), (e)(1), 5173(c), 5201(a), (c), 5204(c), 5234(a)(1)(A), 5306, and 5312(c) of this title.

A prior section 5307, act Aug. 16, 1954, ch. 736, 68A Stat. 657, related to production, use, or sale of alcohol, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5178(a)(2)(A) and 5201(a) of this title.

A prior section 5308, act Aug. 16, 1954, ch. 736, 68A Stat. 657, related to transfer of alcohol to other plants or warehouses, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5212 and 5223(a) of this title.

A prior section 5309, act Aug. 16, 1954, ch. 736, 68A Stat. 658, related to withdrawal of fermented liquors to industrial alcohol plants, prior to the general revision of this chapter by Pub. L. 85-859. See section 5222(b) of this title.

A prior section 5310, act Aug. 16, 1954, ch. 736, 68A Stat. 658, related to withdrawal of alcohol free of tax, prior to the general revision of this chapter by Pub. L.

85-859. See sections 5214(a), (a)(1) to (3), 5241, 5242, 5272(b), 5273(b)(1), (2), (d), and 5313 of this title.

AMENDMENTS

1984—Subsec. (c). Pub. L. 98-369, §454(c)(9), substituted “tax determination” for “stamping” in pars. (1) and (3), and struck out “, if the liquor bottles are to be again stamped under the provisions of this chapter” after “by regulations prescribe” in provisions following par. (4).

Subsec. (d). Pub. L. 98-369, §454(b), added subsec. (d) and redesignated former subsec. (d) as (e).

1979—Subsec. (a)(1). Pub. L. 96-39 substituted “section 5002(a)(8)” for “section 5002(a)(6)”.

1976—Subsecs. (a) to (c). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective July 1, 1985, see section 456(b) of Pub. L. 98-369, set out as an Effective Date note under section 5101 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

PART III—MISCELLANEOUS PROVISIONS

- Sec.
- 5311. Detention of containers.
- 5312. Production and use of distilled spirits for experimental research.
- 5313. Withdrawal of distilled spirits from customs custody free of tax for use of the United States.
- 5314. Special applicability of certain provisions.
- [5315. Repealed.]

AMENDMENTS

1976—Pub. L. 94-455, title XIX, §1905(b)(4), Oct. 4, 1976, 90 Stat. 1822, struck out item 5315 “Status of certain distilled spirits on July 1, 1959”.

§ 5311. Detention of containers

It shall be lawful for any internal revenue officer to detain any container, containing or supposed to contain, distilled spirits, wines, or beer, when he has reason to believe that the tax imposed by law on such distilled spirits, wines, or beer has not been paid or determined as required by law, or that such container is being removed in violation of law; and every such container may be held by him at a safe place until it shall be determined whether the property so detained is liable by law to be proceeded against for forfeiture; but such summary detention shall not continue in any case longer than 72 hours without process of law or intervention of the officer to whom such detention is to be reported.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1375.)

PRIOR PROVISIONS

A prior section 5311, act Aug. 16, 1954, ch. 736, 68A Stat. 658, related to importation of alcohol for industrial purposes, prior to the general revision of this chapter by Pub. L. 85-859. See section 5232 of this title.

Provisions similar to those comprising this section were contained in prior section 5211, act Aug. 16, 1954,

ch. 736, 68A Stat. 638, prior to the general revision of this chapter by Pub. L. 85-859.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 5312. Production and use of distilled spirits for experimental research

(a) Scientific institutions and colleges of learning

Under such regulations as the Secretary may prescribe and on the filing of such bonds and applications as he may require, any scientific university, college of learning, or institution of scientific research may produce, receive, blend, treat, test, and store distilled spirits, without payment of tax, for experimental or research use but not for consumption (other than organoleptic tests) or sale, in such quantities as may be reasonably necessary for such purposes.

(b) Experimental distilled spirits plants

Under such regulations as the Secretary may prescribe and on the filing of such bonds and applications as he may require, experimental distilled spirits plants may, at the discretion of the Secretary, be established and operated for specific and limited periods of time solely for experimentation in, or development of—

- (1) sources of materials from which distilled spirits may be produced;
- (2) processes by which distilled spirits may be produced or refined; or
- (3) industrial uses of distilled spirits.

(c) Authority to exempt

The Secretary may by regulations provide for the waiver of any provision of this chapter (other than this section) to the extent he deems necessary to effectuate the purposes of this section, except that he may not waive the payment of any tax on distilled spirits removed from any such university, college, institution, or plant.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1375; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5312, act Aug. 16, 1954, ch. 736, 68A Stat. 659, made a cross reference to remission and refund of tax on alcohol for loss or leakage, prior to the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Present subsecs.:</i>	<i>Prior sections</i>
(a)	5215.
(b)	5305.
(c)	5215, 5306.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 640, 657.

AMENDMENTS

1976—Subsecs. (a) to (c). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

§ 5313. Withdrawal of distilled spirits from customs custody free of tax for use of the United States

Distilled spirits may be withdrawn free of tax from customs custody by the United States or