

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 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 or storage, other than through contact with the oak container. *Provided*, that the above statement shall not apply to brandy treated with an infusion of oak chip in accordance with § 5.23(a).

[T.D. 720, 34 FR 20637, Dec. 30, 1969, as amended by T.D. ATF-94, 46 FR 55097, Nov. 6, 1981; T.D. ATF-292, 55 FR 1065, Jan. 11, 1990]

#### § 5.40 Statements of age and percentage.

(a) *Statements of age and percentage for whisky.* In the case of straight whisky bottled in conformity with the bottled in bond labeling requirements and of domestic or foreign whisky, whether or not mixed or blended, all of which is 4 years old or more, statements of age and percentage are optional. As to all other whiskies there shall be stated the following:

(1)(i) 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 old.”

(ii) If a whisky is aged in more than one container, the label may optionally indicate the types of oak containers used.

(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, \_\_\_\_\_ percent whisky \_\_\_\_\_ years old, and \_\_\_\_\_ percent whisky \_\_\_\_\_ years old.”

(3) In the case of imported whiskies described in § 5.22(1), Class 12, the labels

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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 agave spirits*. Age may, but need not, be stated on labels of rums, brandies, and agave spirits, 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*. (1) Statements regarding age or maturity or similar statements or representations on labels for all other spirits, except neutral spirits, are permitted only when the distilled spirits are stored in an oak barrel and, once dumped from the barrel, subjected to no treatment besides mixing with water, filtering, and bottling. If batches are made from barrels of spirits of different ages, the label may only state the age of the youngest spirits.

(2) Statements regarding age or maturity or similar statements as to neutral spirits (except for grain spirits as stated in paragraph (c) of this section) are prohibited from appearing 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.

(26 U.S.C. 7805 (68A Stat. 917, as amended); 27 U.S.C. 205 (49 Stat. 981, as amended))

[T.D. 7020, 34 FR 20637, Dec. 30, 1969, as amended by T.D. ATF-62, 44 FR 71621, Dec. 11, 1979; T.D. ATF-198, 50 FR 8464, Mar. 1, 1985; T.D. TTB-158, 85 FR 18723, Apr. 2, 2020]

## § 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 through 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*. (1) 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, it may display any information which is not in conflict with the label on the bottle contained therein.