

PART II—OPERATIONS

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Editorial Notes

PRIOR PROVISIONS

A prior part II consisted of sections 5411 to 5416, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1997—Pub. L. 105-34, title XIV, §1421(b), Aug. 5, 1997, 111 Stat. 1049, added item 5418.

1971—Pub. L. 91-673, §4(b), Jan. 12, 1971, 84 Stat. 2058, substituted “Definitions of package and packaging” for “Definitions of bottle and bottling” in item 5416 and added item 5417.

§ 5411. Use of brewery

The brewery shall be used under regulations prescribed by the Secretary only for the purpose of producing, packaging, and storing beer, cereal beverages containing less than one-half of 1 percent of alcohol by volume, vitamins, ice, malt, malt sirup, and other byproducts and of soft drinks; for the purpose of processing spent grain, carbon dioxide, and yeast; and for such other purposes as the Secretary by regulation may find will not jeopardize the revenue.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 91-673, §3(c), Jan. 12, 1971, 84 Stat. 2057; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5411, act Aug. 16, 1954, ch. 736, 68A Stat. 675, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

1971—Pub. L. 91-673 struck out requirement of separate facilities for bottling of beer and cereal beverages and permitted use of brewery for packaging and storing beer and other cereal beverages.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-673 effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91-673, set out as a note under section 5056 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.

¹ So in original. Section catchline amended by Pub. L. 116-260 without corresponding amendment of part analysis.

§ 5412. Removal of beer in containers or by pipeline

Beer may be removed from the brewery for consumption or sale only in hogsheads, packages, and similar containers, marked, branded, or labeled in such manner as the Secretary may by regulation require, except that beer may be removed from the brewery pursuant to section 5414 or by pipeline to contiguous distilled spirits plants under section 5222.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 91-673, §3(d), Jan. 12, 1971, 84 Stat. 2057; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 115-97, title I, §13803(b), Dec. 22, 2017, 131 Stat. 2173.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5412, act Aug. 16, 1954, ch. 736, 68A Stat. 675, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2017—Pub. L. 115-97 inserted “pursuant to section 5414 or” before “by pipeline”.

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1971—Pub. L. 91-673 substituted “packages,” for “barrels, kegs, bottles,”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-97, title I, §13803(c), Dec. 22, 2017, 131 Stat. 2173, provided that: “The amendments made by this section [amending this section and section 5414 of this title] shall apply to any calendar quarters beginning after December 31, 2017.”

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-673 effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91-673, set out as a note under section 5056 of this title.

§ 5413. Brewers procuring beer from other brewers

A brewer, under such regulations as the Secretary shall prescribe, may obtain beer in his own hogsheads, barrels, and kegs, marked with his name and address, from another brewer, with taxpayment thereof to be by the producer in the manner prescribed by section 5054.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5413, act Aug. 16, 1954, ch. 736, 68A Stat. 675, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

§ 5414. Transfer of beer between bonded facilities

(a) In general

Beer may be removed from one brewery to another brewery, without payment of tax, and may be mingled with beer at the receiving brewery, subject to such conditions, including payment of the tax, and in such containers, as the Secretary by regulations shall prescribe, which shall include—

(1) any removal from one brewery to another brewery belonging to the same brewer,

(2) any removal from a brewery owned by one corporation to a brewery owned by another corporation when—

(A) one such corporation owns the controlling interest in the other such corporation, or

(B) the controlling interest in each such corporation is owned by the same person or persons, and

(3) any removal from one brewery to another brewery when—

(A) the proprietors of transferring and receiving premises are independent of each other and neither has a proprietary interest, directly or indirectly, in the business of the other, and

(B) the transferor has divested itself of all interest in the beer so transferred and the transferee has accepted responsibility for payment of the tax.

(b) Transfer of liability for tax

For purposes of subsection (a)(3), such relief from liability shall be effective from the time of removal from the transferor’s premises, or from the time of divestment of interest, whichever is later.

(Added Pub. L. 85–859, title II, §201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 94–455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 115–97, title I, §13803(a), Dec. 22, 2017, 131 Stat. 2172; Pub. L. 116–94, div. Q, title I, §144(c)(1), Dec. 20, 2019, 133 Stat. 3235; Pub. L. 116–260, div. EE, title I, §106(c)(1), Dec. 27, 2020, 134 Stat. 3042.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5414, act Aug. 16, 1954, ch. 736, 68A Stat. 675, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

2020—Pub. L. 116–260 amended section generally. Prior to amendment, section related to removals of beer from one brewery to another belonging to the same brewer.

2019—Subsec. (b)(3). Pub. L. 116–94 substituted “December 31, 2020” for “December 31, 2019”.

2017—Pub. L. 115–97 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1976—Pub. L. 94–455 struck out “or his delegate” after “Secretary”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2020 AMENDMENT

Pub. L. 116–260, div. EE, title I, §106(c)(2), Dec. 27, 2020, 134 Stat. 3043, provided that: “The amendment made by this subsection [amending this section] shall

apply to any calendar quarters beginning after December 31, 2020.”

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–94, div. Q, title I, §144(c)(2), Dec. 20, 2019, 133 Stat. 3235, provided that: “The amendment made by this subsection [amending this section] shall apply to calendar quarters beginning after December 31, 2019.”

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–97 applicable to any calendar quarters beginning after Dec. 31, 2017, see section 13803(c) of Pub. L. 115–97, set out as a note under section 5412 of this title.

§ 5415. Records and returns

(a) Records

Every brewer shall keep records, in such form and containing such information as the Secretary shall prescribe by regulations as necessary for protection of the revenue. These records shall be preserved by the person required to keep such records for such period as the Secretary shall by regulations prescribe, and shall be available during business hours for examination and taking of abstracts therefrom by any internal revenue officer.

(b) Returns

Every brewer shall make true and accurate returns of his operations and transactions in the form, at the times, and for such periods as the Secretary shall by regulation prescribe.

(Added Pub. L. 85–859, title II, §201, Sept. 2, 1958, 72 Stat. 1390; amended Pub. L. 94–455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5415, act Aug. 16, 1954, ch. 736, 68A Stat. 675, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94–455 struck out “or his delegate” after “Secretary” wherever appearing.

§ 5416. Definitions of package and packaging

For purposes of this subchapter, the term “package” means a bottle, can, keg, barrel, or other original consumer container, and the term “packaging” means the filling of any package.

(Added Pub. L. 85–859, title II, §201, Sept. 2, 1958, 72 Stat. 1390; amended Pub. L. 91–673, §3(e), Jan. 12, 1971, 84 Stat. 2057.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5416, act Aug. 16, 1954, ch. 736, 68A Stat. 676, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1971—Pub. L. 91–673 substituted definitions of package and packaging for definitions of bottle and bottling.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91–673 effective on first day of first calendar month which begins more than 90 days