

III of 1940, § 2, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1232, set out in the Appendix to Title 5, Government Organization and Employees. See also, sections 8 and 9 of said plan for provisions relating to transfer of records, property, personnel, and funds. Section 2 of Reorg. Plan No. III of 1940 was repealed as executed by Pub. L. 97-258, § 5(b), Sept. 13, 1982, 96 Stat. 1068, 1085, the first section of which enacted Title 31, Money and Finance. Department of the Treasury Order 221 of July 1, 1972, established the Bureau of Alcohol, Tobacco and Firearms and transferred to it functions of the Internal Revenue Service arising under certain laws relating to alcohol, tobacco, firearms, and explosives.

## § 202. General provisions

### (a) to (d) Omitted

### (e) Expenditures

Appropriations to carry out powers and duties of the Secretary of the Treasury under this chapter shall be available for expenditure, among other purposes, for personal services and rent in the District of Columbia and elsewhere, expenses for travel and subsistence, for law books, books of reference, magazines, periodicals, and newspapers, for contract stenographic reporting services, for subscriptions for library services, for purchase of samples for analysis or use as evidence, and for holding conferences of State and Federal liquor control officials.

### (f) Utilization of other governmental agencies

The Secretary of the Treasury may, with the consent of the department or agency affected, utilize the services of any department or other agency of the Government to the extent necessary to carry out his powers and duties under this chapter and authorize officers and employees thereof to act as his agents.

### (g) Applicability of other laws

The provisions including penalties, of sections 49 and 50 of title 15, shall be applicable to the jurisdiction, powers, and duties of the Secretary of the Treasury under this chapter, and to any person (whether or not a corporation) subject to the provisions of laws administered by the Secretary of the Treasury under this chapter.

### (h) Reports to Secretary

The Secretary of the Treasury is authorized to require, in such manner and form as he shall prescribe, such reports as are necessary to carry out his powers and duties under this chapter.

(Aug. 29, 1935, ch. 814, title I, § 102, formerly § 2, 49 Stat. 977; 1940 Reorg. Plan No. III, § 2, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; Aug. 7, 1946, ch. 770, § 1(46), 60 Stat. 870; renumbered title I, § 102, Pub. L. 100-690, title VIII, § 8001(a)(1), (2), Nov. 18, 1988, 102 Stat. 4517.)

## Editorial Notes

### CODIFICATION

Subsections (a) to (d) provided for the creation of a Federal Alcohol Administration as a division of the Treasury Department. By act June 26, 1936, ch. 830, title V, 49 Stat. 1964, however, those subsections were repealed and a new Administration created as an independent agency. The repealing act was to be effective when the new administrators authorized thereby were appointed. While the officers so authorized were never

appointed and the repeal therefore never became effective, subsections (a) to (d) have been omitted in view of Reorg. Plan No. III of 1940, set out in the Appendix to Title 5, Government Organization and Employees, which abolished the Administration and transferred its functions 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

1946—Subsec. (i). Act Aug. 7, 1946, struck out subsec. (i) which related to reports to Congress by the Secretary of the Treasury with respect to the administration of the functions charged to the Secretary under this chapter.

### §§ 202a, 202b. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 649

Section 202a, act June 26, 1936, ch. 830, title V, § 501, 49 Stat. 1964, established the Federal Alcohol Administration, and provided for appointment, duties, and pay of its employees.

Section 202b, act June 26, 1936, ch. 830, title V, § 502, 49 Stat. 1964, provided for appointment, pay, tenure, and powers of members of the Federal Alcohol Administration.

### § 202c. Omitted

## Editorial Notes

### CODIFICATION

Section, act June 26, 1936, ch. 830, title V, § 503, 49 Stat. 1965, which provided for repeal of former laws, was to have taken effect when a majority of the members authorized to be appointed took office under section 202b of this title. The members, however, were never appointed.

### § 203. Unlawful businesses without permit; application to State agency

In order effectively to regulate interstate and foreign commerce in distilled spirits, wine, and malt beverages, to enforce the twenty-first amendment, and to protect the revenue and enforce the postal laws with respect to distilled spirits, wine, and malt beverages:

(a) It shall be unlawful, except pursuant to a basic permit issued under this subchapter by the Secretary of the Treasury—

(1) to engage in the business of importing into the United States distilled spirits, wine, or malt beverages; or

(2) for any person so engaged to 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.

(b) It shall be unlawful, except pursuant to a basic permit issued under this subchapter by the Secretary of the Treasury—

(1) to 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

(2) for any person so engaged to 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.

(c) It shall be unlawful, except pursuant to a basic permit issued under this subchapter by the Secretary of the Treasury—

(1) to engage in the business of purchasing for resale at wholesale distilled spirits, wine, or malt beverages; or

(2) for any person so engaged to receive or to 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.

This subsection shall take effect July 1, 1936.

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

(Aug. 29, 1935, ch. 814, title I, §103, formerly §3, 49 Stat. 978; Feb. 29, 1936, ch. 105, §1, 49 Stat. 1152; 1940 Reorg. Plan No. III, §2, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; renumbered title I, §103, and amended Pub. L. 100-690, title VIII, §8001(a)(1), (2), (b)(2), Nov. 18, 1988, 102 Stat. 4517, 4521.)

#### Editorial Notes

##### CODIFICATION

In the original, subsections (a) and (b) of this section contained a final paragraph which provided as follows: "This subsection shall take effect sixty days after the date upon which the Administrator first appointed under this title takes office."

##### AMENDMENTS

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

1936—Subsec. (c). Act Feb. 29, 1936, extended the effective date from March 1, 1936, to July 1, 1936.

#### Executive Documents

##### TRANSFER OF FUNCTIONS

"Secretary of the Treasury" was substituted in text for "Administrator", meaning the Administrator of the Federal Alcohol Administration, pursuant to Reorg. Plan No. III of 1940, see note set out under section 201 of this title.

### § 204. Permits

#### (a) Who entitled thereto

The following persons shall, on application therefor, be entitled to a basic permit:

(1) Any person who, on May 25, 1935, held a basic permit as distiller, rectifier, wine producer, or importer issued by an agency of the Federal Government.

(2) Any other person unless the Secretary of the Treasury finds (A) that such person (or in case of a corporation, any of its officers, directors, or principal stockholders) has, within five years prior to the date of application, been convicted of a felony under Federal or State law or has, within three years prior to date of application, been convicted of a misdemeanor under any Federal law relating to liquor, including the taxation thereof; or (B) that such person is, by reason of his business experience, financial standing, or trade con-

nections, not likely to commence operations within a reasonable period or to maintain such operations in conformity with Federal law; or (C) that the operations proposed to be conducted by such person are in violation of the law of the State in which they are to be conducted.

#### (b) Refusal of permit; hearing

If upon examination of any application for a basic permit the Secretary of the Treasury has reason to believe that the applicant is not entitled to such permit, he shall notify the applicant thereof and, upon request by the applicant, afford him due notice and opportunity for hearing on the application. If the Secretary of the Treasury, after affording such notice and opportunity for hearing, finds that the applicant is not entitled to a basic permit hereunder, he shall by order deny the application stating the findings which are the basis for his order.

#### (c) Form of application

The Secretary of the Treasury shall prescribe the manner and form of all applications for basic permits (including the facts to be set forth therein) and the form of all basic permits, and shall specify in any basic permit the authority conferred by the permit and the conditions thereof in accordance with the provisions of this subchapter. To the extent deemed necessary by the Secretary of the Treasury for the efficient administration of this subchapter, separate applications and permits shall be required by the Secretary of the Treasury with respect to distilled spirits, wine, and malt beverages, and the various classes thereof, and with respect to the various classes of persons entitled to permits hereunder. The issuance of a basic permit under this subchapter shall not operate to deprive the United States of its remedy for any violation of law.

#### (d) Conditions

A basic permit shall be conditioned upon compliance with the requirements of section 205 of this title (relating to unfair competition and unlawful practices) and of section 206 of this title (relating to bulk sales and bottling), with the twenty-first amendment and laws relating to the enforcement thereof, and with all other Federal laws relating to distilled spirits, wine, and malt beverages, including taxes with respect thereto.

#### (e) Revocation, suspension, and annulment

A basic permit shall by order of the Secretary of the Treasury, after due notice and opportunity for hearing to the permittee, (1) be revoked, or suspended for such period as the Secretary of the Treasury deems appropriate, if the Secretary finds that the permittee has wilfully violated any of the conditions thereof, provided that for a first violation of the conditions thereof the permit shall be subject to suspension only; or (2) be revoked if the Secretary finds that the permittee has not engaged in the operations authorized by the permit for a period of more than two years; or (3) be annulled if the Secretary finds that the permit was procured through fraud, or misrepresentation, or concealment of material fact. The order shall state the findings which are the basis for the order.