

a distiller, rectifier, or blender of distilled spirits, unless, prior to taking such office, application made by such individual to the Secretary of the Treasury has been granted and after due showing has been made to him that service by such individual as officer or director of all the foregoing companies of which he is an officer or director together with service in the company with respect to which application is made will not substantially restrain or prevent competition in interstate or foreign commerce in distilled spirits. The Secretary of the Treasury shall, by order, grant or deny such application on the basis of the proof submitted to him and his finding thereon. The District Courts of the United States, and the United States court for any Territory shall have jurisdiction of suits to enjoin, annul, or suspend in whole or in part any final action by the Secretary upon any application under this subsection.

(b) Conditions of lawfully taking office

An individual may, without regard to the provisions of subsection (a) of this section, take office as an officer or director of a company described in said subsection while holding the position of officer or director of any other such company if such companies are affiliates at the time of his taking office and if—

(1) Such companies are affiliates on August 29, 1935; or

(2) Each of such companies has been organized under the law of a State to comply with a requirement thereof under which, as a condition of doing business in such State, such company must be organized under the law of such State; or

(3) One or more such companies has been organized under the law of a State to comply with a requirement thereof under which, as a condition of doing business in such State, such company must be organized under the laws of such State, and the other one or more of such companies not so organized, is in existence on August 29, 1935; or

(4) One or more of such companies has been organized under the law of a State to comply with a requirement thereof under which, as a condition of doing business in such State, such company must be organized under the law of such State, and not more than one of such companies is a company which has not been so organized and which has been organized after August 29, 1935.

(c) "Company" defined

As used in this section, the term "company" means a corporation, joint stock company, business trust, or association, but does not include any agency of a State or political subdivision thereof or any officer or employee of any such agency.

(d) Penalty

Any individual taking office in violation of this section shall be punished by a fine of not exceeding \$1,000.

(Aug. 29, 1935, ch. 814, title I, §108, formerly §8, 49 Stat. 986; June 25, 1936, ch. 804, 49 Stat. 1921; 1940 Reorg. Plan No. III, §2, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; June 25, 1948, ch. 646, §32(b), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63

Stat. 107; renumbered title I, §108, and amended Pub. L. 100-690, title VIII, §8001(a)(1), (2), (b)(2), Nov. 18, 1988, 102 Stat. 4517, 4521.)

CODIFICATION

As originally enacted subsec. (a) of this section contained a reference to the Supreme Court of the District of Columbia. Act June 25, 1936, substituted "the district court of the United States for the District of Columbia" for "the Supreme Court of the District of Columbia", and act June 25, 1948, as amended by act May 24, 1949, substituted "United States District Court for the District of Columbia" for "district court of the United States for the District of Columbia". However, the words "United States District Court for the District of Columbia" have been deleted entirely as superfluous in view of section 132(a) of Title 28, Judiciary and Judicial Procedure, which states that "There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district", and section 88 of Title 28 which states that "the District of Columbia constitutes one judicial district".

AMENDMENTS

1988—Subsecs. (a), (b)(1), (3), (4). Pub. L. 100-690, §8001(b)(2), substituted "the date of the enactment of this title" for "the date of the enactment of this Act", which had been translated editorially as "August 29, 1935", thereby requiring no change in text.

TRANSFER OF FUNCTIONS

"Secretary of the Treasury" and "Secretary" were substituted 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.

§§ 209, 210. Omitted

CODIFICATION

Section 209, acts Aug. 29, 1935, ch. 814, title I, §109, formerly §9, 49 Stat. 987; June 26, 1936, ch. 830, title V, §507, 49 Stat. 1966; renumbered title I, §109, Nov. 18, 1988, Pub. L. 100-690, title VIII, §8001(a)(1), (2), 102 Stat. 4517, which related to disposal of forfeited alcoholic beverages, was superseded. See section 5688 of Title 26, Internal Revenue Code.

Section 210, act Aug. 29, 1935, ch. 814, title I, §110, formerly §10, 49 Stat. 987; renumbered title I, §110, Nov. 18, 1988, Pub. L. 100-690, title VIII, §8001(a)(1), (2), 102 Stat. 4517, abolished the Federal Alcohol Control Administration established by Ex. Ord. No. 6474, Dec. 4, 1933; Ex. Ord. No. 6576, Jan. 25, 1934; Ex. Ord. No. 6683, Apr. 19, 1934; Ex. Ord. No. 6788, June 30, 1934; Ex. Ord. No. 6829, Aug. 21, 1934, issued under provisions of section 702 of Title 15, Commerce and Trade.

§ 211. Miscellaneous provisions

(a) Definitions

As used in this subchapter—

(1) The term "United States" means the several States and Territories and the District of Columbia; the term "State" includes a Territory and the District of Columbia; and the term "Territory" means Alaska, Hawaii, and Puerto Rico.

(2) The term "interstate or foreign commerce" means commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

(3) The term "person" means individual, partnership, joint stock company, business

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