

plant shall furnish the necessary facilities and assistance to enable the officer or agent to gauge the spirits in any container or to examine any apparatus, equipment, containers, or materials on such premises. Such proprietor shall also, on demand of such officer or agent, open all doors, and open for examination all boxes, packages, and all casks, barrels, and other vessels on such premises.

**(d) Authority to break up grounds or walls**

It shall be lawful for any internal revenue officer, and any person acting in his aid, to break up the ground on any part of a distilled spirits plant or any other premises where distilled spirits operations are carried on, or any ground adjoining or near to such plant or premises, or any wall or partition thereof, or belonging thereto, or other place, to search for any pipe, cock, private conveyance, or utensil; and, upon finding any such pipe or conveyance leading therefrom or thereto, to break up any ground, house, wall, or other place through or into which such pipe or other conveyance leads, and to break or cut away such pipe or other conveyance, and turn any cock, or to examine whether such pipe or other conveyance conveys or conceals any distilled spirits, mash, wort, or beer, or other liquor, from the sight or view of the officer, so as to prevent or hinder him from taking a true account thereof.

**(e) Penalty**

**For penalty for violation of this section, see section 5687.**

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1357; 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)(22), July 26, 1979, 93 Stat. 283.)

PRIOR PROVISIONS

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) .....                | 5196(a).                  |
| (b) .....                | 5196(b), (e).             |
| (c) .....                | 5196(c), (e), 5283, 5615. |
| (d) .....                | 5196(d), 5283.            |
| (e) .....                | 5615, 5687.               |

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 636, 652, 686, 700.

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-39, §807(a)(22)(A), substituted “where distilled spirits operations are carried on” for “where distilled spirits are produced or rectified”.

Subsec. (c). Pub. L. 96-39, §807(a)(22)(B), substituted “on such premises” for “not under the control of the internal revenue officer in charge”.

Subsec. (d). Pub. L. 96-39, §807(a)(22)(C), substituted “where distilled spirits operations are carried on” for “where distilled spirits are produced or rectified”.

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

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.

**§ 5204. Gauging**

**(a) General**

The Secretary may by regulations require the gauging of distilled spirits for such purposes, as he may deem necessary, and all required gauges shall be made at such times and under such conditions as he may by regulations prescribe.

**(b) Gauging instruments**

For the determination of tax and the prevention and detection of frauds, the Secretary may prescribe for use such hydrometers, saccharometers, weighing and gauging instruments, or other means or methods for ascertaining the quantity, gravity, and producing capacity of any mash, wort, or beer used, or to be used, in the production of distilled spirits, and the strength and quantity of spirits subject to tax, as he may deem necessary; and he may prescribe regulations to secure a uniform and correct system of inspection, weighing, marking, and gauging of spirits.

**(c) Gauging, marking, and branding by proprietors**

The Secretary may by regulations require the proprietor of a distilled spirits plant, at the proprietor's expense and under such supervision as the Secretary may require, to do such gauging, marking, and branding and such mechanical labor pertaining thereto as the Secretary deems proper and determines may be done without danger to the revenue.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1358; 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)(23), July 26, 1979, 93 Stat. 283; Pub. L. 98-369, div. A, title IV, §454(c)(4), July 18, 1984, 98 Stat. 821.)

PRIOR PROVISIONS

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) .....                | 5193(a), 5194(g), 5245, 5282(b). |
| (b) .....                | 5212.                            |
| (c) .....                | 5193(d), 5250(b), 5282(b), 5306. |

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 633, 634, 636, 639, 647, 649, 652, 657.

AMENDMENTS

1984—Subsec. (c). Pub. L. 98-369 struck out “stamping,” before “marking” in heading and text.

1979—Subsec. (a). Pub. L. 96-39 struck out “, in addition to those specified in section 5202(f),” after “spirits for such purposes”.

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.

**[§ 5205. Repealed. Pub. L. 98-369, div. A, title IV, § 454(a), July 18, 1984, 98 Stat. 820]**

Section, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1358; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 94-569, §1, Oct. 20, 1976, 90 Stat. 2699; Pub. L. 95-176, §2(c), Nov. 14, 1977, 91 Stat. 1364; Pub. L. 96-39, title VIII, §807(a)(24), July 26, 1979, 93 Stat. 283, related to stamps for containers of distilled spirits.

**EFFECTIVE DATE OF REPEAL**

Repeal 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.

**§ 5206. Containers**

**(a) Authority to prescribe**

The Secretary shall by regulations prescribe the types or kinds of containers which may be used to contain, store, transfer, convey, remove, or withdraw distilled spirits.

**(b) Standards of fill**

The Secretary may by regulations prescribe the standards of fill for approved containers.

**(c) Marking, branding, or identification**

Containers of distilled spirits (and cases containing bottles or other containers of such spirits) shall be marked, branded, or identified in such manner as the Secretary shall by regulations prescribe.

**(d) Effacement of marks and brands on emptied containers**

Every person who empties, or causes to be emptied, any container of distilled spirits bearing any mark or brand required by law (or regulations pursuant thereto) shall at the time of emptying such container efface and obliterate such mark or brand; except that the Secretary may, by regulations, waive any requirement of this subsection where he determines that no jeopardy to the revenue will be involved.

**(e) Applicability**

This section shall be applicable exclusively with respect to containers of distilled spirits for industrial use, with respect to containers of distilled spirits of a capacity of more than one gallon for other than industrial use, and with respect to cases containing bottles or other containers of distilled spirits.

**(f) Cross references**

(1) For other provisions relating to regulation of containers of distilled spirits, see section 5301.

(2) For provisions relating to labeling containers of distilled spirits of one gallon or less for nonindustrial uses, see section 105(e) of the Federal Alcohol Administration Act (27 U.S.C. 205(e)).

(3) For provisions relating to the marking and branding of containers of distilled spirits by proprietors, see section 5204(c).

(4) For penalties and forfeitures relating to marks and brands, see sections 5604 and 5613.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1360; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title IV, §454(c)(5), July 18, 1984, 98 Stat. 821; Pub. L. 104-188, title I, §1704(t)(13), Aug. 20, 1996, 110 Stat. 1888.)

**PRIOR PROVISIONS**

Provisions similar to those comprising subsecs. (a) to (c) of 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) .....                | 5193(a), (b), 5194, 5247(a), (d), 5302.                 |
| (b) .....                | 5193(c).  |
| (c) .....                | 5009(a), 5193(a), 5194, 5243(d), (e), 5250(a), 5282(b). |

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 603, 633 to 635, 646 to 649, 652, 654.

**AMENDMENTS**

1996—Subsec. (f)(2). Pub. L. 104-188 substituted “section 105(e)” for “section 5(e)”.

1984—Subsecs. (d) to (f). Pub. L. 98-369 added subsec. (d), redesignated existing subsecs. (d) and (e) as (e) and (f), respectively, and in subsec. (f) added pars. (3) and (4).

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

**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.

**§ 5207. Records and reports**

**(a) Records of distilled spirits plant proprietors**

Every distilled spirits plant proprietor shall keep records in such form and manner as the Secretary shall by regulations prescribe of:

(1) The following production activities—

(A) the receipt of materials intended for use in the production of distilled spirits, and the use thereof,

(B) the receipt and use of distilled spirits received for redistillation, and

(C) the kind and quantity of distilled spirits produced.

(2) The following storage activities—

(A) the kind and quantity of distilled spirits, wines, and alcoholic ingredients entered into storage,

(B) the kind and quantity of distilled spirits, wines, and alcoholic ingredients removed, and the purpose for which removed, and

(C) the kind and quantity of distilled spirits returned to storage.

(3) The following denaturation activities—

(A) the kind and quantity of denaturants received and used or otherwise disposed of,

(B) the kind and quantity of distilled spirits denatured, and

(C) the kind and quantity of denatured distilled spirits removed.

(4) The following processing activities—

(A) all distilled spirits, wines, and alcoholic ingredients received or transferred,

(B) the kind and quantity of distilled spirits packaged or bottled, and

(C) the kind and quantity of distilled spirits removed from his premises.

(5) Such additional information with respect to activities described in paragraphs (1), (2), (3), and (4), and with respect to other activities, as may by regulations be required.

**(b) Reports**

Every person required to keep records under subsection (a) shall render such reports covering