

PRIOR PROVISIONS

A prior section 5387, act Aug. 16, 1954, ch. 736, 68A Stat. 671, 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.

1968—Subsec. (a). Pub. L. 90-619 inserted reference to subsec. (a) of section 5382.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-619 effective on first day of first month which begins 90 days or more after Oct. 22, 1968, see section 6 of Pub. L. 90-619, set out as a note under section 5373 of this title.

§ 5388. Designation of wines**(a) Standard wines**

Standard wines may be removed from premises subject to the provisions of this subchapter and be marked, transported, and sold under their proper designation as to kind and origin, or, if there is no such designation known to the trade or consumers, then under a truthful and adequate statement of composition.

(b) Other wines

Wines other than standard wines may be removed for consumption or sale and be marked, transported, or sold only under such designation as to kind and origin as adequately describes the true composition of such products and as adequately distinguish them from standard wines, as regulations prescribed by the Secretary shall provide.

(c) Use of semi-generic designations**(1) In general**

Semi-generic designations may be used to designate wines of an origin other than that indicated by such name only if—

(A) there appears in direct conjunction therewith an appropriate appellation of origin disclosing the true place of origin of the wine, and

(B) the wine so designated conforms to the standard of identity, if any, for such wine contained in the regulations under this section or, if there is no such standard, to the trade understanding of such class or type.

(2) Determination of whether name is semi-generic**(A) In general**

Except as provided in subparagraph (B), a name of geographic significance, which is also the designation of a class or type of wine, shall be deemed to have become semi-generic only if so found by the Secretary.

(B) Certain names treated as semi-generic

The following names shall be treated as semi-generic: Angelica, Burgundy, Claret, Chablis, Champagne, Chianti, Malaga, Marsala, Madeira, Moselle, Port, Rhine Wine or Hock, Sauterne, Haut Sauterne, Sherry, Tokay.

(3) Special rule for use of certain semi-generic designations**(A) In general**

In the case of any wine to which this paragraph applies—

(i) paragraph (1) shall not apply,

(ii) in the case of wine of the European Community, designations referred to in subparagraph (C)(i) may be used for such wine only if the requirement of subparagraph (B)(ii) is met, and

(iii) in the case any other wine bearing a brand name, or brand name and fanciful name, semi-generic designations may be used for such wine only if the requirements of clauses (i), (ii), and (iii) of subparagraph (B) are met.

(B) Requirements

(i) The requirement of this clause is met if there appears in direct conjunction with the semi-generic designation an appropriate appellation of origin disclosing the origin of the wine.

(ii) The requirement of this clause is met if the wine conforms to the standard of identity, if any, for such wine contained in the regulations under this section or, if there is no such standard, to the trade understanding of such class or type.

(iii) The requirement of this clause is met if the person, or its successor in interest, using the semi-generic designation held a Certificate of Label Approval or Certificate of Exemption from Label Approval issued by the Secretary for a wine label bearing such brand name, or brand name and fanciful name, before March 10, 2006, on which such semi-generic designation appeared.

(C) Wines to which paragraph applies**(i) In general**

Except as provided in clause (ii), this paragraph shall apply to any grape wine which is designated as Burgundy, Claret, Chablis, Champagne, Chianti, Malaga, Marsala, Madeira, Moselle, Port, Retsina, Rhine Wine or Hock, Sauterne, Haut Sauterne, Sherry, or Tokay.

(ii) Exception

This paragraph shall not apply to wine which—

(I) contains less than 7 percent or more than 24 percent alcohol by volume,

(II) is intended for sale outside the United States, or

(III) does not bear a brand name.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1387; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-34, title IX, §910(a), Aug. 5, 1997, 111 Stat. 877; Pub. L. 109-432, div. A, title IV, §422(a), Dec. 20, 2006, 120 Stat. 2972.)

PRIOR PROVISIONS

A prior section 5388, act Aug. 16, 1954, ch. 736, 68A Stat. 672, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2006—Subsec. (c)(3). Pub. L. 109-432 added par. (3).

1997—Subsec. (c). Pub. L. 105-34 added subsec. (c).

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

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title IV, §422(b), Dec. 20, 2006, 120 Stat. 2973, provided that: “The amendments made

by this section [amending this section] shall apply to wine imported or bottled in the United States on or after the date of enactment of this Act [Dec. 20, 2006].”

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title IX, §910(b), Aug. 5, 1997, 111 Stat. 877, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 5, 1997].”

PART IV—GENERAL

Sec.	
5391.	Exemption from distilled spirits taxes.
5392.	Definitions.

PRIOR PROVISIONS

A prior part IV consisted of sections 5391 and 5392 of this title, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1979—Pub. L. 96-39, title VIII, §807(b)(8), July 26, 1979, 93 Stat. 290, substituted “Exemption from distilled spirits taxes” for “Exemption from rectifying and spirits taxes” in item 5391.

§ 5391. Exemption from distilled spirits taxes

Notwithstanding any other provision of law, the tax imposed by section 5001 on distilled spirits shall not, except as provided in this subchapter, be assessed, levied, or collected from the proprietor of any bonded wine cellar with respect to his use of wine spirits in wine production, in such premises; except that, whenever wine or wine spirits are used in violation of this subchapter, the applicable tax imposed by section 5001 shall be collected unless the proprietor satisfactorily shows that such wine or wine spirits were not knowingly used in violation of law.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1387; amended Pub. L. 96-39, title VIII, §807(a)(49), July 26, 1979, 93 Stat. 288.)

PRIOR PROVISIONS

A prior section 5391, act Aug. 16, 1954, ch. 736, 68A Stat. 672, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Pub. L. 96-39 substituted “distilled” for “rectifying and” in section catchline and struck out provisions relating to exemption from taxes imposed on rectified spirits and wines and the status of any proprietor of a bonded wine cellar as a rectifier of such spirits in text.

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.

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.

§ 5392. Definitions

(a) Standard wine

For purposes of this subchapter the term “standard wine” means natural wine, specially sweetened natural wine, special natural wine,

and standard agricultural wine, produced in accordance with the provisions of sections 5381, 5385, 5386, and 5387, respectively.

(b) Heavy bodied blending wine

For purposes of this subchapter the term “heavy bodied blending wine” means wine made from fruit without added sugar, and with or without added wine spirits, and conforming to the definition of natural wine in all respects except as to maximum total solids content.

(c) Pure sugar

For purposes of this subchapter the term “pure sugar” means pure refined sugar, suitable for human consumption, having a dextrose equivalent of not less than 95 percent on a dry basis, and produced from cane, beets, or fruit, or from grain or other sources of starch. Invert sugar syrup produced from such pure sugar by recognized methods of inversion may be used to prepare any sugar syrup, or solution of water and pure sugar, authorized in this subchapter.

(d) Total solids

For purposes of this subchapter the term “total solids”, in the case of wine, means the degrees Brix of the dealcoholized wine.

(e) Same kind of fruit

For purposes of this subchapter the term “same kind of fruit” includes, in the case of grapes, all of the several species and varieties of grapes. In the case of fruits other than grapes, this term includes all of the several species and varieties of any given kind; except that this shall not preclude a more precise identification of the composition of the product for the purpose of its designation.

(f) Own production

For purposes of this subchapter the term “own production”, when used with reference to wine in a bonded wine cellar, means wine produced by fermentation in the same bonded wine cellar, whether or not produced by a predecessor in interest at such bonded wine cellar. This term may also include, under regulations, wine produced by fermentation in bonded wine cellars owned or controlled by the same or affiliated persons or firms when located within the same State; the term “affiliated” shall be deemed to include any one or more bonded wine cellar proprietors associated as members of any farm cooperative, or any one or more bonded wine cellar proprietors affiliated within the meaning of section 17(a)(5) of the Federal Alcohol Administration Act, as amended (27 U.S.C. 211).¹

(g) Liquid sugar

For purposes of this subchapter the term “liquid sugar” means a substantially colorless pure sugar and water solution containing not less than 60 percent pure sugar by weight (60 degrees Brix.)

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1387; amended Pub. L. 89-44, title VIII, §806(b)(3), June 21, 1965, 79 Stat. 163; Pub. L. 94-455, title XIX, §1905(a)(21), Oct. 4, 1976, 90 Stat. 1820.)

¹ See References in Text note below.