

(b) Limited retail dealers

A limited retail dealer may lawfully purchase distilled spirits for resale from a retail dealer in liquors.

(c) Penalty and forfeiture

For penalty and forfeiture provisions applicable to violations of subsection (a), see sections 5687 and 7302.

(Added Pub. L. 109-59, title XI, § 11125(b)(12), Aug. 10, 2005, 119 Stat. 1956.)

PRIOR PROVISIONS

A prior section 5132 was renumbered section 5112 of this title.

Another prior section 5132, act Aug. 16, 1954, ch. 736, 68A Stat. 623, related to registration and regulation of persons claiming drawback, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5133 was renumbered section 5113 of this title.

Another prior section 5133, act Aug. 16, 1954, ch. 736, 68A Stat. 623, related to investigation of claims, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5134 was renumbered section 5114 of this title.

Another prior section 5134, acts Aug. 16, 1954, ch. 736, 68A Stat. 623; Mar. 30, 1955, ch. 18, § 3(b)(2), 69 Stat. 15; Mar. 29, 1956, ch. 115, § 3(b)(2), 70 Stat. 67; Mar. 29, 1957, Pub. L. 85-12, § 3(b)(2), 71 Stat. 10; June 30, 1958, Pub. L. 85-475, § 3(b)(2), 72 Stat. 259, related to drawbacks, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5141, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1346, related to registration, prior to repeal by Pub. L. 109-59, title XI, § 11125(a)(1)(E), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5141, act Aug. 16, 1954, ch. 736, 68A Stat. 624, related to registration, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5142 was renumbered section 5732 of this title.

Another prior section 5142, act Aug. 16, 1954, ch. 736, 68A Stat. 624, related to payment of tax, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5143 was renumbered section 5733 of this title.

Another prior section 5143, act Aug. 16, 1954, ch. 736, 68A Stat. 624, related to time for filing returns and cross-referred to penalty provisions for failure to file returns or for making false or fraudulent returns, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5144, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1348, authorized and directed Secretary or his delegate to procure the necessary stamps for payment of special taxes and to make needful regulations relative thereto, prior to repeal by Pub. L. 94-455, title XIX, § 1905(b)(3)(D)(i), Oct. 4, 1976, 90 Stat. 1822.

Another prior section 5144, act Aug. 16, 1954, ch. 736, 68A Stat. 624, related to liability for occupational taxes, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5145 was renumbered section 5734 of this title.

Another prior section 5145, act Aug. 16, 1954, ch. 736, 68A Stat. 625, related to “supply of stamps”, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5146 was renumbered section 5123 of this title.

Another prior section 5146, act Aug. 16, 1954, ch. 736, 68A Stat. 625, contained cross references to provisions respecting posting stamp in place of business, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5147, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1348, related to application of former subpart G, prior to repeal by Pub. L. 109-59,

title XI, § 11125(a)(1)(E), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5147, act Aug. 16, 1954, ch. 736, 68A Stat. 626, made a cross reference to provision respecting keeping of list of special taxpayers for public inspection, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5148, added Pub. L. 108-357, title II, § 246(a), Oct. 22, 2004, 118 Stat. 1448, related to suspension of occupational tax, prior to repeal by Pub. L. 109-59, title XI, § 11125(a)(1)(E), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5148 was renumbered section 5149 of this title, prior to repeal by Pub. L. 109-59.

Another prior section 5148, act Aug. 16, 1954, ch. 736, 68A Stat. 626, related to “Application of State laws”, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5149, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1348, § 5148; amended Pub. L. 94-455, title XIX, § 1905(b)(3)(E), Oct. 4, 1976, 90 Stat. 1822; renumbered § 5149, Pub. L. 108-357, title II, § 246(a), Oct. 22, 2004, 118 Stat. 1448, contained cross references to provisions imposing penalties, prior to repeal by Pub. L. 109-59, title XI, § 11125(a)(1)(E), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5149, act Aug. 16, 1954, ch. 736, 68A Stat. 626, related to “Application of subpart”, prior to the general revision of this chapter by Pub. L. 85-859.

EFFECTIVE DATE

Section effective July 1, 2008, but inapplicable to taxes imposed for periods before such date, see section 11125(c) of Pub. L. 109-59, set out as an Effective Date of 2005 Amendment note under section 5002 of this title.

Subchapter B—Qualification Requirements for Distilled Spirits Plants

| | |
|--------|---------------------------------------|
| Sec. | Establishment. |
| 5171. | Application. |
| 5172. | Bonds. |
| 5173. | Repealed.] |
| [5174. | Export bonds. |
| 5175. | New or renewed bonds. |
| 5176. | Other provisions relating to bonds. |
| 5177. | Premises of distilled spirits plants. |
| 5178. | Registration of stills. |
| 5179. | Signs. |
| 5180. | Distilled spirits for fuel use. |
| 5181. | Cross references. |
| 5182. | |

PRIOR PROVISIONS

A prior subchapter B, Distilleries, consisted of part I, Establishment, part II, Operation, and part III, General Provisions Relating to Distilleries and Distilled Spirits, and consisted of sections 5171 to 5180, 5191 to 5197, and 5211 to 5217, respectively, prior to the general revision of this chapter by Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

2018—Pub. L. 115-141, div. U, title IV, § 401(a)(242), Mar. 23, 2018, 132 Stat. 1195, substituted “Premises of distilled spirits plants” for “Distilled spirits plants” in item 5178.

1980—Pub. L. 96-223, title II, § 232(e)(2)(F), Apr. 2, 1980, 94 Stat. 280, added item 5181 and redesignated former item 5181 as 5182.

1979—Pub. L. 96-39, title VIII, § 807(b)(4), July 26, 1979, 93 Stat. 290, substituted “Bonds” for “Qualification bonds” in item 5173, struck out item 5174 “Withdrawal bonds”, and substituted “Distilled spirits plants” for “Premises of distilled spirits plants” in item 5178.

§ 5171. Establishment

(a) Certain operations may be conducted only on bonded premises

Except as otherwise provided by law, operations as a distiller, warehouseman, or processor may be conducted only on the bonded premises of a distilled spirits plant by a person who is qualified under this subchapter.

(b) Establishment of distilled spirits plant

A distilled spirits plant may be established only by a person who intends to conduct at such plant operations as a distiller, as a warehouseman, or as both.

(c) Registration

(1) In general

Each person shall, before commencing operations at a distilled spirits plant (and at such other times as the Secretary may by regulations prescribe), make application to the Secretary for, and receive notice of, the registration of such plant.

(2) Application required where new operations are added

No operation in addition to those set forth in the application made pursuant to paragraph (1) may be conducted at a distilled spirits plant until the person has made application to the Secretary for, and received notice of, the registration of such additional operation.

(3) Secretary may establish minimum capacity and level of activity requirements

The Secretary may by regulations prescribe for each type of operation minimum capacity and level of activity requirements for qualifying premises as a distilled spirits plant.

(4) Applicant must comply with law and regulations

No plant (or additional operation) shall be registered under this section until the applicant has complied with the requirements of law and regulations in relation to the qualification of such plant (or additional operation).

(d) Permits

(1) Requirements

Each person required to file an application for registration under subsection (c) whose distilled spirits operations (or any part thereof) are not required to be covered by a basic permit under the Federal Alcohol Administration Act (27 U.S.C. secs. 203 and 204) shall, before commencing the operations (or part thereof) not so covered, apply for and obtain a permit under this subsection from the Secretary to engage in such operations (or part thereof). Subsections (b), (c), (d), (e), (f), (g), and (h) of section 5271 are hereby made applicable to persons filing applications and permits required by or issued under this subsection.

(2) Exceptions for agencies of a State or political subdivisions

Paragraph (1) shall not apply to any agency of a State or political subdivision thereof or to any officer or employee of any such agency,

and no such agency, officer, or employee shall be required to obtain a permit thereunder.

(e) Cross references

(1) For penalty for failure of a distiller or processor to file application for registration as required by this section, see section 5601(a)(2).

(2) For penalty for the filing of a false application by a distiller, warehouseman, or processor of distilled spirits, see section 5601(a)(3).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1349; amended Pub. L. 94-455, title XIX, §§1905(a)(13), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1820, 1834; Pub. L. 96-39, title VIII, §805(a), July 26, 1979, 93 Stat. 274.)

REFERENCES IN TEXT

The Federal Alcohol Administration Act, referred to in subsec. (d)(1), is act Aug. 29, 1935, ch. 814, 49 Stat. 977, as amended, which is classified generally to subchapter I (§201 et seq.) of chapter 8 of Title 27, Intoxicating Liquors. The basic permit is covered by sections 203 and 204 of Title 27. For complete classification of this Act to the Code, see section 201 of Title 27 and Tables.

PRIOR PROVISIONS

A prior section 5171, act Aug. 16, 1954, ch. 736, 68A Stat. 627, related to "premises prohibited for distilling", prior to the general revision of this chapter by Pub. L. 85-859. See sections 5178(a)(1)(B), (b), (c)(2), and 5505(b) of this title.

Provisions similar to those comprising subssecs. (a), (b)(1) and (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 subssecs.:</i> | <i>Prior sections</i> |
|---------------------------|--|
| (a) | 5172, 5175(a), 5177(a), 5178, 5231, 5243(a), 5271(a), 5301-5303, 5305, 5331(a)(1). |
| (b)(1) | 5301-5303, 5304(a)(1). |
| (c) | 5175(b), 5271(b). |

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 627 to 631, 643, 645, 650, 654, 655.

AMENDMENTS

1979—Subsecs. (a), (b). Pub. L. 96-39 added subssecs. (a) and (b) and redesignated former subssecs. (a) and (b) as (c) and (d), respectively.

Subsec. (c). Pub. L. 96-39 redesignated former subsec. (a) as (c) and inserted provisions relating to an application requirement where new operations are added and permitting the Secretary to establish minimum capacity and level of activity requirements. Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 96-39 redesignated former subsec. (b) as (d) and substituted reference to subsection (c) for reference to subsection (a) and struck out reference to section 5274.

Subsec. (e). Pub. L. 96-39 redesignated former subsec. (c) as (e) and substituted reference to processor for reference to rectifier and reference to warehouseman for reference to bonded warehouseman and struck out reference to bottler.

1976—Subsec. (b)(1). Pub. L. 94-455, §§1905(a)(13)(A), 1906(b)(13)(A), struck out "49 Stat. 978;" before "27 U.S.C. 203, 204" in parenthetical provisions after "Federal Alcohol Administration Act" and struck out "or his delegate" after "Secretary".

Subsec. (b)(3). Pub. L. 94-455, §1905(a)(13)(B), struck out par. (3) under which persons who were qualified on June 30, 1959, to perform operations for which a permit was required covering operations not required to be covered by a basic permit under the Federal Alcohol Administration Act had been allowed to continue operations pending a reasonable opportunity to make application for a permit.