

**§ 5.34 Brand names.**

(a) *Misleading brand names.* No label shall contain any brand name, which, standing alone, or in association with other printed or graphic matter, creates any impression or inference as to the age, origin, identity, or other characteristics of the product unless the appropriate ATF officer finds that such brand name (when appropriately qualified if required) conveys no erroneous impressions as to the age, origin, identity, or other characteristics of the product.

(b) *Trade name of foreign origin.* Paragraph (a) of this section does not prohibit the use by any person of any trade name or brand of foreign origin not effectively registered in the U.S. Patent Office on August 29, 1935, which has been used by such person or his predecessors in the United States for a period of at least 5 years immediately preceding August 29, 1935: *Provided*, That if such trade name or brand is used, the designation of the product shall be qualified by the name of the locality in the United States in which produced, and such qualification shall be in script, type, or printing as conspicuous as the trade name or brand.

**§ 5.35 Class and type.**

(a) *Designation of product.* The class and type of distilled spirits shall be stated in conformity with § 5.22 if defined therein. In all other instances the product shall be designated in accordance with trade and consumer understanding thereof, or, if no such understanding exists, by a distinctive or fanciful name, and in either case (except as provided in paragraph (b)(2) of this section) followed by a truthful and adequate statement of composition. The word “cordial” or “liqueur” need not be stated in the case of cordials and liqueurs unless the appropriate ATF officer finds such word is necessary to clearly indicate that the product is a cordial or liqueur.

(b) *Products designed in accordance with trade and consumer understanding.* In the case of products designated in accordance with trade and consumer understanding:

(1) A statement of the classes and types of distilled spirits used in the manufacture thereof shall be deemed a

sufficient statement of composition in the case of highballs, cocktails, and similar prepared specialties when the designation adequately indicates to the consumer the general character of the product.

(2) No statement of composition is required if the designation through general and established usage adequately indicates to the consumer the composition of the product.

A product shall not bear a designation which indicates it contains a class or type of distilled spirits unless the distilled spirits therein conform to such class and type.

(c) *Origin of whiskies in mixtures.* In the case of any of the types of whisky defined in § 5.22(b), Class 2, which contains any whisky or whiskies produced in a country other than that indicated by the type designation, there shall be stated on the brand label the percentage of such whisky and the country or origin thereof. In the case of mixtures of whisky, not conforming to any type designation in § 5.22(b), Class 2, the components of which were distilled in more than one country, there shall be stated in direct conjunction with the class designation “whisky” a truthful and adequate statement of the composition of the product.

(d) *Whisky manufactured in Scotland, Ireland, or Canada.* All whisky manufactured in Scotland, Ireland, or Canada, shall be deemed to be Scotch, Irish, or Canadian whisky, and shall be so designated, in conformity with § 5.22(b) (7), (8), and (9), unless the application of such designation to the particular product will result in consumer deception, or unless such a product is not entitled to such designation under the laws of the country in which manufactured.

(e) *Cordials and liqueurs.* The alcoholic components of cordials and liqueurs may, but need not, be stated on labels.

**§ 5.36 Name and address.**

(a) *“Bottled by”.* (1) On labels of domestic distilled spirits there shall be stated the phrase “bottled by”, “packed by”, or “filled by”, immediately followed by the name (or trade name) of the bottler and the place where such distilled spirits are bottled.

If the bottler is the actual bona fide operator of more than one distilled spirits plant engaged in bottling operations, there may, in addition, be stated immediately following the name (or trade name) of such bottler the addresses of such other plants.

(2) Where distilled spirits are bottled by or for the distiller thereof, there may be stated, in lieu of the phrase "bottled by", "packed by", or "filled by", followed by the bottler's name (or trade name) and address, the phrase "distilled by", followed by the name, or the trade name under which the particular spirits were distilled, or (except in the case of distilled spirits labeled as bottled in bond) any trade name shown on the distiller's permit (covering the premises where the particular spirits were distilled), and the address (or addresses) of the distiller.

(3) Where "straight whiskies" of the same type which have been produced in the same State by two or more different distillers are combined (either at time of bottling or at a warehouseman's bonded premises for further storage) and subsequently bottled and labeled as "straight whisky," such "straight whisky" shall be labeled in accordance with the requirements of paragraph (a)(1) of this section. Where such "straight whisky" is bottled by or for the distillers thereof, there may be stated on the label, in lieu of the requirements of paragraph (a)(1) of this section, the phrase "distilled by," followed by the names (or trade names) of the different distillers who distilled a portion of the "straight whisky," the addresses of the distilleries where the "straight whisky" was distilled, and the percentage of "straight whisky" distilled by each distiller (with a tolerance of plus or minus 2 percent). In the case where "straight whisky" is made up of a mixture of "straight whiskies" of the same type from two or more different distilleries of the same proprietor located within the same State, and where the "straight whisky" is bottled by or for the proprietor thereof, such "straight whisky" may be labeled, in lieu of the requirements of paragraph (a)(1) of the this section, with the phrase "distilled by" followed by the name (or trade name) of the proprietor and the addresses of the dif-

ferent distilleries which distilled a portion of the "straight whisky."

(4) Where distilled spirits are bottled by or for the rectifier thereof, there may be stated, in lieu of the phrase "bottled by", "packed by", or "filled by", followed by the bottler's name (or trade name) and address, the phrases "blended by", "made by", "prepared by", "manufactured by", or "produced by" (whichever may be appropriate to the act of rectification involved) followed by the name (or trade name), and the address (or addresses) of the rectifier.

(5) In addition to the requirements of paragraphs (a)(1) and (a)(2) of this paragraph, the labels of bottled in bond spirits shall bear the real name of the distillery or the trade name under which the distillery produced and warehoused the spirits, the number of the plant in which produced and the number of the plant in which bottled.

(6) The label may state the address of the proprietor's principal place of business in lieu of the place where the bottling, distilling or rectification operation occurred, if the address where the operation occurred is indicated by printing, coding, or other markings, on the label or on the bottle.

(b) "*Imported by*". (1) On labels of imported distilled spirits, bottled prior to importation, there shall be stated the words "imported by", "imported exclusively by", or a similar appropriate phrase, and immediately thereafter the name of the importer, or exclusive agent, or sole distributor, or other person responsible for the importation, together with the principal place of business in the United States of such person.

(2) On labels of imported distilled spirits bottled after importation there shall be stated:

(i) The name of the bottler and place where bottled, immediately preceded by the words "bottled by", "packed by", or "filled by"; or

(ii) The name of the bottler and place where bottled, immediately preceded by the words "bottled by", "packed by", or "filled by" and in conjunction therewith the name and address of the person responsible for the importation, in the manner prescribed in paragraph (b)(1) of this section; or

(iii) The name and principal place of business in the United States of the person responsible for the importation, if the spirits are bottled for such person, immediately preceded by the phrase “imported by and bottled (packed), (filled) in the United States for” (or a similar appropriate phrase); or,

(iv) In the case of imported distilled spirits bottled after importation by the person responsible for the importation, the words “imported and bottled (packed), (filled) by”, “imported and bottled (packed), (filled) exclusively by”, or a similar appropriate phrase, and immediately thereafter the name of such person and the address of the place where bottled or the address of such person’s principal place of business.

(c) *Post office address.* The “place” stated shall be the post office address, except that the street address may be omitted. No additional places or addresses shall be stated for the same person, firm or corporation, unless (1) such person or retailer is actively engaged in the conduct of an additional bona fide and actual alcoholic beverage business at such additional place or address, and (2) the label also contains in direct conjunction therewith, appropriate descriptive material indicating the function occurring at such additional place or address.

(d) *State of distillation.* Except in the case of “light whisky”, “blended light whisky”, “blended whisky”, “a blend of straight whiskies”, or “spirit whisky”, the State of distillation shall be shown on the label of any whisky produced in the United States if the whisky is not distilled in the State given in the address on the brand label. The appropriate ATF officer may, however, require the State of distillation to be shown on the label or he may permit such other labeling as may be necessary to negate any misleading or deceptive impression which might be created as to the actual State of distillation. In the case of “light whisky”, as defined in §5.22(b)(3), the State of distillation shall not appear in any manner on any label, when the appropriate ATF officer finds such State is associated by consumers with an American type whisky, except as a part of a name

and address as set forth in paragraph (a) of this section.

(e) *Country of origin.* On labels of imported distilled spirits there shall be stated the country of origin in substantially the following form “Product of \_\_\_\_\_”, the blank to be filled in with the name of the country of origin.

(f) *Trade names.* The trade name of any permittee appearing on any label must be identical to the trade name listed on the permittee’s basic permit.

(26 U.S.C. 7805 (68A Stat. 917, as amended); 27 U.S.C. 205 (49 Stat. 981, as amended))

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#### §5.37 Alcohol content.

(a) *Statements—(1) Mandatory statement.* The alcohol content for distilled spirits shall be stated in percent-alcohol-by-volume. Products such as “Rock and Rye, or similar products containing a significant amount of solid material shall state the alcohol content at the time of bottling as follows: “Bottled at \_\_\_\_\_ percent-alcohol-by-volume.”

(2) *Optional statement.* In addition, the label may also state the alcohol content in degrees of proof if this information appears in direct conjunction (i.e. with no intervening material) with the statement expressed in percent-alcohol-by-volume. If both forms of alcohol content are shown, the optional statement in degrees of proof shall be placed in parentheses, in brackets, or otherwise distinguished from the mandatory statement in percent-alcohol-by-volume to emphasize the fact that both expressions of alcohol content mean the same thing.

(b) *Tolerances.* The following tolerances shall be allowed (without affecting the labeled statement of alcohol content) for losses of alcohol content occurring during bottling:

(1) Not to exceed 0.25 percent alcohol by volume for spirits containing solids in excess of 600 mg per 100 ml; or

(2) Not to exceed 0.25 percent alcohol by volume for any spirits product bottled in 50 or 100 ml size bottles; or