

AMENDING CERTAIN PROVISIONS OF LAW RELATIVE TO THE  
WITHDRAWAL OF BRANDY FOR FORTIFICATION OF WINES  
AND PRODUCTION OF WINES, BRANDY, AND FRUIT SPIRITS  
SO AS TO REMOVE THEREFROM CERTAIN UNNECESSARY  
RESTRICTIONS

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JANUARY 16, 1942.—Ordered to be printed

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Mr. GEORGE, from the Committee on Finance, submitted the following

## REPORT

[To accompany H. R. 5802]

The Committee on Finance, to whom was referred the bill (H. R. 5802) to amend certain provisions of law relative to the withdrawal of brandy for fortification of wines and production of wines, brandy, and fruit spirits so as to remove therefrom unnecessary restrictions, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

On page 2, line 6, strike out the period and insert in lieu thereof a semicolon and the following:

and by inserting at the end of the first paragraph the following new sentence: "The maximum penal sum of any bond required by this subchapter for any bonded winery or bonded storeroom shall be \$50,000."

At the end of the bill insert the following new subsection:

(h) Clause (2) of section 5 (f) of the Federal Alcohol Administration Act (49 Stat. 984) is amended to read as follows: "(2) as will provide the consumer with adequate information as to the identity and quality of the products advertised, the alcoholic content thereof (except the statements of, or statements likely to be considered as statements of, alcoholic content of malt beverages and wines are prohibited), and the person responsible for the advertisement;"

The purpose of the proposed legislation, as outlined in the report of the House Ways and Means Committee, is to extend the provisions of the Internal Revenue Code making certain exemptions with respect to fruit brandies and fruit wines to the brandies of wines made from pawpaws, papayas, pineapples, and cantaloups. There is a surplus of these fruits and it is felt that permitting the fermentation or distillation of them under the same conditions that are extended to other fruit brandies and wines will help consume this surplus. It should be pointed out that these fruit brandies and wines are not exempt from the payment of tax imposed on similar or like wines and brandies.

As a part of this report and for the information of the Senate there is appended hereto a letter from the Acting Secretary of the Treasury to the chairman of the Committee on Ways and Means of the House, under the date of May 2, 1941, dealing with bill H. R. 2502, which in part would have accomplished the same objectives as the bill H. R. 5802, reading as follows:

MAY 2, 1941.

Hon. ROBERT L. DOUGHTON,  
*Chairman, Committee on Ways and Means,  
House of Representatives.*

MY DEAR MR. CHAIRMAN: Further reference is made to your letter of March 5, 1941, requesting recommendations or comments in respect of a bill No. H. R. 2502 (77th Cong., 1st sess.), introduced on January 21, 1941, by Mr. Izac, and referred to your committee. The declared purpose of the bill is to "extend the provisions of section 3255 of the Revised Statutes to cantaloups."

The statute referred to as section 3255 of the Revised Statutes is now codified as section 2825 of the Internal Revenue Code. It authorizes the exemption of distillers of brandy from the fruits named in the section from any of the provisions of the internal-revenue laws relating to the manufacture of spirits except from the provisions relating to the tax on spirits. The section also contains provisos permitting the use as distilling material of certain named wines which have been artificially sweetened; the fruit pomace residuum thereof; and grape cheese prepared in the manner set forth in the statute. Because of their method of operation, many of which are the direct result of seasonal conditions, the fruit brandy distillers have been exempted from many of the routine and detailed requirements of the internal-revenue laws relating to distilled spirits. The inclusion of cantaloups and cantaloup wine in the list of fruits and wines which may be used as distilling materials by fruit brandy distillers operating under the exemptions will not adversely affect the administration of the internal-revenue laws.

This Department will interpose no objection to the passage of the bill. It is believed, however, that the Food and Drug Administration of the Federal Security Agency might be desirous of expressing its views in respect of the manufacture of wine and brandy from cantaloups.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to your committee.

Very truly yours,

JOHN L. SULLIVAN,  
*Acting Secretary of the Treasury.*

For the further information of the Senate there is appended hereto and made a part of this report a letter from the Acting Secretary of the Treasury to the chairman of the Senate Committee on Finance, dated January 6, 1942, with reference to the amendments as adopted by the Senate committee, reading as follows:

TREASURY DEPARTMENT,  
*January 6, 1942.*

Hon. WALTER F. GEORGE,  
*Chairman, Committee on Finance, United States Senate,  
Washington, D. C.*

MY DEAR MR. CHAIRMAN: Further reference is made to your letter of November 10, 1941, requesting a report on two proposals submitted by Mr. Harry A. Caddow, secretary-manager of the Wine Institute, to amend a bill numbered H. R. 5802 (77th Cong., 1st sess.), to amend certain provisions of law relative to the withdrawal of brandy for fortification of wines and production of wines, brandy, and fruit spirits so as to remove therefrom certain unnecessary restrictions. You enclosed with your request a letter dated November 6, 1941, addressed to the Honorable Sheridan Downey by Mr. Caddow, and the proposed amendments.

The bill would amend sections 3045, 3031 (a), 3030 (a) (2), 3032 (c), 3030 (c), 2825, and 3038 (a) of the Internal Revenue Code by adding "pawpaw wines, papaya wines, pineapple wines, cantaloup wines" and "pawpaw brandy, papaya brandy, pineapple brandy, cantaloup brandy" to the language of the sections enumerated, in the manner described in paragraphs (a) to (g), inclusive, of the

single section comprising the bill. These paragraphs, except paragraph (b), would, if enacted into law, authorize the manufacture at bonded wineries of pawpaw, papaya, pineapple, and cantaloup wine and the fortification of such wines, respectively, with pawpaw, papaya, pineapple, and cantaloup brandy. The authorization by Congress of the manufacture of wine from any fruit or material, or the authorization to fortify such wine, will have no bearing or effect upon the collection of the revenue. However, the Food and Drug Administration, Federal Security Agency, would be vitally interested in the establishment of standards for wines and the fortification thereof, and it is suggested that the proposed amendments be referred to it for an expression of its views.

Paragraph (b), to amend the provisions of section 3031 (a) of the Internal Revenue Code, would have the effect of extending to wine producers the same privileges in respect of the withdrawal, under bond, of pawpaw, papaya, pineapple, and cantaloup brandy, and wine spirits, for the fortification therewith of pawpaw, papaya, pineapple, and cantaloup wines as they now enjoy in respect of the withdrawal of wine spirits and brandy for the fortification of other wines.

Mr. Caddow's first proposed amendment is to strike the language of paragraph (b) and substitute therefor the language contained on pages 1 and 2 and the top portion of page 3 of his enclosure with his letter to Senator Downey. The language of this proposal is identical with the language which appears in line 25 on page 4, all of pages 5 and 6, and in lines 1 to 6 on page 7 of the draft of H. R. 5802 which you submitted to me. It appears from Mr. Caddow's letter that when H. R. 5802 was amended in the House Ways and Means Committee the wrong paragraph of the bill was inadvertently stricken therefrom. Paragraph (b), which was permitted to remain in the bill, would amend section 3031 (a) of the Internal Revenue Code only by the addition of the names of the wines and brandies referred to above. The paragraph which was stricken through inadvertence, and now sought to be restored, would have accomplished the same purpose as paragraph (b) and in addition would have (1) stricken from the section the requirement that the wine producer's bond should be sufficient "to fully cover at all times" the payment of internal revenue tax due to be paid by him, and (2) added a specific injunction to the effect that "the maximum penal sum of any bond required by this subchapter for any bonded winery or bonded storeroom shall be \$50,000."

The Treasury Department is of opinion that winemakers' bonds in maximum penal sums of \$50,000 will be sufficient, and that the incorporation of a \$50,000 bond limit in the law will not create a hazard to the revenue.

Mr. Caddow's second proposed amendment is that a new paragraph, numbered (h), be added to the bill to amend the second clause of subsection (f) of section 5 of the Federal Alcohol Administration Act, approved August 29, 1935 (U. S. C., Supp. V, title 27, sec. 205 (f) (2)). The preliminary portions of section 5 and subsection (f), and clause (2) of the subsection read as follows:

"SEC. 5. It shall be unlawful for any person engaged in business as a distiller, brewer, rectifier, blender, or other producer, or as an importer or wholesaler, of distilled spirits, wine, or malt beverages, or as a bottler, or warehouseman and bottler, of distilled spirits, directly or indirectly or through an affiliate:

\* \* \* \* \*

"(f) Advertising: To publish or disseminate or cause to be published or disseminated by radio broadcast, or in any newspaper, periodical or other publication or by any sign or outdoor advertisement or any other printed or graphic matter, any advertisement of distilled spirits, wine, or malt beverages, if such advertisement is in, or is calculated to induce sales in, interstate or foreign commerce, or is disseminated by mail, unless such advertisement is in conformity with such regulations, to be prescribed by the Administrator, \* \* \* (2) as will provide the consumer with adequate information as to the identity and quality of the products advertised, the alcoholic content thereof (except that statements of, or statements likely to be considered as statements of, alcoholic content of malt beverages [\*] are prohibited *and except that, in case of wines, statements of alcoholic content shall be required only for wines containing more than 14 per centum of alcohol by volume*), and the person responsible for the advertisement; \* \* \*"  
[italics supplied.]

Mr. Caddow's proposal to amend is that at the point in the second clause indicated in the above quotation by an asterisk in brackets there shall be added the words "and wines", and that the language in italics in the above quotation of the clause be eliminated. These two amendments accomplish one purpose, i. e., the prohibition of statements of the alcoholic content of wines in any advertisement by radio, newspaper, periodical or other publication or by any sign or outdoor advertisement or any other printed or graphic matter.

This Department is of the opinion that this proposed amendment will have a good effect because it will exclude from the advertising media mentioned the references to the alcoholic content of the product advertised. It is entirely consistent with the position the Department has taken in respect of the advertising of fortified wines. There the Department's position has been that the advertisers of wines shall not use the word "fortified" in connection with their advertisements because the word "fortified" indicates the strengthening of a normal wine by the addition of distilled spirits. Indeed, the effect produced by the departmental ban on the use of the word "fortified" in connection with the advertising of wines is to some extent nullified by the statements of alcoholic content of wines as required by the law.

This Department will offer no objection to the amendment of H. R. 5802 in the manner suggested, nor to the passage of the bill if so amended.

In view of your recent request for expedition, it has not been possible to secure the usual Budget clearance on this report.

Very truly yours,

JOHN L. SULLIVAN,  
*Acting Secretary of the Treasury.*

