

AMENDMENTS TO LIQUOR-TAXING LAWS RELATING TO
WINES AND FRUIT SPIRITS

APRIL 20 (calendar day, JUNE 2), 1938.—Ordered to be printed

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

REPORT

[To accompany H. R. 10459]

The Committee on Finance, to whom was referred the bill (H. R. 10459) to amend certain provisions of law relative to the production of wines, brandy, and fruit spirits so as to remove therefrom certain unnecessary restrictions; to facilitate the collection of internal-revenue taxes thereupon; and to provide abatement of certain taxes upon wines, brandy, and fruit spirits where lost or evaporated while in the custody and under the control of the Government without any fault of the owner, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

Sections 1 to 7 of the bill, which were not amended by the committee, are explained in detail in House Report No. 2413 which accompanied the bill in the House of Representatives. Excerpts of such report are appended hereto and made a part of this report as follows:

The purpose of the bill is stated generally in its title. It is primarily an administrative measure designed to clarify certain provisions of the law which stand in the way of the amendment of regulations prescribed by the Commissioner of Internal Revenue in connection with the manufacture and withdrawal of wines and brandies.

Section 1 amends the law so as to make it clear that champagne, sparkling, and artificially carbonated wine taxed by section 613 of the Revenue Act of 1918 may be removed in bond free of tax in the same manner as still wines taxed under section 611 of the same act may now be removed.

This section also provides for the remission of fortification taxes assessed or paid upon the quantity of fortifying spirits contained in wines which are exported or which have become unfit for use as wine and are used as distilling material.

Section 2 amends the law by authorizing fruit-brandy distillers to withdraw aldehydes, which are now collected in locked tanks, into casks, barrels, or other containers for storage in brandy deposit rooms of fruit-brandy distilleries where produced pending removal for denaturation or destruction. There appears to be no reason why the use of such other containers safeguarded under Treasury regulations should not be permitted.

Section 3 authorizes remission or refund of taxes assessed or paid on brandy intended for the fortification of wines where loss by leakage, evaporation, or theft occurs from storage tanks or from steel drums filled from such storage tanks in bonded warehouses. Such losses occasionally result where brandy made for fortifying purposes must be held over from one crushing season to the next. The section provides that such remission or refund shall be allowed only to the extent that the wine maker or distiller who has paid the tax or against whom it has been assessed is not indemnified or recompensed for such loss. The committee amendment makes it clear that the allowable losses from such drums must occur while the drums are in the warehouse.

Section 4 authorizes pipe-line removals of fruit brandy from registered fruit distilleries to storage tanks in the internal revenue bonded warehouse on the distillery premises and from such storage tanks to the fortification rooms of contiguous wineries.

Section 5 extends the special tax rate of \$2 per calendar month to persons or organizations selling wine at carnivals, fairs, etc., if such persons or organizations are not otherwise engaged in business as wholesale or retail liquor dealers or wholesale or retail malt-liquor dealers. This privilege is already enjoyed by vendors of malt liquors.

Section 6 authorizes the blending of two or more fruit brandies distilled from the same kind of fruit and aged in wood for a period of not less than 2 years. Such blending is to be accomplished under the immediate supervision of a revenue officer subject to such conditions as the Commissioner of Internal Revenue, with the approval of the Secretary, may prescribe. Such blending is to be exempt from the present rectification tax. Similar provisions are now enjoyed in respect to the blending of 4-year-old whisky.

Section 7 amends section 605 of the Revenue Act of 1918 as amended to permit the use in the manufacture of vermouth on bonded winery premises of essences made with distillery spirits whether such essences are made on the winery premises or manufactured elsewhere.

No changes in tax rates are involved in this bill, and no refund of taxes which may be assessed or paid on brandy or fruit spirits prior to the enactment of this bill is allowed.

The attached letter from Hon. Roswell Magill, Acting Secretary of the Treasury, to whom the bill has been submitted, indicates that neither the Treasury Department nor the Bureau of the Budget have objection to its enactment.

TREASURY DEPARTMENT,
Washington, May 17, 1938.

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 April 30, 1938, requested a statement of this Department's views on a bill (H. R. 10459) introduced by Mr. Buck on April 28, 1938, and referred to your committee.

Section 1 of the bill would amend section 618 (a) of the Revenue Act of 1918 so as to make it clear that champagne, sparkling wine, and artificially carbonated wine taxed by section 613 of the Revenue Act of 1918 may be removed in bond free of tax under regulations in the same manner as domestic wine, imitation wine, or compounds sold as still wines, taxed under section 611 of the Revenue Act of 1918, may now be so removed.

Section 618 now provides, following the word "premises" which appears as the last word in line 6, page 2 of the bill "(but not more than one such additional removal shall be allowed)." The proposed amendment would eliminate this language and the Treasury Department offers no objection to the elimination thereof.

The proviso in lines 15 to 21, page 2, provides for the withdrawal of samples of brandy or fruit spirits under regulations, which samples shall be tax-free if for laboratory analysis and tax-paid if for any other use. The proviso in lines 21 to 25, page 2, and lines 1 and 2, page 3, authorizes the Commissioner of Internal Revenue, under regulations prescribed by him with the approval of the Secretary of the Treasury, to remit or refund all fortification taxes assessed or paid upon the quantity of fortifying spirits contained in wines exported or which have become unfit for use as wine and are used as distilling material. On line 3, page 2, of the bill, appear the words and figures "Imposed by sections 611 and 613, as amended." Since tax is paid on some of the wines under section 611 and on others under section 613, and the privilege of tax-free removal is to be accorded

to wines of both classes, it is believed that the word "or" should be substituted for the word "and" italicized in the above quotation. The Treasury Department offers no objection to section 1.

Section 2 of the bill would amend section 410 of the Liquor Tax Administration Act (U. S. C., 1934 ed., Supp. III, title 26, sec. 1320a). Section 410 now authorizes distillers to collect in locked tanks distillates containing one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oils (commonly referred to as heads and tails and consisting of distillates containing material which is objectionable as to taste and odor) removed in the course of distillation. The section further provides for the tax-free removal of such distillates for denaturation or destruction under rules and regulations prescribed by the Commissioner with the approval of the Secretary. The amendment proposed in section 2 (lines 19 to 25, p. 3) would authorize fruit-brandy distillers to withdraw such distillates from the locked tanks into casks, barrels, or other containers for storage in the brandy-deposit rooms of the fruit-brandy distilleries where produced pending removal for denaturation or destruction; all under regulations to be prescribed by the Commissioner with the approval of the Secretary. The Treasury Department interposes no objection to section 2.

Section 3 of the bill would add a new section of law authorizing the remission or refund of taxes assessed or paid upon brandy or fruit spirits, intended for the fortification of wines, which are lost by leakage, evaporation, theft, or otherwise, after passage of the bill, from storage tanks in bonded warehouses or from steel drums filled from such storage tanks, with the provision, however (lines 12 to 15, p. 4), that such remission or refund shall be allowed only to the extent that the *winemaker* who has paid the tax, or against whom it has been assessed, is not indemnified or recompensed for such loss. The word "winemaker" (italicized above) would make the proviso applicable only to winemakers and authorize remissions and refunds to distillers even though they should be indemnified or recompensed for their losses of brandy and fruit spirits and the tax thereon. It is suggested that on line 14, page 4, there be inserted, in lieu of the word "winemaker" the words "distiller or winemaker", so as to make the proviso applicable to distillers as well as winemakers. It is suggested that on line 7, page 4, following the word "therefrom," near the end of the line there be inserted the words "while such drums are in such warehouse." This amendment will make it clear that the allowable losses from such drums must occur while the drums are in the warehouse. If these amendments are made, the Treasury Department will offer no objection to section 3.

Section 4 of the bill would amend the first paragraph of section 602 of the Revenue Act of 1918 (U. S. C., 1934 ed., Supp. III, title 27, sec. 74b), to authorize pipe-line removals of fruit brandy ranging in proof from 159° to 192°, inclusive, from registered fruit distilleries and receiving cisterns in such distilleries to storage tanks in the internal-revenue bonded warehouse on the distillery premises and from such storage tanks to the fortification rooms of contiguous wineries. The Treasury Department offers no objection to section 4.

Section 5 of the bill would amend subsection (g) of paragraph "Fifth" of section 3244 of the Revised Statutes as amended (U. S. C., 1934 ed., Supp. III, title 26, sec. 1394 (e) (3)), to provide for the payment of a special tax of \$2 per calendar month by persons and organizations selling wine at carnivals, fairs, etc., if such persons or organizations are not otherwise engaged in business as a wholesale or retail liquor dealer or as a wholesale or retail malt-liquor dealer. Such a special tax is now imposed upon persons and organizations who sell fermented malt liquor at carnivals, fairs, etc., and are not otherwise engaged in business as dealers in malt liquors. The Treasury Department offers no objection to section 5.

Section 6 of the bill would amend the fourth paragraph of section 605 of the Revenue Act of 1918 (U. S. C., 1934 ed., title 26, sec. 1151 (b)), to authorize the blending of two or more fruit brandies distilled from the same kind of fruit and aged in wood for a period of not less than 2 years; without the addition of coloring or flavoring matter or any other substance than pure water and if not reduced below 90 proof. The section provides that such blending is to be accomplished under the immediate supervision of a revenue officer in such tanks and subject to such conditions and supervision as the Commissioner, with the approval of the Secretary, may prescribe. Provision is made that such blending of fruit brandy shall be exempt from the rectification tax of 30 cents per proof gallon imposed by the first paragraph of section 605 of the Revenue Act of 1918. The fourth paragraph of section 605 of the Revenue Act of 1918 now contains similar provisions in respect of the blending of 4-year-old whiskies. Section 6 amends the paragraph only to the extent of making its provisions applicable to blends of

2-year-old fruit brandies. In line 11, page 6, appear the words and figures, "sections 611 and 613 of this act." This is the language of the United States Code but in the Revenue Act of 1918 the word "or" appeared between "611" and "613." Since there appears to be no reason for the change effected by the code, it is suggested that the word "and" be stricken out and that there be substituted therefor the word "or." The Treasury Department offers no objection to section 6.

Section 7 of the bill amends the second paragraph added to section 605 of the Revenue Act of 1918, as amended, by section 319 (b) of the Liquor Tax Administration Act (U. S. C., 1934 ed., Supp. III, title 26, sec. 1151 (f), to permit the use, in the manufacture of vermouth on bonded winery premises, of essences made with distilled spirits, whether such essences are made on the winery premises or are manufactured elsewhere and taken on such bonded winery premises. The Treasury Department interposes no objection to section 7. It is believed, however, that if the words "used in the manufacture of vermouth" appearing on line 16, page 7, are inserted after the language on line 14 and before the language on line 15, that portion of the section will read more smoothly. The meaning will be the same whether or not the change is made. If the change is made lines 14 and 15 and 16 will read as follows: "Than necessary in the production of approved essences, used in the manufacture of vermouth whether or not such essences are produced on bonded winery premises are".

The Treasury Department has been advised by the Bureau of the Budget that there is no objection to the presentation of this report.

Very truly yours,

ROSWELL MAGILL,
Acting Secretary of the Treasury.

Section 8 of the bill has been added by the Committee on Finance. This section places prune, plum, and pear wines and prune, plum, and pear brandy in the same category as other domestic natural wines and brandies.

The Treasury Department and the Department of Agriculture interposed no objection to the amendment, as shown in the following letters to the chairman of the committee:

MARCH 28, 1938.

HON. PAT HARRISON,
*Chairman, Committee on Finance,
United States Senate, Washington, D. C.*

MY DEAR MR. CHAIRMAN: Further reference is made to your letter of March 4, 1938, concerning bill S. 3599, introduced on January 5 (calendar day, March 3), 1938, by Senator McNary, and referred to the Committee on Finance.

The bill proposes the amendment of the internal-revenue laws to authorize the manufacture at bonded wineries of prune, plum, and pear wine and the fortification of such wines, respectively, with prune, plum, and pear 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 and, therefore, the Treasury Department interposes no objection to the enactment of this bill.

The Food and Drug Administration, Department of Agriculture, 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.

Very truly yours,

ROSWELL MAGILL,
Acting Secretary of the Treasury.

DEPARTMENT OF AGRICULTURE,
Washington, March 25, 1938.

HON. PAT HARRISON,
Chairman, Committee on Finance, United States Senate.

DEAR SENATOR HARRISON: We have your memorandum of March 4, 1938, enclosing for our consideration a copy of S. 3599, a bill to provide for the manufacture and fortification of prune wines, plum wines, and pear wines, and for other purposes.

It is our understanding that the measure extends the provisions of the Revenue Act of 1918, as amended, to include the above-named wines. The Department has no comment to offer on the provisions of the bill.

This matter was referred to the Bureau of the Budget, as required by Budget Circular 344, and the Acting Director advised the Department of Agriculture, under date of March 22, 1938, that there would be no objection on the part of that office to the submission of the foregoing report to Congress.

Sincerely,

HARRY L. BROWN,
Acting Secretary.

