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PROVIDING FOR ESTABLISHMENT AND OPERATION OF IN-BOND DEPARTMENTS OF RECTIFYING PLANTS

JUNE 27, 1952.—Ordered to be printed

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

REPORT

[To accompany H. R. 6366]

The Committee on Finance, to whom was referred the bill (H. R. 6366) to amend certain provisions of the Internal Revenue Code to authorize the receipt in bond and taxpayment at rectifying plants of distilled spirits, alcohol, and wines for rectification, bottling, and packaging, or for bottling and packaging without rectification; and the production in bond and taxpayment of gin and vodka at rectifying plants, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of this bill is to enable rectifying plants to receive and store in bond distilled spirits, alcohol, and wines pending taxpayment and removal for rectification and bottling, or for bottling without rectification, and to produce gin and vodka in bond.

GENERAL STATEMENT

Existing statutes and regulations promulgated thereunder provide that rectifiers may receive only distilled spirits, wines, and other liquors that have been previously taxpaid. Distilled spirits, alcohol, and wines, upon which the internal-revenue taxes have not been paid, may be stored only in internal revenue bonded warehouses, industrial alcohol bonded warehouses, and bonded wineries and bonded wine storerooms, respectively, separate storage of these liquors prior to tax payment being a traditional requirement of the system. Since these warehouses and storerooms are concentrated in relatively small areas it has been necessary for rectifiers to taxpay and withdraw from bond, distilled spirits, alcohol, and wine in excess of their current

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requirements, in order to insure against a failure in their supply which would necessitate discontinuance of operations. This has resulted in rectifiers having large amounts of capital tied up in liquors which are taxpaid but unprocessed and not ready for sale or distribution. Rail and water shipments of taxpaid liquors to rectifiers represent an additional tie-up of capital in taxes on liquors prior to acquisition thereof. These facts have worked to the competitive disadvantage of small rectifiers with limited capital and rectifiers (usually small) who are operating in locations remote from authorized storage establishments.

The bill would authorize the Secretary in his discretion, and pursuant to the filing of notices and bonds, to qualify a portion of a rectifying plant as an "in-bond department." The in-bond department shall be used exclusively for the storage of untaxpaid liquors, or for the production of rectification tax-exempt gin and vodka. Such in-bond department would need to be securely constructed and separated from other portions of the rectifying plant or contiguous premises as might be required by regulations. The approval as a part of the in-bond department of permanent storage tanks not located within a room or building would be authorized. The supervision of such department would be placed in the storekeeper-gauger or other designated Government officer. Thus, it is intended that the security and supervision over such in-bond department would be comparable to warehouse premises in which untaxpaid liquors may now be stored.

There is also provided in this bill, the same 8-year limitation upon the storage of distilled spirits in bond as is now prescribed in section 2879 (b) of the Internal Revenue Code. However, since the in-bond department is not intended to be a bonded warehouse for normal storage and aging purposes, the quantity of distilled spirits, alcohol, and wines on deposit in such department may not be in excess of that required to meet the needs of the rectifying plant during 1 year. To further implement this requirement the rectifier would be required to pay the tax on products entered into the in-bond department at the time of withdrawal, and within 1 year from their deposit therein. However, if the rectifier should find that he has no use for spirits on deposit in his in-bond department provision is made to enable the spirits to be returned to an appropriate bonded warehouse or store-room in accordance with regulations to be prescribed.

Consistent with other requirements of the internal-revenue laws relative to liquors, a rectifier intending to establish an in-bond department would be required to file a bond in a penal sum not less than the amount of tax on distilled spirits, alcohol, and wines on deposit or in transit to the in-bond department at any one time plus the amount of tax on rectified products for which the rectifier might be liable in a period of 30 days. The maximum penal sum of the bond, consistent with other similar warehousing bonds, would be \$200,000.

This bill would also authorize the use of untaxpaid neutral spirits or alcohol, produced at a proof of 190° or more, in the production of gin or vodka in a separate part of the in-bond department designated as the special-process room. Under the present regulatory system, a distiller may use untaxpaid spirits of his own production in manufacturing gin and vodka and is not liable for tax on losses of spirit normally occurring in the manufacturing process, but a rectifier in order to manufacture the same products, must procure and use taxpaid spirits. He loses not only the value of the distilled spirits lost

in the manufacturing process but also the tax which he has paid on that quantity of spirits. It is understood that a considerable loss of spirits normally occurs in the manufacturing of gin and vodka. This places rectifiers producing gin and vodka in a disadvantageous position in attempting to meet the competition of distillers producing these products. The bill eliminates this disadvantage in the case of rectifiers producing gin or vodka by the same process as is authorized for the production of these products at registered distilleries. The production of gin and vodka by other processes would not be permissible in the special-process room. The basic tax on gin and vodka so produced would be payable upon the withdrawal of the gin or vodka from receiving tanks in such room.

Provision is also made in the bill for the allowance of losses of untaxpaid distilled spirits, alcohol, and wine in accordance with the respective provisions of internal-revenue law relating to such liquors.

The bill would also extend the provisions of sections 2913 (relating to penalty for unlawful removal or concealment of untaxpaid spirits), 2914 (relating to penalty on officer in charge of bonded warehouse for unlawful removal of spirits), and 3107 (relating to authorization for transfers of alcohol to other plants or warehouses) of the Internal Revenue Code to the in-bond department of rectifying plants.

Amendments were added by the House Ways and Means Committee to conform section 2878 (a) of the Internal Revenue Code to changes that the bill would make, and would make applicable to the bill the provisions of Reorganization Plan No. 26 of 1950.

This bill, if enacted, would become effective on the first day of the first month which begins 6 months or more from the date of enactment.

The presence of untaxpaid distilled spirits, alcohol, and wines on rectifiers' premises, would necessitate a greater degree of supervision of such premises. It is estimated that the increased supervision required would cost approximately \$400,000 per annum. There would be a slight loss of revenue to the Government since no tax would be collectible on losses of alcohol and neutral spirits normally occurring in the process of manufacturing gin or vodka.

The Treasury Department has no objection to the enactment of this bill.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE

SUBCHAPTER A—DISTILLED SPIRITS

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Part IV—In-Bond Department of Rectifying Plants

SEC. 2896. WITHDRAWAL OF SPIRITS, ALCOHOL, AND WINES IN BOND.

(a) *GENERAL.*—*The Secretary may in his discretion, upon a showing of necessity, and upon the execution and filing of notices and bonds, authorize any qualified rectifier as defined in section 3254 (g) to withdraw and transfer in bond distilled spirits from any registered distillery, including fruit distillery (such registered distillery and registered fruit distillery being hereinafter referred to as "distillery") or internal*

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revenue bonded warehouse, alcohol from any industrial alcohol plant or bonded warehouse, and wines from any bonded winery or bonded wine storeroom, to a separate portion of his rectifying plant (hereinafter referred to as the In-Bond Department) which shall be set apart and, except as provided in section 2897, used exclusively for the receipt and storage of such distilled spirits, alcohol, and wines pending taxpayment and removal for rectification and bottling and packaging subsequent to rectification or for bottling and packaging without rectification.

(b) *SECURITY OF PREMISES.*—The In-Bond Department shall be securely constructed and shall be separated from other portions of the rectifying plant or contiguous premises as regulations shall prescribe. Permanent storage tanks not located within a room or building, such as are authorized at bonded warehouses, may in the discretion of the Secretary be approved as a part of the In-Bond Department.

(c) *CONTROL.*—The In-Bond Department of a rectifying plant shall be under the control of the District Supervisor of the Alcohol and Tobacco Tax Division district in which the rectifying plant is located, and shall be in the joint custody of the storekeeper-gauger and the proprietor thereof, and shall be kept securely locked and shall at no time be unlocked or open or remain open except in the presence of such storekeeper-gauger or other person who may be designated to act for him. The keys to all government locks shall remain at all times in the custody of such storekeeper-gauger or in the custody of the district supervisor or such other person as may be designated by the district supervisor.

(d) *TRANSFERS TO IN-BOND DEPARTMENT.*—Distilled spirits may be transferred from any distillery or internal revenue bonded warehouse, alcohol may be transferred from any industrial alcohol plant or bonded warehouse, and wines may be transferred from any bonded winery or bonded wine storeroom to the In-Bond Department of a rectifying plant in approved containers and pipe lines, as regulations may provide. The quantity of distilled spirits, alcohol, and wines transferred to the In-Bond Department of a rectifying plant when added to the quantity of distilled spirits, alcohol, and wines on deposit in such In-Bond Department shall not be in excess of that required to meet the needs, for not more than one year, of such plant or of one or more additional plants operated by a subsidiary or affiliate on contiguous premises.

(e) *PAYMENT OF TAXES.*—

(1) *BASIC TAXES.*—The taxes imposed by sections 2800 (a) (1) and 3030 (a) shall, except as otherwise provided in paragraph (2), be paid by the rectifier at the time of withdrawal of the distilled spirits, alcohol, or wines from the "In-Bond Department" of the rectifying plant in which they were deposited.

(2) *TIME LIMITATION.*—The tax imposed on distilled spirits, alcohol, and wines deposited in the In-Bond Department of a rectifying plant shall be due and payable one year from the date of deposit therein unless earlier withdrawn: Provided, That in no event shall the total period of storage of distilled spirits in a bonded warehouse and in the In-Bond Department of a rectifying plant be in excess of the eight-year period prescribed by section 2879 (b).

(f) *BOND.*—Every rectifier intending to provide an In-Bond Department for the receipt and storage of untaxpaid distilled spirits, alcohol, or wines for the purposes authorized by this section, or for the receipt, storage, and use of untaxpaid alcohol for the purposes authorized by section 2897, shall, upon filing with the Commissioner his notice of such intention, and before withdrawing any untaxpaid distilled spirits, alcohol, or wines from any place of manufacture or storage, execute a bond in the form prescribed by regulations, conditioned that he shall faithfully comply with all provisions of law relating to the duties and business of a rectifier, and shall pay all taxes and penalties for which he may become liable. The said bond shall be in a penal sum not less than the sum of: (1) the amount of the tax on distilled spirits (including gin and vodka), alcohol, and wines on deposit or on hand in the In-Bond Department of the rectifying plant and in transit thereto at any one time, plus, (2) the amount of the tax on rectified products that the rectifier will be liable to pay in a period of thirty days: Provided, That the penal sum of such bond shall not exceed the sum of \$200,000. The provisions of section 2815 (c), (d), and (e) shall so far as applicable apply to bonds required under this subsection.

(g) *TRANSFER OF UNUSED SPIRITS, ALCOHOL, AND WINES.*—Untaxpaid distilled spirits (except gin and vodka subject to the tax imposed by section 2800 (a) (5)), alcohol, or wines on deposit in the In-Bond Department of a rectifying plant for which the rectifier has no use, upon discontinuance of the plant or other reason, may be transferred to an internal revenue bonded warehouse, an industrial alcohol bonded warehouse, or a bonded winery or bonded wine storeroom, respectively, as regulations may provide.

SEC. 2897. PRODUCTION IN BOND AND TAXPAYMENT OF GIN AND VODKA.

(a) *AUTHORIZATION.*—Any duly qualified rectifier who has provided on his rectifying plant premises an In-Bond Department in accordance with section 2896 may, under regulations, use neutral spirits or alcohol produced at a proof of 190 degrees or more in the production of gin or vodka in a separate portion of such department (hereinafter referred to as the Special Process Room) which shall be set aside and used exclusively for the purpose. The Special Process Room shall be separated from other portions of the In-Bond Department or other contiguous premises and shall be constructed and secured as regulations shall provide.

(b) *MANUFACTURING PROCESS.*—The manufacturing process employed in the production of gin or vodka in the Special Process Room shall be such as that authorized at registered distilleries and by which the spirits or alcohol shall pass through continuous, closed stills, tanks, pipes, and vessels until the finished gin or vodka is deposited in locked receiving tanks located in such room.

(c) *PAYMENT OF TAXES.*—The taxes imposed by section 2800 (a) (1) and by section 2800 (a) (5), if any, shall be paid by the rectifier at the time of withdrawal of the gin or vodka from the receiving tank in the Special Process Room and such gin and vodka shall, upon tax payment, be immediately removed from the In-Bond Department.

SEC. 2898. LOSS ALLOWANCES.

The provisions of sections 2901, 3113, and 3039 shall, insofar as applicable, apply in respect of losses of untaxpaid distilled spirits (including gin and vodka), alcohol, and wines, respectively, occurring in the In-Bond Department of a rectifying plant or in transit thereto or therefrom.

SEC. 2899. REGULATIONS.

The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the provisions of this part.

Part [IV] V—Miscellaneous Provisions Relating to Distilled Spirits

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SEC. 2913. PENALTY FOR UNLAWFUL REMOVAL OR CONCEALMENT OF SPIRITS.

Whenever any person removes, or aids or abets in the removal of, any distilled spirits on which the tax has not been paid, to a place other than the internal revenue bonded warehouse or In-Bond Department of a rectifying plant provided by law, or conceals or aids in the concealment of any spirits so removed, or removes, or aids or abets in the removal of, any distilled spirits from any such warehouse or In-Bond Department of a rectifying plant authorized by law, in any manner other than is provided by law, or conceals or aids in the concealment of any spirits so removed, he shall be liable to a penalty of double the tax imposed on such distilled spirits so removed or concealed, and shall be fined not less than \$200 nor more than \$5,000, and imprisoned not less than three months nor more than three years.

SEC. 2914. PENALTY ON OFFICER IN CHARGE OF WAREHOUSE FOR UNLAWFUL REMOVAL OF SPIRITS.

(a) *OFFENSE.*—Whenever any storekeeper-gauger or other person in the employment of the United States, having charge of a bonded warehouse or In-Bond Department of a rectifying plant, removes or allows to be removed therefrom any cask or other package, or removes or allows to be removed any part of the contents of any cask or package deposited therein, otherwise than as provided by law, he shall be immediately dismissed from office or employment, and be fined not less than \$500 nor more than \$2,000, and imprisoned not less than three months nor more than two years.

(b) *TRANSFER OF DUTIES.*—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

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SUBCHAPTER C—INDUSTRIAL ALCOHOL

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Part II—Industrial Alcohol Plants

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SEC. 3107. TRANSFER OF ALCOHOL TO OTHER PLANTS OR WAREHOUSES.

Alcohol produced at any registered industrial alcohol plant or stored in any bonded warehouse may be transferred under regulations to any other registered industrial alcohol plant or bonded warehouse for any lawful [purpose] *purpose, or to the In-Bond Department of a rectifying plant for use for beverage purposes only.*

SEC. 2878. DRAWING, GAUGING, AND MARKING OF DISTILLED SPIRITS.

(a) GENERAL RULE.—[Except as provided in section 2883] *Except as otherwise provided by law, all distilled spirits shall be drawn from receiving cisterns into casks or packages and thereupon shall be gauged, proved, and marked by a storekeeper-gauger, and immediately removed into an internal revenue bonded warehouse. The Commissioner, with the approval of the Secretary, is hereby empowered to prescribe all necessary regulations relating to the drawing off, gauging, and packaging of distilled spirits; the marking, branding, numbering, and stamping of such packages; and the transfer and transportation to, and the storage of such spirits in, internal revenue bonded warehouses.*

