



Regulatory Overview of Labeling and Advertising Rules for Beer, Wine, and Spirits: Who's Really in Charge of Your Label?

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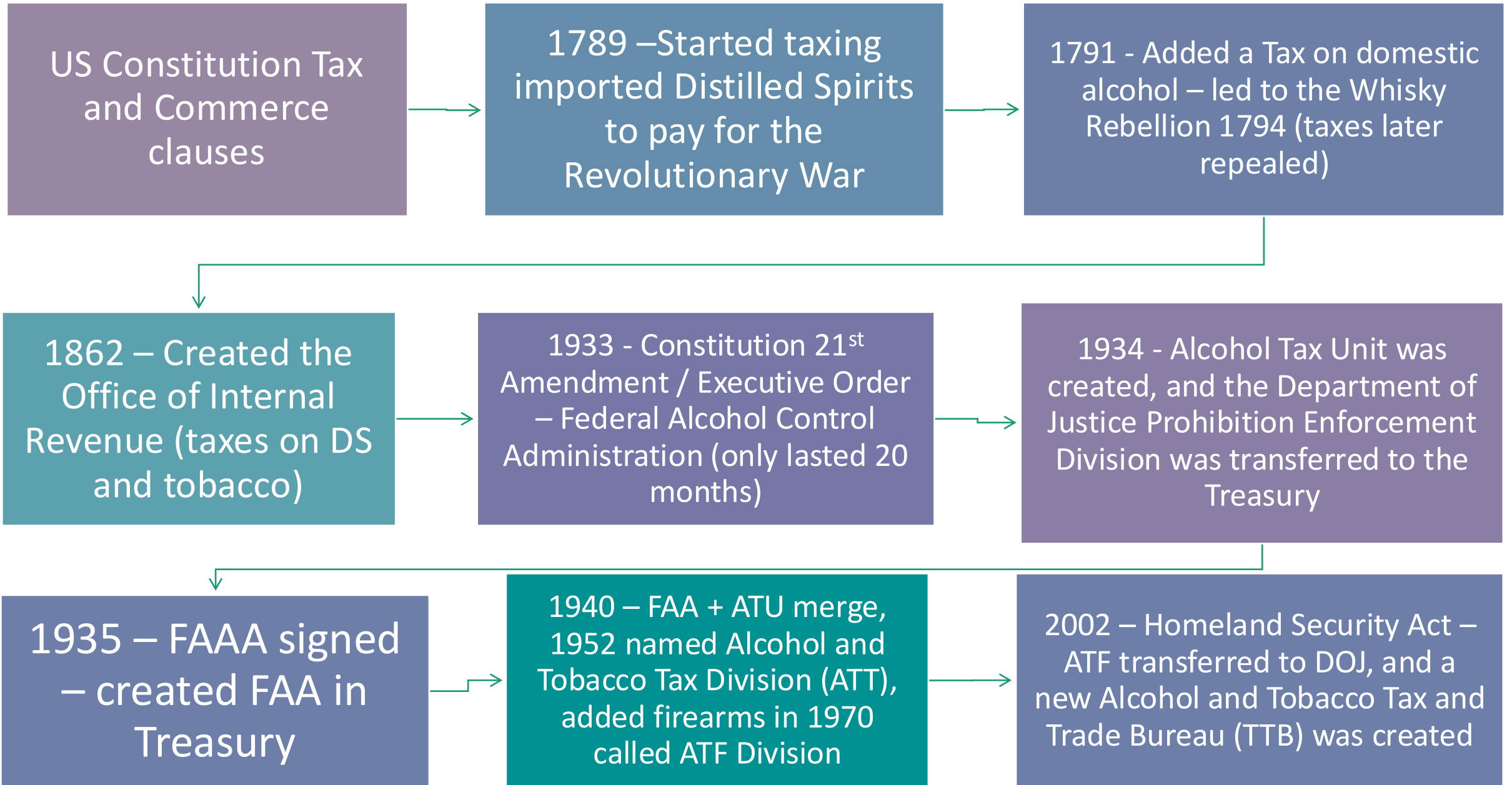


Overview

-  History of Alcohol Regulation – TTB in the Dept of Treasury
-  What Laws/Regulations control Beer, Wine, and Distilled Spirits (BWS)?
-  What agencies regulate beer, Wine, and Distilled Spirits (BWS)?
-  Which BWS labels are regulated by TTB vs. FDA?
-  Required Components on BWS labels under TTB versus under FDA
-  Advertising and Social Media Rules
-  What happens if You Fail to Comply



History of Alcohol Regulation





Laws that Regulate Beer, Wine, and Spirits

US Constitution – 18th and 21st Amendments plus
Commerce Clause and Taxation Clause

Federal Alcohol Administration Act 1935 (>.5%Alc)

Food Drug, and Cosmetic Act 1938+

Internal Revenue Code 1939 (amended 1954, 1986)

Federal Trade Commission Act of 1914

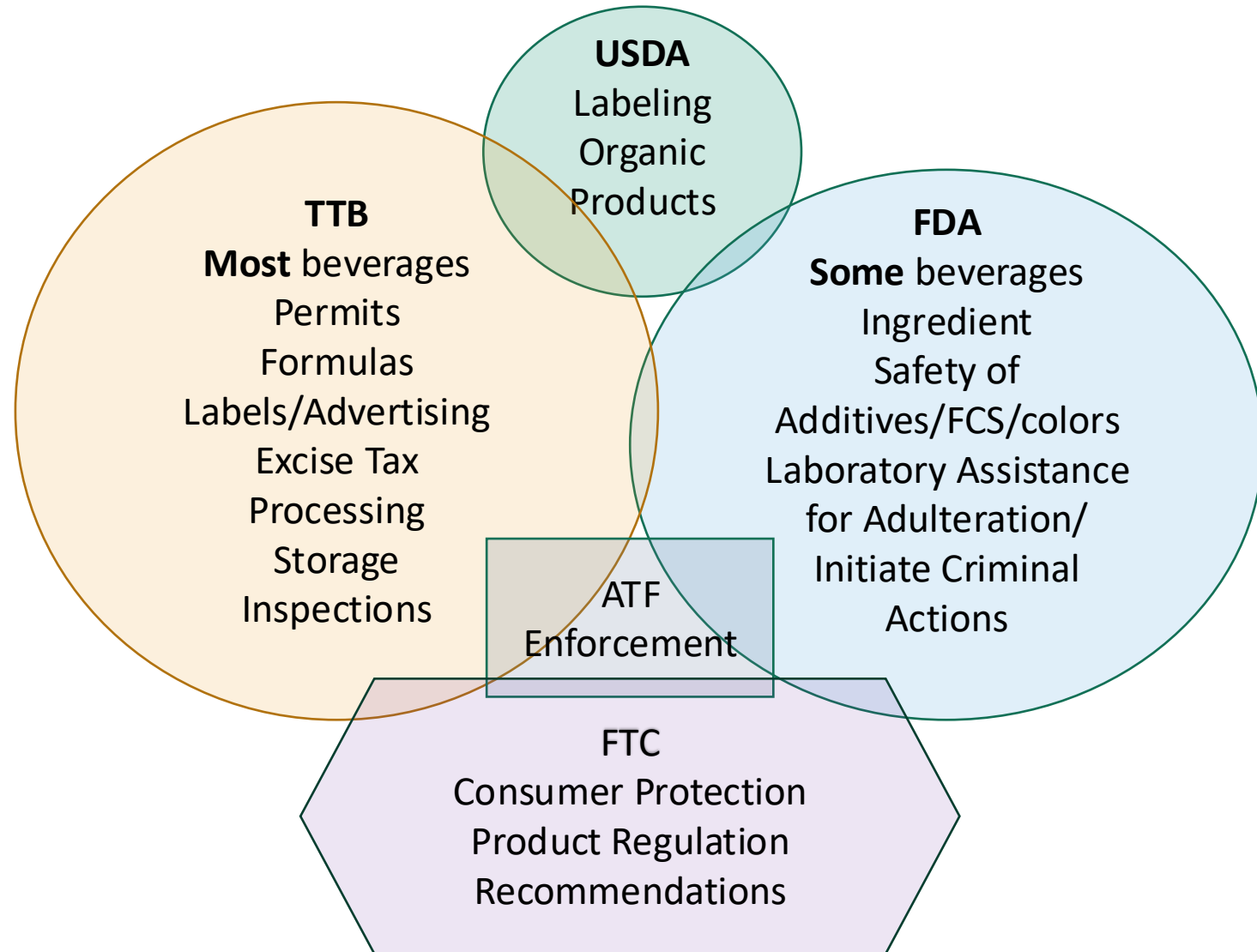
Alcoholic Beverage Labeling Act 1988 (health warning)

*Food Allergen Labeling and Consumer Protection Act 2004
(**voluntary** parallel interim rule effective Jul 26, 2006)



Agencies Regulating Beer, Wine, and Spirits

- Alcohol and Tobacco Tax and Trade Bureau (TTB – In Treasury)
- Food and Drug Administration (FDA in HHS)
- US Department of Agriculture (USDA)
- Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF in DOJ)
- Federal Trade Commission (FTC)
- Customs and Border Protection (CBP)



States!! Under Police Powers

Current Labeling Requirements



Alcoholic beverage labels regulated by TTB



TTB Alcohol and Tobacco
Tax and Trade Bureau
U.S. Department of the Treasury

Wines **>7% alcohol by volume** (plus sake which is classified as a wine in the FAAA)

Malt Beverages that are **made from both** malted **barley** and **hops**.

Distilled Spirits – (incl wines >24% abv)





Alcoholic Beverage Labeling Act (1988)

Required Health Warning on **ALL** Labels for Alcoholic Beverages, regardless of type, **if >.5% Alcohol***

“GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.”

TTB General Rules

TRUTHFUL and NOT MISLEADING

- Legible, firmly attached or etched, English,
- No disparaging competitors
- Not obscene or indecent
- No guarantees
- No national or local flags/insignia/stamp if misleading/implies endorsement
- No implying a different category



KRIS PINOT GRIGIO 2023 DELLE VENEZIE DENOMINAZIONE DI ORIGINE CONTROLLATA

KRIS winemakers have combined modern technology and traditional winemaking artistry to handcraft an exquisite modern Italian expression of Pinot Grigio from the classic Delle Venezia region. The area's long, northern days and crisp sub-alpine nights create a perfect environment for this delicate varietal to reach its full potential. KRIS Pinot Grigio's flavor is as vibrant as its label suggests, featuring acacia flower, lime, honey, and a unique touch of almond.

The timeless and inspiring KRIS label emphasizes the role of the sun in ripening the grapes to perfection, the human hand in crafting the wine, and the lips that savor the wine. Each label was designed by contemporary Italian artist Riccardo Schweizer (1925 – 2004).

Bottled by Kris S.R.L., Montagna (BZ) - Italy
www.kriswinery-usa.com

IMPORTED BY:



750 ML ALC. 12.5% BY VOL. CACRV

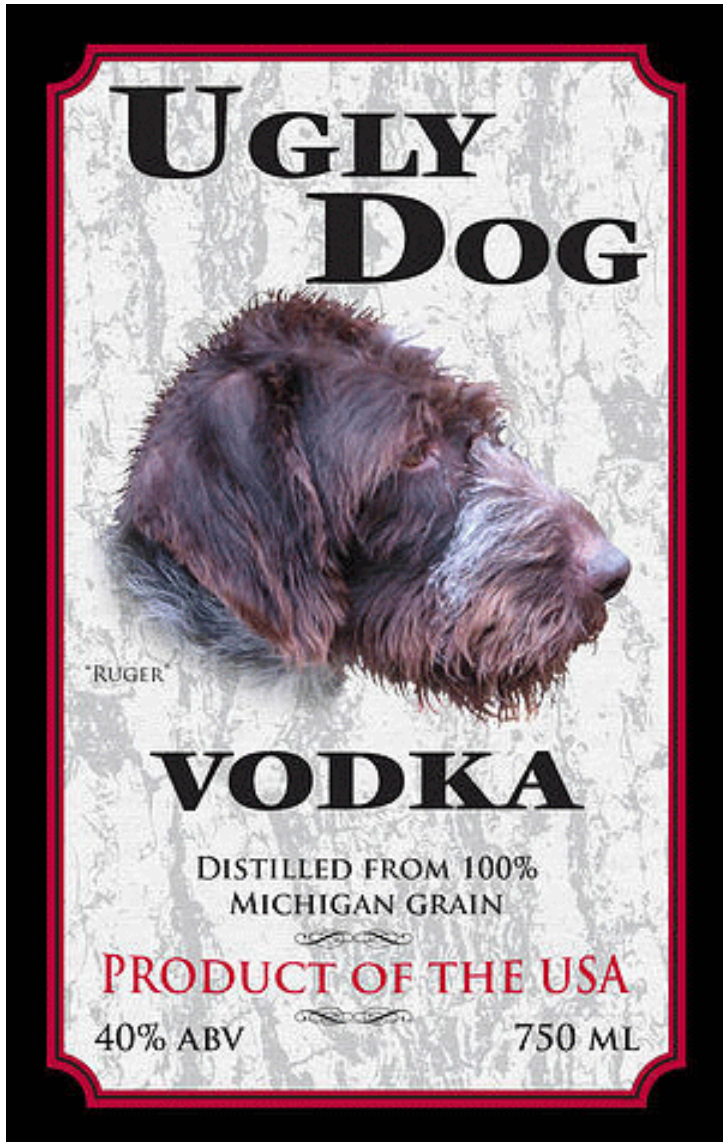


GOVERNMENT WARNING: (1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.

CONTAINS SULFITES
PRODUCT OF ITALY



Labeling Rules for TTB Regulated Products



- Premarket Approval - **COLA**
- Statement of Composition – Class + possibly type
- Net Quantity
- Responsible Party
- *Alcohol content -if required by state law, wine >14% alc/vol, bc with alc added, all distilled spirits
 - *Special-FD&C yellow No. 5, carmine/cochineal, aspartame warning, sulfites if >10ppm, plus color/flavor - if added
 - *Country of Origin- if imported

Plus, there are other commodity-specific rules, plus marks, brands, etc.

Optional Allergens, Geographical Indicators, Gluten Free

- **Allergens** – **OPTIONAL** under MOU with FDA (1987)– but if list one must list all
- **Geographical indicators**
 - **Malt Beverages -May be used generally** –ex India Pale Ale, Russian Imperial Stout, Scotch Ale
 - **But the following have retained significance** -Belgian, Berliner, English, Irish, Kolsch, Mexican, Vienna, New England, West Coast (or similar) – these must come from the named location
 - **Wines** – Old World names for appellation, New World named for variety of grapes
- **Gluten-free (2020-2)** (wheat, rye, barley, triticale, farina, spelt, kamut, oats, farro, durum, bulgar, and semolina contain the protein gluten.)
 - If the product begins with non-gluten-containing materials and the processing does not introduce gluten (watch out some wine casks are sealed with wheat products) if cGMPs prevent cross-contamination
 - **OTHERS** - “Product fermented from grains containing gluten and [processed *or* treated *or* crafted] to remove gluten. The gluten content of this product cannot be verified, and this product may contain gluten.” Must comply with 21 CFR 101.91(a)(3)

Optional Organic – Under USDA -AMS

National Organic Program (NOP) statement permitted as “other” information

"100% Organic" contains only organic ingredients and processing aids with no chemically added sulfites.

"Organic" contains at least 95% organic ingredients with no chemically added sulfites.

"Made with Organic [Ingredients]" contains at least 70% organic ingredients and may contain up to 100 ppm of sulfites from sulfur dioxide.

If **less than 70% organic ingredients** and products that are not processed by a certified organic handling operation may only identify each organically produced ingredient in an ingredient statement.

felonē®
raspberry-lemonade
flavored vodka

felonē® flavored Vodka is an original, ultra-premium spirit made in small batches. Developed over years of careful craft micro-distilling, our spirit is produced using pure, organic sugarcane. Our family is committed to quality ingredients and sustainable production. The result is a unique extraction of the heart of the distilling run that delivers an ultra-premium spirit, free of bitter elements. We hope you will enjoy and appreciate our unique expression of this ancient spirit. Please enjoy responsibly.

Gluten Free
*Ingredients: organic sugarcane,
water, natural flavor*

www.felenevodka.com
750 ML

GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.



Optional Religious and Misc



Religious

- Kosher – Jewish designation of “clean”
- Halal – Islamic syriah law designation which complies with 0% alcohol



Miscellaneous

“sustainable farming”, “sustainably grown”, “carbon neutral,”; “environmentally friendly”, “vegan-friendly”; “eco-friendly; “biodynamic”; or “eco-conscious,” “estate grown,”; distilled using “100%” green energy or “handmade” in copper pots; made with “pure” wheat grain or “all-natural” and “organic” rye; aged or rested in charred oak or whiskey or wine barrels; or “triple distilled” using “artesian” rainwater – nor is your product, strictly speaking, “plastic-free,” “single-sourced,” or “small batch”



Must be Truthful / Not Misleading -can't conflict with mandatory info

Alcohol Beverage Labels Regulated by FDA

Wines with <7% alcohol– dealcoholized or partially dealcoholized wine – ex. RTD Sangria

Non-malt beverages, either without malted barley or without hops, or beer made from malted barley or its substitutes such as corn, rice, or wheat, are made without hops -ex flavored malt beverage (FMB), spritzers, seltzers, cider, alcopops, malternatives, cheerleader beer, kombucha taxed/classified as beer.

- Most are carbonated
- Made with sugar and malted barley – stripped of flavor/color
- 4-6% alcohol / lower calorie



FD&CA General Rules – No Label Preapproval!

- Statement of Identity- ~statement of composition
- Net Quantity – must be lower 30% of PDP
- Name/Place Business
- **Nutrition Labeling** - *unless exempt
- **Ingredients Statement** – common or usual name in order of prominence, including preservatives/function, colors, flavors
- Required **Allergen Labeling**
- National **Bioengineered** Food Disclosure

Plus- must comply with food additive, color additive, ingredient limitations/approvals, rules on claims, and other labeling statements!



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HARD SELTZER

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MADE PURE®

100 CALORIES | 1g SUGAR | GLUTEN FREE

BREWPURE® MADE USING OUR PROPRIETARY BREWPURE BREWING PROCESS. DISCOVER MORE AT WWW.WHITECLAW.COM

Nutrition Facts	
12 servings per container	
Serving size 1 can (355 mL/12 fl. oz.)	
Amount per serving	
Calories	100
%	
Total Fat 0g	0%
Sodium 35mg	1%
Total Carbohydrate 1g	1%
Includes 1g Added Sugars	
Protein 0g	0%

Not a significant source of total fat, saturated fat, trans fat, cholesterol, dietary fiber, protein, vitamin D, calcium, iron and potassium.

*The % Daily Value tells you how much a nutrient in a serving of food contributes to a daily diet. 2,000 calories a day is used for general nutrition advice.

LEMON INGREDIENTS: PURIFIED CARBONATED WATER, ALCOHOL, NATURAL FLAVORS, BREWED BLACK TEA EXTRACT, CANE SUGAR, NATURAL LEMON JUICE CONCENTRATE, CITRIC ACID, SODIUM CITRATE.
RASPBERRY INGREDIENTS: PURIFIED CARBONATED WATER, ALCOHOL, NATURAL FLAVORS, BREWED BLACK TEA EXTRACT, CANE SUGAR, NATURAL RASPBERRY JUICE CONCENTRATE, CITRIC ACID, SODIUM CITRATE.
MANGO INGREDIENTS: PURIFIED CARBONATED WATER, ALCOHOL, NATURAL FLAVORS, BREWED BLACK TEA EXTRACT, CANE SUGAR, NATURAL MANGO CONCENTRATE, CITRIC ACID, SODIUM CITRATE.
PEACH INGREDIENTS: PURIFIED CARBONATED WATER, ALCOHOL, NATURAL FLAVORS, BREWED BLACK TEA EXTRACT, CANE SUGAR, NATURAL PEACH JUICE CONCENTRATE, CITRIC ACID, SODIUM CITRATE.

MANUFACTURED FOR MARK ANTHONY BRANDS INC.
DBA WHITE CLAW SELTZER WORKS, CHICAGO, IL 60661.
ALL REGISTERED TRADEMARKS, USED UNDER LICENSE BY
WHITE CLAW SELTZER WORKS, CHICAGO, IL 60661.

GOVERNMENT WARNING: (1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.

PLEASE DRINK RESPONSIBLY

f **i** CONTAINS ALCOHOL 5% ALC/VOL

PLEASE RECYCLE

SUSTAINABLE FORESTRY INITIATIVE
Certified Sourcing
www.sfprogram.org
SFI-00068

BEER
1110-5474-01
35985-80029 3
6

NATURALLY GLUTEN FREE

Special rules for “Non-Beverage” Flavors

These “flavored” RTD products typically need **formula approval** from TTB

Not more than 49% of the overall alcohol content of the finished product can be from nonbeverage flavors or other nonbeverage ingredients

If malt beverage has >6% alcohol by volume not more than 1.5% of the volume from nonbeverage flavors or other nonbeverage ingredients

These added flavors need to be **noted on label**



Optional Labeling

- Organic – Same as TTB – under NOP
- Geographical Indicators – Truthful/Not Misleading
- Gluten-Free – Same as TTB - Truthful/Not Misleading
- Religious Notations – Same as TTB - Truthful/Not Misleading
- Misc – Same as TTB - Truthful/Not Misleading

No Preapproval Required!



CONTAINS 1% JUICE

Nutrition Facts

12 Servings per container
Serving size 1 pop (100mL)

Amount per serving	% Daily Value*
Calories 85	
Total Fat 0g	0%
Sodium 50mg	2%
Total Carbohydrate 15g	5%
Total Sugars 13g	
Includes 13g Added Sugars	26%
Protein 0g	

Not a significant source of saturated fat, trans fat, cholesterol, dietary fiber, vitamin D, calcium, iron, and potassium.
*The % Daily Value (DV) tells you how much a nutrient in a serving of food contributes to a daily diet. 2,000 calories a day is used for general nutrition advice.

INGREDIENTS: WATERMELON: FILTERED WATER, HIGH FRUCTOSE CORN SYRUP, NATURAL FLAVORS, CITRIC ACID, PEAR JUICE CONCENTRATE, SODIUM HEXAMETAPHOSPHATE, WINE, SODIUM BENZOATE AND POTASSIUM SORBATE (TO PROTECT FLAVOR), CARBONATED WATER, GLYCEROL ESTER OF WOOD ROSIN, SUCRALOSE, GUM ARABIC, RED 40.
STRAWBERRY: FILTERED WATER, HIGH FRUCTOSE CORN SYRUP, NATURAL FLAVORS, CITRIC ACID, PEAR JUICE CONCENTRATE, SODIUM HEXAMETAPHOSPHATE, WINE, SODIUM BENZOATE AND POTASSIUM SORBATE (TO PROTECT FLAVOR), CARBONATED WATER, GLYCEROL ESTER OF WOOD ROSIN, RED 40, SUCRALOSE, GUM ARABIC.
GREEN APPLE: FILTERED WATER, HIGH FRUCTOSE CORN SYRUP, NATURAL FLAVORS, CITRIC ACID, PEAR JUICE CONCENTRATE, SODIUM HEXAMETAPHOSPHATE, WINE, SODIUM BENZOATE AND POTASSIUM SORBATE (TO PROTECT FLAVOR), CARBONATED WATER, GLYCEROL ESTER OF WOOD ROSIN, YELLOW 5, SUCRALOSE, GUM ARABIC, BLUE 1.

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Parties

or Anytime!



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NO SALES UNDER 21
MADE WITH WINE

GOVERNMENT WARNING: (1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.

Scan Me!



DAILY'S POPTAILS



Daily's poptails are fun, fruity alcohol infused frozen pops made just for adults. The watermelon, strawberry and green apple flavors are frozen treats ready to enjoy anytime, anywhere.

- ✓ 85 Calories
- ✓ 6.8% ABV
- ✓ Gluten free
- ✓ Vegan Friendly

If you like our pouches, you'll love our pops!



Strawberry
Sun-kissed berry flavor that's as sweet as summer vibes.

Green Apple
Pucker up for just enough sweet and perfect amount of tart.



Watermelon
Deliciously cool and light with a subtle, ripe melon flavor.

Advertising

Websites, Social Media and More

- Based on type of beverage
 - No preapproval – optional pre-screening by TTB
 - Enforcement based on random TTB compliance or complaints
 - Must be truthful and not Misleading (FAAA)
 - Ingredients, origin, production methods, brand names, trademarks, age/maturity, geographical references, responsible lifestyle (industry self-regulating DISCUS Council Code/ Beer Institute Advertising Code)
 - Must be substantiated and no unfair or deceptive practices FTC Act (15 USC § 45)
 - Comparative statements limited (FTC guidance)
- Impermissible**
- Misrepresenting alcohol content
 - Mislead class/type, quality, origin, ingredients
 - Misleading lite/low/reduced – specific criteria
 - Encouraging excessive consumption
 - Targeting minors- age, cartoon,
 - Health claims (limited TTB pre-approval)

Types of Enforcement

How do they know? – Monitoring, Tips/Complaints from Public or other Industry Members

What happens?

Regulatory Action by Federal Agency (TTB, FDA, FTC in cooperation with DOJ)

- Administrative Action – Penalties, Fines, Cease and Desist Orders, Offer in Compromise, Suspension of permit, Voluntary Surrender of permit

State Action seizure, condemnation, revoke license

Lanham Act (1946) – competitors sue you for misleading/confusing consumers or unethical or deceptive conduct in the marketplace

Plaintiff Bar – one or more (up to a class) persons sue – allowed in some states

Advertising = Broad Application of TTB Rules

New TTB Industry Circular on Internet Advertising 2024-1 –
FAAA authorizes TTB regulate

- Any website/ link/ Youtube/ Instagram/ blogs/ crowd funding/ recipe apps / QR codes / Augmented Reality/ Social Media Influencers (on behalf of industry either indirectly or indirectly)= **advertising** and therefore subject to FAAA
- “Reposted” or “liked” and linked to social media = **advertising**
- Microblogs (twitter, tumblr) mandatory statements must appear in the advertisement in a manner that is readily apparent, conspicuous and legible. But due to character limits may include the **mandatory statements on their microblog profile page or use a descriptive link that takes the user directly to a separate webpage containing all mandatory statements**



Watch out- Potential Litigation Issues

Bellion Spirits, LLC Litigation (2021)

Issue: Claim “helps protect DNA from alcohol damage”

Allegation: Not substantiated

Outcome: Court found misleading

Cooper v. Anheuser-Busch, LLC (2021)

Claim: “Cocktail” on label misleads reasonable consumer

Outcome: Court found misleading bc no distilled spirits

Peacock v. Pabst Brewing Comp, LLC (2020)

Issue: Geographical origin of “Olympia Beer” misleading because brewed at multiple locations nationwide

Court: allowed claim

More Examples of Litigation Issues

MillerCoors “Blue Moon” Litigation (2015–2018)

Issue: Whether “craft beer” branding misled consumers

Allegation: Consumers believed it was independently brewed

Outcome: Case allowed to proceed (partial survival of claims)

In re Tito’s Handmade Vodka (multiple cases, 2015–2019)

Claim: “Handmade” misleading due to industrial scale production

Outcome: Many cases dismissed, but highlighted risk

Molson Coors v. Anheuser-Busch (2019)

Issue: Super Bowl ads implying competitors use corn syrup in final product

Court: Injunction partially granted

Take away - Comparative claims must be precise and not misleading by implication

FTC scrutiny (no single landmark case, but multiple warnings)

Claims that suggest “better for you” / “health halo” like:

“Low carb”

“Keto-friendly”

FTC actions (ongoing, including alcohol brands via influencers)

Failure to disclose sponsorships – if there is a “material connection.”

Applies to: Instagram, TikTok alcohol promotions

RULE – clear and conspicuous disclosure required! 16 CFR Part 25.

Agave” / Tequila Labeling & Advertising Disputes

Claims like “100% agave” are scrutinized

Must align with TTB + Mexican NOM standards

***CBD-Infused Alcohol (emerging enforcement)

TTB prohibits CBD in alcohol in interstate commerce

Advertising such products can trigger enforcement

New Products = New Class Action Lawsuits

- **Molson- Coors - Vizzy Hard Seltzer** - with Antioxidant Vitamin C from acerola superfruit – class action 9.5 million settlement alleged fraudulent/unfair practices
- **Anheuser-Busch – Ritas Fizz (2018-22)**- using words like “cocktails” and citing to drinks like mojito and margarita - **bottom** panel of the packaging, where no reasonable consumer would look prior to purchase, contains a small font statement that the Margarita Products are actually “Malt Beverage[s] With Natural Flavors and Caramel Color”. Bad = margarita glass! 10.2 mill settlement
- **Coca-Cola – Topo Chico Margarita Hard Seltzer** packaging misleads consumers into thinking the product contains tequila and is made from Mexican mineral water. – dismissed in NY – no damages





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- History of alcohol regulation and framework of BWS regulation in the US
- BWS Labeling, including COLA
- Formula approvals and Permits
- Taxation of BWS
- Manufacturing, distribution, and sales structures within the three-tiered system, including recent legal challenges and direct-to-consumer rules
- Legal aspects of inspection, compliance and enforcement options of the government and private actors
- Import and export rules, and overviews of state laws/regulations
- Plus Hot Topics surrounding the BWS industry





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