

The rules and rule amendments are proposed pursuant to the commission's authority under §5.31 of the Code to prescribe and publish rules necessary to carry out the provisions of the Code.

The proposed amendments do not impact any other current rules or statutes.

§45.25. *Damaged Stock.*

No alcoholic beverages [distilled spirits] may be sold or possessed for the purpose of sale in this state that [which] have had fire, smoke, or water damage to the label, container, or contents, unless [so] authorized by the executive director.

§45.26. *Intrastate Bottling.*

It is [shall be] unlawful for any distiller, rectifier, or other bottler of distilled spirits in this state to bottle or remove such distilled spirits from the licensed [his] premises unless the distilled spirits have [he has] first been registered with the commission [procured a certificate of label approval,] or clearance of its export procedure[;] has been obtained from the executive director.

§45.27. *Illicit Beverage.*

(a) Any alcoholic beverage or container that [of which] does not meet all the requirements of this chapter is [shall be] an illicit beverage [and] subject to seizure without a warrant.

(b) The executive director may authorize such disposition as facts and circumstances may warrant of any alcoholic beverage that has been seized as the result of an accidental shipment or other reasonable mistake.

(c) All alcoholic beverages that [which] cannot be restored to meet the standards of purity shall be destroyed.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 15, 2021.

TRD-202102335

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Earliest possible date of adoption: August 1, 2021

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## SUBCHAPTER C. SPECIFIC REQUIREMENTS FOR DISTILLED SPIRITS

### 16 TAC §45.30

The rules and rule amendments are proposed pursuant to the commission's authority under §5.31 of the Code to prescribe and publish rules necessary to carry out the provisions of the Code.

The proposed amendments do not impact any other current rules or statutes.

§45.30. *Certificate of Registration for a Distilled Spirit Product.*

(a) No distilled spirit may be shipped into the state or sold within the state without a Certificate of Registration issued by the commission.

(b) An applicant for a Certificate under this section must hold a distiller's and rectifier's permit or a nonresident seller's permit [~~Nonresident Seller's Permit~~] issued by the commission.

(c) An applicant must submit an application to register a distilled spirit on the prescribed commission form. The application must contain the following:

- (1) the product COLA issued by the TTB;
- (2) all information required to complete the application form; and
- (3) the application fee.

(d) A legible copy of the COLA must be included with the application. If the COLA is not legible, an actual label that is affixed to the distilled spirit as shipped or sold, or an exact color copy of a label must be included with the application.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 15, 2021.

TRD-202102336

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Earliest possible date of adoption: August 1, 2021

For further information, please call: (512) 487-9905



## SUBCHAPTER D. SPECIFIC REQUIREMENTS FOR MALT BEVERAGES

### 16 TAC §§45.40 - 45.43

The rules and rule amendments are proposed pursuant to the commission's authority under §5.31 of the Code to prescribe and publish rules necessary to carry out the provisions of the Code.

The proposed amendments do not impact any other current rules or statutes.

§45.40. *Certificate of Registration for a Malt Beverage Product.*

(a) No malt beverage may be shipped into the state or sold within the state without a Certificate of Registration issued by the commission.

(b) An applicant for a Certificate under this section must hold a brewer's license [~~permit~~], nonresident [~~non-resident~~] brewer's license [~~permit~~], [~~manufacturer's license; non-resident manufacturer's license,~~] or brewpub license issued by the commission.

(c) A [~~Persons holding a~~] nonresident [~~non-resident manufacturer's agent's permit or non-resident~~] brewer's agent [~~agent's permit~~] may file an application for a Certificate of Registration on behalf of a holder of a nonresident brewer's [~~permit or~~] license [~~listed in subsection (b) of this section~~].

(d) An applicant must submit an Application to Register a Malt Beverage on the form prescribed by the commission along with the application fee to the commission. The application must contain the following:

- (1) If the product is eligible for a COLA:
  - (A) legible copy of the COLA;
  - (B) an actual label that is affixed to the malt beverage as shipped or sold, or a legible exact color copy of a label; and

(C) all information required to complete the application form.

(2) If the product is not eligible for a COLA:

(A) an actual label that is affixed to the malt beverage as shipped or sold, or a legible exact color copy of the label;

(B) TTB formulation; and

(C) all information required to complete the application form.

(e) Labels for beverages that meet the definition of malt beverage but are ineligible for a COLA must also comply with 21 C.F.R. Part 101; 27 C.F.R. Parts 16 and 25; 21 U.S.C. §§341-350; 26 U.S.C. Ch. 51; and 27 U.S.C. §215.

*§45.41. Additional Reasons for Denial of Registration of a Malt Beverage Product.*

(a) In addition to the provisions of §45.5 of this title, the commission may deny registration for a malt beverage for the following reasons:

(1) the label filed with the application by a brewer's or nonresident [~~non-resident~~] brewer's [~~permittee or a manufacturer's or non-resident manufacturer's~~] licensee:

(A) indicates by any statement, design, device, or representation that the malt beverage is brewed or bottled for any retailer permittee or licensee or any private club registration permittee; ~~or~~

(B) includes the name, tradename, or trademark of any retailer permittee or licensee or any private club registration permittee; or

(C) fails to include the alcohol content by volume as required by subsection (c) of this section.

(2) the brand of malt beverages by a brewer's or nonresident [~~non-resident~~] brewer's [~~permittee or a manufacturer's or non-resident manufacturer's~~] licensee is exclusive to the holder of a license or permit authorizing the retail sale or service of malt beverages, or exclusive to retail licensees or permittees under common ownership, control, or management, to the exclusion of other retail licensees or permittees; or

(3) with the exception of the brewpub licensee's name, tradename or trademark, the label filed by a brewpub licensee:

(A) indicates by any statement, design, device, or representation that the malt beverage is brewed or bottled for any retailer permittee or licensee or for any private club registration permittee (other than the brewpub licensee label applicant itself, an entity under common ownership with it, or an entity with the same name or tradename as it); or

(B) includes the name, tradename, or trademark of any retailer permittee or licensee or [~~for~~] of any private club registration permittee (other than the brewpub licensee label applicant itself, an entity under common ownership with it, or an entity with the same name or tradename as it).

(b) Nothing in this subchapter or in Alcoholic Beverage Code Chapter 74 authorizes a brewpub licensee to engage in contract brewing or alternating brewery proprietorship arrangements, and its facilities may not be used to provide such arrangements or engage in such activities, which are authorized only for holders of [~~permits under Alcoholic Beverage Code Chapters 42 or 43 and holders of~~] licenses under Alcoholic Beverage Code Chapters 62 or 63.

(c) All labels subject to this section must include alcohol content by volume according to the following schedule:

(1) For all new product registrations after September 1, 2021, labels must include the product's alcohol content by volume.

(2) Except as provided in paragraph (3) of this subsection, products registered with the commission prior to September 1, 2021, must include alcohol content by volume on products shipped or imported into the state, manufactured and offered for sale, or distributed or sold on or after September 1, 2023.

(3) Notwithstanding paragraph (2) of this subsection, if prior to September 1, 2023, a manufacturer subject to this rule makes a change to a label or product requiring issuance of a new COLA, the manufacturer shall also revise the product's label to include its alcohol content by volume as part of the application for a new COLA.

*§45.42. Misbranding.*

Malt beverages in containers shall be deemed to be misbranded if the container has blown, branded, or burned therein the name or other distinguishing mark of any person engaged in business as a [~~manufacturer,~~] brewer, wholesaler, distributor, bottler, or importer[.] of malt beverages, or of any other person, except the person whose name is required to appear on the brand label.

*§45.43. Verification Regarding Use of Facilities.*

On or before September 1 of each year, each holder of a [~~permit issued under Alcoholic Beverage Code Chapter 42 or 43 or a~~] license issued under Alcoholic Beverage Code Chapter 62 or 63 shall verify to the commission, on a form promulgated by the commission, that no brewing or manufacturing facility owned or controlled by the [~~permit or~~] license holder is used to produce malt beverages primarily for a specific Texas retailer or the retailer's Texas affiliates.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 15, 2021.

TRD-202102337

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Earliest possible date of adoption: August 1, 2021

For further information, please call: (512) 487-9905



## SUBCHAPTER E. SPECIFIC REQUIREMENTS FOR WINE

### 16 TAC §45.50, §45.51

The rules and rule amendments are proposed pursuant to the commission's authority under §5.31 of the Code to prescribe and publish rules necessary to carry out the provisions of the Code.

The proposed amendments do not impact any other current rules or statutes.

*§45.50. Certificate of Registration for Wine.*

(a) Except as provided by §45.4(b) of this title, no [~~No~~] wine may be shipped into the state or sold within the state without a Certificate of Registration issued by the commission.

(b) An applicant for a Certificate under this section must hold a winery [~~Winery~~] or a nonresident seller's permit [~~Nonresident Seller's Permit~~] issued by the commission.