

3VAC5-40-20. Wines; qualifying procedures; disqualifying factors; samples; exceptions.

A. All wines sold in the Commonwealth shall be first approved by the board as to content, container and label.

1. ~~A certification~~ An application acceptable to the board or on a form prescribed by the board describing the merchandise ~~may accompany~~ shall be submitted for each new brand and type of wine offered for sale in the Commonwealth. A certification fee and a registration fee in such amounts as may be established by the board shall be included with each new certification application.

~~2. In lieu of the aforementioned certification, there shall be submitted a sample and registration and analysis fees in such amounts as may be established by the board; provided, however, that wine already offered for sale by another state with which this Commonwealth has an analysis and certification exchange agreement and wine sold through government stores shall be subject only to a registration fee in such amount as may be established by the board.~~

~~3.~~ 2. All wine sold in this Commonwealth shall conform with regulations adopted by the appropriate federal agency, relating to labels, definitions and standards of identity. Applicants shall submit a certified copy of the approval of the label by such federal agency.

~~4. Subsequent sales under an approved label shall conform to the certification and analysis of the wine originally approved by the board.~~

~~5. The board may approve a wine without benefit of a certification or analysis for good cause shown. Good cause includes, but is not limited to, wine which is rare.~~

B. While not limited thereto, the board shall withhold approval of any wine:

1. Which is an imitation or substandard wine as defined under regulations of the appropriate federal agency;

2. If the alcoholic content exceeds 21% by volume;

3. Which is a wine cocktail containing any ingredient other than wine.

C. While not limited thereto, the board may withhold approval of any label:

1. Which implies or indicates that the product contains spirits;

2. Where the name of a state is used as a designation of the type of wine, but the contents do not conform to the wine standards of that state;

3. Which contains the word "cocktail" without being used in immediate conjunction with the word "wine" in letters of the same dimensions and characteristics, except labels for sherry wine;
4. Which contains the word "fortified" or implies that the contents contain spirits, except that the composition and alcoholic content may be shown if required by regulations of an appropriate federal agency;
5. Which contains any subject matter or illustration of a lewd, obscene or indecent nature;
6. Which contains subject matter designed to induce minors to drink, or is suggestive of the intoxicating effect of wine;
7. Which contains any reference to a game of chance;
8. Which contains any design or statement which is likely to mislead the consumer.

D. A person holding a license as a winery, farm winery or a wine wholesaler shall upon request furnish the board without compensation a reasonable quantity of such brand sold by him for chemical analysis; ~~provided, however, that the board may require recertification of the merchandise involved in lieu of analysis of such a sample. A fee in such amount as may be established by the board shall be included with each recertification.~~

E. Any wine whose content, label or container does not comply with all requirements of this section shall be exempt therefrom provided that such wine was sold at retail in this Commonwealth as of December 1, 1960, and remains the same in content, label and container.

3VAC5-40-40. Beer containers; sizes; off- and on-premises limitations; novel containers; opening devices.

A. Beer may be sold at retail only in or from the original containers of the sizes which have been approved by the appropriate federal agency.

B. No beer shall be sold by licensees for off-premises consumption in any container upon which the original closure has been broken, except for a growler or reusable container that is federally approved to hold a malt beverage, has a resealable closure and is properly labeled. Growlers may only be used by ~~brewpubs~~ persons licensed to sell beer for both on-and off-premises consumption. Further, licensees shall not allow beer dispensed for on-premises consumption to be removed from authorized areas upon the premises.

C. Novel or unusual containers are prohibited except upon special permit issued by the board. In determining whether a container is novel or unusual the board may consider, but is not limited to, the factors set forth in 3VAC5-40-30.

D. No retail beer licensee shall sell at retail any beer packaged in a metal container designed and constructed with an opening device that detaches from the container when the container is opened in a manner normally used to empty the contents of the container.

3VAC5-40-50. Beer; qualifying procedures; samples; exceptions; disqualifying label factors.

A. Beer sold in the Commonwealth shall be first approved by the board as to content, container and label.

~~1. A certification~~ An application acceptable to the board or on a form prescribed by the board describing the merchandise ~~may accompany~~ shall be submitted for each new brand and type of beer offered for sale in the Commonwealth. A ~~certification fee and a~~ registration fee in such amounts as may be established by the board shall be included with each ~~new certification~~ application.

~~2. In lieu of the aforementioned certification, there shall be submitted a sample and registration and analysis fees in such amounts as may be established by the board; however, beer offered for sale in another state with which the Commonwealth has an analysis and certification exchange agreement shall be subject only to a registration fee in such amounts as may be established by the board.~~

~~3.~~ 2. All beer sold in the Commonwealth shall conform with regulations adopted by the appropriate federal agency, relating to labels, definitions and standards of identity. Applicants shall submit a certified copy of the approval of the label by such federal agency.

~~4. Subsequent sales under an approved label shall conform to the certification or analysis of the beer originally approved by the board.~~

B. A brewery licensee or a wholesale beer licensee shall upon request furnish the board without compensation a reasonable quantity of each brand of beer sold by him for chemical analysis; ~~provided, however, that the board may require recertification of the merchandise involved in lieu of analysis of such a sample. A fee in such amount as may be established by the board shall be included with each recertification.~~

C. Any beer whose contents, label or container does not comply with all requirements of this section shall be exempt therefrom provided that such beer

was sold at retail in this Commonwealth as of December 1, 1960, and remains the same in content, label and container.

D. While not limited thereto, the board may withhold approval of any label which contains any statement, depiction or reference that:

1. Implies or indicates that the product contains wine or spirits;
2. Implies the product contains above average alcohol for beer;
3. Is suggestive of intoxicating effects;
4. Would tend to induce minors to drink;
5. Would tend to induce persons to consume to excess;
6. Is obscene, lewd or indecent;
7. Implies or indicates that the product is government (federal, state or local) endorsed;
8. Implies the product enhances athletic prowess or implies such by any reference to any athlete, former athlete or athletic team except that references to athletes or athletic teams shall be allowed to the extent such references are permitted in point of sale advertising pursuant to 3 VAC 5-20-10;
9. Implies endorsement of the product by any prominent living person;
10. Makes any humorous or frivolous reference to any intoxicating drink.