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Sec. 3403. - Confidentiality of financial records

(a) Release of records by financial institutions prohibited

No financial institution, or officer, employees, or agent of a financial institution, may provide to any Government authority access to or copies of, or the information contained in, the financial records of any customer except in accordance with the provisions of this chapter.

(b) Release of records upon certification of compliance with chapter

A financial institution shall not release the financial records of a customer until the Government authority seeking such records certifies in writing to the financial institution that it has complied with the applicable provisions of this chapter.

(c) Notification to Government authority of existence of relevant information in records

Nothing in this chapter shall preclude any financial institution, or any officer, employee, or agent of a financial institution, from notifying a Government authority that such institution, or officer, employee, or agent has information which may be relevant to a possible violation of any statute or regulation. Such information may include only the name or other identifying information concerning any individual, corporation, or account involved in and the nature of any suspected illegal activity. Such information may be disclosed notwithstanding any constitution, law, or regulation of any State or political subdivision thereof to the contrary. Any financial institution, or officer, employee, or agent thereof, making a disclosure of information pursuant to this subsection, shall not be liable to the customer under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the customer of such disclosure.

(d) Release of records as incident to perfection of security interest, proving a claim in bankruptcy, collecting a debt, or processing an application with regard to a Government loan, loan guarantee, etc.

(1) Nothing in this chapter shall preclude a financial institution, as an incident to perfecting a security interest, proving a claim in bankruptcy, or otherwise collecting on a debt owing either to the financial institution itself or in its role as a fiduciary, from providing copies of any financial record to any court or Government authority.

(2) Nothing in this chapter shall preclude a financial institution, as an incident to processing an application for assistance to a customer in the form of a Government loan, loan guaranty, or loan insurance agreement, or as an incident to processing a default on, or administering, a Government guaranteed or insured loan, from initiating contact with an appropriate Government authority for the purpose of providing any financial record necessary to permit such authority to carry out its responsibilities under a loan, loan guaranty, or loan insurance agreement

Sec. 3404. - Customer authorizations

(a) Statement furnished by customer to financial institution and Government authority; contents

Government authority; contents

A customer may authorize disclosure under section [3402\(1\)](#) of this title if he furnishes to the financial institution and to the Government authority seeking to obtain such disclosure a signed and dated statement which -

- (1)** authorizes such disclosure for a period not in excess of three months;
- (2)** states that the customer may revoke such authorization at any time before the financial records are disclosed;
- (3)** identifies the financial records which are authorized to be disclosed;
- (4)** specifies the purposes for which, and the Government authority to which, such records may be disclosed; and
- (5)** states the customer's rights under this chapter.

(b) Authorization as condition of doing business prohibited

No such authorization shall be required as a condition of doing business with any financial institution.

(c) Right of customer to access to financial institution's record of disclosures

The customer has the right, unless the Government authority obtains a court order as provided in section [3409](#) of this title, to obtain a copy of the record which the financial institution shall keep of all instances in which the customer's record is disclosed to a Government authority pursuant to this section, including the identity of the Government authority to which such disclosure is made

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Sec. 204. - Permits

(a) Who entitled thereto

The following persons shall, on application therefor, be entitled to a basic permit:

- (1)** Any person who, on May 25, 1935, held a basic permit as distiller, rectifier, wine producer, or importer issued by an agency of the Federal Government.
- (2)** Any other person unless the Secretary of the Treasury finds

(A) that such person (or in case of a corporation, any of its officers, directors, or principal stockholders) has, within five years prior to the date of application, been convicted of a felony under Federal or State law or has, within three years prior to date of application, been convicted of a misdemeanor under any Federal law relating to liquor, including the taxation thereof; or

(B) that such person is, by reason of his business experience, financial standing, or trade connections, not likely to commence operations within a reasonable period or to maintain such operations in conformity with Federal law; or

(C) that the operations proposed to be conducted by such person are in violation of the law of the State in which they are to be conducted.

(b) Refusal of permit; hearing

If upon examination of any application for a basic permit the Secretary of the Treasury has reason to believe that the applicant is not entitled to such permit, he shall notify the applicant thereof and, upon request by the applicant, afford him due notice and opportunity for hearing on the application. If the Secretary of the Treasury, after affording such notice and opportunity for hearing, finds that the applicant is not entitled to a basic permit hereunder, he shall by order deny the application stating the findings which are the basis for his order.

(c) Form of application

The Secretary of the Treasury shall prescribe the manner and form of all applications for basic permits (including the facts to be set forth therein) and the form of all basic permits, and shall specify in any basic permit the authority conferred by the permit and the conditions thereof in accordance with the provisions of this subchapter. To the extent deemed necessary by the Secretary of the Treasury for the efficient administration of this subchapter, separate applications and permits shall be required by the Secretary of the Treasury with respect to distilled spirits, wine, and malt beverages, and the various classes thereof, and with respect to the various classes of persons entitled to permits hereunder. The issuance of a basic permit under this subchapter shall not operate to deprive the United States of its remedy for any violation of law.

(d) Conditions

A basic permit shall be conditioned upon compliance with the requirements of section [205](#) of this title (relating to unfair competition and unlawful practices) and of section [206](#) of this title (relating to bulk sales and bottling), with the twenty-first amendment and laws relating to the enforcement thereof, and with all other Federal laws relating to distilled spirits, wine, and malt beverages, including taxes with respect thereto.

(e) Revocation, suspension, and annulment

A basic permit shall by order of the Secretary of the Treasury, after due notice and opportunity for hearing to the permittee,

(1) be revoked, or suspended for such period as the Secretary of the Treasury deems appropriate, if the Secretary finds that the permittee has wilfully

violated any of the conditions thereof, provided that for a first violation of the conditions thereof the permit shall be subject to suspension only; or

(2) be revoked if the Secretary finds that the permittee has not engaged in the operations authorized by the permit for a period of more than two years; or

(3) be annulled if the Secretary finds that the permit was procured through fraud, or misrepresentation, or concealment of material fact. The order shall state the findings which are the basis for the order.

(f) Service of orders

Orders of the Secretary with respect to any denial of application, suspension, revocation, annulment, or other proceedings, shall be served

(1) in person by any officer or employee of the Secretary designated by him or any internal revenue or customs officer authorized by the Secretary for the purpose, or

(2) by mailing the order by registered mail, addressed to the applicant or respondent at his last known address in the records of the Secretary.

(g) Duration

A basic permit shall continue in effect until suspended, revoked, or annulled as provided herein, or voluntarily surrendered; except that

(1) if leased, sold, or otherwise voluntarily transferred, the permit shall be automatically terminated thereupon, and

(2) if transferred by operation of law or if actual or legal control of the permittee is acquired, directly or indirectly, whether by stock-ownership or in any other manner, by any person, then such permit shall be automatically terminated at the expiration of thirty days thereafter: Provided, That if within such thirty-day period application for a new basic permit is made by the transferee or permittee, respectively, then the outstanding basic permit shall continue in effect until such application is finally acted on by the Secretary of the Treasury.

(h) Appeal; procedure

An appeal may be taken by the permittee or applicant for a permit from any order of the Secretary of the Treasury denying an application for, or suspending, revoking, or annulling, a basic permit. Such appeal shall be taken by filing, in the court of appeals of the United States within any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, within sixty days after the entry of such order, a written petition praying that the order of the Secretary be modified or set aside in whole or in part. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose, and thereupon the Secretary shall file in the court the record upon which the order complained of was entered, as provided in section [2112](#) of title [28](#). Upon the filing of such petition such court shall have exclusive jurisdiction to affirm, modify, or set aside such order, in whole or in part. No objection to the order of the Secretary shall be considered by the court unless such objection shall have been urged before the Secretary

or unless there were reasonable grounds for failure so to do. The finding of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Secretary may modify his findings as to the facts by reason of the additional evidence so taken, and he shall file with the court such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and his recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court affirming, modifying, or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section [1254](#) of title [28](#). The commencement of proceedings under this subsection shall, unless specifically ordered by the court to the contrary, operate as a stay of the Secretary's order.

(i) Limitation

No proceeding for the suspension or revocation of a basic permit for violation of any condition thereof relating to compliance with Federal law shall be instituted by the Secretary more than eighteen months after conviction of the violation of Federal law, or, if no conviction has been had, more than three years after the violation occurred; and no basic permit shall be suspended or revoked for a violation of any such condition thereof if the alleged violation of Federal law has been compromised by any officer of the Government authorized to compromise such violation

Sec. 205. - Unfair competition and unlawful practices

It shall be unlawful for any person engaged in business as a distiller, brewer, rectifier, blender, or other producer, or as an importer or wholesaler, of distilled spirits, wine, or malt beverages, or as a bottler, or warehouseman and bottler, of distilled spirits, directly or indirectly or through an affiliate:

(b) "Tied house"

To induce through any of the following means, any retailer, engaged in the sale of distilled spirits, wine, or malt beverages, to purchase any such products from such person to the exclusion in whole or in part of distilled spirits, wine, or malt beverages sold or offered for sale by other persons in interstate or foreign commerce, if such inducement is made in the course of interstate or foreign commerce, or if such person engages in the practice of using such means, or any of them, to such an extent as substantially to restrain or prevent transactions in interstate or foreign commerce in any such products, or if the direct effect of such inducement is to prevent, deter, hinder, or restrict other persons from selling or offering for sale any such products to such retailer in interstate or foreign commerce:

(1) By acquiring or holding (after the expiration of any existing license) any interest in any license with respect to the premises of the retailer; or

(2) by acquiring any interest in real or personal property owned, occupied, or used by the retailer in the conduct of his business; or

(3) by furnishing, giving, renting, lending, or selling to the retailer, any equipment, fixtures, signs, supplies, money, services, or other thing of value, subject to such exceptions as the Secretary of the Treasury shall by regulation prescribe, having due regard for public health, the quantity and value of articles involved, established trade customs not contrary to the public interest and the purposes of this subsection; or

(4) by paying or crediting the retailer for any advertising, display, or distribution service; or

(5) by guaranteeing any loan or the repayment of any financial obligation of the retailer; or

(6) by extending to the retailer credit for a period in excess of the credit period usual and customary to the industry for the particular class of transactions, as ascertained by the Secretary of the Treasury and prescribed by regulations by him; or

(7) by requiring the retailer to take and dispose of a certain quota of any of such products; or

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Sec. 5712. - Application for permit

Every person, before commencing business as a manufacturer or importer of tobacco products or as an export warehouse proprietor, and at such other time as the Secretary shall by regulation prescribe, shall make application for the permit provided for in section 5713. The application shall be in such form as the Secretary shall prescribe and shall set forth, truthfully and accurately, the information called for on the form. Such application may be rejected and the permit denied if the Secretary, after notice and opportunity for hearing, find that -

(1) the premises on which it is proposed to conduct the business are not adequate to protect the revenue;

(2) the activity proposed to be carried out at such premises does not meet such minimum capacity or activity requirements as the Secretary may prescribe, ^[1] or

(3) such person (including, in the case of a corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner) is, by reason of his business experience, financial standing, or trade connections, not likely to maintain operations in compliance with this chapter, or has failed to disclose any material information required or made any material false statement in the application therefor

[1] So in original. The comma probably should be a semicolon.

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Sec. 1.24 Qualifications of applicants.

The application of any person shall be granted and the permit issued by the appropriate TTB officer if the applicant proves to the satisfaction of the appropriate TTB officer that:

- (a) Such person (or in case of a corporation, any of its officers, directors, or principal stockholders) has not, within 5 years prior to the date of application, been convicted of a felony under Federal or State law, and has not, within 3 years prior to date of application, been convicted of a misdemeanor under any Federal law relating to liquor, including the taxation thereof; and
- (b) Such person, by reason of the person's business experience, financial standing or trade connections, is likely to commence operations as a distiller, warehouseman and bottler, rectifier, wine producer, wine blender, importer, or wholesaler, as the case may be, within a reasonable period and to maintain such operations in conformity with Federal law; and
- (c) The operations proposed to be conducted by such person are not in violation of the law of the State in which they are to be conducted.