

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

A. Except as provided in subsection F of this section, ~~All~~ all wines sold in the Commonwealth shall be first approved by the board as to content, container and label.

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

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.

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 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~~ 3. Which contains any subject matter or illustration of a lewd, obscene or indecent nature;
- ~~6~~ 4. 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~~ 5. 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. Any wine sold only by direct shipment

to consumers by holders of wine shippers' licenses shall be approved upon compliance with subdivision A2 of this section.

F. If the board has not approved a wine for sale within 30 days after receipt by the board of a complete application and registration fee, the wine may be sold in the Commonwealth pending a decision from the board on the application. If the application for approval is rejected, the manufacturer or importer shall discontinue sales of the rejected product upon notice from the board. Any wholesale or retail licensee may continue sales until any inventory on hand at the time of notice from the board is depleted.

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

A. . Except as provided in subsection E of this section, ~~Beer~~ beer sold in the Commonwealth shall be first approved by the board as to content, container and label.

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

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.

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.~~

E. If the board has not approved a beer for sale within 30 days after receipt by the board of a complete application and registration fee, the beer may be sold in the Commonwealth pending a decision from the board on the application. If the application for approval is rejected, the manufacturer or importer shall discontinue sales of the rejected product upon notice from the board. Any wholesale or retail licensee may continue sales until any inventory on hand at the time of notice from the board is depleted.