

CHAPTER 100
FORMERLY
HOUSE BILL NO. 167

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING THE SALE OF COOKING WINE AND ALCOHOLIC LIQUORS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 101, Title 4 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows and by redesignating accordingly:

§ 101. Definitions.

As used in this title, in addition to their usual meaning:

(14) “Cooking wine” means a wine that is no more than 20% alcohol by volume and includes no less than 1.5% salt that is intended for cooking and not for beverage consumption.

Section 2. Amend § 725, Title 4 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 725. Preparations containing alcoholic liquors but not intended for use as a beverage.

(a) No provision of this title shall, by reason only of the fact that the product contains alcoholic liquor, prevent any of the following:

(1) The sale of any perfume, lotion, tincture, varnish, dressing, fluid extract or essence, vinegar, cream, ointment, salve, distillate, cooking wine, or ~~decoction; or decoction.~~

(2) The sale of any preparation (official, medicinal, or pharmaceutical) or of any patent or proprietary medicine, intended solely for medicinal purposes, if the product does not contain alcohol in any greater quantity than the amount required as a solvent or preservative, or if the product be so compounded as to render it unsuitable for use as a beverage.

(b) If the ~~Commissioner~~ Division of Alcohol and Tobacco Enforcement (DATE) is of the opinion that one of the products enumerated in this section contains alcoholic liquor and is used for beverage purposes, it may notify the manufacturer or seller to that effect and from and after the date of such notice this title shall apply to such product unless the manufacturer or seller requests a hearing before the Commissioner within 20 days of receipt of the notice. If the manufacturer or seller does not request a hearing within 20 days of the notice, or the Commissioner determines after the hearing that the product is used for beverage purposes, the manufacturer. ~~The manufacturer~~ or seller so notified commits an offense under this title if he or she sells the product after such notice or determination, and ~~shall be~~ is liable to the penalties ~~mentioned~~ provided in § 902 of this title.

(c)(1) In order to determine whether any particular preparation, proprietary or patented, contains alcohol in excess of the amount required as a solvent or preservative, or whether it is so compounded as to render it unsuitable for use as a beverage, ~~the Commissioner~~ DATE may purchase a sample of such preparation from any person and may have it analyzed by any individual ~~the Commissioner~~ DATE selects.

(2) If it appears from the analysis of the sample that the preparation contains alcohol in excess of the amount required as a solvent or preservative, or that it is not so compounded as to render it unsuitable for use as a beverage, ~~the Commissioner~~DATE may notify the manufacturer or the agent in this State of the manufacturer of the preparation or the person who has acquired the preparation for purpose of resale, that the preparation is not an exempt product within the meaning of this section, but is an alcoholic liquor to which this title applies. After the service of such notice, this title shall apply to such preparation and the manufacturer or the agent in this State of the manufacturer or the person who has acquired same to resell, who has been so notified, commits an offense under this title unless a hearing is requested before the Commissioner within 20 days of receipt of the notice. If a hearing is not requested within 20 days of the notice, or the Commissioner determines after the hearing that the preparation is used for beverage purposes, -if he or she the manufacturer or the agent in this State of the manufacturer of the preparation or the person who has acquired the preparation for purpose of resale commits an offense under this title if that person sells the preparation after the date of the service upon him or her of the notice or determination.

(3) The notice required by this section shall consist of a ~~copy, certified by the secretary or a member of the Commissioner, of a resolution passed by the Commissioner~~letter from the Director of DATE stating that the preparation specified in the ~~resolution~~letter is not an exempt product in the sense of this section, but is an alcoholic liquor to which this title applies. The notice ~~shall~~must be served by hand delivery or by sending a copy by ~~registered~~certified mail to the manufacturer, or to the agent in this State of the manufacturer, or to the person who has acquired the preparation to resell.

(d) This section applies to every product which is included within the definition of the word "preparation" set forth in § 101 of this title and to every product which is defined or described in subsection (a) of this section, other than one which is prepared by a druggist at the time of the prescription of a physician and in accordance with its tenor or which is prepared by a physician for the use only of a patient actually under his care.

Approved July 21, 2017