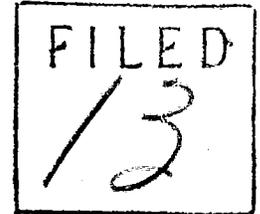


INTOXICATING BEVERAGE: Proper to place inscription of alcoholic  
LIQUORS: content of nonintoxicating beer on neck  
label of bottle.



August 28, 1947

Mr. Edmund Burke, Supervisor  
Department of Liquor Control  
Jefferson City, Missouri

Dear Mr. Burke:

This is in reply to your letter of recent date requesting an official opinion from this department, which reads, in part, as follows:

"Some of the breweries shipping beer into the State of Missouri are making a short seven ounce bottle upon which the manufacturer's label which goes around the body of the bottle is blown into the bottle as an integral part of the bottle. Both 5% and 3.2% beer are being placed in these bottles and shipped into the State of Missouri.

"These breweries claim that it is impractical for them to have on the manufacturer's label which goes around the bottle the words 'alcoholic content not in excess of 3.2% by weight' or 'alcoholic content not in excess of 4% by volume' as provided for by Section 4994, and they contend that they should be permitted either to put this inscription on a label on the cap or on a separate label around the neck of the bottle, and not put it on the manufacturer's label around the body of the bottle.

\* \* \* \* \*

" \* \* \* May I have your official opinion as to whether or not this can be done."

Section 4994, R.S. Mo, 1939, requiring the words "Alcoholic content not in excess of 3.2% by weight," or "Alcoholic content not in excess of 4% by volume," to appear on the label of bottles containing nonintoxicating beer, provides:

"It shall be the duty of every manufacturer or brewer manufacturing or brewing any nonintoxicating beer in this state, and of every manufacturer or brewer, distributor or wholesaler, outside of this state shipping any nonintoxicating beer into this state for sale in this state at wholesale or retail, to cause every bottle, barrel, keg, and other container of such nonintoxicating beer to have on the label thereon in plain letters and figures 'alcoholic content not in excess of 3.2% by weight', or 'alcoholic content not in excess of 4% by volume'. Any beer not so labeled shall be deemed to have an alcoholic content in excess of 3.2% by weight, and the sale thereof in this state shall be subject to all the regulations and penalties provided by law for the sale of beer having an alcoholic content in excess of 3.2% by weight. Any person who shall sell any beer, regardless of the alcoholic content thereof, as nonintoxicating beer in, or out of, any bottle, barrel, keg or other container, not so labeled as herein required shall be deemed guilty of a misdemeanor."

(Underscoring ours.)

According to Section 4996 (b), Mo. R.S.A., the Supervisor of Liquor Control has the authority to make certain regulations, provided the generalities of the provisions of the Liquor Control Act are not limited. Under this authority a number of rules and regulations have been promulgated by the Supervisor. Regulation No. 6, paragraph (b) of the Rules and Regulations of the Supervisor of Liquor Control, provides as follows:

"Every manufacturer, or brewer, manufacturing or brewing any nonintoxicating beer in this State, and every manufacturer, brewer or wholesaler outside of the State,

shipping any nonintoxicating beer into this State, shall cause to be printed upon the large label around and upon the body of each bottle of such nonintoxicating beer, one of the following inscriptions: 'Alcoholic content not in excess of 3.2% by weight,' or 'Alcoholic content not in excess of 4% by volume.'

It will be noted that Section 4994, supra, requires the words "Alcoholic content not in excess of 3.2% by weight," or "Alcoholic content not in excess of 4% by volume," to be printed on the label of the bottle, no particular or specific label being indicated. However, Regulation No. 6, paragraph (b) of the Rules and Regulations of the Supervisor of Liquor Control, requires the afore-mentioned words to be printed upon the large label around and upon the body of the bottle of such nonintoxicating beer.

It is our thought that the regulation in question actually requires more than does the statute, and since we think the statute only requires that the brewers and manufacturers of nonintoxicating beer shall place on any label on the bottle of such beverage the inscription relative to alcoholic content, we therefore believe it would be proper to amend Regulation No. 6, paragraph (b) of the Rules and Regulations of the Supervisor of Liquor Control, so as to permit a brewer or manufacturer, or wholesaler, of nonintoxicating beer to place the inscription relative to alcoholic content on a label on the bottle other than the main label on the bottle.

It was undoubtedly the intention of the Legislature, in requiring the inscription regarding alcoholic content to be placed on the label of the bottle, to protect the State and the public.

We realize that if the inscription is placed on a smaller label, such as the neck label, it could not be as easily seen, and it is also true that the smaller neck label becomes detached from the bottle more easily than does the large body label.

Consequently, we believe that adequate protection of the State and the public could be achieved by requiring in the

Mr. Edmund Burke, Supervisor

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amended regulation that if the inscription regarding alcoholic content is placed on the label other than the large body label that it also be placed on the cap or crown of the bottle.

Respectfully submitted,

RICHARD F. THOMPSON  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General

RFT:ml