

March 3, 1897.

CHAP. 379.—An Act To allow the bottling of distilled spirits in bond.

Internal revenue.
Bottling of distilled
spirits in bond.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever any distilled spirits deposited in the warehouse of a distillery having a surveyed

WHAT THE BOTTLED IN BOND ACT OF 1897 MEANS TODAY

by Stacy C. Kula, Esq.

“Bottled in bond” is a phrase coined more than 100 years ago in the whiskey business to assure the purchaser that he was buying the real deal. Prior to Prohibition, counterfeit whiskey flooded the unregulated market, at best swindling people and at worst, killing them. Unscrupulous people trying to make a buck would add coloring and flavoring to moonshine, or worse, gasoline or other poisonous liquids, and sell it as whiskey. In an effort to protect both consumers and legitimate distillers, the federal government passed the Bottled in Bond Act of 1897.

This Act is often credited with being the first consumer protection act in United States history. If the following set of strict guidelines were met, the federal government placed a green stamp on bottles of barrel-aged spirits:

1. Were distilled in the same distilling season
2. Distillation occurred at a single distillery
3. Aged for a minimum of four years
4. Bottled at 100 proof (50% ABV) if domestic
5. Label must identify the distillery who made it
6. Label must identify the bottling location if different than distiller or distillery
7. Only water could be added

That green stamp certified the authenticity of the product to which it was attached, and consumers knew what they were drinking.

Today, the term “Bottled in Bond” is still used by distillers and still guarantees its authenticity under the same general set of guidelines. But those guidelines have become mainly a marketing tool for U.S. distillers and are now codified in Title 27 CFR 5.42. Specifically, Title 27 CFR 5.42(b)(3) provides that “[t]he words ‘bond’, ‘bottled in bond’, ‘used in bond’, or phrases containing these or synonymous terms, shall not be used on any label or as part of the brand name of domestic distilled spirits unless the spirits are:

- (i) Composed of the same kind of spirits produced from the same class of materials;
- (ii) Produced in the same distilling season by the same distiller at the same distillery;
- (iii) Stored for at least four years in wooden containers wherein the spirits have been in contact with the wood surface except for gin and vodka which must be stored for at least four years in wooden containers coated or lined with paraffin or other substance which will preclude contact of the spirits with the wood surface;

GREEN STAMP GUIDELINES



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(iv) Unaltered from their original condition or character by the addition or subtraction of any substance other than by filtration, chill proofing, or other physical treatments (which do not involve the addition of any substance which will remain incorporated in the finished product or result in a change in class or type);

(v) Reduced in proof by the addition of pure water only to 100 degrees of proof;

(vi) Bottles at 100 degrees of proof; and

In addition to the requirement of § 5.36(a)(1) or (2), the label shall bear the real name of the distillery or the trade name under which the distillery produced and warehoused the spirits, and the plant (or registered distillery) number in which produced, and the plant number in which bottled. The label may also bear the name or trade name of the bottler.”

The green government stamp has gone by the way-side, leaving the distiller to place the term on the label if desired. In fact, there is no requirement to put Bottled in Bond on the label even though a spirit may meet all of the requirements to do so, and some manufacturers purposefully do not. Despite these changes, whiskey buffs still rely on the Bottled in Bond label as a symbol of quality, especially in an age where so many products are sourced from unknown third parties.

Bottled in Bond can appear on spirits other than whiskey, as long as those spirits are aged. Interestingly, gin and vodka, if stored in a wooden container coated or lined with paraffin and stored for four years, can be labeled as Bottled in Bond. Apparently, the government

did not want to provide a benefit just to aged spirits, but a marketing tool for all to use.

Although U.S. distillers primarily use the phrase for marketing, alcohol contamination remains a threat in other areas of the world. Recently publicized events in Mexico, India, Russia and China leave no doubt that the reasons for enacting the Bottled in Bond Act of 1897 remain prevalent today.

While the federal government may not be able to protect its citizens from alcohol contamination abroad, it does not allow imported products to use the words “bond,” “bonded,” “bottled in bond,” “aged in bond” or similar phrases on labels or as part of the brand name of the spirits unless the spirits meet the same guidelines required by their domestic counterparts in all respects and unless the laws of the country in which the spirits are produced authorize the bottling of distilled spirits in bond and require or specifically authorize the spirits to be so labelled [27 CFR 5.42(b)(4)].

Stacy C. Kula, Esq. is an alcohol beverage, hospitality and corporate law attorney, practicing out of the Lexington and Louisville law offices of Stoll Keenon Ogden PLLC. She is the Chair of the Alcohol and Hospitality Practice Group. Kula works closely with distilleries, breweries and retailers, helping them navigate through the difficulties of federal and state licensing, enforcement, corporate and contractual issues. Despite practicing in the bourbon epicenter, Stacy's favorite alcohols are spiced rum, gin and limoncello, but she's always willing to sample the newest product on the market! She can be reached at (859) 231-3054.