

Department of the Treasury
Alcohol and Tobacco Tax and Trade Bureau
27 CFR Parts 4, 5, 7, and 24
RIN 1513-AB07

COMMENT REGARDING THE LABELING OF WINES, DISTILLED SPIRITS
AND MALT BEVERAGES

Introduction

The Alcohol and Tobacco Tax and Trade Bureau (TTB) requested comments pertaining to the labeling of alcoholic beverages in its notice of proposed rulemaking dated July 31, 2007¹. This comment will address the proposal by TTB that requires all alcoholic beverage products to have a label with a statement of alcohol content and additional calorie and nutrient information. I readily agree that TTB should amend its regulations and require a label on all alcoholic beverage products. However, I submit that with slight refinement, the proposed regulation could better serve the Federal Alcohol Administration's enabling act purpose of providing "adequate information" for the consumer as to the identity, quality, and alcoholic content of alcoholic beverages.² Specifically, I recommend that: 1) an additional display of a statement of the number of fluid ounces per serving should be required, 2) the label should include information defining moderate drinking, 3) serving size

¹ Labeling and Advertising of Wines, Distilled Spirits and Malt Beverages, 72 Fed. Reg. 41,860 (proposed July 31, 2007).

² Federal Alcohol Administration Act, 27 U.S.C.A. §205(e)(2) (2000).

reference amounts should not be adopted, 4) the title of the label should be “Alcohol Facts,” and 5) the serving facts graphic should be used.

If implemented, I believe these recommendations would more closely adhere to the original purpose of the FAA labeling provisions by providing “for the information of the consumer, that he should be told what was in the bottle, and all the important factors which were of interest to him about what was in the bottle.”³ The following sections explain each of my five recommendations in greater detail.

An Additional Display of a Statement of the Number of Fluid Ounces Per Serving Should Be Required

The alcohol content of a beverage is of the utmost importance in providing basic information necessary for consumer decision-making: Consumers use alcohol content information to moderate their intake of alcohol, thereby facilitating responsible decisions when drinking alcoholic beverages. Traditionally, this information has been provided through a calculation of alcohol percentage by volume. I agree that consumers are familiar with this calculation, but that is not sufficient reasoning to stop short of adopting an additional calculation of alcohol content. TTB states that consumers may be confused without a context with which to compare fluid ounces of alcohol per serving, but then further states that this calculation would not be confusing if the alcohol percentage by volume was used in conjunction with the additional calculation of fluid ounces of alcohol per

³ H.R. 8539, 74th Cong. (1935).

...serving. Inexplicably, TTB proposes only permitting the display of this additional alcohol calculation when it should be required. Consumers deserve to have adequate information as to the amount of alcohol they are ingesting. If required, the fluid ounces of alcohol per serving would permit consumers “to compare the quantity of alcohol contained in single servings of different commodities without doing mathematical calculations.”⁴ Obtaining adequate information on beverage contents should not require mathematical computation.

The Label Should Include Information Defining Moderate Drinking

TTB concludes that information about moderate drinking could mislead consumers. Examples provided, such as those who should not drink even in moderation, are persuasive: those who are pregnant, those who are taking medications that interact with alcohol, and those who cannot keep themselves to drinking moderate levels should not drink at all. However, TTB suggested that with additional specific cautionary information the inclusion of a moderate drinking definition would not mislead consumers. This additional cautionary information need not be exhaustive; a simple additional phrase would satisfy the need for cautionary information. I suggest requiring a moderate drinking definition and simply adding the phrase “For those who are able to consume alcohol, a moderate amount of drinking is...” The United States Department of Health and Human Services publishes Dietary Guidelines every five years, and

⁴ See Labeling and Advertising of Wines, Distilled Spirits and Malt Beverages, 72 Fed. Reg. 41,860 at 41,866 (proposed July 31, 2007).

the 2005 publication states that moderate drinking amounts to one drink or less per day for females and two drinks per day or less for males. This definition, along with the additional phrase limiting the moderate drinking definition to those able to consume alcohol should be required on all alcoholic beverage labels. Requiring this definition is only useful, however, when consumers know what amounts to an actual drink or serving of alcohol.

Serving Size Reference Amounts Should Not Be Adopted

Key to the decision-making process of alcohol consumers is serving size. Without serving size information, the moderate drinking definition published in the Dietary Guidelines is meaningless. TTB is not moving in the right direction in proposing to adopt serving size amounts for each alcohol product category. While serving sizes are approximations, the information provided through them is invaluable for the consumer in determining and maintaining moderate drinking amounts. The serving sizes set forth in TTB Ruling 2004-1 are excellent references for determining what constitutes an actual serving of alcohol. The American Heart Association supports such approximations, defining a drink as one twelve ounces of beer, four ounces of wine, one and a half ounces of 80-proof spirits, or one ounce of 100-proof spirits.⁵ TTB should retain these serving sizes as no estimate of the amount customarily consumed will be meaningful. What is consumption custom for each product category? How can any reliable

⁵ American Heart Association, <http://www.americanheart.org>.

measure be construed from such a subjective basis? The best rationale is simply to retain the serving sizes stated in TTB Ruling 2004-1.

The Title of the Label Should Be “Alcohol Facts,” and the Linear Display Should Not Be Permitted Unless Required by Size

TTB should not adopt the label title of “Serving Facts.” This title too closely resembles the Nutrition Facts panel on other food and beverage items. Instead, the title “Alcohol Facts” should be used. Alcohol Facts would clearly denote the purpose of the label, which is to provide consumers with adequate information pertaining to the content the alcoholic beverage. TTB’s rationale for proposing the “Serving Facts” label title is that the information on the label will provide more than simple facts about the amount of alcohol. This basis is unpersuasive considering the fact that this label is for an alcoholic beverage. Thus, the label title “Alcohol Facts” does not mean the only facts presented are about alcohol content, it means that all of the facts presented are about the alcoholic beverage. Allowing the label to be “Serving Facts” would mislead consumers.

The linear display is a necessary requirement when certain bottling sizes are used. However, the linear display reads more like an ingredient listing and will be more frequently overlooked. The design of the Alcohol Facts label is noticeable and easy to read, and it is preferred for the purpose of adequately informing the consumer. Additionally, TTB proposed that when the linear display

is used, only the title “Serving Facts” (or my preferred title, “Alcohol Facts”) is required to be in bold font. However, due to the increased difficulty in reading the information in a linear display, each heading should also be required to be in bold font. For example, “Alcohol by volume” and “Calories” should also be in bold to improve visibility to the consumer.

The Serving Facts Graphic Should Be Used

Many consumers are visual learners to some extent. Seeing a diagram such as the serving facts graphic would aid in consumers obtaining adequate information about the alcoholic beverage of their choice. The Wine Institute’s concerns are unreasonable, namely that such a graphic is an oversimplification of alcohol exposure that provides little useful information. However, a graphic of serving sizes is arguably the most helpful demonstrative aid provided on the label. By glancing at the graphic, consumers easily can approximate serving sizes. Thus, consumers will be better equipped to moderate their drinking. Even though it would be rare that exactly a serving of fluid ounces of alcohol would be contained in glasses of wine, distilled spirits, or malt beverage, the graphic would still be helpful. Consumers could glance and see approximate servings, and this graphic, when paired with the additional content recommended in this comment, could serve as a powerful tool for consumers who desire to moderate their drinking.

Conclusion

Consuming too much alcohol has dramatic consequences. According to the American Heart Association, drinking too much alcohol can lead to high blood pressure, heart failure, obesity, and stroke.⁶ In addition, consuming excess alcohol leads to accidents and other harms. Clearly, there are many motivations to regulate alcohol labels. Without pertinent label information, consumers are unable to obtain adequate information regarding the beverage they are ingesting. Consumers have a right to know as much as possible about the alcoholic beverages they enjoy. The FAA Act statutorily conferred this right to consumers by requiring adequate alcohol information be provided to consumers. The proposed regulations will work to this end, and with slight revision the proposed regulations will truly provide adequate information. First, an additional display of a statement of the number of fluid ounces per serving should be required. Second, the label should include information defining moderate drinking. Third, serving size reference amounts should not be adopted, as TTB's Ruling 2004-1 is more accurate. Fourth, the title of the label should be "Alcohol Facts," and the linear display should not be permitted unless size requires such a display. Finally, the serving facts graphic should be used in conjunction with the above recommendations.

Respectfully submitted,

Jeremy Hale
12932 Laurel Brooke Lane
Knoxville, TN 37934
(865) 675-2630

⁶ American Heart Association, <http://www.americanheart.org>.