

NOTICE OF INTENT

Department of Revenue Office of Alcohol and Tobacco Control

Private Label Alcohol
(LAC 55:VII.405)

Under the authority of R.S. 26:922 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, hereby gives notice of its intent to promulgate §405 that would address private labels for alcohol since this is not addressed otherwise by existing law or regulation. The promulgation of §405 will assist the Office of Alcohol and Tobacco Control by providing guidelines to manufacturers, retailers, and wholesalers relative to private labels for alcohol.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Chapter 4. Alcohol Public Safety Regulations

§405. Private Label Alcohol

A. Alcohol manufacturers and suppliers licensed in Louisiana may produce private labeled alcohol for Louisiana licensed alcohol retailer, but said private labeled alcohol shall:

1. not make use of a retailer's name, logo, or likeness;
2. be distributed through Louisiana licensed alcohol wholesalers;
3. be available for purchase by all Louisiana licensed alcohol retailers with the same private label at the same price;
4. abide by all other provisions of Louisiana's three-tier system and Tied House prohibitions.

B. A Louisiana licensed alcohol retailer for whom a private label is being produced by a Louisiana licensed alcohol manufacturer or supplier shall exercise no control or authority over the manufacturer with regard to the private label alcohol, except that the retailer and manufacturer may enter into a licensing agreement which specifies the composition of the alcohol to be produced under the private label and the duration of the agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:922.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 43:1556 (March 2019), amended LR 44:

Family Impact Statement

1. The effect of this Rule on the stability of the family. This Rule should have no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.
2. The effect of this Rule on the authority and rights of parents regarding the education and supervision of their children. This Rule should not have any effect on the authority and rights of parents regarding the education and supervision of their children.
3. The effect of this Rule on the functioning of the family. This Rule should not have any effect on the functioning of the family.
4. The effect of this Rule on family earnings and family budget. This Rule should not have any effect on family earnings and family budget.
5. The effect of this Rule on the behavior and personal responsibility of children. This Rule should not have any effect on the behavior and personal responsibility of children.

6. The effect of this Rule on the ability of the family or local government to perform the function as contained in the proposed Rule. This Rule should not have any effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Poverty Statement

1. The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the R.S. 49:973.

2. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

Small Business Analysis

1. The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act, R.S. 49:965.2 et seq.

2. The agency, consistent with health, safety, environmental and economic welfare factors, has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Commissioner Juana Marine-Lombard, Office of Alcohol and Tobacco Control, P.O. Box 66404, Baton Rouge, LA 70896 or at legal.department@atc.la.gov. Written comments will be accepted through the close of business, April 15, 2019.

Juana Marine-Lombard
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Private Label Alcohol

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Proposed rule provides guidance to manufacturers, retailers, and wholesalers relative to private labels for alcohol. It provides that manufacturers and suppliers licensed in Louisiana may produce private labeled alcohol for retailers licensed in Louisiana, but that the private labeled beverages shall: clearly state the manufacturer on its labeling and marketing, be distributed through wholesalers licensed in Louisiana, be available for purchase by all Louisiana retailers with the same private label and price, and abide by all existing provisions of Louisiana's three-tier

system and Tied House prohibitions. Additionally, it provides that no retailer shall exercise control or authority over the manufacturer with regard to the production of the private labeled alcohol, and that a retailer may not exclusively carry private label alcohol or promote a private label product over a non-private label product. It provides that retailers and manufacturers may enter into a licensing agreement specifying the composition of the alcohol to be produced and the duration of the agreement, but nothing of value may be exchanged between the retailer and manufacturer or supplier as a result of a licensing agreement.

No direct costs or savings to state or local governmental units are anticipated due to this proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed rule amendment is not anticipated to materially impact ATC self-generated revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No material impact on Louisiana licensed manufacturers, wholeslaers, and retailers is anticipated due to this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No material impact on competition or employment is anticipated due to this proposed rule.

Juana Marine-Lombard
Commissioner
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Gregory V. Albrecht
Legislative Fiscal Officer