

## LABEL AND PACKAGING REQUIREMENTS FOR OFF-PREMISE PRODUCTS<sup>1</sup>

### ALL LABELS AND PACKAGING

1. The product must be clearly marketed, labeled, and identified as beer, ale, porter, stout, lager, a malt, a malted beverage, or seltzer.<sup>2</sup>
2. The product's label and packaging must comply with the federal label requirements of [27 C.F.R. Parts 7, 13, and 16](#).<sup>3</sup>
3. The product's label and packaging must "clearly give notice to the public" that the product is an alcoholic product.<sup>4</sup>

### LABELS OR PACKAGING LIKELY TO BE CONFUSED WITH A NONALCOHOLIC BEVERAGE<sup>5</sup>

1. The product's front label, or a sticker firmly affixed to the product's front label, and the front of the product's packaging, or a sticker firmly affixed to the front of the product's packaging, must include the statement "alcoholic beverage" or "contains alcohol."<sup>6</sup> The included statement must be in three millimeter high font and "in obvious and clearly visible contrast to the background of the text."<sup>7</sup>
2. The product's serving facts statement or front label, or a sticker firmly affixed to the product's front label, must include the alcohol content as a percentage of alcohol by volume or weight.<sup>8</sup>
3. The product's label or packaging may not appear designed to obscure requirements (1) or (2).<sup>9</sup>

### LABELS OR PACKAGING SIMILAR TO A NONALCOHOLIC BEVERAGE<sup>10</sup>

1. The product's front label, or a sticker firmly affixed to the product's front label, and the front of the product's packaging, or a sticker firmly affixed to the front of the product's packaging, must include the statement "alcoholic beverage" or "contains alcohol."<sup>11</sup> The statement must be in three millimeter high font, in capital letters, in bold type, obvious in a solid contrasting background, readily legible, and separate and apart from any descriptive or explanatory language.<sup>12</sup>
2. The product's serving facts statement or front label, or a sticker firmly affixed to the product's front label, must include the alcohol content as a percentage of alcohol by volume or weight.<sup>13</sup>
3. The product's label or packaging may not appear designed to obscure requirements (1) or (2).<sup>14</sup>
4. Even if requirements (1) through (3) are met, if the product is to be sold by an off-premise retailer, the product's label or packaging may not remain so similar to a "label or packaging used on a well-known or widely available nonalcoholic beverage" that it is likely to confuse or mislead a patron to believe the product is a nonalcoholic beverage.<sup>15</sup>

## FLAVORING REQUIREMENTS FOR OFF-PREMISE PRODUCTS

1. The product must be obtained by fermentation, infusion, or decoction of malt or a malt substitute.<sup>16</sup>
2. The product may include caffeine that is a natural constituent of an added ingredient.<sup>17</sup>
3. The product may include a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that is used in the production of beer and in a formula approved under [27 C.F.R. Sec. 25.55](#), and does not contribute more than 10% of the overall alcohol content of the product.<sup>18</sup>
4. The product may not contain an additive masking or altering a physiological effect of alcohol, including kratom, kava, cannabidiol, or tetrahydrocannabinol.<sup>19</sup>

\*The information provided in this document does not, and is not intended to, constitute legal advice. All information and content in this document is for general informational purposes only.\*

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<sup>1</sup> “Off-premise products” refers to malted beverages, including beers and seltzers, with no more than 5% ABV that are sold in grocery and convenience stores.

<sup>2</sup> Utah Code [32B-1-102\(11\)\(a\)\(iii\)](#).

<sup>3</sup> Utah Code [32B-1-604\(1\)\(a\)\(i\)](#). This language does not require a product that is not subject to Part 7, 13, or 16, to meet the requirements of Part 7, 13, or 16.

<sup>4</sup> Utah Code [32B-1-604\(1\)\(a\)\(ii\)](#). One way a product may comply with this requirement is by including on the label and packaging of the product in obvious and clearly visible contrast to the background, the term “beer,” “ale,” “porter,” “stout,” “lager,” “lager beer,” “hard seltzer,” or “spiked seltzer,” or another class or type designation commonly applied to a malted beverage that conveys by a recognized term that the product contains alcohol. Utah Code [32B-1-604\(3\)](#). The common terms “hard” and “spiked” have been deemed to clearly give notice that a product is an alcoholic product.

<sup>5</sup> When determining whether a product’s label or packaging is likely to confuse or mislead a patron to believe the product is a nonalcoholic beverage, DABS may, in addition to other factors, consider the product’s coloring and carbonation, whether the character or flavor of the product is distinctive from a traditional malted beverage, whether the product is prepackaged, contains high caffeine and other additives, and is designed to provide energy, or whether the product includes sweetener, sugar substitutes, added fruit flavor, or another flavor that masks the taste of a traditional malted beverage. Utah Code [32B-1-606\(4\)](#).

<sup>6</sup> Utah Code [32B-1-606\(2\)\(a\)\(i\)](#); [32B-1-606\(2\)\(b\)](#).

<sup>7</sup> Utah Code [32B-1-606\(2\)\(a\)](#); [32B-1-606\(2\)\(b\)](#).

<sup>8</sup> Utah Code [32B-1-606\(2\)\(a\)\(ii\)](#); [32B-1-606\(2\)\(d\)](#). If placed in the serving facts statement, the alcohol content must also be in a format allowed by the Alcohol and Tobacco Tax and Trade Bureau, consistent with the requirement that all products comply with the federal label requirements described in footnote 2. Utah Code [32B-1-606\(2\)\(a\)\(ii\)](#); [32B-1-604\(1\)\(a\)\(i\)](#).

<sup>9</sup> Utah Code [32B-1-606\(3\)\(a\)](#). Given the specific requirements for the statement “alcoholic beverage” and “contains alcohol,” this determination largely applies to label and packaging alcohol content references. Factors relevant to this determination include whether the alcohol content is in lowercase letters, illegible, or difficult to distinguish from the label or packaging background.

<sup>10</sup> When determining whether a product’s label or packaging is similar to a label or packaging used for a nonalcoholic beverage, DABS may, in addition to other factors, consider the factors described above in footnote 4. Utah Code [32B-1-606\(4\)](#).

<sup>11</sup> See footnote 5.

<sup>12</sup> Utah Code [32B-1-606\(2\)\(a\)](#); [32B-1-606\(2\)\(b\)](#); Utah Administrative Rule [R82-1-105\(3\)\(e\)](#).

<sup>13</sup> See footnote 7.

<sup>14</sup> See footnote 8.

<sup>15</sup> Utah Code [32B-1-606\(3\)\(b\)](#). Factors relevant to this determination include whether the product’s label or packaging uses the same colors, font, and overall look as the nonalcoholic beverage or prominently displays on the front of the label or packaging the same logo or branding as the nonalcoholic beverage.

<sup>16</sup> Utah Code [32B-1-102\(11\)\(a\)\(ii\)](#). Under Utah Code [32B-1-102\(72\)](#), “malt substitute” refers to rice, grain, bran, glucose, sugar, or molasses. Note, under Utah Code [32B-1-102\(140\)\(a\)](#), “wine” is “an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.”

<sup>17</sup> Utah Code [32B-1-102\(11\)\(b\)\(ii\)](#).

<sup>18</sup> Utah Code [32B-1-102\(11\)\(b\)\(iii\)](#).

<sup>19</sup> Utah Code [32B-1-102\(11\)\(c\)\(iii\)](#).