
TITLE 4 ALCOHOLIC BEVERAGES AND MARIJUANA

DELAWARE ADMINISTRATIVE CODE

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DEPARTMENT OF STATE

OFFICE OF THE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER

900 Trade Practices for Suppliers, Wholesales, and Retailers

Rule 903 (Formerly Rule 8.1) A Rule Governing the Shipment and Storage of Alcoholic Liquors by Suppliers and Wholesalers

1.0 Purpose

- 1.1 This amended rule is promulgated, in part, pursuant to the Commissioner's authority to regulate time, place, and manner in which alcoholic liquor is sold or dispensed, and provides regulations for the marking of vehicles used by licensed importers for the transportation of alcoholic liquor. It also establishes standards for the distribution of alcoholic liquor by importers to establishments licensed by the Commissioner for the sale of alcoholic liquor.
- 1.2 In addition, the Commissioner has found, pursuant to the Commissioner's authority, to promulgate rules and regulations necessary for the enforcement and furtherance of the objectives of 4 **Del.C.** §501, that all alcoholic liquor imported into this state must be unloaded and physically stored for a reasonable period of time to allow for enforcement of the regulatory provisions of the Liquor Control Act and Commissioner Rules. This rule, therefore, implements and clarifies 4 **Del.C.** §501(f) as to what period of time alcoholic liquors must be physically stored after it is unloaded in order to comply with 4 **Del.C.** §501(f) and all other provisions of Title 4, the Liquor Control Act, and the Commissioner Rules and Regulations promulgated thereto.
- 1.3 Specifically, the Commissioner has found that seventy-two (72) hours is a reasonable "at-rest" period of time to enable the DATE to carry out its statutory duties to inspect and inventory licensed Delaware warehouses.

2.0 Definitions: As Used in this Rule

"Establishment" means any place located physically in this state where alcoholic liquor of one or more varieties is stored, sold, or used by authority of any law of this state, or where alcoholic liquor of one or more varieties is manufactured by virtue of any law of this state.

"Importer" shall mean wholesaler and shall be located within the State of Delaware."

"Supplier" may be a brewery, winery, distiller, alcoholic beverage importer, or alcoholic beverage broker that sells alcoholic beverages to Importers of the State of Delaware. A supplier's organization may be located within or without the State of Delaware.

3.0 Procedures

- 3.1 Importer's vehicles, in which alcoholic beverages are shipped into and throughout Delaware, shall have painted on both of their sides the name of the importer and the words "Delaware Alcoholic Beverage Control Commissioner - License Number" (Insert the importer's license number) in letters at least two inches high, uncovered, and clearly visible.
- 3.2 Vehicles owned by suppliers in which alcoholic beverages are shipped into Delaware, need not have the name of the Commissioner or the Delaware licensed importer's license number affixed to the side of the vehicle.
- 3.3 Vehicles owned by suppliers shall not be used for delivery of alcoholic beverages to retailers in the State of Delaware.
- 3.4 No peddling shall be allowed. Definite orders for all alcoholic beverages shipped from an Importer's warehouse shall have been received from customers before the loaded vehicles leave the warehouse.
- 3.5 No alcoholic beverages in excess of that ordered shall be carried on the vehicles.
- 3.6 A statement showing the destination of each package of alcoholic beverages shall be furnished the driver and carried by over the route.
- 3.7 Upon the driver's return to the warehouse, the driver shall sign the statement showing the alcoholic beverages have been delivered to the destination listed. This statement shall be available for inspection by the Commissioner at all times.

4.0 Importers' Warehouses

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- 4.1 Importers may have one or more warehouses in different locations within the State of Delaware provided proper application for such extra warehouse(s) is filed and approved by the Commissioner.
- 4.2 The person in charge of an Importer's warehouse must be approved by the Commissioner.
- 4.3 All Importers' warehouses used for the storage of alcoholic liquor, except public cold storage establishments, must be either owned or rented directly by the Importer or a business entity in which the Importer maintains complete ownership. The person in charge of the importer's warehouse is to be upon the regular salary list or payroll of such Importer.
- 4.4 The Importer is responsible for ensuring compliance with the Liquor Control Act and Commissioner Rules at all premises licensed in its name by the Commissioner.

5.0 Hours of Delivery

- 5.1 Delivery trucks and other vehicles of an Importer, licensed by the Commissioner for the delivery of alcoholic liquor to licensed retail establishments, may leave the warehouse after five o'clock in the morning on any day when deliveries of alcoholic liquors are permitted; provided, however, that no actual delivery of beer, spirits, or wine to any licensed establishment is permitted before seven o'clock in the morning and no Importer may require a Retailer to accept deliveries prior to nine o'clock in the morning.
- 5.2 Delivery trucks or other vehicles may operate as late as necessary to properly deliver orders; provided the trucks or other vehicles leave the warehouse prior to five-thirty o'clock in the afternoon, other than during the period from December 10 to December 31 when the trucks or other vehicles shall be permitted to leave the warehouse prior to eight o'clock in the evening.
- 5.3 There shall be no delivery of beer, spirits, or wine on any holiday specified in 4 **Del.C.** §709 (d).
- 5.4 Deliveries of alcoholic liquor by Importers, or their authorized representatives, to retail establishments, at any time not permitted by this rule is prohibited.

6.0 The "At-Rest Requirement" [4 **Del.C.** Section 501(f)]

- 6.1 A licensed Delaware Importer shall not import alcoholic liquor into the State of Delaware unless said alcoholic liquor is delivered directly from a Delaware licensed supplier by either the supplier, the Importer, or common carrier to a licensed Delaware warehouse or warehouses.
- 6.2 Said licensed Delaware warehouse or warehouses must be owned, leased, or operated in accordance with subsection 4.3 of this rule.
- 6.3 All alcoholic liquor delivered to said warehouse or warehouses must be unloaded and physically stored for a period of at least eighteen (18) hours.
- 6.4 The minimum period of eighteen (18) hours "at rest" is required to enable the Commissioner, or DATE, to inspect and inventory wholesale warehouses for the purpose of verifying taxes that are required to be paid on alcoholic liquor purchased by Importers, pursuant to 4 **Del.C.** §581(a) and Delaware Alcoholic Beverage Control Commissioner Rule 601.
- 6.5 Variances of the eighteen (18) hour storage requirement may be granted for good cause if formally made in writing and submitted to the Commissioner.

7.0 Inspections and Inventories

Pursuant to 4 **Del.C.** §304 (A)(2) and (5) and 4 **Del.C.** §581(c), DATE and the Division of Revenue may inspect the establishment of any licensed Delaware Importer and inventory any or all alcoholic liquor in the Importer's possession at any time they deem reasonable and necessary to carry out their statutory duties to verify the reporting and collection of taxes payable to the State of Delaware.

8.0 Interstate Shipments

- 8.1 Every person in charge of transportation by motor vehicle, by railroad, by water vessel, by common carrier, or by any other vehicle that transports alcoholic beverages in or through the State of Delaware in an interstate shipment shall have a way bill. The carrier must have in his possession the way bill and be prepared to present it when asked.
- 8.2 The way-bill shall embody these written or printed terms:
 - 8.2.1 The date of its issue.
 - 8.2.2 The name and address of the consignor.

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- 8.2.3 The name and address of the consignee.
- 8.2.4 A statement as to whether the goods will be delivered to a specified person or to the order of a specified person.
- 8.2.5 A description of the package, stating the number and contents.
- 8.2.6 The signature of the carrier or his duly authorized agent.

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