

# Alcohol Labelling Bill [HL]

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[AS AMENDED IN COMMITTEE]

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**B I L L**

[AS AMENDED IN COMMITTEE]

TO

Make provision for the labelling of alcoholic beverages; and for connected purposes.

**B**E IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**1 Warnings on alcoholic beverages**

- (1) A producer of an alcoholic beverage shall ensure that each container carries the following advice—  
“Avoid alcohol if pregnant or trying to conceive.”
- (2) The appropriate Minister may by order direct as an alternative to the advice required under subsection (1) that a producer of an alcoholic beverage should ensure that each container carries a symbol or pictogram as specified in the order. 5
- (3) No advice as required by subsections (1) and (2) shall be required on any box, carton or other package, irrespective of the material from which it is made, which contains such a container. 10
- (4) No advice as required by subsections (1) and (2) shall be required on any container if the producer of that container is in compliance with the voluntary labelling agreement between the alcoholic drinks industry and the Department of Health as expressed in the Memorandum of Understanding dated 24th May 2007. 15

**2 Product description**

A person is guilty of an offence if he supplies in the course of a trade or business an alcoholic beverage the container of which carries any name, brand name, text, trademark or pictorial or any other representation or sign which 20

suggests that it is less harmful in relation to the advice required in accordance with section 1 than any other alcoholic beverage.

### **3 Prohibitions on supply of non-compliant containers**

- (1) A person is guilty of an offence if he supplies in the course of a trade or business any alcoholic beverage in respect of which the producer has not complied with any requirement of this Act which relates to the container of that alcoholic beverage. 5
- (2) Subsection (1) does not apply where an alcoholic beverage is, or is to be, supplied for consumption outside the United Kingdom.

### **4 Defences** 10

- (1) A person does not commit an offence under section 2 if he did not know, and had no reason to suspect, that the alcohol container contained the relevant name, brand name, text, trademark or pictorial representation or sign.
- (2) A person does not commit an offence under section 3(1) if he did not know, and had no reason to suspect, that the alcohol container did not comply with any requirement of this Act which relates to the container of that alcoholic beverage. 15
- (3) A person does not commit an offence under section 3(1) if he did not know, and had no reason to suspect, that the alcohol container would be supplied in the United Kingdom. 20

### **5 Enforcement**

- (1) For the purposes of this Act “enforcement authority” means a local authority.
- (2) It is the duty of an enforcement authority to enforce within its area the provisions of this Act and any regulations made under it.
- (3) The appropriate Minister may direct, in relation to cases of a particular description or a particular case, that any duty imposed by subsection (2) on an enforcement authority in England and Wales or Scotland shall be discharged by the appropriate Minister and not by the enforcement authority. 25
- (4) The Department of Health, Social Services and Public Safety (Northern Ireland) may direct, in relation to cases of a particular description or a particular case, that any duty imposed by subsection (2) on an enforcement authority in Northern Ireland shall be discharged by the Department and not by the enforcement authority. 30
- (5) The Secretary of State may take over the conduct of any proceedings instituted in England or Wales by another person under any provision of this Act or regulations made under it. 35
- (6) The Scottish Ministers may take over the conduct of any proceedings instituted in Scotland by another person under any provision of this Act or regulations made under it.
- (7) The Department of Health, Social Services and Public Safety (Northern Ireland) may take over the conduct of any proceedings instituted in Northern Ireland by another person under any provision of this Act or regulations made under it. 40

- (8) For the purposes of the trying of offences under this Act—
- (a) any offence committed in England or Wales may be treated as having been committed in any place in England or Wales, so that any magistrates' court in England or Wales has jurisdiction to try the offence, and 5
  - (b) any offence committed in Northern Ireland may be treated as having been committed in any place in Northern Ireland, so that any magistrates' court in Northern Ireland has jurisdiction to hear and determine a complaint charging the offence.

## 6 Powers of entry, etc 10

- (1) A duly authorised officer of an enforcement authority has the right, on producing, if so required, his written authority—
- (a) at any reasonable hour to enter any premises, other than premises used only as a private dwelling house, which he considers it is necessary for him to enter for the purpose of the proper exercise of his functions under this Act; 15
  - (b) to carry out on those premises such inspections and examinations as he considers necessary for that purpose;
  - (c) where he considers it necessary for that purpose, to require the production of any book, document, data, record (in whatever form it is held) or product and inspect it, and take copies or extracts from it; 20
  - (d) to take possession of any book, document, data, record (in whatever form it is held) or product which is on the premises and retain it for as long as he considers necessary for that purpose; and
  - (e) to require any person to give him such information, or afford him such facilities and assistance, as he considers necessary for that purpose. 25
- (2) A duly authorised officer of an enforcement authority may make such purchases and secure the provision of such services as he considers necessary for the purpose of the proper exercise of his functions under this Act.
- (3) A person is not obliged by subsection (1) to answer any question or produce any document which he would be entitled to refuse to answer or produce— 30
- (a) in or for the purposes of proceedings in a court in England and Wales, where the question is asked or the document is required by a duly authorised officer of an enforcement authority in England and Wales;
  - (b) in or for the purposes of proceedings in a court in Northern Ireland, where the question is asked or the document is required by a duly authorised officer of an enforcement authority in Northern Ireland; 35
  - (c) in or for the purposes of proceedings in a court in Scotland, where the question is asked or the document is required by a duly authorised officer of an enforcement authority in Scotland. 40
- (4) If a justice of the peace is satisfied by any written information on oath that for the purpose of the proper examination of the functions of an enforcement authority under this Act there are reasonable grounds for entry into any premises, other than premises used only as a private dwelling house, and— 45
- (a) that admission to the premises has been, or is likely to be, refused and that notice of intention to apply for a warrant under this subsection has been given to the occupier, or
  - (b) that an application for admission, or the giving of such notice, would defeat the object of the entry or that the premises are unoccupied or that

- the occupier is temporarily absent and it might defeat the object of the entry to await his return,
- the justice may by warrant signed by him, which shall continue in force until the end of the period of one month beginning with the date on which he signs it, authorise any duly authorised officer of an enforcement authority to enter the premises, if need be by force. 5
- (5) A duly authorised officer entering any premises by virtue of subsection (1) or of a warrant under subsection (4) may take with him when he enters those premises such other persons and such equipment as he considers necessary.
- (6) On leaving any premises which a duly authorised officer is authorised to enter by virtue of a warrant under subsection (4) that officer shall, if the premises are unoccupied or the occupier is temporarily absent, leave the premises as effectively secured against trespassers as he found them. 10
- (7) Where by virtue of subsection (1)(d) a duly authorised officer takes possession of any item, he shall leave on the premises from which the item was removed a statement giving particulars of what he has taken and stating that he has taken possession of it. 15
- (8) In the application of this section to Northern Ireland, the reference in subsection (4) to any information on oath shall be construed as a reference to any complaint on oath. 20
- (9) In the application of this section to Scotland, the reference in subsection (4) to a justice of the peace shall be construed as a reference to a sheriff.
- (10) Where a direction of the appropriate Minister has effect under section 5(3), this section and section 7 have effect, in relation to any case or case of a description specified in the direction, as if references to a duly authorised officer of an enforcement authority were references to a person acting on behalf of the appropriate Minister. 25
- (11) Where a direction of the Department of Health, Social Services and Public Safety (Northern Ireland) has effect under section 5(4), this section and section 7 have effect, in relation to any case or case of a description specified in the direction, as if references to a duly authorised officer of an enforcement authority were references to a person acting on behalf of the Department. 30
- (12) Where—
- (a) the Secretary of State takes over any proceedings by virtue of section 5(5), 35
  - (b) the Scottish Ministers take over any proceedings by virtue of section 5(6), or
  - (c) the Department of Health, Social Services and Public Safety (Northern Ireland) takes over the conduct of any proceedings by virtue of section 5(7), 40
- this section and section 7 have effect, in relation to any case which is the subject of such proceedings, as if references to a duly authorised officer of an enforcement authority were references to a person acting on behalf of the Secretary of State or (as the case may be) the Department.
- 7 Obstruction etc of officers** 45
- (1) A person who—

- (a) intentionally obstructs a duly authorised officer of an enforcement agency who is acting in the proper exercise of his functions under this Act, or
- (b) without reasonable cause fails to comply with any requirement made of him by such an officer who is so acting,
- is guilty of an offence. 5
- (2) A person who, in giving any information which is properly required of him by a duly authorised officer of an enforcement authority, makes a statement which is false in a material particular is guilty of an offence.
- (3) A person does not commit an offence under subsection (2) if – 10
- (a) he did not know the material particular was false, and
- (b) he had reasonable grounds to believe that it was true.
- 8 Penalties**
- (1) A person guilty of an offence under, or by virtue of, section 2, 3(1) or 7(2) of this Act is liable – 15
- (a) on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both, or
- (b) on conviction on indictment to imprisonment for a term not exceeding 2 years, or a fine, or both.
- (2) A person guilty of an offence under, or by virtue of, section 7(1) of this Act is liable on summary conviction to a fine not exceeding level 3 on the standard scale. 20
- 9 Offences by bodies corporate and Scottish partnerships**
- (1) If an offence under any provision of this Act committed by a body corporate is proved – 25
- (a) to have been committed with the consent or connivance of an officer, or
- (b) to be attributable to any neglect on his part,
- the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) In subsection (1) “officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity. 30
- (3) If the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate. 35
- (4) If an offence under any provision of this Act committed by a partnership in Scotland is proved –
- (a) to have been committed with the consent or connivance of a partner, or
- (b) to be attributable to any neglect on his part,
- the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly. 40
- (5) In subsection (4) “partner” includes a person purporting to act as a partner.

## 10 Orders

- (1) In relation to England and Northern Ireland, any power of the Secretary of State to make regulations or orders under this Act is exercisable by statutory instrument.
- (2) Any such statutory instrument is subject to annulment in pursuance of a resolution of either House of Parliament. 5
- (3) Any power of the Scottish Ministers to make regulations or orders under this Act is exercisable by statutory instrument which is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (4) Any power of the Welsh Ministers to make regulations or orders under this Act is exercisable by statutory instrument which is subject to annulment in pursuance of a resolution of the National Assembly for Wales. 10
- (5) If a statutory instrument made under subsection (4) –
- (a) contains subordinate legislation relating to an English border area, or
  - (b) contains subordinate legislation relating to a cross-border body (and not relating only to the exercise of functions, or the carrying on of activities, by the body in or with respect to Wales or a part of Wales),
- the statutory instrument is subject also to annulment in pursuance of a resolution of either House of Parliament. 15
- (6) Any power to make regulations or orders under this Act includes power to make – 20
- (a) such incidental, supplemental, consequential, transitional, transitory or saving provision as the appropriate Minister thinks necessary or expedient;
  - (b) different provisions for different purposes. 25

## 11 Interpretation

In this Act –

- “alcoholic beverage” means any pre-packaged alcoholic drink above 0.5% alcohol by volume, including any product developed or marketed primarily as an alcoholic drink notwithstanding that the product – 30
- (a) is classified as a foodstuff for the purposes of licensing or customs and excise legislation, or
  - (b) appears to be solid or heavily textured (or can be made to be, for example, by freezing or shaking);
- “appropriate Minister” means – 35
- (a) in relation to England and Northern Ireland, the Secretary of State,
  - (b) in relation to Wales, the Welsh Ministers, and
  - (c) in relation to Scotland, the Scottish Ministers;
- “container” means the sealed primary container, irrespective of the material from which made, in which an alcoholic beverage is placed by the producer and in which such beverage is supplied; 40
- “producer”, in relation to an alcoholic beverage, means a person who in the course of a business –
- (a) manufactures it; 45

- (b) puts a name, brand name, trademark or other distinguishing mark on it, by which he holds himself out to be its manufacturer or originator; or
- (c) imports it into the United Kingdom,  
with a view to the alcoholic beverage being supplied for consumption in the United Kingdom, and “produce” shall be construed accordingly; 5  
“symbol or pictogram” means a figure which describes a situation or prescribed behaviour;  
“supply”, in relation to an alcoholic beverage, means the supply of, or offer or agreement to supply, the alcoholic beverage or the exposure or possession for supply of the alcoholic beverage. 10

## 12 Commencement and extent

- (1) Subject to subsection (2), this Act comes into force on such day as the appropriate Minister may by order appoint, but not later than the first day of January 2010. 15
- (2) Different days may be appointed under subsection (1) for different provisions and for different purposes.
- (3) Such an order may include such transitional provisions and savings as the appropriate Minister considers appropriate.
- (4) This Act extends to Northern Ireland. 20

## 13 Short title

This Act may be cited as the Alcohol Labelling Act 2008.



# Alcohol Labelling Bill [HL]

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## B I L L

[AS AMENDED IN COMMITTEE]

To make provision for the labelling of alcoholic beverages; and for connected purposes.

*Lord Mitchell*

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