

HIGH OCTANE BEER

FREQUENTLY ASKED QUESTIONS

1. What is the news about High Octane beer?

Recently the State of South Carolina passed legislation that permits the manufacture, importation, sale and consumption of *High Octane beer*. The exact language of H.B. 3218 is as follows:

Be it enacted by the General Assembly of the State of South Carolina:

Percent of alcohol by weight revised

SECTION 1. Section [61-4-10](#) of the 1976 Code, as last amended by Act 415 of 1996, is further amended to read:

"Section [61-4-10](#). The following are declared to be nonalcoholic and nonintoxicating beverages:

- (1) all beers, ales, porters, and other similar malt or fermented beverages containing not in excess of five percent of alcohol by weight;
- (2) all beers, ales, porters, and other similar malt of fermented beverages containing *more than five percent but less than fourteen percent of alcohol* by weight that are manufactured, distributed, or sold in containers of 6 1/2 ounces or more or the metric equivalent; and
- (3) all wines containing not in excess of twenty-one percent of alcohol by volume."

(emphasis added)

2. What is High Octane beer?

Under prior law, any beer, malt, ale or similar beverage manufactured, imported, sold or consumed in South Carolina could not exceed 5% alcohol content by weight. Under the new law, any beer manufactured, imported, sold or consumed in South Carolina can not exceed 14% alcohol content by weight.

3. What is the difference in alcohol content by weight versus volume?

It is important to note that the percentage of alcohol by mass (weight) is higher than the percentage of alcohol by volume because an equal mass of alcohol occupies more volume than water would. So to convert from percent alcohol by volume you divide by the density of alcohol. Example: Under the new law a beer can not exceed 14% by weight. Thus, 14% alcohol by weight $\div .79 = 17.721518\%$ alcohol by volume.

4. Who can ship High Octane beer into South Carolina?

Only a registered producer can ship or cause to be transported any beer into the State of South Carolina. A producer means a brewery, manufacturer, bottler or importer of beer, malt, ale, or similar beverage.

5. What brands of High Octane beer can be sold in South Carolina?

Only those brands of beer that have been registered by the producer can be sold in South Carolina. No brand of beer may be registered by the producer unless that producer is either a) the American producer or b) the primary American source of supply in the United States of the brand sought to be registered.

Note: Each different label constitutes a different brand. Therefore, if Iceland Brewery sells a beer “Golden Ale” with a five percent alcohol content, and then wants to sell a high octane version of “Golden Ale”, the brewery must submit a new Form 569 to register this higher octane version.

6. What forms are required to be submitted to the Department of Revenue?

To become a registered producer, submit ABL Form 500. To register a brand, or brands, either as a new producer or to add brands as a currently licensed producer, submit ABL Form 569. A wholesaler must submit ABL Form 902.

7. What needs to be submitted with the ABL Form to register the brand?

Submit approved Federal TTB “Application and Certification of Label/Bottle Application Form”, F 5100.31.

8. Who may sell High Octane beer?

Only a registered producer may sell to a licensed wholesaler; only a licensed wholesaler may sell to a licensed retailer.

9. Where can a wholesaler sell High Octane beer?

A wholesaler may sell any brand of beer in the territory that it has a distribution agreement. The distribution agreement must be in writing, must specify the brands covered in the territory, and must be filed with the Department.

10. Where can a producer sell to a wholesaler?

A brewer, importer, producer or other supplier of High Octane beer may only provide a distribution agreement for one wholesaler for all or a part of a designated territory. If the brewer, manufacturer, producer or other supplier sells more than one brand, the distribution agreement need not apply to all brands and may apply to only to a single brand.

11. When can High Octane beer be brought into, distributed and sold in South Carolina?

The new law was effective May 2, 2007. Of course, all requisite conditions must be met before any individual producer, wholesaler or retailer may lawfully sell High Octane beer.

12. What are the appropriate sections of the law that contain more details?

S.C. Ann Sections 61-4-300; 61-4-310; 61-4-340; 61-4-940; 61-4-1300; 61-4-1310