



Beer

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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Reference Number: MTAS-1404

A city may, by ordinance, prohibit beer sales within the city, or it may, by ordinance, prescribe regulatory measures not conflicting with state laws. These measures may include:

- fixing a maximum number of permits;
- restricting beer permittees to certain zones;
- establishing distance regulations from residences, schools, churches, and other public gathering places;
- establishing opening and closing hours; and
- setting other rules to protect the "public health, morals, and safety."

One exception is found in T.C.A. § 57-5-109, which prohibits cities from denying a beer permit to a business based on proximity to a school, residence, church, or other place of public gathering if a permit had been issued to a business on that same location. The statute defines "on that same location" as being within the same parcel or tract.

To enforce these regulations, a city must establish a board to issue beer permits. The governing body may constitute itself as a beer board for this purpose. A beer board must file annual reports with the Alcoholic Beverages Commission. The report must contain various statistical data and is due February 1 of each year. T.C.A. § 57-5-605.

Although state law provides that municipalities are prohibited from issuing a beer permit to any applicant who has not been a citizen or a lawful resident of the United States for at least one year immediately preceding the date of application, the Tennessee Attorney General has opined that to deny a permit on that basis would be a violation of the United States Constitution, in Opinion 16-09. Accordingly, cities should not deny a beer permit based on failure of the applicant to meet such a citizenship or residency requirement. Applicants who meet all other conditions prescribed by state law and city ordinances must be issued a permit. If they are refused, they may seek a trial de novo in a circuit or chancery court.

Municipalities may have different permit classes. For example, cities may allow on-premise consumption or restrict permits to package sales.

A city may prohibit sales at places where it would cause traffic congestion. Municipalities must prohibit sales to minors. A purchaser for off-premises consumption must provide satisfactory identification before being allowed to purchase. It is an exception to any criminal punishment or adverse administrative action, however, if a sale is made to a person who reasonably appears to be over 50 years old who failed to present acceptable identification. T.C.A. § 57-5-301 (a)(1). No applicant or any person employed by an applicant shall have been convicted of any liquor law violation or a crime involving moral turpitude within the previous 10 years.

The permit of a retailer not in the responsible vendor program may be revoked or suspended by a beer board for failure to comply with any state law or city regulation, including the failure to pay the privilege tax and provide information required by the city. Appeal of such a decision may be taken to a circuit or chancery court. In lieu of revocation or suspension, a beer board may impose a civil penalty not exceeding \$2,500 for each offense involving sales to minors, or it may levy a penalty not exceeding \$1,000 for any other offense. Acceptance of a civil penalty by a city prevents the city from imposing any other punishment or penalty for that offense. T.C.A. §§ 57-5-101–109.

Beer boards are required to consider repeated violations of any local ordinance or state law related to prohibited sexual contact on the premises of adult-oriented establishments when considering suspending or revoking a permit. T.C.A. § 57-5-108(c).

A city may not impose training or certification requirements on employees of a permittee if the employees have server permits issued by the Alcoholic Beverage Commission (ABC). T.C.A. § 57-5-106(a).

Beer retailers must post signs no smaller than 8.5" by 5.5" saying "IF YOU AREN'T 21 AND ARE IN POSSESSION OF BEER, YOU COULD LOSE YOUR DRIVER'S LICENSE."

Responsible Vendor Program

A beer retailer may become a “responsible vendor” by paying nominal fees to the state Alcoholic Beverage Commission and providing certification training to clerks on the sale of beer to minors. A beer board may not suspend or revoke the permit of a responsible vendor based upon a clerk’s illegal sale to a minor if the clerk is certified or within 61 days of initial hiring. The beer board must report the name of the clerk to the ABC within 15 days of finding a sale to a minor occurred. The beer board may not revoke the permit of a responsible vendor unless the vendor has at least two violations of selling beer to a minor in a 12 month period, unless the vendor knew or should have known about the illegal sale. Civil penalties for a responsible vendor are limited to \$1,000 for an illegal sale by a clerk to a minor and other offenses. T.C.A. §§ 57-5-108 and 57-5-601, *et seq.*

A responsible vendor must post a sign on its premises warning customers STATE LAW REQUIRES IDENTIFICATION FOR THE SALE OF BEER. T.C.A. § 57-5-301(a)(1).

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

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