



## Intoxicating Liquors

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Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](http://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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## Intoxicating Liquors

**Reference Number:** MTAS-1405

Regulating the liquor industry is primarily a state function, but counties and cities may adopt regulations that do not conflict with those of the state. Package stores and the sale of liquor-by-the-drink must be approved by referendum, an option open to cities that have been incorporated for five or more years with a population of 925 or more people (except in four excluded counties). Banning such stores can likewise be accomplished by referendum (T.C.A. § 57-3-106, T.C.A. § 57-4-103).

T.C.A. § 57-4-101(a) lists several entities in which liquor-by-the-drink may be sold without a referendum. Among these are cities and counties that have elected to be a Tennessee River Resort District under T.C.A. § 67-6-103(a)(3)(F).

In 2018, the Tennessee General Assembly passed legislation that authorizes the sale of alcohol on Sundays between the hours of 10:00 a.m. and 11:00 p.m. in retail package stores. The legislation also restricts the issuance of any new retail package store licenses. According to the legislation, until July 1, 2021, new retail package store licenses may only be issued in those municipalities that approve retail package stores through a referendum after April 1, 2018, or to applicants who were in the process of applying for a retail package store license before April 20, 2018. In those cities where retail package store licenses may still be issued, applicants must first obtain a certificate signed by the mayor or a majority of the city governing body stating that:

- the applicant(s) to be in actual charge or the corporation officers (or those in control) have not been convicted of a felony within 10 years preceding the application date; and
- a business site that meets all local requirements has been acquired.

Failure to act within 60 days on an application for such certificates shall constitute approval. Cities and counties are authorized to control the location and number of licenses as long as they do not "unreasonably restrict the availability of alcoholic beverages" to their residents. An appeal of a certificate denial may be taken to a chancery court within 60 days. T.C.A. § 57-3-208. State law regulates hours during which sales may be made for consumption on the premises, but the ABC may expand those hours. Cities may opt out of or into the hour expansion adopted by the Alcoholic Beverage Commission. T.C.A. § 57-4-203(d).

An elected or appointed public officer may not hold a liquor license or have any interest in any wholesale or retail liquor business. T.C.A. § 57-3-210.

T.C.A. § 57-3-707 allows servers in liquor-by-the-drink establishments to work 61 days after being hired without a server permit.

The law permits a city to impose the following annual privilege taxes on places serving drinks for consumption on the premises:

- \$300 for a private club;
- \$600 to \$1,000 for restaurants, according to seating capacity;
- \$1,000 for a hotel or motel;
- \$1,500 for a premiere-type tourist resort; and
- Other amounts for several other classifications. T.C.A. § 57-4-301.

Cities may levy, by ordinance, inspection fees on retail liquor licensees (package liquor stores) based on wholesale liquor prices not exceeding 8 percent in counties with a population of less than 60,000 and in counties in which a premier tourist resort city is located, and not more than 5 percent in other counties. Population is to be taken from the most recent federal census. T.C.A. § 57-3-501.

State highway patrol and Alcoholic Beverage Commission officers and agents are empowered to help local law enforcement personnel enforce liquor statutes in cities that have not authorized liquor sales by local option elections. T.C.A. § 57-3-412(b).

*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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