

## TITLE 8

ALCOHOLIC BEVERAGES<sup>1</sup>

## CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

## CHAPTER 1

INTOXICATING LIQUORS

## SECTION

8-101. Prohibited generally.

8-101. Prohibited generally. Except when he is lawfully acting pursuant to the authority of an applicable state law<sup>2</sup> it shall be unlawful for any person, acting for himself or for any other person, to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within this town. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous or malt liquors and beers which contain more than five percent (5%) of alcohol by weight. (1985 Code, § 2-101)

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<sup>1</sup>Municipal code references

Driving under the influence: section 15-104.

Minor in beer places, etc.: title 11, chapter 2.

State law reference

Tennessee Code Annotated, title 57.

<sup>2</sup>State law reference

Tennessee Code Annotated, title 39, chapter 6.

## CHAPTER 2

BEER<sup>1</sup>

## SECTION

- 8-201. "Beer" defined.
- 8-202. Permit required for engaging in beer business.
- 8-203. Application and approval of beer permit.
- 8-204. General regulations.
- 8-205. Specific restrictions.
- 8-206. Suspension or revocation of permits.
- 8-207. Civil penalty in lieu of suspension.
- 8-208. Privilege tax.

8-201. "Beer" defined. The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (1985 Code, § 2-201)

8-202. Permit required for engaging in beer business. No person, firm, corporation, syndicate, or association shall engage in the storing, selling, distributing, and/or manufacturing of beer of alcoholic content of not more than five percent (5%) by weight or other beverage of like alcoholic content within the corporate limits of the Town of Dover until he shall have received a permit to do so from the town recorder, which permit shall at all times be subject to all of the limitations and restrictions hereinafter provided. The town recorder shall not issue such permit unless and until he is instructed to do so by the board of mayor and aldermen, which is designated, and shall act as the beer board.<sup>2</sup> (1985 Code, § 2-202)

8-203. Application and approval of beer permit. Applications for a beer permit shall be filed with the town recorder. Each applicant shall submit with his application satisfactory evidence that he has registered and received from

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<sup>1</sup>Municipal code reference

Minors in beer places, etc: title 11, chapter 2.

Tax provisions: title 5.

State law reference

For a leading Tennessee case on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in Watkins v. Naifeh, 635 S.W. 2d 104 (1982).

<sup>2</sup>State law reference

Tennessee Code Annotated, section 57-5-108.

the Commissioner of Finance and Taxation of the State of Tennessee a certificate showing such registration and that he has filed with said Commissioner of Finance and Taxation a bond securing the payment of the state taxes. Each application shall be accompanied by a two hundred and fifty dollar (\$250.00) non-refundable application fee.<sup>1</sup>

The town recorder shall make an investigation of the applicant and may be assisted by the police department in such an investigation. Upon completion of said investigation, the recorder shall submit the application and recommendations to the board of mayor and aldermen at its next meeting. The board of mayor and aldermen shall consider the application filed and grant or refuse the permit according to its best judgment of the facts and circumstances. The action of the board of mayor and aldermen in granting or refusing a permit shall be final except as same is subject to review at law.

Before the recorder shall issue a beer permit for the storing, selling, distributing and/or manufacturing of beer, each applicant must file with the recorder a cash bond or a bond with a surety company licensed to do business in Tennessee in such amount as authorized by state law and conditioned that the principal will pay over and account to the town for all privilege taxes levied under the State law and this code. (1985 Code, § 2-203, modified)

8-204. General regulations. No license shall be issued to sell beer or other beverage coming within the provisions of this chapter or in violation of any provision of the state law, or where such sale will cause congestion of traffic or interfere with schools, churches, or other places of public gathering, or otherwise interfere with public health, safety, or morals. The judgment of the board of mayor and aldermen on such matters shall be final except that the same is subject to review at law. No permit shall be issued to sell any beverage coming within the provisions of this chapter for consumption on the premises where the primary or principal business carried on is the sale of groceries, drugs, candies, soda fountain drinks, merchandise, or commodities, other than the serving of meals and lunches; provided, nothing in this section shall prevent the sale or consumption of beer in dining rooms and lunch rooms of stores where such rooms are separate and distinct from other departments. No permit shall be issued to sell any beverage coming within the provisions of this chapter in a room or place used to carry on the business of playing at pool or billiards except in the front of such room or place which is separated from the other part of the building by a partition or wall and where there is a regularly licensed restaurant or lunch room occupying such room separated from the game room by said partitions or walls.

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<sup>1</sup>State law reference

Tennessee Code Annotated, section 57-5-104(a).

The following types of establishments are not suitable for the retail sale of beer and no beer permit shall be granted:

- (1) Establishments located within 500 feet of churches, schools, state institutions, and privately-operated charitable institutions.
- (2) Establishments in predominantly residential districts.
- (3) Establishments not abutting on a public sidewalk or street unless there is provided room to park the cars of patrons off the right of way.
- (4) Establishments which are not kept in a clean and sanitary condition.
- (5) Places that are not adequately lighted and ventilated. A permit may be issued for the sale of any beverage coming within the provisions of this chapter in hotels, clubs, or lodges subject to all the limitations and restrictions of the state law and this chapter.

All retailers shall furnish to the town recorder the names and addresses of all establishments or persons from whom they purchase or receive beer for resale. Retailers shall keep records of all deliveries and sales in such form as may be required by the town recorder. (1985 Code, § 2-204)

8-205. Specific restrictions. Before any permit is issued by the town recorder, the applicant shall file with the board of mayor and aldermen a sworn petition in writing establishing the following facts which are hereby made conditions of any permit issued thereunder and any misstatement of fact shall be sufficient cause for the revocation of such permit:

- (1) The applicant shall be a citizen of the United States or if a firm, syndicate, or association, the members thereof shall be citizens of the United States. The application shall designate the location of the premises where the business will be conducted and shall name the owner or owners of such premises.
- (2) No person shall be employed in the storage, sale, or manufacture of such beverage except citizens of the United States.
- (3) The applicant shall not engage in the sale of such beverages except at the place or places for which the board of mayor and aldermen has issued a permit or permits to said applicants.
- (4) No sale of such beverages shall be made except in accordance with the following conditions:
  - (a) If the application is for a permit to sell for consumption on the premises, said applicant will make no sale except where meals or lunches are regularly served at tables or counters under regular license.
  - (b) If the application is for a permit to sell at hotels, sales for consumption on the premises will be made only at tables and to person in guest rooms.
  - (c) If the application is for a permit in a club or lodge, such applicant must be a regularly incorporated club or lodge operating under a charter and by-laws in which the officers are elected by regular membership.

Members of said organization must pay a substantial membership or initiation fee. The purpose of organization and existence of said club shall be for purposes other than the sale of beverages covered by this chapter.

(d) If the application is for a permit to sell not for consumption on the premises, no sale will be made for consumption on the premises, or on the sidewalks, streets, or property within two hundred (200) yards thereof. No such beverages will be kept for sale on said premises except in the original packages or containers.

(5) The applicant shall not permit persons under the age of nineteen (19) years or any disorderly or disreputable person or persons previously convicted of violation of the liquor laws to loiter around or frequent his place of business.

(6) The applicant shall not allow gambling or gambling devices on his premises.

(7) The applicant shall not allow any liquors or beverages of alcoholic content greater than five percent (5%) by weight to be brought into his premises for consumption therein.

(8) Neither the applicant nor any person employed by him in the distribution, sale, or manufacture of beer shall have been convicted of any violation of the laws of the State of Tennessee against the sale, manufacture, possession, or transportation of beer or intoxicating liquors or of any crime involving moral turpitude within the past ten (10) years.

(9) The applicant shall conduct the business in person for himself. If the applicant is acting as agent, the application shall state the person, firm, corporation, syndicate, association, or joint stock company for whom the applicant intends to act.

(10) The applicant shall not distribute or sell beverages in bottles or other containers unless such containers shall bear a label or cap showing the name of the manufacturer thereof.

(11) The applicant shall not purchase beer except from manufacturers or distributors licensed to manufacture or distribute such beverage in this state. No manufacturer or distributor shall sell beer for resale except to those who have been licensed by the board of mayor and aldermen.

(12) Beer licenses and permits are not transferable from one person to another or from one location to another. No licensee or permittee shall abandon, loan, rent, or lease his license or permit. Upon the sale of a licensed establishment, the licensee shall remove his beer license and permit from the premises and deposit the same with the town recorder.

(13) No sale of any beverage coming within the provisions of this chapter shall be made between the hours of 3:00 A.M. and 6:00 A.M. during any night of the week or between the hours of 3:00 A.M. and 12:01 P.M. on Sunday.

(14) Beer shall be served only in receptacles which have been cleansed and sterilized.

(a) Receptacles shall be washed in hot water containing an effective cleansing agent and then rinsed.

(b) Sterilization may be accomplished by either of the following methods:

(1) Immersing for not less than one minute in clean water containing at least one hundred parts per million of available chlorine or in equivalent disinfecting solution.

(2) Immersing for not less than two minutes in clean hot water maintained at a temperature of at least 170 degrees Fahrenheit.

(15) No person under eighteen (18) years of age shall engage in the retail sale of beer. No person under the age of eighteen (18) years shall engage in the delivery of beer.

(16) It shall be unlawful for any licensee or permittee to sell, furnish, or give away beer: (1) to any person visibly intoxicated; (2) to any insane person; (3) to any person under the age of twenty-one (21) years; or (4) to habitual drunkards or persons known of intemperate habits. (1985 Code, § 2-205, as amended by Ord. #277-01, Aug. 2001)

8-206. Suspension or revocation of beer permits. The board of mayor and aldermen shall have the power to suspend or revoke any beer permits issued under the provisions of this chapter when the holder thereof is guilty of making a false statement of misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be suspended or revoked until a public hearing is held by the board after five (5) days notice to all the known parties in interest. Suspension or revocation proceedings may be initiated by the recorder, police chief, or by any member of the board of mayor and aldermen. (1985 Code, § 2-206)

8-207. Civil penalty in lieu of suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed \$1,500 for each offense of making or permitting to be made any sales to minors or, a civil penalty not to exceed \$1,000 for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

8-208. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the Town of Dover, Tennessee. At the time a new permit is issued to any business

subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date.