

TITLE 2

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

2-101. Prohibited generally.

2-101. Prohibited generally. Except as authorized by applicable laws² and/or ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for, any intoxicating liquor within the Town of Gibson. "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.

¹For provisions prohibiting drinking beer, etc., on the streets, etc., see title 10 in this code.

For general provisions in the state law, see title 57 of the Tennessee Code Annotated.

²See particularly title 39, chapter 25, of the Tennessee Code Annotated.

CHAPTER 2

BEER¹

SECTION

- 2-201. Legalizing manufacture and sale of beer.
- 2-202. Permit required.
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- 2-204. Conditions precedent.
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- 2-207. Hours of sale.
- 2-208. Suspension of license.

2-201. Legalizing manufacture and sale of beer. It shall hereafter be lawful to transport, store, sell, distribute, possess, receive and/or manufacture beer of alcoholic content of not more than five (5) percent by weight or any other beverage of like alcoholic content within the corporate limits of the Town of Gibson, subject to all regulations, limitations, and restrictions provided by sections 57-501, et. seq., Tennessee Code Annotated, or other laws of the state and subject to the rules, regulations, limitations, and restrictions hereinafter provided or hereafter promulgated. (as replaced by ord. No. 3)

2-202. Permit required. 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 (5) percent by weight or other beverage of like alcoholic content within the corporate limits of the Town of Gibson until he shall have received a permit or license to do so from the mayor, which license shall at all times be subject to all the limitations and restrictions hereinafter provided. The mayor shall not issue such license unless and until he is instructed to do so by the board of mayor and aldermen as hereinafter provided. (as added by ord. No. 3)

2-203. Regulations. No license shall be issued to sell beer or other beverage coming within the provisions of this chapter or in violation of any

¹For a leading case in Tennessee on a municipality's authority to regulate beer, see the 1947 Tennessee Supreme Court decision in Grubb et al. v. Mayor and Aldermen of Morristown et al., 185 Tenn. 114, 203 S.W.2d 593.

For general business regulations, see title 5 in this code; for miscellaneous provisions prohibiting drinking beer on streets, etc., see title 10.

provisions 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 same is subject to review at law. No license shall be issued to sell any beverage coming within the provisions of this chapter for consumption on the premises. (as added by ord. No. 3)

2-204. Conditions precedent. Before any license is issued by the mayor, the applicant therefor 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 license.

(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 sale of such beverages except at the place or places for which the board of mayor and aldermen has issued a license or licenses to said applicants.

(3) No sale shall be made to minors. Applicant shall not permit minors 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.

(4) Applicant shall not allow any liquors or beverages of alcoholic content greater than five (5) percent by eight to be brought into his premises for consumption therein.

(5) 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 years.

(6) Applicant shall conduct the business in person for himself. If 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.

(7) 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.

Applicant shall submit with his application satisfactory evidence that he has registered and received from 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.

The board of mayor and aldermen shall consider the applications filed and grant or refuse the license according to its best judgment of the facts and circumstances. The action of the board of mayor and aldermen in granting or refusing a license shall be final except as same is subject to review at law. (as added by ord. No. 3)

2-205. License revocable. Licenses issued pursuant to the authority of the board of mayor and aldermen shall be revocable at the discretion of said board of mayor and aldermen. Whenever it shall be brought to the attention of said board of mayor and aldermen that any declaration of fact contained in the application is false, or that there has been any violation thereof, or that the limitations and conditions of the license have been violated, or that the licensee permits minors to frequent or loiter around his place, or permits liquor or other beverages of alcoholic content greater than five (5) percent by weight to be brought on his premises or consumed thereon, or permits any drunken, disreputable, or disorderly person or persons heretofore connected with the violating of liquor laws to make his establishment a place of visitation or resort, fails to file a report or pay any tax or license fee required, or otherwise violates the provisions or restrictions of the state law or of any ordinance, said board of mayor and aldermen shall revoke such license. the revocation shall become final after five (5) days notice, unless the licensee within said five (5) days demands a hearing before the board of mayor and aldermen. At this hearing the burden shall be upon the licensee to show that he has not violated the declarations of fact or statements contained in his application and that he has not violated the state law or the provisions of this chapter. The action of the board of mayor and aldermen in affirming or setting aside its revocation of such license shall be final except as same is subject to review at law.

The board of mayor and aldermen shall have the right, in its discretion, where there has been a violation of the conditions specified in this section, to suspend licenses or permits for the sale of beer for a period of time not to exceed three (3) months before taking final action on the revocation of such permit or license; providing, however the licensee shall have a right to demand a hearing within five (5) days following the suspension and the action of the board in suspending the license or permit shall be subject to review at law.

Where a permit or license has been revoked by the board, no new license or permit shall be issued to permit the sale of beer on the same premises until after the expiration of one (1) year from the date said revocation becomes final and effective, unless there has been a bona fide change or transfer of title and ownership in and to the business and fixtures used in said business; provided,

further, that if there be a bona fide sale of the business and fixtures thereof, a sale or transfer of the real property on which said premises are located shall not be necessary. (as added by ord. No. 3)

2-206. Approval of application. Applications for license shall be filed with the mayor who shall make an investigation. The police department may assist in the investigation. Upon completion of said investigation, the mayor 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 applications and shall endorse its actions thereon. If approved, the mayor shall issue a license. (as added by ord. No. 3)

2-207. Hours of sale. No sale of any beverage coming within the provisions of this chapter shall be made between the hours of 12 o'clock midnight and 7:00 A.M. on weekdays or between the hours of 12 o'clock midnight on Saturday and 7:00 A.M. on Monday. (as added by ord. No. 3)

2-208. Suspension of license. The mayor may suspend a license issued under the provision of this chapter for violation of sections 2-203, 2-204 and 2-205. Upon finding a violation, the mayor shall serve notice to the licensee stating the violation and shall require the licensee to show cause why the license shall not be suspended. The licensee shall have 24 hours in which to request a hearing. The police department shall post a notice of the suspension on the door of the premises and take whatever steps may be necessary to carry out this provision. No beer shall be sold on the premises during the suspension. (as added by ord. No. 3)