



Municipal Technical Advisory Service
INSTITUTE *for* PUBLIC SERVICE

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Alcohol and Beer Regulations

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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Table of Contents

Alcohol and Beer Regulations.....	3
Beer	3
Responsible Vendor Act	4
Responsible Vendor Act Sample Ordinance	4
Responsible Vendor Act: Sample Code Chapter.....	6
Intoxicating Liquors	8
Distilleries.....	9
Resolution: Remove Allowance of the Manufacture of Alcoholic Beverages	10
Wine in Grocery Stores.....	11

Alcohol and Beer Regulations

Reference Number: MTAS-292

Click on the topics listed below in this section for more information

Beer

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).

Responsible Vendor Act

Reference Number: MTAS-1406

The Responsible Vendor program is a voluntary program that requires participating vendors to comply with employee training requirements, universal customer identification, and mandatory signage. In exchange for complying with the program, certified vendors receive reduced punishments for illegal sales to minors. Once certified, participating vendors are not subject to permit revocation or suspension upon an initial violation. Instead they are subject to only a civil penalty not exceeding \$1,000 per offense of sale to a minor or other offense. Permanent revocation will not be allowable absent two violations within a 12-month period. T.C.A. § 57-5-108 (a) (1) (C).

Nonparticipating vendors face higher civil penalties. A noncompliant vendor guilty of sale to a minor is subject to suspension or revocation or a civil penalty not to exceed \$2,500. T.C.A. §57-5-108 (a). Municipal beer boards also may revoke the license of a nonparticipating vendor for a first offense. These discrepancies in punishment provide a major incentive for retail vendors to become certified.

Under the Responsible Vendor Act, participating vendors agree to submit all new clerks to a training program within 61 days of hire. The training, which must be approved by the Alcoholic Beverage Commission (ABC), covers the sale of beer for off-premises consumption, methods of recognizing and dealing with minors who attempt to buy beer, and procedures for refusing to sell beer to minors. Participating vendors pay an initial \$35 fee per clerk and an annual fee ranging from \$25 to \$250 based upon the number of certified clerks who participate. The vendor provides ABC with the names and identifying information for each new clerk, allowing ABC to keep a list of all certified clerks in Tennessee. If a certified clerk is determined to have made an illegal sale to a minor, the certification of that clerk becomes invalid, and the clerk may not apply for recertification for one year.

The Responsible Vendor Act protections for retail beer permit holders should be addressed in municipal beer ordinances. To facilitate this, a sample ordinance for amending a beer ordinance to add such provisions follows. An updated model code section on beer also follows.

Further information can be found at the Alcoholic Beverages Commission website at <http://www.tennessee.gov/abc/> [1].

Responsible Vendor Act Sample Ordinance

Reference Number: MTAS-1407

ORDINANCE NO. _____

AN ORDINANCE TO DELETE SECTION 8-212, DELETE SUBSECTION (1) OF SECTION 8-213, TO AMEND SECTIONS 8-214 AND 8-215, AND TO ADD SECTION 8-216 TO THE CITY OF _____ MUNICIPAL CODE.

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF _____, TENNESSEE, THAT:

Section 1. Section 8-212, "Signs to be posted on premises," of the City of _____ Municipal Code is deleted.

Section 2. Subsection (1) of § 8-213 of the City of _____ Municipal Code, which reads, "Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years" is deleted.

Section 3. Section 8-214, "Revocation or suspension of beer permits" of the City of _____ Municipal Code is amended by adding a second paragraph to read as follows:

Pursuant to Tennessee Code Annotated § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve-month period. The revocation shall be for three (3) years.

Section 4. Section 8-215, "Civil penalty in lieu of revocation or suspension" of the City of _____ Municipal Code is amended to read as follows:

8-215. Civil penalty in lieu of revocation or suspension. (1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," Tennessee Code Annotated § 57-5-601, et seq.

(2) Penalty, revocation or suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense.

The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or 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. Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose.

Section 5. Section 8-216, "Revocation of clerk's certification," is added to the City of _____ Municipal Code to read as follows:

8-216. Loss of clerk's certification for sale to minor. If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated § 57-5-606 sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination.

Section 6. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it.

Passed 1st reading, _____, 20__.

Passed 2nd reading, _____, 20__.

Mayor

Recorder

Responsible Vendor Act: Sample Code Chapter

Reference Number: MTAS-1408

BEER ^[1]

SECTION

8-201. Beer board established.

8-202. Meetings of the beer board.

8-203. Record of beer board proceedings to be kept.

8-204. Requirements for beer board quorum and action.

8-205. Powers and duties of the beer board.

8-206. "Beer" defined.

8-207. Permit required for engaging in beer business.

8-208. Privilege tax.

8-209. Beer permits shall be restrictive.

8-210. Limitation on number of permits.

8-211. Interference with public health, safety, and morals prohibited.

8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.

8-213. Revocation or suspension of beer permits.

8-214. Civil penalty in lieu of revocation or suspension.

8-215. Loss of clerk's certification for sale to minor.

8-216. Violations.

8-201. Beer board established. There is hereby established a beer board to be composed of the board of mayor and aldermen. The mayor shall be the chairman of the beer board.

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place.

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: the date of each meeting; names of the board members present and absent; names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board.

8-204. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote.

8-205. Powers and duties of the beer board.^[2] The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter.

8-206. "Beer" defined. The term "beer" as used in this chapter shall be the same definition appearing in Tennessee Code Annotated section 57-5-101.

8-207. Permit required for engaging in beer business.^[3] It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a

permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to *Tennessee Code Annotated* § 57-5-104(a), shall be accompanied by a nonrefundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of _____. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter.

8-208. Privilege tax.^[4] There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax each successive January 1 to the City of _____, 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.

8-209. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted so as to authorize sales only for off-premises consumption. A single permit may be issued for on-premise and off-premise consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions in his permit.

8-210. Limitation on number of permits. The number of licenses for the sale of beer shall be limited to _____. Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the city at the date of the passage of this ordinance shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit used only within the establishment or building purchased.

8-211. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, residences, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within three hundred (300) feet of any school, residence, church or other place of public gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the school, residence, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, church, or other place of public gathering if a valid permit had been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six-month period.

8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

1. Employ any minor under 18 years of age in the sale, storage, distribution or manufacture of beer.
2. Make or allow the sale of beer between the hours of 12:00 Midnight and 6:00 A.M. on weekdays and between the hours of 12:00 Midnight Saturday and 12:00 noon on Sunday.
3. Allow any person under twenty-one (21) years of age to loiter in or about his place of business.
4. Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
5. Allow drunk persons to loiter about his premises.
6. Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content higher than beer.
7. Allow pool or billiard playing in the same room where beer is being sold and/or consumed.
8. Fail to provide and maintain separate sanitary toilet facilities for men and women.

8-213. Revocation or suspension of beer permits. The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension

proceedings may be initiated by the police chief or by any member of the beer board.

Pursuant to *Tennessee Code Annotated* § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of *Tennessee Code Annotated* § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under *Tennessee Code Annotated* § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve-month period. The revocation shall be for three (3) years.

8-214. Civil penalty in lieu of revocation or suspension. (1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act," *Tennessee Code Annotated* § 57-5-601, *et seq.*

(2) Penalty, revocation or suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense.

The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or 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.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose.

8-215. Loss of clerk's certification for sale to minor. If the beer board determines that a clerk of an off-premises beer permit holder certified under *Tennessee Code Annotated* § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid, and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination.

8-216. Violations. Except as provided in § 8-215, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

[1] Municipal code references Minors in beer places, etc.: Title 11, Chapter 1. Tax provisions: Title 5.

[2] State law reference T.C.A. § 57-5-106.

[3] State law reference T.C.A. § 57-5-103.

[4] State law reference T.C.A. § 57-5-104(b).

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).

Distilleries

Reference Number: MTAS-1784

Tennessee Code Annotated, §§ 57-2-103 and 57-3-202 permit the legal manufacture of intoxicating liquors, intoxicating drinks (including high-alcohol content beer), or both, in the following jurisdictions:

- A city or county that has approved both retail package sales and consumption of alcoholic beverages on the premises through a referendum;
- A city or county with a premier tourist resort district in which it is lawful to sell alcoholic beverages for on premises consumption;

- A city with a population of less than 1,000 that is located in a county in which any jurisdiction within the county has approved retail package sales through referendum and any jurisdiction within the county has approved consumption of alcoholic beverages on the premises through referendum; or
- A city with a population of less than 1,000 that is located in a county that is included in a Tennessee River Resort District and has approved retail package sales through referendum.

Pursuant to the law, distilleries and the manufacture of alcoholic beverages became lawful in August 2013. However, a city that wishes to continue to prohibit the manufacture of alcohol can do so via a resolution which removes application of this law. Such a resolution must be passed before any person files an official notice with the city of their intent to pursue all lawful avenues to manufacture alcohol within the city limits.

Resolution: Remove Allowance of the Manufacture of Alcoholic Beverages

Reference Number: MTAS-1785

RESOLUTION NO. __

A RESOLUTION TO REMOVE THE MUNICIPALITY FROM THE APPLICATION OF MANDATORY ALLOWANCE OF THE MANUFACTURE OF ALCOHOLIC BEVERAGES

WHEREAS, Tennessee Code Annotated, § 57-2-103, makes it lawful to manufacture intoxicating liquors or intoxicating drinks, or both, within the boundaries of certain jurisdictions; and

WHEREAS, Tennessee Code Annotated, § 57-2-103, allows a municipality to adopt a resolution to remove the municipality from the application of such provisions;

WHEREAS, no written notification has been filed with the legislative body of the municipality expressing an intent to pursue all lawful avenues to manufacture intoxicating liquors or intoxicating drinks, or both, within the boundaries of the municipality;

NOW, THEREFORE, BE IT RESOLVED BY THE _____ [governing body]
OF THE CITY OF _____ THAT:

SECTION 1. Pursuant to Tennessee Code Annotated, § 57-2-103(d)(3) the _____ [governing body] elects to remove the city/town from the application of Tennessee Code Annotated, § 57-2-103. Upon the effective date of this resolution the manufacture of intoxicating liquors or intoxicating drinks, or both, within the boundaries of the City of _____ shall not be lawful.

SECTION 2. This Resolution shall take effect on the date of its passage, the public welfare requiring it.

Adopted this ___ day of _____, 20__.

Attested to:

Mayor

Recorder

Wine in Grocery Stores

Reference Number: MTAS-1975

The "Sale of Wine in Retail Food Stores Act" permits grocery stores to sell wine and authorizes package stores to sell a variety of items. This law is codified in Tennessee Code Annotated §§ 57-3-801 through 818.

Cities that have approved sales of alcohol, either package stores or by the drink, may hold a referendum on whether or not to approve the sale of wine in grocery stores. Counties may also conduct county-wide referenda on the issue, and cities within those counties that participate in such referenda will be impacted by approval of the measure, even if the cities do not have liquor sales. T.C.A. § 57-3-805.

The process for getting the question on the ballot is the same as for package store approval, requiring a petition signed by at least 10 percent of the voters in the last preceding gubernatorial election. The petition must be filed with the election commission not less than 75 days prior to the regular election date. The question appearing on the ballot must state the following:

For legal sale of wine at retail food stores in _____ city.

Against legal sale of wine at retail food stores in _____ city.

If voters approve the sale of wine in grocery stores, the Alcoholic Beverage Commission will issue "retail food store wine licenses." Applicants must submit a certificate from the city, signed by the mayor, stating that the applicant has not been convicted of a felony in the past ten years and that the applicant has a location for their business inside city limits. Each applicant or officer of the applying entity must submit a local and national criminal history record. The criminal history record must reveal that the applicant or officer has not been convicted of a felony within the preceding ten-year period. T.C.A. § 57-3-806. The law does not enable a city to charge a fee to issue this certificate. If a city fails to issue a certificate to an applicant within 60 days after receiving a written application, the commission will waive the certificate requirement. Store ownership is not required in order to receive a license, as store owners may enter into franchise or management agreements with licensees. Cities may not limit the number of retail food store wine licenses to be issued in their jurisdiction nor require that applicants reside in the city. T.C.A. § 57-3-806.

"Retail food store" is defined in the law as a business that derives at least 20 percent of its sales from the retail sale of food and food ingredients and has floor space of at least 1,200 square feet. The law requires that food sales be those types of sales taxed at the lower state rate, rather than the higher sales tax rate applied to sales of prepared food. T.C.A. § 57-3-802. This definition prevents most convenience stores and gas stations from obtaining licenses to sell wine.

The law also permits liquor stores to sell numerous items, including cigarettes, lottery tickets, mixers, corkscrews and other supplies related to alcoholic beverages, nonalcoholic beverages, gift cards, products related to beer and wine-making, snack foods, fruit and other food used in making alcoholic beverages, ice, coolers, party supplies, greeting cards and some articles of clothing. Package stores may also sell beer, kegs, and growlers, whether empty or full, and no beer permit is required from the city. The law permits liquor stores to sell nonalcoholic products to persons under 21 years of age. T.C.A. § 57-3-404. In addition, liquor stores may offer check-cashing services. Package stores may also deliver alcoholic beverages off-site for special events or parties, may hold alcoholic beverage tastings and educational classes, and may offer consulting services related to their products. T.C.A. § 57-3-406.

Any grocery store selling wine must have at least one employee who holds a manager's permit issued by the Alcoholic Beverage Commission. This permit is also required for all package stores and wineries making retail sales. The manager's permit is issued to the employee and is valid for 5 years. T.C.A. § 57-3-816. Grocery stores may sell wine on Sundays between the hours of 10:00 a.m. and 11:00 p.m.

The "Sale of Wine in Retail Food Stores Act" has other provisions impacting retailers and wholesalers. Package store owners may also hold permits for on premise liquor sales. T.C.A. § 57-3-817. Liquor wholesalers may obtain beer wholesaler's licenses, and those permits required for employees of the wholesaler may be used for both liquor and beer operations. T.C.A. § 57-3-203. Liquor store owners may hold more than one license for the retail sale of liquor. The only limit on the number of retail liquor licenses a person or corporation may hold applies in cities limiting the number of licenses to be granted, in which case no licensee may hold more than 50% of the authorized licenses within that jurisdiction. T.C.A. § 57-3-406.

Links:

[1] <http://www.tennessee.gov/abc/>

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