

Wine in Grocery Stores

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-1975

In 2014 the General Assembly enacted the "Sale of Wine in Retail Food Stores Act" commonly known as the "wine in grocery stores" law. This law did much more than permit grocery stores to sell wine, as it vastly expanded the merchandise package stores sell and services package stores may offer. 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 at least 75 days prior to the regular November election date, or 45 days prior to regular city elections held on other dates. 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 legislation 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, 5% 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 "wine in grocery stores law" also amended statutes governing package stores and permits liquor stores to sell numerous items that were previously prohibited, including publications related to alcoholic beverages or food, 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 articles of clothing bearing messages related to alcoholic beverages. In addition, package stores may also sell beer kegs and growlers, whether empty or full. The law permits liquor stores to sell nonalcoholic products to persons under 21 years of age. T.C.A. § 57-3-404. In addition to adding these numerous products to their shelves, 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. Beginning January 1, 2019, grocery stores selling wine may begin selling wine on Sundays between the hours of 10:00 a.m. and 11:00 p.m.

The "wine in grocery stores" law made numerous changes to the laws applying to retail and wholesale licenses. 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 now hold more than one license for the retail sale of liquor, as the law removes the prohibition against owning or operating more than one liquor store. 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.

The "wine in grocery stores" law further enacted the "Unfair Wine Sales Law," prohibiting any sales of wine, retail or wholesale, at less than cost. Other than the sections applying to the referendum on wine sales and certificate of compliance, all provisions of the "wine in grocery stores" law are enforced by the Alcoholic Beverage Commission.

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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