

**RULES
OF
THE ALCOHOLIC BEVERAGE COMMISSION**

**CHAPTER 0100-06
INTRA-INDUSTRY CONDUCT AND REGULATIONS**

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0100-06-.01 DEFINITIONS.

- (1) General. As used in this chapter, unless the context otherwise requires, terms have the meanings given in this section. Any other term defined in Title 57 of the Tennessee Code Annotated shall have the meaning assigned to it by that Title.
- (2) Consignment Sales. The term “consignment sales” shall mean arrangements where the trade buyer is under no obligation to pay for distilled spirits or wine until they are sold by the trade buyer.
- (3) Equipment and Supplies. The term “equipment and supplies” shall include, but is not limited to, glassware (other than glassware bearing conspicuous and substantial advertising matter which is a consumer advertising specialty or similar containers made of different material), dispensing accessories, and carbon dioxide (and other gases used in dispensing equipment), pouring racks, and other similar items used to conduct a retailer’s business. “Dispensing Accessories” include, but are not limited to, standards, faucets, cold plates, rods, vents, taps, tap boxes, tap standards, hoses, washers, couplings, gas gauges, vent tongues, shanks, and check valves.
- (4) Exchange. The transfer of distilled spirits, wine, or other product from a trade buyer to an industry member with other products taken as a replacement.
- (5) Industry Member. The term “industry member” shall mean any person engaged in business as a manufacturer, distiller, rectifier, blender, non-resident seller, or other producer, or as an importer, or wholesaler, of distilled spirits, or wine, or as a bottler, or warehousemen and bottler, of distilled spirits, licensed in the state of Tennessee.
- (6) Product. The term “product” shall mean distilled spirits, wine, or alcoholic beverages, as defined in Title 57 of the Tennessee Code Annotated.
- (7) Product Display. The term “product display” shall mean any wine racks, bins, barrels, casks, shelving, and the like from which distilled spirits, wine, and beverages are held, shelved, displayed and sold.
- (8) Retailer. The term “retailer” shall mean any person engaged in the sale of distilled spirits, wine, or alcoholic beverages to consumers, licensed in the state of Tennessee, whether such sales are made for consumption on or off the premises where sold.
- (9) Retail Establishment. The term “retail establishment” shall mean any premises where distilled spirits, wine, or alcoholic beverages are sold or offered for sale to consumers, whether for consumption on or off the premises where sold.

(Rule 0100-06-.01, continued)

- (10) Return. The transfer of distilled spirits, wine, or other product from a trade buyer to the industry member from whom purchased, for cash or credit.
- (11) Trade Buyer. Any person who is a wholesaler or retailer of distilled spirits, wine, or other product.

Authority: T.C.A. §§57-1-201 and 57-1-209. **Administrative History:** Original rule filed September 9, 1983; effective October 11, 1983. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-06-.02 GENERAL PROHIBITIONS.

- (1) Industry members are prohibited from acquiring or holding any interest, directly or indirectly, in any license (State, county, or municipal) with respect to the premises of a retailer.
- (2) Industry members are prohibited from acquiring any interest, directly or indirectly, in real or personal property owned, occupied, or used by a retailer in the conduct of the business.
- (3) Subject to the exceptions listed herein, industry members, or any representative thereof - e.g. third party marketing entities, are prohibited from furnishing, giving, renting, lending, or selling to the retailer, and the retailer is prohibited from accepting any equipment, fixtures, signs, supplies, money, services, or other thing of value. The furnishing of free warehousing by delaying delivery of distilled spirits, wine, or alcoholic beverages or by storing such for a retailer by an industry member is prohibited.
- (4) Industry members, or any representative thereof - e.g. third party marketing entities, are prohibited from paying or crediting the retailer, and the retailer is prohibited from accepting any advertising, display or distribution service, whether or not the advertising, display or distribution service received is commensurate with the amount paid by the retailer.
- (5) An industry member or any representative thereof is prohibited from requiring a trade buyer to take and dispose of any quota of distilled spirits, wine, or malt beverages.
- (6) A requirement that a retailer purchase one product in order to purchase another is prohibited. This includes combination sales if one or more products may be purchased only in combination with other products and not individually. However, an industry member is not prohibited from selling at a special combination price, two or more kinds of brands of products to a retailer, provided that:
 - (a) The retailer has the option of purchasing either product at the usual price, and
 - (b) The retailer is not required to purchase any product he or she does not want.
- (7) No retailer shall obtain alcoholic beverages from any source not designated to sell that brand under the brand registration statute, T.C.A. § 57-3-301.
- (8) No manufacturer, importer, non-resident seller, or any representative thereof - e.g. third party marketing entities - may solicit orders in any manner for alcoholic beverages from anyone in this State except from those holding wholesale liquor licenses.
- (9) It is unlawful for one industry member to sell, offer for sale or contract to sell to any trade buyer, or for any such trade buyer to purchase, or contract to purchase any products:
 - (a) On consignment; or
 - (b) Under conditional sale; or

(Rule 0100-06-.02, continued)

- (c) With the privilege of return; or
- (d) On any basis other than a bona fide sale; or
- (e) If any part of the sale involves, directly or indirectly, the acquisition by such person of other products from the trade buyer or the agreement to acquire other products from the trade buyer.

Transactions involving the bona fide return of products for ordinary and usual commercial reasons arising after the product has been sold are not prohibited.

- (10) (a) Tied Sales Prohibited. A sale in which any part of the sale involves, directly or indirectly, the acquisition by the industry members from the trade buyer, or the agreement, as a condition to present or future sales, to accept other products from the trade buyer is prohibited.
- (b) Exchange. The exchange of one product for another is prohibited as a sales transaction conditioned on the acquisition of other products. However, the exchange of a product for equal quantities (case for case) of the same type and brand of product, in containers of another size is not considered an acquisition of "other" products and is not prohibited if there was no direct or implied privilege of return extended when the product was originally sold. Industry members may make price adjustments on products eligible for exchange under this paragraph.
- (c) Exclusion. An industry member, or any representative thereof - e.g. third party marketing entities, may not require, nor may a retailer request, offer and/or accept an exclusive arrangement wherein the retailer agrees, in exchange for money, services, and/or any other thing of value from the industry member, to offer for sale the industry member's product exclusively to the exclusion of other related products.

Authority: T.C.A. §§57-1-201 and 57-1-209. **Administrative History:** Original rule filed September 9, 1983; effective October 11, 1983. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-06-.03 EXCEPTIONS TO GENERAL PROHIBITIONS.

- (1) General. An industry member or any representative thereof (e.g. third party marketing entities), may furnish a retailer equipment and supplies, signs, posters, placecards, decorations, devices, statuettes, or geographic displays (printed, painted or electric) for point-of-sale advertising, and services or other things of value in accordance with the exceptions provided in this part and may install or set up such materials in the windows or elsewhere in the interior of a retail establishment. The cost limitations imposed in this rule will be deemed adjusted upon any modification in a similar rule made by the Trade and Taxation Bureau of the United States Department of the Treasury.
- (2) Product Displays.
 - (a) General. An industry member may furnish, give, rent, loan, or sell product displays to a retailer, subject to the limitations prescribed in paragraph (b) of this section.
 - (b) Conditions and Limitations.
 - 1. The total value of all product displays furnished by an industry member under paragraph (a) of this section may not exceed three hundred dollars (\$300.00) or current federal limits per brand in use at any one time in any one retail

(Rule 0100-06-.03, continued)

establishment. The value of a product display is the actual cost to the industry member who initially purchased it. Transportation and installation costs are excluded.

2. Industry members may not pool or combine their dollar limitations in order to provide a retailer a product display valued in excess of three hundred dollars (\$300.00) or current federal limits per brand.
3. Product displays shall bear conspicuous and substantial advertising matter about the product or the industry member which is permanently inscribed or securely affixed.
4. The furnishing, giving, renting, loaning, or selling of such product displays may be conditioned upon the purchase of the products advertised on those displays in a quantity necessary to initially stock such display.

(3) Interior Signs.

- (a) General. An industry member or any representative thereof - e.g. third party marketing entities, may furnish, give, rent, loan, or sell to a retailer inside signs which bear advertising matter. Inside signs include such things as posters, placards, designs, mechanical devices, and window decorations.
- (b) Conditions and limitations. Industry members or any representative thereof - e.g. third party marketing entities, may furnish inside signs to retailers under the following limitations:
 1. The inside sign shall have no secondary value and be of value to the retailer only as advertising.
 2. The inside sign shall be used only in the windows or other interior portions of the retail establishment.
 3. The industry member may not directly or indirectly pay or credit the retailer for displaying the inside sign or for any expense incidental to its operation.

(4) Outside Signs.

- (a) General. An industry member or any representative thereof - e.g. third party marketing entities, may furnish, give, rent, loan, or sell to a retailer outside signs which bear advertising matter subject to local ordinances.
- (b) Conditions and limitations. Industry members, or any representative thereof - e.g. third party marketing entities, may furnish outside signs to retailers under the following limitations:
 1. The sign must bear conspicuous and substantial advertising matter about the product or the industry member that is permanently inscribed or securely affixed.
 2. The cost of the signs may not exceed four hundred dollars (\$400.00), which includes installation costs.
 3. The outside sign must be located on the wall or roof of a building adjacent to or occupied by the retailer.
 4. The name and address of the retailer may appear on the outside sign.

(Rule 0100-06-.03, continued)

5. The industry member, or any representative thereof - e.g. third party marketing entities, may not directly or indirectly pay or credit the retailer for displaying the sign or for any expense incidental to its operation.
- (5) Routine Business Entertainment. Nothing in this chapter shall prohibit an industry member or any representative thereof (e.g. third party marketing entities), from providing a retail licensee or its employee routine business entertainment which is defined as follows:
 - (a) Meals or beverages;
 - (b) Concerts, theatre and arts entertainment;
 - (c) Sports participation and entertainment;
 - (d) Entertainment at charitable events;
 - (e) Private parties
 - (6) Limitations on Routine Business Entertainment. For the purposes of this section:
 - (a) Routine business entertainment shall be provided only if such is provided without a corresponding obligation on the part of the retail licensee or on-premise consumption licensee to purchase alcoholic beverages or to provide any other benefit to such industry member or to exclude from sale the products of any other industry member.
 - (b) There is no maximum dollar amount for providing routine business entertainment designated under Section (5)(b), (c), or (d).
 - (c) Routine business entertainment expenses may not exceed \$100.00 per 24 hour period for an employee of any retail or on-premise consumption licensee including a self-employed sole proprietor or, if the licensee is a partnership, or any partner or employee thereof, or if the licensee is a corporation, on any corporate officer, director or shareholder, or the guest of such, or to any third party partnership, LLC or corporation associated directly or indirectly with the retail or on-premise consumption licensee designed to circumvent the intent of this provision. Further, routine business entertainment expenses as stated above may not exceed six (6) employees/per day from the same licensee.
 - (d) No person enumerated in section (b) above may be entertained by a wholesaler more than four (4) times per calendar year. The wholesaler shall maintain documentation of all expenditures under this section containing sufficient information to fully document the expenditure.
 - (e) Routine business entertainment permitted under Section (5) above shall not include transportation to or from an event that is otherwise permitted beyond one hundred (100) miles.
 - (7) Retailer Advertising Specialties - Point of Sale.
 - (a) General. An industry member or any representative thereof - including third party marketing entities, may furnish, give, rent, loan, or sell point of sale advertising materials to a retailer if such items bear advertising matter and are primarily valuable to the retailer as point of sale advertising to attract consumer attention to the products of the industry member who furnished them. Such items include, but are not limited to: posters, placards, designs, inside signs (electric, mechanical or otherwise), window

(Rule 0100-06-.03, continued)

decorations, trays, coasters, mats, menu cards, meal checks, paper napkins, foam scrapers, back bar mats, thermometers, clocks, calendars, and alcoholic beverage lists or menus.

- (b) Consumer Advertising Specialties. An industry member may furnish, give, rent, loan or sell to a retailer advertising specialties that are designed to be carried away by consumers, such as trading stamps, pouring racks, ash trays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters post cards, pencils, cups, glassware, pens, shirts, hats, visors, and other branded items of nominal value.
- (c) Conditions and limitations.
 - 1. All point of sale advertising materials and consumer advertising specialties must bear conspicuous and substantial advertising matter about the product or the industry member which is permanently inscribed or securely affixed. The name and address of the retailer may appear on the point of sale advertising materials and on the consumer advertising specialties.
 - 2. The industry member or any representative thereof - including third party marketing entities, may not directly or indirectly pay or credit the retailer for using or distributing these materials or for any expense incidental thereto.
- (8) Wine Lists or Menus. An industry member may furnish, give, rent, loan, or sell alcoholic beverage lists or menus to retailers.
- (9) Samples. An industry member may furnish or give a sample of branded distilled spirits, wine, or alcoholic beverages to a retailer who has not previously purchased the brand or vintage of wine from that member within the past twelve (12) months. For each retailer establishment, the industry member may give not more than 1.75 liters of any brand of distilled spirits or wine. If a particular product is not available in a size within the quantity limitations of this section, an industry member may furnish to a retailer the next largest size.
- (10) Combination Packaging.

An industry member or trade buyer (other than a retailer which sells for consumption on the premises) may package, distribute and sell wine or alcoholic beverages in combination with other related items provided that:

 - (a) The items have no value or benefit to the retailer other than that of having the potential of attracting purchasers and thereby promoting sales;
 - (b) The package (product plus non-alcoholic item) is designed to be delivered intact to the consumer and consumer shall not dictate the specific packaging;
 - (c) The non-alcoholic item does not exceed twice the cost of the product, exclusive of the packaging material, to the industry member or trade buyer creating the package;
 - (d) The non-alcoholic item may not be a perishable food item; and
 - (e) Any additional cost incurred in creating the combination package may not be borne by the industry member.
- (11) Educational Seminars. An industry member may give or sponsor educational seminars for employees of retailers either at the industry member's premises or at the retail establishment. Examples would be seminars dealing with use of a retailer's equipment, training seminars for

(Rule 0100-06-.03, continued)

employees of retailers, or tours of industry member's plant premises. This section does not authorize an industry member to pay a retailer's expense in conjunction with an educational seminar.

- (12) Stocking, Rotating and Pricing Services.
- (a) A wholesaler, wholesale salesman or representative thereof may, at a retail licensee, with the consent of the retailer, stock, rotate and affix the price to distilled spirits, wine or other alcoholic beverages that they sell, provided products purchased from other wholesalers are not altered or disturbed. Such wholesaler may also set up a point of sale display, product display, logoed and promotional items, rearrange or reset that portion of a retail licensee as is necessary for the display or placement of its product. In providing the services herein, a wholesaler, wholesale salesman or representative thereof may enter the private or non-public areas of the retail licensee.
 - (b) When accompanied by a wholesaler, a wholesale salesman, or other representative of the wholesaler, a manufacturer, importer, or representative thereof may also provide those services designated in 0100-06-.03(9)(a) above.
 - (c) Notwithstanding the restrictions contained herein, a manufacturer, importer or representative thereof must deliver point of sale materials intended for retail use to a wholesaler's warehouse, and a manufacturer, importer or representative thereof may provide and set up such point of sale or logoed materials (including, but not limited to, product displays, interior signs, point of sale advertising materials, and consumer advertising specialties) at a retail establishment only in consultation and by mutual agreement with the wholesaler from which such point of sale or logoed materials were obtained as to the intended use and recipient(s) thereof.
- (13) Consumer Promotions – Direct Offerings. A manufacturer, supplier, importer, distiller, or winery may offer coupons for refunds and contest prizes, premium offers and sweepstakes to consumers only on the following basis:
- (a) A refund coupon may be distributed to a consumer only as an element of the industry members advertising or marketing program through newspapers or magazines. Retailers for on-premise consumption may not participate in such programs.
 - (b) Contest prizes, premium offers, sweepstakes and like items may be offered by industry members directly to consumers at point-of-sale, through newspapers or magazines, and through the Internet. Retailers for on-premise consumption may participate in such programs.
 - (c) Officers, employees and representatives of wholesalers and retailers are excluded from participation. Nothing of value may be supplied to a trade buyer by an industry member to induce or reward participation in any practice allowed hereunder. Industry members are prohibited from requiring any retailer to participate in any practice allowed hereunder nor shall a particular retailer or group of retailers be specified by an industry member for participation in any practice allowed hereunder.
 - (d) No coupon shall be permitted for a refund by a retailer at the point-of-sale ("cents-off" coupons). Refund coupons may be utilized by a manufacturer, supplier, importer, distiller or winery that are redeemable by a consumer mailing directly to such manufacturer, supplier, importer, distiller or winery, or an authorized redemption agent.
 - (e) No coupon may be redeemed by, or refund sent to any person who is under the age set by law to purchase, possess, and consume alcoholic beverages in Tennessee. No contest or sweepstakes prize shall be awarded to any person who is under the age set

(Rule 0100-06-.03, continued)

by law to purchase, possess, and consume alcoholic beverages in Tennessee. No premium offer shall be sent to any person who is under the age set by law to purchase, possess, and consume alcoholic beverages in Tennessee.

- (14) Equipment and Supplies. An industry member may sell equipment or supplies to a retailer.
 - (a) Equipment or supplies may be sold at a price not less than the cost to the industry member who initially purchased them and the price must be collected within 10 days of the date of sale or rent.
 - (b) An industry member may install dispensing accessories at the retailer's establishment as long as the retailer pays the cost of initial installation.
 - (c) An industry member may furnish, give or sell coil cleaning services to a retailer.
- (15) Withdrawals for Special Occasion Licensees. An industry member may deplete inventories for purposes of contributing to any entity that has obtained a special occasion permit issued by the Commission. If the industry member is a manufacturer, then such contribution shall be distributed through a licensed wholesaler. The licensed wholesaler shall retain records of all such withdrawals showing the amount of inventory withdrawn, the purposed of withdrawal and the employee responsible for such withdrawal in accordance with 0100-03-.14(2).

Authority: T.C.A. §§57-1-209, 57-1-201, and 57-3-104. **Administrative History:** Original rule filed September 9, 1983; effective October 11, 1983. Amendment filed October 19, 1984; effective November 18, 1984. Amendment filed July 18, 1989; effective September 1, 1989. Amendment filed February 8, 1994; effective April 24, 1994. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-06-.04 LIMITATION ON CREDIT SALES.

- (1) No alcoholic beverage shall be sold by any wholesaler nor shall any retailer purchase any alcoholic beverages except for cash or on terms requiring payment by the purchaser within ten (10) days.
- (2) Each and every delivery of merchandise by a wholesaler to a retailer must be accompanied by an invoice of sale bearing the actual date of the delivery. A wholesaler must keep and maintain a current and accurate accounts receivable ledger as a part of his records.
- (3)
 - (a) The 10-day credit period begins on the day immediately following the invoice date and concludes at midnight of the tenth day including Sundays and holidays, immediately following which the account is considered delinquent.
 - (b) Payment sent by mail and postmarked by midnight of the due date shall be considered compliance.
- (4)
 - (a) Wholesalers must deposit all checks for payment of retail accounts no later than the first banking day following actual receipt of said check.
 - (b) An account paid for by check within the 10-day credit period but which is dishonored for any reason after the 10-day credit period has elapsed is delinquent.
 - (c) A wholesaler shall not accept and a licensee shall not offer a postdated check.
- (5) A wholesaler must report each and every delinquent account as set forth above by telephone to the Commission's nearest Regional Representative, and, as each such account is paid in full, he shall report that fact to the Commission's representative also.

(Rule 0100-06-.04, continued)

- (6) A retailer reported delinquent shall not be permitted to purchase merchandise for cash or otherwise from any licensed wholesaler until said licensee satisfies all obligations then outstanding to all wholesalers although the ten (10) day credit period may not have expired on such obligations.
 - (a) If such delinquency is the first in a license year, and such retailer sells for consumption on the premises all wholesalers will be required to sell such retailer merchandise only for cash on delivery for a minimum period of thirty (30) days from notice by the Commission.
 - (b) If such delinquency is the second in a license year, all wholesalers will be required to sell such retailer merchandise only for cash on delivery for a period of twenty (20) days, if such retailer sells for off-premises consumption, or for a period of sixty (60) days, if such retailer sells for on premises consumption.
 - (c) If such delinquency is the third in a license year, all wholesalers will be required to sell such retailer merchandise only for cash on delivery until notice to the contrary by the Commission. Such retailer shall be required by the Commission to appear and show cause why the retail liquor license should not be suspended or revoked, or why said licensee should not be placed on a cash on delivery basis for all merchandise sold to said licensee by any wholesaler for a period fixed by the Commission.
- (7) Payment by Electronic Funds Transfer (“EFT”).
 - (a) Electronic Funds Transfer shall mean any transfer of funds other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, direct deposits or withdrawals of funds, and transfers initiated by telephone.
 - (b) To facilitate payment between wholesale licensees and the retail on-premise and off-premise consumption licensees, electronic funds transfers are an approved method of payment; however, participation by the retail on-premise and off-premise consumption licensees shall be voluntary. The wholesaler shall initiate the electronic fund transfer transmittal. Payment is considered to be made when the funds are deposited in the wholesale licensee’s account.
 - (c) The provisions of subsection (7) are not intended to otherwise affect or amend subsections (1) through (6) of this rule 0100-06-.04.

Authority: T.C.A. §§57-1-201 and 57-1-209. **Administrative History:** Original rule filed September 9, 1983; effective October 11, 1983. Amendment filed August 15, 1997; effective December 29, 1997. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-06-.05 DUAL PERMITS PROHIBITED.

- (1) No person shall be issued more than one of the following permits:
 - (a) Manufacturer or importer representative permit,
 - (b) Wholesale salesman or representative permit,
 - (c) Wholesale employee’s permit,

(Rule 0100-06-.05, continued)

- (d) Off premises retail employee's permit,
 - (e) On premises retail employee's permit.
- (2) Notwithstanding the provisions of 0100-06-.05(1) above, any individual may be issued both an off-premise retail employee permit and an on-premise server permit if that individual has completed and submitted the appropriate applications. Further, that person must qualify for and meet all the requirements to obtain each permit.
- (3) In all cases, the industry member is responsible for the actions of their employees and/or representatives when such employee and/or representative is acting within the scope of their employment.

Authority: T.C.A. §§57-1-201 and 57-1-209. **Administrative History:** Original rule filed September 9, 1983; effective October 11, 1983. Amendment filed August 15, 1997; effective December 29, 1997. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-06-.06 WHOLESALE SALES AND EMPLOYEE PERMITS.

- (1) Any permit issued by the Commission pursuant to T.C.A. § 57-3-203(d) or (e) shall be valid for a period of five (5) years from its date of issuance.
- (2) Any person seeking a permit authorized pursuant to T.C.A. § 57-3-203(d) or (e) shall submit an application in writing to the Commission on forms approved by the Commission.
- (3) No application for permit issued pursuant to T.C.A. § 57-3-203(d) or (e) shall be considered unless the application is accompanied by a processing fee of twenty dollars (\$20.00).

Authority: T.C.A. §§ 57-1-201, 57-1-209, 57-3-709. **Administrative History:** Original rule filed March 10, 2010; effective June 8, 2010.

0100-06-.07 RETAIL EMPLOYEE PERMITS.

- (1) Any permit issued by the Commission pursuant to T.C.A. § 57-3-203(c) shall be valid for a period of five (5) years from its date of issuance.
- (2) Any person seeking a permit authorized pursuant to T.C.A. § 57-3-203(c) shall submit an application in writing to the Commission on forms approved by the Commission.
- (3) No application for permit issued pursuant to T.C.A. § 57-3-203(c) shall be considered unless the application is accompanied by a processing fee of twenty dollars (\$20.00).

Authority: T.C.A. §§ 57-1-201, 57-1-209, 57-3-709. **Administrative History:** Original rule filed March 10, 2010; effective June 8, 2010.

0100-06-.08 NON-RESIDENT SELLER PERMITS.

- (1) Anyone desiring to import, ship, or transport alcoholic beverages into the State of Tennessee for distribution and/or sale within the State of Tennessee must make application to the Commission for a non-resident seller's permit. Such application shall include the name of the entity applying for the permit, and the true ownership thereof. Before alcohol may be imported, shipped or transported into the State of Tennessee for distribution and/or sale within the boundaries of the State of Tennessee, such importer, broker, manufacturer, or supplier of the alcoholic beverage must first have obtained and be issued a non-resident permit by the Commission. Further, before alcohol may be imported, shipped or transported

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into the State of Tennessee for distribution and/or sale within the boundaries of the State of Tennessee, such importer, broker, manufacturer, or supplier of the alcoholic beverage must have received from the Tennessee Department of Revenue a brand approval letter. However, only after the receipt of a non-resident seller permit issued by the Commission may that importer, broker, manufacturer, or supplier, attempt to register their brands with the Tennessee Department of Revenue.

- (2) Each non-resident seller permit shall be valid for one calendar year, and shall expire on December 31 of that year. Failure to timely and properly renew the non-resident seller permit shall be deemed a violation of the rule, and may result in the prohibition of the importation and/or distribution of each brand of alcohol registered by the non-resident seller permittee.
- (3) Should the non-resident seller change ownership, the new owner must make application for a non-resident seller's permit as referenced in provision (1) above before importing, shipping or transporting any alcoholic beverages into the State of Tennessee for distribution and/or sale within the State.

Authority: T.C.A. §§ 57-1-201, 57-1-209. **Administrative History:** Original rule filed March 10, 2010; effective June 8, 2010.

0100-06-.09 PROHIBITION ON DISCRIMINATION.

- (1) No wholesaler, holding a license issued pursuant to T.C.A. § 57-3-203, shall discriminate, directly or indirectly, in price, in discounts on quantity of merchandise sold, between one retailer and another retailer purchasing wine or alcoholic beverage bearing the same brand or trade name and of like age and quality.
- (2) The restrictions imposed in Section 1, above, shall not prevent a wholesaler from offering wine or alcoholic beverages to a licensee holding a license issued pursuant to T.C.A. § 57-4-101, while not offering such wine or alcoholic beverages to any licensee holding a license issued pursuant to T.C.A. §57-4-203, pursuant to a bona fide marketing plan.
- (3) Notwithstanding the prohibitions of Section 1, above, a wholesaler may change its pricing on any wine or alcoholic beverage to meet competition, respond to bona fide market conditions, or provide a one-time, introductory offer to a retailer to introduce or promote a new product not previously purchased by such retailer.
- (4) Nothing herein shall restrict the ability of a wholesaler to provide a discount to a retailer for quantity purchases or special combination offers so long as such discount is available on similar terms to other retailers.

Authority: T.C.A. §§ 57-1-201, 57-1-209. **Administrative History:** Original rule filed March 10, 2010; effective June 8, 2010.