

**RULES
OF
THE TENNESSEE ALCOHOLIC BEVERAGE COMMISSION**

**CHAPTER 0100-08
RULES FOR PROFESSIONAL ALCOHOL SERVER TRAINING**

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0100-08-.01 PURPOSE AND SCOPE. The primary legislative purpose is to prevent intoxication-related deaths, injuries, and other damages through responsible alcohol serving practices and awareness.

Authority: T.C.A. §§57-1-209; 57-3-104(c)(4); 57-3-212(c); 57-3-710; 57-3-705(5); 57-4-201.
Administrative History: Original rule filed January 31, 1997; effective April 16, 1997. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-08-.02 DEFINITIONS.

- (1) Certified Training Program. An alcohol awareness program which has met all requirements and has been approved by the Commission.
- (2) Commission. Unless noted otherwise, all reference to the commission shall be to the Tennessee Alcoholic Beverage Commission.
- (3) In-House Training Program. An alcohol awareness training program which is presented exclusively to educate employees of a single business entity or multiple locations/franchise under a common ownership interest.
- (4) Law Enforcement Program. An alcohol awareness program which is sponsored and taught by local law enforcement personnel in the performance of their regular duties. Any person may attend such programs.
- (5) Public Training Program. An alcohol awareness program which is presented to educate individuals regardless of employer affiliation. Such programs may be presented by either nonprofit or for profit entities. Any trainer within a public training program may choose to conduct the program only for his own employees.
- (6) Server. Server is an individual required to have a server permit.
- (7) Successful Completion of Program. To successfully complete a training program, an individual must have attended five (5) hours of classroom instruction, scored at least seventy percent (70%) on the written test (or higher if required by the certified program), and paid the appropriate fees.
- (8) Trainer. Individual designated by a certified training program, and approved and certified by the Commission to instruct an alcohol awareness program.
- (9) Visibly Intoxicated. An impairment of an individual's mental or physical faculties as a result of drug and/or alcohol consumption accompanied by a perceptible act, series of acts, or by the appearance of an individual which clearly demonstrates such impairment.

(Rule 0100-08-.02, continued)

Authority: T.C.A. §§57-1-209; 57-3-104(c)(4); 57-3-212(c); 57-3-710(5); 57-4-201. **Administrative History:** Original rule filed January 31, 1997; effective April 16, 1997. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-08-.03 APPLICATION FOR SERVER PERMITS.

- (1) Every person seeking a server permit from the Commission authorizing that person to sell or serve alcoholic beverages for consumption on the premises must make written application to the Commission for a sever permit on forms prescribed by the Commission. A twenty dollar non-refundable fee shall accompany each application. A cost adjustment factor for permit fees will be updated by the Executive Director of the Commission based upon the consumer price index at regular intervals beginning in January, 2013.
- (2) All information submitted pursuant to such written application must be accurate and is submitted under oath. Failure to submit accurate information is grounds for suspension or revocation of such server permit.
- (3) Every application for a server's permit shall include a certificate from a Commission certified organization or entity, demonstrating that the applicant has successfully completed a certified course on alcohol awareness within one year of the date of the application. Copies of the certificate are acceptable to obtain a new permit.
 - (a) The applicant must successfully complete a certified program to receive a certificate.
 - (b) It is the applicant's duty to ensure that the alcohol awareness program attended has been certified by the Commission. To ensure the program is certified, the applicant may look for the following:
 1. Conspicuous posting of Commission certification license; and
 2. All Certified Training Programs shall make the following statement on the cover sheet of its printed training materials: "This program has been certified by the Tennessee Alcoholic Beverage Commission as currently satisfying the requirements of the Alcohol Server Responsibility and Training Act of 1995."
- (4) If an individual can produce evidence (i.e. certificate) that he or she has successfully completed a Commission certified program within one year from the date of application in another state, then the Commission shall recognize such training. However, such individual shall still be required to pay the requisite ten dollar (\$10.00) fee.

Authority: T.C.A. §§57-1-209; 57-3-104(c)(4); 57-3-212(c); 57-3-710; 57-3-705(5); 57-4-201. **Administrative History:** Original rule filed January 31, 1997; effective April 16, 1997. Amendment repealing and replacing the rule was filed March 3, 2010; effective June 8, 2010.

0100-08-.04 CERTIFICATION OF TRAINING PROGRAM.

- (1) Application for Certification. Any entity or individual seeking to have a training program certified shall complete and submit a written application on forms prescribed by the Commission. The application shall disclose the following information:
 - (a) The complete identity of the entity seeking to have the program certified, including the address, names of all individuals responsible for server training, and the source of the curriculum utilized by the entity.
 1. If the entity is a corporation, a copy of the corporate character and/or certificate of authority is required.

(Rule 0100-08-.04, continued)

2. If the entity is a partnership, a copy of the certificate filed with the Tennessee Secretary of State's Office (if a limited partnership), copy of partnership agreement, or other document evidencing formation of such partnership is required.
 3. A listing of all officers' names and corresponding titles for the applicant.
- (b) Complete address of each proposed location for such training at least seven (7) days prior to the training session.
- (c) A complete description of the curriculum to be utilized in server training. To be certified a program must offer a curriculum which, at a minimum, contains the following items:
1. The effect of alcohol on the human body focusing upon these elements:
 - (i) A complete review of blood alcohol content (BAC);
 - (ii) Absorption rates and factors affecting the absorption of alcohol;
 - (iii) The behavioral effects of alcohol: i.e., decrease in reaction and decision making capability;
 - (iv) Interaction and combined effects of mixing alcohol with legal and/or illegal drugs; and
 - (v) Identification of possible problem drinkers.
 2. Identifying situations in which server intervention is appropriate.
 3. Handling people in a non-confrontational manner. Communications and support from co-workers is necessary.
 4. Suggested responses by servers to situations involving the service of intoxicated and/or underage persons.
 5. A review of current Tennessee laws, rules, and regulations promulgated by the Commission relating to the sale and service of alcoholic beverages and the Alcohol Server Responsibility and Training Act.
 6. A review of appropriate identification including acceptable driver's licenses, military identification, passports, and other identification cards.
- (d) Training Program Format.
1. Complete training program must be at least five (5) hours of classroom instruction, excluding breaks for attendees. Such training program must take place in a publicly accessible location. Training programs may not be conducted in private homes.
 2. The training program must provide printed training materials to attendees. Once a program has been certified by the Commission, the following statement shall be placed in bold type on the cover sheet of such written materials or manuals: "This program has approved by the Tennessee Alcoholic Beverage Commission as currently satisfying the requirements contemplated by the Alcohol Server Responsibility and Training Act of 1995."

(Rule 0100-08-.04, continued)

3. The training program must be supervised by qualified and trained instructors who are physically present during all training sessions. Further, instructors must submit a trainer questionnaire to the Commission prior to providing any instruction.
 4. At the beginning of each training program, the certified trainer shall advise all attendees that if they are not at least 18 years of age, and/or have been convicted of any felony within four years of the date of application, and/or have been convicted of any statute involving the sale of alcoholic beverages, beer, or Schedule I or II controlled substances or any sex-related crime or embezzlement within the previous eight (8) years, then they do not meet the qualifications for a server permit. The certified trainer shall refund any fee previously received by any attendee who does not continue with the class after hearing such restrictions.
 5. Upon completion of the presentation, the program must adequately test the comprehension and understanding of the attendees. A passing score of at least seventy (70%) percent will be required from each person attending the training before a certificate shall be issued-unless the certified program requires a higher score.
 6. Alcoholic beverages may not be consumed by the instructor or any attendee during the training program.
- (e) All Certified Training Programs shall issue to any attendee who has successfully completed the program, a certificate which includes the following information:
1. Name of prospective server;
 2. Name of entity providing the training; and
 3. Date on which the server-trainee successfully completed the program.
- (f) All Certified Training Programs shall permit access to Commission representatives. Failure to permit access to a Commission representative will result in the program licensee being required to show cause to the Commission why its certification should not be revoked.
- (g) Each trainer shall submit a Trainer's Questionnaire to the Commission and must satisfy the requirements stated therein prior to the actual instruction of individuals.
- (h) Each program applicant shall submit to the Commission a copy of all training materials (including video or audio materials used for their program).
- (i) Within twenty-one (21) calendar days of the training date, the certified program instructor must provide to the Commission a list of all servers who have successfully completed the program - along with a fee of fifteen dollars (\$15.00) for each individual.
- (2) Each applicant or program licensee seeking to have an alcohol training program certified or renewed by the Commission shall submit a non-refundable fee along with the completed application according to the following schedule:
- (a) In House Training Program - \$300.00;
 - (b) Public Training Program - \$700.00; or
 - (c) Law Enforcement Program - \$300.00.

(Rule 0100-08-.04, continued)

- (3) Each instructor conducting alcohol awareness training classes must submit a one hundred and fifty dollar (\$150.00) certification fee to the Commission, along with a completed questionnaire.
- (4) Renewal of Program Certification.
 - (a) Program certification shall be valid for a period of one year from the date of issue.
 - (b) To prevent interruption of certification, the licensee must fulfill the following requirements prior to expiration date:
 1. Provide the Commission a completed renewal application for certification to conduct a server training course - which includes any amended or updated materials; and
 2. Appropriate renewal fee.
- (5) Renewal of Instructor Certification.
 - (a) Instructor certification shall be valid for a period of one year from the date of issue.
 - (b) To prevent a lapse in certification, the instructor must fulfill the following requirements prior to the expiration date:
 1. Provide the Commission an updated renewal application for certification; and
 2. If the instructor is not a program designated instructor, then the instructor must submit a one hundred dollar (\$100.00) renewal fee to the Commission.
- (6) Neither program nor instructor certifications are transferable. Before a transfer of ownership of the program occurs, that new entity must first make application for certification to the Commission pursuant to the rules and regulations. The new business entity may not begin training until certified by the Commission.

Authority: T.C.A. §§57-1-209; 57-3-104(c)(4); 57-3-212(c); 57-3-710; 57-3-705(5); 57-4-201.
Administrative History: Original rule filed January 31, 1997; effective April 16, 1997. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-08-.05 MISCELLANEOUS PROVISIONS.

- (1) Server Applicants with Special Needs. Persons with special needs (for example, an inability to read and/or write in English, hearing impairment, etc.) must contact the program licensee at least one week in advance of the training date to request specific assistance in completing that program. Notwithstanding any other provision of these rules, the program licensee and the Commission shall endeavor to provide a reasonable accommodation when requested on a case by case basis in compliance with state and federal law.
- (2)
 - (a) A score of at least seventy percent (70%) is required to satisfy the written examination upon the completion of the training which will entitle the server to the certificate. However, if a certified program requires a higher test score to successfully complete their program, then the server must meet that program's test requirement.
 - (b) Any attendee failing to attain this passing score should contact the program licensee to schedule a second examination within thirty (30) days.

(Rule 0100-08-.05, continued)

- (c) If the second examination is not scheduled with the certified program after failure of the initial exam within the thirty (30) days, then the attendee will be required to attend a second training in its entirety to obtain the certificate.
- (3) Commission Training Program. To further implement the policy and standards of the T.C.A. § 57-3-701 et seq, the Commission may conduct its own program for servers. The cost to each server in attendance will be \$40. While attendance at a Certified Training Program for alcohol awareness is required for any server to obtain a server permit, it is not necessary that such server attend the Commission program. The Commission will conduct such training upon a finding by the Commission that it is necessary for the Commission to conduct the training because of the lack of substantial, active, and decreasing number of certified server trainers.
- (4) Server Permit to be Available for Review. On-premise consumption licensees shall have on their premises and available for review at least a copy of the server permit issued for each server.
- (5) Refusal of Cooperation. Any certified training program or certified trainer, his agent, or employee who refuses to open or disclose his records to, or furnish information to, or who furnishes false and/or misleading information to an Agent or representative of the Tennessee Alcoholic Beverage Commission upon any matter relating to or arising out of the conduct of the licensed premises shall subject the license to revocation or suspension.
- (6) Upon written notification from a certified program that a certified trainer is prohibited from conducting its course, then that trainer shall immediately cease conducting such classes. The Commission will not accept any classes conducted by that trainer under that program until such time as the trainer is re-instated by the certified program.
- (7) Certified trainers shall not represent or advertise to servers or any member of the general public that server permits will be issued by the Commission within a specific length of time unless authorized to do so by the Commission.

Authority: T.C.A. §§57-1-209; 57-3-104(c)(4); 57-3-212(c); 57-3-710; 57-3-705(5); 57-4-201.
Administrative History: Original rule filed January 31, 1997; effective April 16, 1997. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-08-.06 FINES.

- (1) In any case where the Commission is given the power to suspend or revoke any license or issued pursuant to Title 57, Tennessee Code Annotated, the Commission may, in the alternative to suspension or revocation, impose a fine as set out hereafter.
- (2) Fines may be used to informally remedy a matter by written consent of all parties to the matter.
- (3) Any violation of the Rules and Regulations promulgated to implement and maintain the Alcohol Server Responsibility and Training Act of 1995 may result in the imposition of a fine, suspension, or revocation of any certification, licensee, or permit issued by the Commission.
- (4) Providing false or misleading information in any required document, application, and/or advertisement may result in the denial of that application, or the suspension or revocation of a program's certification.
- (5) Reimbursement for checks returned to the Commission for insufficient funds must be made within ten (10) days of notification. If such reimbursement is not made within ten (10) days, then the license or server permit will be subject to disciplinary action including revocation.

(Rule 0100-08-.06, continued)

Authority: T.C.A. §§57-1-209; 57-3-104(c)(4); 57-3-212(c), 57-3-710; 57-3-705(5); 57-4-201.

Administrative History: Original filed January 31, 1997; effective April 16, 1997. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-08-.07 REPEALED.

Authority: T.C.A. §§57-1-209; 57-3-104(c)(4); 57-3-212(c); 57-3-710; 57-3-705(5); 57-4-201.

Administrative History: Original rule filed January 31, 1997; effective April 16, 1997. Amendment repealing the rule was filed March 10, 2010; effective June 8, 2010.