



Policy & Procedures

Number: 1-1-35
Page: 1 of 23
Subject: Title VI, Civil Rights Act of 1964
Effective Date: September 14, 1994
Last Review/
Modification Date: September 9, 2009
Distribution: All Employees

I. SUBJECT

Policy and procedure for compliance with Title VI, Civil Rights Act of 1964, and Tennessee Code Annotated Section 4-21-901 et seq., and Executive Order #56, dated March 1, 1994.

II. PURPOSE

The purpose of Title VI of the Civil Rights Act of 1964 is to prohibit programs which receive federal funds from discriminating against participants or clients on the basis of race, color or national origin. The intent of the law is to insure that all persons, regardless of their race, color or national origin, are allowed to participate in these federally funded programs. To insure that the Tennessee Alcoholic Beverage Commission "TABC" meets its compliance responsibility, the following procedures have been established to provide for monitoring of Title VI compliance activities and compliant processing in all federal/state funded programs. Such funding is provided in the form of grants, cooperative agreements, training, and/or equitable sharing.

III. SCOPE

This policy applies to all facilities operated by TABC.

IV. DEFINITIONS

- A. Assurance. A written statement or contractual agreement signed by the agency head in which a recipient agrees to administer federally assisted programs in accordance with civil rights laws and regulations.
- B. Compliance. The fulfillment of requirements of Title VI, other applicable laws, implementing regulations and instructions to the extent that no distinctions are made in the delivery of any service or benefit on the basis of race, color, or national origin.
- C. Complaints. A written allegation of discrimination which indicates that any federally assisted program is operated in such a manner that it results in



Policy & Procedures

Number: 1-1-35
Page: 2 of 23
Subject: Title VI, Civil Rights Act of 1964
Effective Date: September 14, 1994
Last Review/
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Distribution: All Employees

disparity of treatment to persons or groups of persons because of race, color, or national origin.

- D. Discrimination. To make any distinction between one person or groups of persons and others, either intentionally, by neglect, or by the effect of actions or lack of actions based on race, color, or national origin.
- E. Minority. A person or groups of persons differing from others in some characteristics and often subjected to differential treatment on the basis of race, color, or national origin.
- F. Noncompliance. Failure or refusal to comply with Title VI of the Civil Rights Act of 1964, other applicable civil rights laws, and implementing departmental regulations.
- G. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d-4. Federal law prohibiting discrimination based on race, color, or national origin. It covers all forms of federal aid except contracts of insurance and guaranty. It does not cover employment, except where employment practices result in discrimination against program beneficiaries or where the purpose of the federal assistance is to provide employment.

V. POLICY AND PROCEDURE

- A. TABC affirms its policies to afford all individuals the opportunity to participate in Federal financially assisted programs and adopts the following provision:

No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

- B. Prohibited practices include:
 - 1. deny any individual any services, opportunity, or other benefit for which he is otherwise qualified;



Policy & Procedures

Number: 1-1-35
Page: 3 of 23
Subject: Title VI, Civil Rights Act of 1964
Effective Date: September 14, 1994
Last Review/
Modification Date: September 9, 2009
Distribution: All Employees

2. provide any individual with any service, or other benefit, which is different or is provided in a different manner from that which is provided to others under the program;
 3. subject any individual to segregated or separate treatment in any manner related to his receipt of service;
 4. restrict an individual in any way in the enjoyment of services, facilities or any other advantage, privilege or other benefit provided to others under the program;
 5. adopt methods of administration which would limit participation by any group of recipients or subject them to discrimination;
 6. address an individual in a manner that denotes inferiority because of race, color, or national origin.
- C. The overall responsibility for complying with the provisions of Title VI is vested in the TABC Executive Director, who is accountable for the administration of TABC and its organizational subdivisions. However, due to state purchasing requirements, all vendors must be approved by the Department of General Services. Part of the bidder application relates to Title VI compliance.
- D. The responsibility for coordinating Title VI in the Department is assigned to the Assistant Director.
- E. The Assistant Director will be responsible for administering the compliance procedure and Title VI compliant processing. TABC Special-agents-in-charge (SAC's), in each of the agency's four (4) district offices, will serve as Local Coordinators.
- F. The Assistant Director will conduct an annual review of compliance reports to insure that:
1. The Local Coordinator positions have been filled.



Policy & Procedures

Number: 1-1-35
Page: 4 of 23
Subject: Title VI, Civil Rights Act of 1964
Effective Date: September 14, 1994
Last Review/
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2. The Local Coordinators have received orientation and/or sufficient information to function in their responsibility.
 3. The Local Coordinators have received all materials required for administering the Title VI program, i.e., procedural manuals, posters, and pamphlets.
 4. The Local Coordinators have on file their current Self-Survey indicating the status of their Title VI compliance.
- G. Each Local Coordinator will complete the Title VI Self-Survey (see Appendix) annually and mail it to the Agency Coordinator in Nashville no later than September 1 of each year.
- H. The Self-Survey will be reviewed by the Assistant Director; if problems in compliance exist, they will be discussed with the Chief Law Enforcement Officer and respective SAC. If serious problems in compliance are noted immediate steps will be implemented for correcting non-compliance.
- I. For the purpose of monitoring compliance activities, the Department will maintain a task force comprised of the Executive Director, Assistant Director, and Chief Law Enforcement Officer. This task force will meet annually to review the prior year's activities, and will focus primarily on complaints filed during the year. Any significant problems of general compliance will also be addressed.
- J. Pamphlets and posters designed to inform TABC employees and members of the general public of their obligations and rights under Title VI and of the availability of services will be distributed periodically to the Posts-of-duty. The Local Coordinator is responsible for making these pamphlets available to each new participant and the general public and for displaying the Title VI posters in a prominent location.
- K. Employees will receive orientation regarding the obligations and rights involved in the Title VI program at annual in-service training. Such in-service training programs will continually apprise the employees of their



Policy & Procedures

Number:	1-1-35
Page:	5 of 23
Subject:	Title VI, Civil Rights Act of 1964
Effective Date:	September 14, 1994
Last Review/ Modification Date:	September 9, 2009
Distribution:	All Employees

responsibility to render a high quality of service to all members of the general public regardless of race, color, or national origin.

- L. In order to further assure Title VI compliance, each employee shall be required to read and acknowledge acceptance of the following statement: No person shall on the grounds of race, color, national origin, sex, age, ability to pay, or physical disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the Tennessee Alcoholic Beverage Commission (TABC), it being the intention of the Department that all employees operating under its jurisdiction and control to fully comply with and abide by the spirit and the intent of the Civil Rights Act of 1964.
- M. If a state employee is found guilty of any discriminatory practice based on Title VI provisions, it is recommended that the employee receive progressive discipline. For example, a verbal reprimand may be given for the first offense, a written reprimand may be placed in his/her personnel file for the second offense, and a suspension without pay (from one day to as many as thirty days, depending on the violation) may be issued for the third offense. A fourth offense should be considered as sufficient grounds for dismissal.
- N. Complaint Procedures

A complaint alleging discrimination against the TABC may be filed by an individual as an internal complaint or as an external complaint, i.e., complaint may be filed at the (1) local level (Local Coordinator), (2) Departmental level (Title VI Coordinator), or (3) the federal level (Regional Office for Civil Rights). Complaints must be filed in writing, preferably on the Notice of Complaint form prescribed by the TABC. (See Appendix.)

The form can be completed by the complainant, by his/her representative, or by the Title VI Local Coordinator. A copy of the complaint shall be sent to the Assistant Director, with a copy of the complaint retained by the Local Coordinator. If the complainant is unwilling to complete the form, he/she may write, or have written, a letter stating the facts of the complaint. Upon receipt of a letter of complaint, the Local Coordinator shall complete a Notice of Complaint form with the complainant's letter attached.



Policy & Procedures

Number: 1-1-35
Page: 6 of 23
Subject: Title VI, Civil Rights Act of 1964
Effective Date: September 14, 1994
Last Review/
Modification Date: September 9, 2009
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The Local Coordinator at each post-of-duty has the primary responsibility for receiving, acknowledging, and investigating complaints and for reporting the findings. The Local Coordinator must notify the Assistant Director immediately when a complaint is filed. Upon conclusion of the investigation the Local Coordinator will submit to the Assistant Director, with a copy to the Chief Law Enforcement Officer, a report which sets forth the investigation's conclusions. This report should be submitted within thirty (30) calendar days of the receipt of the complaint. If the report includes a finding of violation of Title VI, the report should include any proposed remedial action in the report. (See Report of Investigation form.) Within five (5) calendar days after this report the Local Coordinator will provide a copy to the complainant. Complainant's rights to appeal, including instructions for filing, will be provided at this time.

- O. Complaints which are initially received in Nashville by the Title VI Coordinator will be remanded to the appropriate Local Coordinator where the complaint originated. (The thirty (30) days referenced in paragraph (N) begins to run upon receipt of the complaint by the Local Coordinator.) Unless an external complaint is being filed, all complaints must first be filed at the local level. Experience shows that the complaints have a good probability of being resolved at the level where they arose. Thus, no complaint should bypass the first or local level.
- P. An appeal by a complainant regarding a finding made at the local level may be filed with the Title VI Coordinator in Nashville. This appeal opportunity constitutes the second, and last, level in the Department's internal complaint system. When a finding is appealed from the local level to the Assistant Director, the Local Coordinator, within ten (10) calendar days, forward to the Assistant Director a copy of the complaint, the findings, the proposed action, and the request for appeal.
- Q. When an appeal is filed, the Title VI Coordinator has broad latitude to review an appealed case and make a finding. Procedures can include, but are not limited to, discussing the complaint with the complainant, the alleged offender, and the initial reviewer, to determine the facts. When an appeal is concluded, a copy of the findings will be sent to the Local Coordinator where



Policy & Procedures

Number:	1-1-35
Page:	7 of 23
Subject:	Title VI, Civil Rights Act of 1964
Effective Date:	September 14, 1994
Last Review/ Modification Date:	September 9, 2009
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the complaint originated. The complainant will then be informed of the findings.

- R. The Assistant Director shall conduct and complete fact-finding within thirty (30) calendar days after receipt of the documents submitted by the Local Coordinator, and convey the findings in writing to the concerned parties. At this point a complainant who wishes to pursue the complaint may choose to appeal the charges to the federal level, i.e., the U.S. Department of Health and Human Services. The Assistant Director's findings shall include instructions for appeal. If a complaint is filed both within the Department and external to the Department (i.e., federal level) during the same time, the external complaint supersedes the internal complaint filing; therefore, the local level or departmental level complaint procedures will be suspended pending the outcome of the federal complaint.
- S. According to federal regulations, a federal complaint (to the U.S. Department of Health and Human Services) must be filed no later than 180 calendar days after the alleged discrimination occurred. However, to allow a complainant time to file sequentially within the Department and external to the Department if he/she chooses, the complaint should be filed at the local level no later than thirty (30) calendar days after the alleged discrimination occurred. If it is filed beyond the thirty (30) calendar day period, the agency is encouraged to still investigate and process the complaint at the local level if the filing is prompt enough to allow proceeding to be concluded and leave sufficient time for the complainant to file externally. If a complainant wishes to appeal a finding or the proposed remedial action by the agency at the local level, he/she should do so within the next thirty (30) calendar days following receipt of the findings. If the appeal is filed beyond the thirty (30) calendar day period, the Department may still proceed if the proceedings can be concluded and leave sufficient time for the complainant to file externally. If, after appealing to the Assistant Director, a complainant remains unsatisfied with the findings or the proposed remedial action, then he/she still has time to file externally, with the U.S. Department of Health and Human Services, within their stated time limit of 180 calendar days.

	<h1>Policy & Procedures</h1>	<p>Number: 1-1-35</p> <p>Page: 8 of 23</p> <p>Subject: Title VI, Civil Rights Act of 1964</p> <p>Effective Date: September 14, 1994</p> <p>Last Review/ Modification Date: September 9, 2009</p> <p>Distribution: All Employees</p>
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T. Forms and Reports

1. **Complaint under Civil Rights Act of 1964** may be used for filing complaints. Alternatively, a letter describing the complaint can be prepared by complainant in lieu of using the complaint form.

2. **Withdrawal of Complaint or Appeal for Fair Hearing** should be used if a complaint or a request for appeal is withdrawn; at the very least, a request for withdrawal must be in writing.

3. **Report of Investigation** may be used to summarize and report the findings of an investigation; or the general outline of the form can be incorporated into a report structured by the investigator, if it addresses the essential issues outlined on the form.

4. **Appeal from Finding** may be used to appeal a finding or the proposed remedial action by the agency at the local level to the Assistant Director in Nashville.

U. Annual Report

Local Coordinators will prepare an annual summary of their respective post-of-duty monitoring activities. The reports will be submitted no later than May 1 to the Assistant Director. The Assistant Director will provide copies to other members of the task force, for review, at their annual meeting. Copies will also be maintained on permanent file and will be available for audit where appropriate. The permanent records will be maintained by the respective Local Coordinator.



Policy & Procedures

Number: 1-1-35
Page: 9 of 23
Subject: Title VI, Civil Rights Act of 1964
Effective Date: September 14, 1994
Last Review/
Modification Date: September 9, 2009
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ATTACHMENTS:

1. Procedural Steps in Investigating Complaints;
2. Reporting Forms
 - a. Executive Order 56
 - b. Complaint under Civil Rights Act of 1964
 - c. Withdrawal of Complaint
 - d. Report of Investigation
 - e. Investigator's Worksheet
 - f. Appeal from Finding
3. Title VI Self-Survey



STATE OF TENNESSEE

EXECUTIVE ORDER

BY THE GOVERNOR

NO. 56

**AN ORDER DIRECTING THE AGENCIES OF STATE GOVERNMENT TO
TAKE APPROPRIATE ACTION TO COMPLY WITH THE
REQUIREMENTS OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

WHEREAS, a review by the State Comptroller indicates that programs exist among various agencies of state government in which more rigorous efforts should be made to comply with the requirements of Title VI of the Civil Rights Act of 1964; and

WHEREAS, it is important that state government undertake efforts to strive for compliance with the goals and stipulations of Title VI of the Civil Rights Act of 1964;

NOW, THEREFORE, I, Ned McWherter, Governor of the State of Tennessee, by virtue of the power and authority vested in me by the Tennessee Constitution and laws of Tennessee, do hereby order and direct the following:

1. That the commissioner of each agency of the Executive Branch review current programs and procedures and identify any new efforts that may be needed to comply with Title VI of the Civil Rights Act of 1964.
2. The review of such programs should include data collection and analysis and minority participation in the planning of compliance review procedures.

Executive Order

Page Two

3. The State Planning Office, in accordance with the recommendations of the Comptroller, shall serve as the monitoring agency for Title VI compliance.

IN WITNESS WHEREOF, I have subscribed my signature and caused the Great Seal of the State of Tennessee to be affixed this 1st day of March, 1994.

[Ned R. McWherter]
GOVERNOR

ATTEST:

[Riley C. Darnell]
SECRETARY OF STATE

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

Procedural Steps in Investigating Complaints Title VI, Civil Rights Act of 1964

LEVEL 1

- | | |
|--|---|
| 1. Complaint investigation completed and reported to Assistant Director. | Thirty (30) calendar days following receipt of completed complaint form |
| 2. Report forwarded with any proposed remedial action to complainant. | Five (5) calendar days after receipt of investigation report. |

LEVEL 2

- | | |
|--|---|
| 3. Appeal by complainant forwarded to Assistant Director. | Ten (10) calendar days after date of appeal |
| 4. Complaint investigation completed and reported to Assistant Director and complainant. | Thirty (3) days after receipt of appeal. |

EXTERNAL APPEAL

- | | |
|--|--|
| 1. Appeal to U.S. Department of Health and Human Services. | Can be filed at anytime with 180 days from date of alleged discrimination. |
|--|--|

This policy and procedure for compliance with Title VI, Civil Rights Act of 1964, Policy No. 90-1, takes effect on July 1, 1994.

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

Assurance of Compliance Under Title VI of the Civil Rights Act of 1964

HEREBY AGREES THAT it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by the Regulations of the U.S. Department of _____, Department of Justice (28 CFR PARTS 42 & 50), the Tennessee Department of _____, and any directives or regulations issued pursuant to that Act and the Regulations, to the effect that, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity for which the Applicant received Federal financial assistance from the Department; and **HEREBY GIVES ASSURANCE THAT** it will immediately take any measures necessary to effectuate this agreement.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal financial assistance, grants and loans of Federal funds, reimbursable expenditures, grant or donation of Federal property and interest in property, the detail of Federal personnel, the sale and lease of, and the permission to use, Federal property or interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the recipient, or any improvements made with Federal financial assistance extended to the Applicant by the Department.

BY ACCEPTING THIS ASSURANCE, the applicant agrees to compile data, maintain records, and submit reports as required to permit effective enforcement of Title VI, and permit authorized Department personnel during normal working hours to review such records, books, and accounts as needed to ascertain compliance with Title VI. If there are any violations of this assurance, the Department shall have the right to seek administrative and/or judicial enforcement of this assurance.

This assurance is binding on the applicant, its successors, transferees, and assignees as long as it receives assistance from the Department. In the case of real property, this assurance is binding for as long as the property is used for a purpose for which this assistance was intended or for the provision of services or benefits similar to those originally intended. In the case of personal property, this assurance applies for as long as the recipient retains ownership or possession of the property. The person or persons whose signatures appear below are authorized to sign this assurance on the behalf of the applicant.

Dated _____

(Applicant)
By _____
(Title of Authorized Official)

(Address of Applicant)

No further monies or other benefits may be paid out under these programs unless this Assurance is completed and filed as required by existing regulations.

**STATE OF TENNESSEE
ALOHOLIC BEVERAGE COMMISSION**

**Withdrawal of Complaint
Title VI, Civil Rights Act of 1964**

Date: _____

TO: TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

I, _____, hereby withdraw my () *complaint filed on _____
Date

against _____ located at _____

Complainant's Name: _____

Complainant's Address: _____

Reason for Withdrawal: _____

Signed: _____

**STATE OF TENNESSEE
ALCOHOLIC BEVERAGE COMMISSION**

**Report of Investigation
Title VI, Civil Rights Act of 1964**

I, _____ representing the Tennessee Alcoholic Beverage Commission have investigated the complaint filed on _____ by _____ alleging that discrimination occurred which was in violation of the provisions of Title VI of the Civil Rights Act of 1964.

The results of the investigation were as follows:*

- A. The agency or person was found to be in violation of Title VI.
- B. The agency or person was not found to be in violation of Title VI.
- C. The complainant withdrew the complaint using the Title VI Withdrawal of Complaint Form.

A copy of the investigative report is attached.

NOTE: If the agency or person was found to be in violation of Title VI, briefly describe the remedial action taken to assure future compliance:

Date

Local Coordinator

*Circle the appropriate letter.

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

Investigator's Worksheet
Title VI, Civil Rights Act of 1964

Case Name

Case Number

For Complaint Investigation

A.

The Complainant(s) Name: _____

Address: _____

City, State and Zip Code _____

Telephone Number(s): (Home) _____

(Work) _____

Hours complainant says
convenient to call
____ a.m. ____ p.m.

Date complaint received: _____

Complainant alleges discrimination based on:

____ race; ____ color; ____ national origin; ____ sex*

*applicable for section 109, HCDA 1974, only

For Compliance Review

B.

Date when compliance review was scheduled _____

Reason why compliance review is scheduled _____

Office requesting a compliance review _____

Date of last compliance review or complaint investigation _____

**STATE OF TENNESSEE
TENNESSEE ALCOHOLIC BEVERAGE COMMISSION**

**Appeal From Finding
Title VI, Civil Rights Act of 1964**

I, _____, wish to appeal the finding made on _____
by _____ of () Non-Discrimination or () the proposed
remedial action by the agency in the Title VI complaint as filed by _____
on _____ against _____ at
_____.

Signed: _____
Appellant

Address

Date of Appeal

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

Title VI Self-Survey

PART 1:

1. Date of Survey: _____
2. Type of Survey: Initial _____ Annual _____ Other _____
3. Name of Facility/Agency: _____
Street Address _____
City, County, State _____
4. Name of Administrative Head: _____
Title: _____
5. Name of Local Title VI Coordinator: _____
Title: _____
6. Advisory Group or Advisory Board:
 - a. What is the racial composition of the Advisory Group or Governing Board?
Total: _____ Number of white: _____ Number of non-white: _____
 - b. How are members selected?

 - c. What is the length of term members serve on the Advisory Group or Board?

 - d. If no minority persons are on the Advisory Group or Board and they represent at least 5% of the population in the geographic service area, what steps will be taken to obtain minority representation on the Advisory Group or Board?

7. Non-Discrimination Policies: Does your agency have a written policy stating that services will be provided to all persons without regard to race, color, or national origin?
Yes _____ No _____

If yes, attach a copy, FOR INITIAL SURVEY ONLY!

8. Posters: Are posters containing Title VI information prominently displayed within the facility?

Yes_____ No_____

9. Do these posters show the name of the Local Coordinator to whom complaints should be referred?

Yes_____ No_____

10. Records: Are permanent records kept of all Title VI complaints?

Yes_____ No_____

11. Complaints: If applicable, describe below any complaints received in this reporting period:

<u>Name of Complainant</u>	<u>Race</u>	<u>Charge</u>	<u>Findings</u>

12. Dissemination: Is Title VI information disseminated to your employees and your clients/applicants? Yes_____ No_____

If yes, describe how employees are informed: _____

Describe how clients/applicants are informed: _____



**STATE OF TENNESSEE
ALCOHOLIC BEVERAGE COMMISSION**

TITLE VI DISCRIMINATION COMPLAINT FORM

I, _____, hereby file an official
complaint against _____ and state the following:
Name of Person or Agency

1. Complainant's Name _____

Address _____

City, State, and Zip Code _____

Telephone Number (home) _____ (work) _____

2. Person discriminated against (is someone other than the complainant)

Name _____

Address _____

City, State, and Zip Code _____

Telephone Number (home) _____ (work) _____

3. What is the name and location of the agency that you believe discriminated against you?

Name _____

Address _____

City, State, and Zip Code _____

Telephone Number () _____

4. Which of the following best describes the reason you believe the discrimination took place? Was it because of your:

a. Race/ Color (specify) _____

b. National Origin (specify) _____

5. What date(s) did the alleged discrimination take place?

6. In your own words, describe the alleged discrimination. Explain what happened, when and who you believe was responsible. (*Attach additional pages if necessary*)

7. Have you tried to resolve this complaint through the internal grievance procedure at the agency? Yes No

If yes, what is the status of the grievance? _____

Name and Title of the person who is handling the grievance procedure.

8. Have you filed this complaint with any other federal, state, or local agency, or with any federal or state court?

Yes No

If yes, check all that apply:

Federal Agency

Federal Court

State Agency

State Court

Local Agency

Please provide information about a contact person at the agency/court where the complaint was filed.

Name _____

Address _____

City, State, and Zip Code _____

Telephone Number () _____

9. Do you intend to file this complaint with another agency?

Yes No

If yes, when and where do you plan to file the complaint?

Date _____

Agency _____

Address _____

City, State, and Zip Code _____

Telephone Number () _____

10. Has this complaint been filed with this agency before? Yes No

If yes, when? Date _____

11. Have you filed any other complaints with this agency? Yes No

If yes, when and against whom were they filed?

Date _____

Name _____

Address _____

City, State, and Zip Code _____

Telephone Number () _____

Give a brief description of the other complaint.

12. Please sign below. You may attach any written materials or other information that you believe is relevant to your complaint.

Complainant's Signature

Date

Section below to be completed by Tennessee Alcoholic Beverage Commission

Referred to _____ on _____
Local Coordinator Date

for Investigation and Report.