



TENNESSEE ALCOHOLIC BEVERAGE COMMISSION
MINUTES
TUESDAY, SEPTEMBER 26, 2017
1:30 p.m.

The September meeting of the TABC was held on September 26, 2017, in Nashville, Tennessee. Commissioner Richard Skiles and Commissioner John A. Jones were present and constituted a quorum. Commissioner Kaegi was absent. Commissioner Jones sat as Chairman of the meeting. Director Byrd, Assistant Director Blair, Commission Counsel Stepp, Commission Counsel Hollingshead-Cook, CLEO Tubbs, and Director of Risk Management, Mark Reineke, were present on behalf of staff.

1. REVIEW/APPROVAL OF THE AUGUST 22, 2017 COMMISSION MEETING MINUTES

Discussion/Action Taken: Commissioner Skiles moved to approve the minutes and Commissioner Jones seconded the motion. The motion passed with two ayes.

Commissioner Skiles motioned to approve the addendum as part of the September meeting agenda and Commissioner Jones seconded the motion. The motion passed with two ayes.

2. RETAIL MATTERS

A. OLD BUSINESS - none

B. NEW BUSINESS

1. STATE LINE LIQUOR
PIONEER, TENNESSEE (CAMPBELL COUNTY)

Applicant: VRL Hotels 7, LLC
Member(s): Bijal Patel, 50%
Viral Patel, 50%

Before the Commission is a request for licensing of a new retail package store to be located at 200 Howard Baker Hwy. in Pioneer, Tennessee 37847.¹ The applicant will lease the premises from landlord, VRL Hotels LLC. The TABC staff recommends conditional approval of the request, subject to receipt of the following item(s):

¹ Staff received confirmation from the Caryville City Attorney that the location is within the city limits of Caryville.



and are leasing the premises to the corporation. The TABC staff recommends conditional approval of this request, subject to receipt of the following items:

- a. certificate of occupancy
- b. TABC inspection
- c. acknowledgment of TABC rules & regulations
- d. license fee

Discussion/Action Taken: Director Byrd reviewed the matter to the Commission and recommended conditional approval subject to receipt of the conditional items listed on the agenda. Commissioner Skiles motioned to accept the recommendation of staff and Commissioner Jones seconded the motion; the motion was approved with two ayes.

**4. SOMI LIQUOR STORE (LICENSE NO. 3944)
KNOXVILLE, TENNESSEE (KNOX COUNTY)**

Applicant: Modupe and Ruth Osaro

Current location: 2242 N. Central Street, Knoxville, Tennessee 37917

Proposed location: 2409 N. Central Street, Knoxville, Tennessee 37917

Before the Commission is a request for retail package store licensee no. 3944 to transfer locations as listed above.² The TABC staff recommends conditional approval of this request, subject to receipt of the following item(s):

- a. ~~TABC inspection (received)~~

Discussion/Action Taken: Director Byrd reviewed the matter to the Commission and recommended approval; Director Byrd noted that the inspection had been conducted. Commissioner Skiles motioned to accept the recommendation of staff and Commissioner Jones seconded the motion; the motion was approved with two ayes.

**5. LIQUOR AND TOBACCO MART
BENTON, TENNESSEE (POLK COUNTY)**

Applicant: Dillon Corporation

Shareholder(s): Kundan Patel, 100%

² Ruth Osaro owns the real property where the store is being relocated to.



Current d/b/a name: Tobacco Mart
Proposed d/b/a name: Liquor and Tobacco Mart

The retail package store licensee (no. 4143) located at 6176 Hwy. 411, Benton, Tennessee 37307 is requesting approval to change its d/b/a name to Liquor and Tobacco Mart. The TABC staff recommends approval of this request.

Discussion/Action Taken: Director Byrd reviewed the matter to the Commission and recommended approval. Commissioner Skiles motioned to accept the recommendation of staff and Commissioner Jones seconded the motion; the motion was approved with two ayes.

6. THE WINE MARKET NASHVILLE, TENNESSEE (DAVIDSON COUNTY)

Applicant: Metro Restaurant Group, LLC
Member(s): Wendy H. Burch, 50%
Elise A. Loehr, 50%

Before the Commission is a request for licensing of a retail package store located at 3819 Green Hills Village Dr., Nashville, Tennessee 37215. Applicant is leasing the premises from landlord, Battleship Partners, a Tennessee General Partnership. The applicant also owns a TABC licensed liquor-by-the-drink (lbd) establishment³ next to the proposed package store location. There will be no openings between the package store and the lbd licensee. The TABC staff recommends conditional approval of this request, subject to receipt of the following item(s):

- a. certificate of occupancy
- b. TABC inspection
- c. acknowledgment of TABC rules & regulations
- d. license fee

Discussion/Action Taken: Director Byrd reviewed the matter to the Commission and recommended conditional approval subject to receipt of the conditional items listed on the agenda. Commissioner Skiles motioned to accept the recommendation of staff and Commissioner Jones seconded the motion; the motion was approved with two ayes.

³ Metro Restaurant Group, LLC, d/b/a Table 3, is a liquor-by-the-drink licensee (no. 52607) located at 3821 Green Hills Village Drive, Nashville, TN 37215.



**7. CROWN LIQUOR
COLUMBIA, TENNESSEE (MAURY COUNTY)**

Applicant: Mahants, Inc.
 Shareholder(s): Naman Patel, 35%
 Bharatkumar Patel, 65%

Current licensee: William Drake Colley d/b/a Crown Liquors (license no. 0489)
 Proposed licensee: Mahants, Inc. d/b/a Crown Liquor

Before the Commission is a request for approval for a complete transfer of ownership of the retail package store located at 1113 Nashville Hwy., Columbia, Tennessee 38401. The applicant is purchasing the business from the current owner⁴ and will lease the premises from JRN Inc., the owner of the real property. The TABC staff recommends conditional approval of this request, subject to receipt of the following item(s):

- a. TABC inspection
- b. acknowledgment of TABC rules & regulations
- c. license fee

Discussion/Action Taken: Director Byrd reviewed the matter to the Commission and recommended conditional approval subject to receipt of the conditional items listed on the agenda. Commissioner Skiles motioned to accept the recommendation of staff and Commissioner Jones seconded the motion; the motion was approved with two ayes.

**8. NASHVILLE DAILY SPIRITS (LICENSE NO. 3733)
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

Applicant: SBL Enterprises, LLC
 Member(s):

<u>Before</u>	<u>After</u>
Samuel Davidson, 80%	Samuel Davidson, 100%
Brenda Henson, 10%	
Larry D. Henson, 10%	

⁴ In accordance with Tennessee law, sellers are to transfer title and possession of the liquor inventory to the applicant via TABC licensed wholesalers' involvement.



The LLC (license no. 3733⁵) doing business at 708 Thompson Lane, Suite A, Nashville, Tennessee 37204 is requesting approval for a change in LLC members and membership interest. Brenda Henson and Larry Henson gifted Samuel Davidson each of their ownership interests in the LLC. The TABC staff recommends approval of this request.

Discussion/Action Taken: Director Byrd reviewed the matter to the Commission and recommended approval. Commissioner Skiles motioned to accept the recommendation of staff and Commissioner Jones seconded the motion; the motion was approved with two ayes.

**9. BLACK DOG SPIRITS & ALE
PLEASANT VIEW, TENNESSEE (CHEATHAM COUNTY)**

Applicant: Black Dog Group, LLC
Member(s): Patrick McKenna, 50%
Patricia M. McKinney, 50%

Before the Commission is a request for licensing of a new retail package store to be located at 256 & 260 Centre Street, Suite 100, Pleasant View, Tennessee 37146. Applicant will lease the premises from landlord, Holt Development Co., LLC. The TABC staff recommends conditional approval of this request, subject to receipt of the following item(s):

- a. TABC inspection
- b. acknowledgment of TABC rules & regulations
- c. certificate of occupancy
- d. license fee

Discussion/Action Taken: Director Byrd reviewed the matter to the Commission and recommended conditional approval subject to receipt of the conditional items listed on the agenda. Commissioner Skiles motioned to accept the recommendation of staff and Commissioner Jones seconded the motion; the motion was approved with two ayes.

**10. STONES RIVER (LICENSE NO. 2077)
MURFREESBORO, TENNESSEE (RUTHERFORD COUNTY)**

Applicant: Kanisha Inc.

⁵ The printed agenda incorrectly listed the license number as 3744. The correct license number is 3733.



Shareholder(s):	<u>Before (%)</u>	<u>After (%)</u>
	Manish Patel, 40	Manish Patel, 10
	Bina Patel, 25	Bina Patel, 30
	Kinnari Patel, 25	Kinnari Patel, 10
		Jigna Patel, 35
		Dipak Patel, 15

The retail package store licensee (no. 2077) located at 208-D N. Thompson Lane, Murfreesboro, Tennessee 37129 is requesting approval for a change in shareholders and shareholder interest as listed in the chart above. The TABC staff recommends approval of this request.

Discussion/Action Taken: Director Byrd reviewed the matter to the Commission and recommended approval of the request. Commissioner Skiles motioned to accept the recommendation of staff and Commissioner Jones seconded the motion; the motion was approved with two ayes.

**11. EZ WINE & LIQUOR (LICENSE NO. 4079)
KNOXVILLE, TENNESSEE (KNOX COUNTY)**

Applicant: Sevi Inc.

Shareholder(s):	<u>Before (%)</u>	<u>After (%)</u>
	Vinodrai Ghetiya, 50	Vinodrai Ghetiya, 100
	Setu Kalaria, 50	

Retail package store licensee no. 4079 located at 6203 Chapman Highway, Knoxville, Tennessee 37920 is requesting Commission approval for a change in shareholders and shareholder interest. Vinodrai Ghetiya is acquiring the Setu Kalaria's ownership in the corporation, leaving Mr. Ghetiya with 100% ownership interest. The TABC staff recommends approval of this request.

Discussion/Action Taken: Director Byrd reviewed the matter to the Commission and recommended approval of the request. Commissioner Skiles motioned to accept the recommendation of staff and Commissioner Jones seconded the motion; the motion was approved with two ayes.

**12. RILEY'S WINE & SPIRITS
HIXSON, TENNESSEE (HAMILTON COUNTY)**



Applicant: H Riley Partnership
Partners: Saurin Patel⁶ (60%) and Amit Patel (40%)

Current: C. Riley's LLC d/b/a Riley's Wine & Spirits (license no. 2085)
Proposed: H Riley Partnership d/b/a Riley's Wine & Spirits

Before the Commission is a request for approval of a complete transfer of ownership of the retail package store located at 4818 Hixson Pike, Hixson, Tennessee 37343. Applicant is purchasing the business from the current licensee and will lease the premises from landlord, Asha Brothers, LLC. The TABC staff recommends conditional approval of this request, subject to receipt of the following item(s):

- a. license fee

Discussion/Action Taken: Director Byrd reviewed the matter to the Commission and recommended conditional approval subject to receipt of the conditional item listed on the agenda. Commissioner Skiles motioned to accept the recommendation of staff and Commissioner Jones seconded the motion; the motion was approved with two ayes.

3. WINERY MATTERS

A. OLD BUSINESS - none

B. NEW BUSINESS

1. DAVIN WINERY LLC SMYRNA, TENNESSEE (RUTHERFORD COUNTY)

Applicant: Davin Winery LLC
Member(s): Larry Davis, 50%
Heidi Kilimanjaro-Davis, 50%

Davin Winery, LLC previously held a winery license at 3545 Almadale Rd., Smyrna, Tennessee 37167, but the TABC winery license was closed out earlier this year

⁶ Saurin Patel is an owner of Nayana Corporation d/b/a East Brainerd Wine and Spirits, retail package store licensee no. 4051, located at 7804 East Brainerd, Chattanooga, Tennessee 37421.



for non-renewal.⁷ The applicant is now before the Commission requesting approval for the issuance of a new winery license at this location. Larry Davis and Heidi Kilimanjaro-Davis are the owners of the real property and are leasing the premises to the LLC. The TABC staff recommends conditional approval of this request, subject to receipt of the following item(s):

- a. TABC inspection
- b. acknowledgment of TABC rules & regulations
- c. license fee

Discussion/Action Taken: Director Byrd reviewed the matter to the Commission and recommended conditional approval subject to receipt of the conditional items listed on the agenda. Commissioner Skiles motioned to accept the recommendation of staff and Commissioner Jones seconded the motion; the motion was approved with two ayes.

2. SAVANNAH BEE COMPANY GATLINBURG, TENNESSEE (SEVIER COUNTY)

Applicant: Savannah Bee Company Retail, LLC
Member(s): Thomas "Ted" Dennard III, 100%

Applicant is requesting approval for the issuance of a winery license to do business at 558 Parkway, Gatlinburg, Tennessee 37738. Applicant is leasing the premises from landlord, Silverbell Parkway, LLC. The TABC staff recommends conditional approval of this request, subject to receipt of the following item(s):

- a. certificate of occupancy
- b. license fee

Discussion/Action Taken: Director Byrd reviewed the matter to the Commission and recommended conditional approval subject to receipt of the conditional items listed on the agenda. Commissioner Skiles motioned to accept the recommendation of staff and Commissioner Jones seconded the motion; the motion was approved with two ayes.

3. CROWN WINERY (LICENSE W-68) HUMBOLDT, TENNESSEE (GIBSON COUNTY)

⁷ Davin Winery, LLC held a TABC license (W-101) at 3545 Almadale Rd., Smyrna, Tennessee 37167; however, the winery did not submit renewal documentation and winery license no. 101 was closed out on April 5, 2017.



Licensee: Crown Winery, LLC

Current Member(s) of Crown Winery, LLC: Rita Hayword, 86.5%; Taylor Barker, 5%; Sheila Wilson, 5%; Pat Hamilton, 3.5%

Proposed Member(s) of Crown Winery, LLC: Crown Partners, LLC, 100%
Crown Partners, LLC is owned by Dawn Fallert (26%), Scott Fallert (24%), Christine Horner (26%) and Andrew Horner (24%)

Before the Commission is a request for approval of an ownership in Crown Winery LLC, the winery licensee (W-68) located at 3638 East Mitchell St., Humboldt, TN 38343. Crown Partners, LLC is purchasing 100% membership interest in Crown Winery LLC. There are four members of Crown Partners, LLC. The TABC staff recommends conditional approval of this request, subject to receipt of the following item(s):

- a. TABC agent report
- b. TABC inspection
- c. executed purchase contract for sale of Crown Winery, LLC
- d. acknowledgment of TABC rules & regulations
- e. deed after closing (and lease if applicable)

Discussion/Action Taken: Director Byrd reviewed the matter to the Commission and recommended conditional approval subject to receipt of the conditional items. Commissioner Skiles motioned to accept the recommendation of staff and Commissioner Jones seconded the motion; the motion was approved with two eyes.

4. FARM WINERY MATTERS - none

5. WHOLESALE MATTERS

A. OLD BUSINESS - none

B. NEW BUSINESS

**1. SOUTHERN GLAZER'S OF TENNESSEE (LICENSE NO. 34)
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Applicant: Southern Glazer's Wine and Spirits of Tennessee, LLC



Member(s): SGTN Holdings, LLC,⁸ 51%
 Spritzer Holdings Company, 47%
 David Benson, LLC, 1%
 PFICO, LLC, 1%

<u>Current - SWS Holdings, Inc.</u>	<u>%</u>	<u>Proposed - SWS Holdings, Inc.</u>	<u>%</u>
Wayne E. Chaplin 2013 Revocable Trust	0.49698	Wayne E. Chaplin 2013 Revocable Trust	0.73211
Harvey R. Chaplin, Voting Trustee for Marc Dinnerstein	0.03206	-----	----
Marc Dinnerstein	3.17426	Marc Dinnerstein	3.20633
Jennie Weiss Block	3.20633	The Jennie Weiss Block 2017 Irrevocable Trust	3.20633
HRC 2010 Revocable Trust	0.23513	-----	---
The Wayne E. Chaplin 2010 Irrevocable Trust	23.7375	The Wayne E. Chaplin 2010 Irrevocable Trust	23.73751
The Paul B. Chaplin 2010 Irrevocable Trust	16.6569	The Paul B. Chaplin 2010 Irrevocable Trust	16.65687
The Terry S. Jove 2010 Irrevocable Trust	16.6569	The Terry S. Jove 2010 Irrevocable Trust	16.65687
Steven R. Becker	0.3046	Steven R. Becker	0.3046
The Steven R. Becker 2010 Irrevocable Trust	14.9255	The Steven R. Becker 2010 Irrevocable Trust	14.92545
The Carol A. Becker 2010 Irrevocable Trust	15.23	The Carol A. Becker 2010 Irrevocable Trust	15.23005
The Mel Dick 2010 Irrevocable Trust	5.34388	The Mel Dick 2010 Irrevocable Trust	5.34388

The wholesale licensee doing business at 6290 Shelby View, Memphis, TN 38134, is requesting approval of changes in SWS Holdings, the great-grandparent entity of the TABC licensed entity. The interest held by Jennie Weiss Block is being transferred to a trust, the interest held by HRC 2010 Revocable Trust is being transferred to the Wayne E. Chaplin 2013 Revocable Trust, and the ownership interest listed for Harvey Chaplin, Voting Trustee for Marc Dinnerstein, is being transferred to Mr. Dinnerstein, individually. The TABC staff recommends approval of the changes.

Discussion/Action Taken: Director Byrd reviewed the matter to the Commission and recommended approval. Hank Hildebrand was present on behalf of the applicant. Commissioner Skiles motioned to accept the recommendation of staff and Commissioner Jones seconded the motion; the motion was approved with two ayes.

6. DISTILLERY/BREWERY

A. OLD BUSINESS – none

⁸ SGTN Holdings, LLC is owned by Southern Glazers Wine & Spirits, LLC. Southern Glazers Wine & Spirits, LLC has two members: Glazer's Inc. and SWS Holdings Inc.



B. NEW BUSINESS

1. TENNESSEE DISTILLING LTD. (LICENSE NO. 119) COLUMBIA, TENNESSEE (MAURY COUNTY)

Applicant: Tennessee Distilling Group, LLC⁹

The distillery licensee located at 1929 Ridgecrest Dr., Columbia, Tennessee 38401, is requesting Commission approval to store its products at 1990 Ridgecrest Drive, Columbia, Tennessee, 38401, as permitted under T.C.A. § 57-2-104.¹⁰ The TABC staff recommends conditional approval of this request, subject to receipt of the following item(s):

- a. TABC inspection

Discussion/Action Taken: Director Byrd reviewed the matter to the Commission and recommended conditional approval, subject to receipt of a TABC inspection. Commissioner Skiles motioned to accept the recommendation of staff and Commissioner Jones seconded the motion; it passed with two ayes.

7. PRIVATE CLUBS - none

8. RETAIL FOOD STORES - list of licenses available on request

9. INITIAL ORDERS TO BE REVIEWED BY THE COMMISSION - none

10. MISCELLANEOUS

A. CONSIDERATION OF AUDIT COMMITTEE CHARTER

Discussion/Action Taken: Director Byrd reviewed the matter to the Commission and commented on the proposed revised charter. Director Byrd noted that the revisions include a requirement for the Audit Committee to meet bi-annually.

⁹ The members of Tennessee Distilling Group, LLC, are Rutherford Investments LLC (66.67%) and Tennessee Distilling Company, LLC (33.33%).

¹⁰ Tenn. Code Ann. § 57-2-104: It is lawful for the holder of a license issued pursuant to § 57-2-102, or the authorized agent of such licensee, to possess, store or transport the products of the manufacturing plant within, over and across the state; provided, that any alcoholic beverages or wine produced at a plant located within this state shall be stored by the licensee only within the county authorizing the operation or in a county adjacent to the county authorizing the manufacturing operation, and such possession shall be limited to storage facilities of such manufacturer; and further provided, that such licensee may also possess such alcoholic beverages or wine while being transported, whether within or outside of the state. It is lawful for common carriers to transport the products of such manufacturing plant only pursuant to an agreement or contract with a licensee under this title.



Acting Chairman Jones acknowledged Mark Reineke, Director of Risk Management, for his efforts.

Commissioner Skiles motioned to adopt the charter as presented and Commissioner Jones seconded the motion. The Audit Committee Charter was adopted with two ayes.

Acting Chairman Jones stated that the Audit Committee will meet after the conclusion of the regular meeting on October 24th, 2017.

(see the approved charter attached to end of document)

B. PROPOSED RULE AMENDMENTS RELATIVE TO RETAIL PACKAGE STORES AND MANUFACTURERS

Discussion/Action Taken: Director Byrd reviewed the matter to the Commission and stated that staff had put together a version of rules that removes the controversial portions that were testified on at the previous Commission meeting. Director Byrd noted that version B removes the controversial provisions and that version A, the recommendation of the staff, was also an option for the Commission. Director Byrd also noted that a meeting was held with industry members after the previous month's meeting and that the industry was unable to come to a consensus on the point of sale issue. Director Byrd noted that staff reached out to all other states on the point of sale numbers and noted that the latest total for states allowing point of sale was thirty-five. Director Byrd deferred to the Commission for appropriate action.

Acting Chairman Jones spoke on the matter and commented that he was not greatly comfortable taking up the contested rules at this time with only two Commissioners present. Acting Chairman Jones commented that he felt comfortable to approve the non-controversial rules and commented that the contested items could be considered at a later date.

Commissioner Skiles commented that he tended to agree with the suggestion and commented that the staff has spent a lot of time working on the rules.

After the discussion, Chairman Jones stated that the two Commissioners were comfortable with option B.

Acting Chairman Jones requested that Director Byrd review the differences in version A and version B. Director Byrd noted that version B is the same language as



version A, except version B includes the removal of the changes regarding point-of-sale advertising in version A and also includes several changes to Chapter 0100-06, including, the removal of changes proposed in version A that allows a retailer's name and address to appear on product display, a limitation of routine business entertainment to within TN or outside TN within 100 miles of the retailer, and adds requirement for TABC approval for contests for retail employees. Director Byrd also noted that there were additional changes to both versions, including: language clarifying the \$300 limit under routine business entertainment, language deleting "reasonable meals and local ground transportation" and instead substituting "nominal hospitality" to be consistent with federal regulations. Additionally, Director Byrd noted that both versions contain language allowing a non-manufacturer non-resident seller to have an interest in a wholesale operation.

A motion to accept version B of the rule proposals was made by Commissioner Skiles. Commissioner Jones seconded the motion. Acting Chairman Jones allowed comments from the audience.

Mandy Young of DISCUS and Ginna Winfree of the Tennessee Distiller's Guild expressed disappointment with the motion and that the Commission was moving forward without a full Commission present. Ms. Winfree requested clarity in moving forward, noting the intention to bring the issues back to the table. Tom Hensley also addressed the Commission.

Director Byrd then spoke on the rulemaking process.

Acting Chairman Jones directed staff to include on the October agenda, a discussion on the contested rule revisions that were not included in version B.

The motion to accept version B of the proposed rules passed with two ayes.

C. OTHER

Discussion/Action Taken: Director Byrd announced that a notice of rulemaking hearing document regarding airport hours of sale, and noted that the document can be found on the TABC website. The hearing will be held on 11/13/2017.

11. BUDGET - none

12. NEXT MEETING – Tuesday, October 24, 2017 at 1:30 p.m.

13. UPCOMING MEETINGS

- October 24, 2017 at 1:30 p.m.



- Audit Committee Meeting to be held following regular Commission meeting on October 24th (set at the September meeting)
- November 28, 2017 at 1:30 p.m.
- December (TBD)

*Addendum to follow



TENNESSEE ALCOHOLIC BEVERAGE COMMISSION
ADDENDUM SUMMARY
TUESDAY, SEPTEMBER 26, 2017
1:30 p.m.

1. SUZANNE'S LIQUORS
SOUTH PITTSBURG, TENNESSEE (MARION COUNTY)

Applicant: MPN Corporation
Shareholder(s): Robin A. Patel, 100%

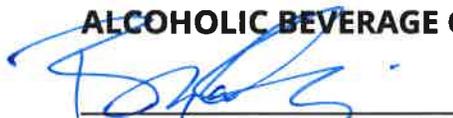
Current: Suzanne Richards d/b/a Suzanne's Liquors (license no. 2034)
Proposed: MPN Corporation d/b/a Suzanne's Liquors

Before the Commission is a request for approval of a complete transfer of ownership of the retail package store located at 115 Sweetens Cove Rd., South Pittsburg, Tennessee 37830. Applicant is purchasing the business from the current owner¹¹ and will lease the premises from landlord, John P. Layne, Jr. The TABC staff recommends conditional approval of this request, subject to receipt of the following item(s):

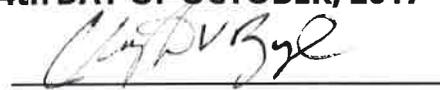
- a. license fee

Discussion/Action Taken: Director Byrd reviewed the matter to the Commission and recommended conditional approval of the request subject to receipt of the license fee. Commissioner Skiles motioned to accept the recommendation of staff and Commissioner Jones seconded the motion; it passed with two ayes.

**APPROVED FOR ENTRY UPON THE MINUTE BOOKS OF THE TENNESSEE
ALCOHOLIC BEVERAGE COMMISSION THIS THE 24th DAY OF OCTOBER, 2017**



COMMISSIONER



CLAYTON BYRD, DIRECTOR

*Attachment to follow

¹¹ In accordance with Tennessee law, sellers are to transfer title and possession of the liquor inventory to the applicant via TABC licensed wholesalers' involvement.

Tennessee Alcoholic Beverage Commission

Audit Committee Charter

Purpose and Mission

The primary purpose of the Audit Committee of the Tennessee Alcoholic Beverage Commission ("TABC") shall be to fulfill its oversight responsibilities with respect to the financial reporting process the system of internal controls and risk management, and audit processes. The Audit Committee's responsibility is one of oversight, recognizing that TABC management is responsible for preparing the financial reports, is subject to the financial and accounting policies of the State of Tennessee, is accountable for implementing and monitoring internal controls and compliance with laws and regulations, and that the Comptroller of the Treasury is statutorily responsible for financial and compliance auditing.

Membership

The Audit Committee shall consist of the three members of the TABC.

Meetings

The Audit Committee shall meet at least bi-annually. Additional meetings may be called by the Chairperson or by the Comptroller of the Treasury as necessary to fulfill the Committee's duties.

Each meeting shall be open to the public and recorded with minutes of each meeting to be maintained. However, under the provisions of TENN. CODE ANN. § 4-35-108(b), the Audit Committee may also hold confidential, non-public executive sessions.

A quorum will be deemed present when at least two members of the committee attend the meeting either in person or by teleconference.

Meeting agendas shall be prepared in advance and made available to the public.

Authority

The Audit Committee has the authority to conduct or authorize audits or investigations into any matter within its scope of responsibility. The committee is authorized to:

- Obtain any applicable information it requires from employees or external parties;
- Access and photocopy any necessary books and records of the TABC; and
- Meet with TABC Commission members, TABC staff, external and internal auditors, legal counsel, or others as necessary to fulfill its responsibilities.

Responsibilities

The Audit Committee will perform the following duties for the TABC and will report to the TABC about Audit Committee activities and issues that arise, accompanied by recommendations, if necessary:

Tennessee Comptroller's Office Audits

- Understand the scope and approach used by the auditors in conducting their examinations.
- Review the results of the Comptroller's examinations and any other matters related to the conduct of the audits.
- Monitor the progress of the TABC to implement changes resulting from such audits.
- Review with staff management and general counsel any legal matters, including pending litigation, which may have a material impact on the TABC.
- Meet, as necessary, with the Comptroller's auditors to discuss any matters that the Audit Committee or auditors deem appropriate.

Other External Audits

- Understand the scope and approach used by the external auditors in conducting their examinations.
- Review the external auditors' results and any other matters related to the conduct of the audits.
- Meet, as necessary, with the external auditors to discuss any matters that the Audit Committee or auditors deem appropriate.

Internal Audits

- Review the internal audit procedures of the TABC.
- Analyze the results of the internal audits performed.
- Provide recommendations for necessary internal audit procedures.

Internal Control and Compliance

- Monitor the effectiveness of the internal control system and compliance with laws and regulations, including computerized information system controls and security.
- Review the management's risk assessment and internal control structure.
- Ensure the receipt, retention and resolution of complaints regarding accounting or internal controls.
- Make recommendations to improve the internal control and compliance systems to ensure the safeguarding of assets and detecting errors or fraud.

Other

- Review procedures and make recommendations for the receipt, retention, and treatment of complaints from management, employees, and citizens regarding fraud, waste, or abuse.
- Maintain confidentiality of those who report violations.
- Review the TABC policies regarding Commission member and/or employee conduct to ensure they are readily available and are easy to understand and implement.
- Ensure the TABC code of conduct is enforced.
- Review the conflict of interest policy of the TABC code of conduct, accompanied by an annual signoff, to determine if the guidelines are comprehensive and clearly defined to make certain potential conflicts are adequately resolved and documented.
- Review and assess the adequacy of the Audit Committee's charter annually and request Commission approval for proposed changes.

Chapter 0100-01, Rules for the Sale of Liquor by the Drink, is amended by deleting the chapter in its entirety and by substituting instead the following language:

RULES OF TENNESSEE ALCOHOL BEVERAGE COMMISSION CHAPTER

0100-01 RULES FOR THE SALE OF LIQUOR BY THE DRINK

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0100-01-.01 Advertising.

(1) Billboards and Outside Signs.

(a) Alcoholic Beverages may be advertised on signs and billboards in those cities and counties that have legalized the sale of such beverages under the provisions of T.C.A. § 57-3-106.

(b) Advertising may bear trademarks, trade slogans, ~~trade slogans~~ or other distinctive designations associated with a particular brand while also bearing the name, or advertise the establishment, or refer to the services of any licensee. However, all advertising costs, direct or indirect, must be borne by the on-premise consumption licensee, except as permitted by Rule 0100-06-.03.

(2) Advertising Outside the Licensed Premises Relating to the Availability of Alcoholic Beverages.

(a) Advertising on Radio or Television Stations. The availability of alcoholic beverages may be advertised on radio or television stations in Tennessee subject to the following restrictions:

1. Restrictions. An advertisement shall not contain:

i. Any statement that is **materially** false or misleading ~~in any material particular.~~

ii. Any statement that is disparaging of a competitor's products.

iii. Any statement, design, device, or representation which is obscene or indecent.

iv. Any statement, design, device, or representation of or relating to analysis, standards, or tests, irrespective of falsity, which is likely to mislead the consumer.

v. Any statement that the product is produced, blended, made, bottled, packed, or sold under, or in accordance with, any authorization, law, or regulation of any municipality, county, or

state, federal or foreign government unless such statement is required or specifically authorized by the laws or regulations of such government; and if a municipal, county, state, or federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto.

- (b) Statements Inconsistent with Labeling. No advertisement shall contain any statement concerning a brand or lot of ~~distilled spirits~~ alcoholic beverages that is inconsistent with any statement on the labeling thereof.
- (c) Curative and Therapeutic Effects. No advertisement shall contain any statement, design, or device representing that the use of ~~distilled spirits~~ alcoholic beverages has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.
- (d) Place of Origin. No advertisement shall represent that the ~~distilled spirits~~ alcoholic beverages were manufactured in, or imported from a place or country other than that of their actual origin, or were produced or processed by one who was not in fact the actual producer or processor.
- (e) Flags, Seals, Coats of Arms, Crests, and Other Insignia. No advertisement shall contain any statement, design, devices, or pictorial representation of or relating to, or capable of being construed as relating to the armed forces of the United States, or of the American flag, any state flag, or of any emblem, seal, insignia, or decoration associated with any such flag or the armed forces of the United States; nor shall any advertisement contain any statement, device, design, or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia, likely to falsely lead the consumer to believe that the product has been endorsed, made, used by, produced for, under the supervision of, in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.
- (f) Brand and Establishment Advertisement Prohibited. No advertisement relating to the availability of any alcoholic beverages in any licensed premises shall carry any advertising associated with a particular brand of alcoholic beverages if the cost of such advertising is paid by the industry member, except as permitted by Rule 0100-06-.03.

Authority: T.C.A. §§ 57-1-209, 57-4-201, ~~57-2-209 to implement §~~ 57-3-106 and Chapter 211, Public Acts of 1967, and 57-818 to implement §57-111 and Chapter 211, Public Acts of 1967.

0100-01-.02 Solicitation Of Business, And Services Restricted

- (1) Manufacturer and Importer, Limited to Wholesale Solicitation.
 - (a) No manufacturer, importer or representative thereof shall solicit orders of alcoholic beverages or wine in any manner from anyone in this state except from those holding wholesale liquor licenses.
 - (b) No manufacturer, importer, or representative thereof shall perform or provide any service whatsoever for a licensee hereunder, or his employee in this state, whether on or away from the licensed premises. No manufacturer, importer, or representative thereof shall enter the premises of any licensee hereunder, except as a bona fide customer.

(c) No manufacturer, importer, or representative thereof shall give anything of value whatsoever, including but not limited to alcoholic beverages and money, to any Tennessee retail licensee or his employee whether on or away from the retail premises. Furthermore, no manufacturer, importer, or representative thereof may take into any licensed premises hereunder any alcoholic beverages in any quantity.

~~(d) Notwithstanding the prohibitions contained herein, all conduct or services permitted by 0100-06 of these regulations are permitted.~~

Authority: T.C.A. §§ ~~57-818~~, 57-1-209, ~~57-3-104~~, 57-3-202, and 57-3-405.

0100-01-.03 Conduct Of Business.

(1) Business Management Restricted.

(a) Every licensed business shall be managed by the holder of the license, if an individual, or by a partner or corporation officer or by a manager designated to the Commission in the event that the business is operated by a partnership or corporation (or by a manager in any case who has been designated to the Commission). The Alcoholic Beverage Commission is to be notified in writing, by certified mail, of any change in management within seven (7) days of the actual change.

(b) Each on-premise manager, assistant manager, and/or any individual working in such capacity, whether paid by salary or hourly and/or in training, and having duties which directly or indirectly impacts on the selling and dispensing of alcoholic beverages, must complete and submit to the Tennessee Alcoholic Beverage Commission a questionnaire within seven (7) days of assuming their managerial duties.

(c) Each on-premise manager, assistant manager, and/or any individual working in such capacity and having duties which directly or indirectly impacts on the selling and dispensing of alcoholic beverages must have a valid server permit subject to the provisions of T.C.A. § 57-3-707.

(2) Consumption on Licensed Premises. No licensee shall permit alcoholic or malt beverages to be consumed on the licensed premises between the hours of 3:00 a.m. and 8:00 a.m. on Monday through Saturday or between the hours of 3:00 a.m. and 10:00 a.m. on Sunday unless the local jurisdiction has opted out of the expanded hours. If such is the case, then the consumption and/or sale of alcoholic beverages may begin at 12:00 p.m. on Sunday.

(3) Free Access to Licensed Premises Without Warrant. Immediate access, without a warrant, to all parts of a licensed premise shall at all times be accorded agents of the Tennessee Alcoholic Beverage Commission.

(4) Refusal of Cooperation. Any licensee, his agent, or employee who refuses to open or disclose his records to, 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.

(5) Licensees Not to Combine. No combination of licensees shall be permitted to purchase merchandise in the name of the licensee and subsequently distribute merchandise which they have purchased in combination with each other to any one of the combination, and

no licensee shall be permitted to transfer goods from one to another. If any member of the combination is apprehended violating this regulation, every member shall likewise be guilty of a violation, and it shall also be a violation for the wholesale distributor to furnish merchandise to any combination of licensed dealers.

- (6) Licensee Responsible For Law and Order on Licensed Premises. Each licensee shall maintain his establishment in a decent, orderly, and respectable manner in full compliance with all laws of Tennessee, Commission rules and regulations, federal statutes, and ordinances and laws of the municipality and/or county where licensed premises are located at all times. The renting or leasing of the licensed premises for an event to a non-licensed entity, person, or corporation is specifically deemed not to be a defense for a violation of this rule and does not diminish the licensee's responsibility to comply with this rule.
- (7) Sanitary and Fire Standards. All licensed premises shall be kept in clean and proper sanitary condition, and in full compliance with the provisions and regulations of all duly authorized health authorities whether state, county, or city.
- (8) On-Premise Sale By Bottle Restricted. On-premise licensees shall not sell or give away distilled spirits by the bottle or package, open or unopened. Licensees shall have the right to sell wines, champagnes, or malt beverages by the bottle or container for consumption on the premises only, and said bottle or container must be opened prior to its being served to the consumer, except as specifically provided in T.C.A. § 57-4-203.
- (9) On-Premise Employees' Activities Restricted ("B-Girl" Activity). It shall be unlawful for any person who is an employee of an on-premise licensee or any other person on behalf of the on-premise licensee to solicit alcoholic beverages ~~or distilled spirits~~ for public consumption by the employee or any other person, and it shall be further unlawful to dispense or consume any beverage under the pretense that it is an alcoholic beverage ~~or distilled spirits~~ for public consumption but is not. However, nothing in this section shall preclude an industry member and/or its employees or representatives from promoting products as permitted under [Rule 0100- 03-.11](#).
- (10) Restriction As To Age Of Dispensing Employees. No person under the age of [eighteen \(18\)](#) years shall be permitted to dispense, serve, or sell alcoholic or malt beverages in any establishment licensed under the provisions of T.C.A. § 57-4-101, *et seq.*
- (11) Dual Interests Prohibited. [Except as provided in Rule 0100-03-.16:](#)
 - (a) No licensee holding a license issued pursuant to T.C.A. § 57-4-101, *et seq.* and no person owning an interest, financial or otherwise, in a partnership or corporation holding such a license, shall have any interest, directly or indirectly, in any business licensed under the provisions of T.C.A. §§ 57-3-202, [or 57-3-203](#), ~~or 57-3-204~~.
 - (b) No person having any interest, financial or otherwise, directly or indirectly, in any business licensed under the provisions of T.C.A. §§ 57-3-202, [or 57-3-203](#) ~~or 57-3-204~~, shall have any interest in any business licensed under T.C.A. § 57-4-101, *et seq.*
- (12) Restrictions on License After [Surrender or](#) Revocation.
 - (a) No license will be issued to the spouse, child or children, son-in-law or daughter-in-law, employee, or other person having any interest in the business of a licensee whose license has been revoked, for the privilege of doing business at

the same location or in close proximity to the location of the establishment whose license was revoked.

(b) The Commission may refuse to reissue a license to the same person, firm, or corporation whose license has been revoked for one (1) year from the date of said revocation.

(c) The Commission may treat a surrender of a license as a revocation under the restrictions contained in this paragraph.

(13) Licensee Must Surrender License If Business Discontinued. Whenever any licensee discontinues business for any reason, he shall immediately notify the Commission in writing and surrender his license.

(14) Prohibited Practices. No licensee, employee, or agent of a licensee shall give away any sealed package, or any drink, of wine or alcoholic beverages except as permitted by T.C.A. § 57-3-404 and Rules 0100-03-11 and 0100-06-03. "Give" for the purpose of this paragraph, shall include:

(a) Offering or delivering any free alcoholic beverage or wine to any person or group of persons;

(b) Offering or delivering unlimited drinks of wine or alcoholic beverages for a fixed price if the actual cost of all ingredients, including the alcohol and all applicable taxes, of the drinks actually served to a customer exceeds the fixed price charged; or

(c) Awarding any wine or alcoholic beverages as a prize or free drink or encouraging or conducting any game or contest which involves drinking or uses wine or alcohol as a prize or free drink.

(15) Happy Hour Restrictions. No licensee, employee, or agent of a licensee shall engage in any of the following promotional practices during the period beginning at 10:00 p.m., prevailing time, until the time set by law for closing of such licensed establishments:

(a) Serve two (2) or more drinks or containers of alcoholic beverages to a consumer at one time.

(b) Increase the volume of alcohol contained in any such drink during any calendar week without increasing proportionately the price regularly charged for such drink.

(16) Business Name Change. At least seven (7) calendar days prior to any change in its business name or "d/b/a" name, a licensee must submit the proposed change in writing to the Commission for approval. Upon approval, the Commission will amend the license to reflect the licensee's new business or "d/b/a" name.

(17) Display of License. Any person, partnership, corporation, or other legal entity holding an on-premise consumption liquor-by-the-drink license issued under Chapter 4 of Title 57 of Tennessee Code Annotated, shall prominently display and post, and keep displayed and posted, in the most conspicuous place in the licensed premises, the license so issued.

(18) Server Permits. On-premise consumption licensees should maintain and have available for review on the premises documentation of the date of hire for anyone working in a capacity to serve alcoholic beverages. Acceptable documentation shall include a dated application for employment or a dated W-4 form. If the licensee does not have acceptable

documentation of the date of hire for the employee, then it will be deemed that the employee has worked at the licensed premises greater than sixty-one (61) days.

- (19) Seating. All on-premise consumption licensees licensed as a restaurant shall maintain a minimum seating for forty (40) people at tables and all on-premise consumption licensees licensed as a hotel shall maintain a minimum seating for seventy-five (75) people at tables during business hours with the exception of wine-only restaurants as defined at T.C.A. § 57-4-101(c) ~~gourmet restaurants as defined at T.C.A. § 57-4-102(27)(e)~~, or any other statutory exception. Seasonal seating (i.e. outside patio seating) shall count toward total numbers, but not toward the minimum seating requirements at tables. Seats at bars will be counted toward the minimum number of seats at tables if the bar is at least twenty (20) inches in depth and meals may be served and are regularly served at the bar. Those bars containing less than twenty (20) inches in depth will be looked at on a case by case basis with such factors as the type of menu served, placement of the bar, and whether food is regularly served at that bar.
- (20) Minors in Possession of Alcohol. All on-premise consumption licensees are required to insure that minors are not in possession of and/or are not allowed to consume any alcoholic beverage – including malt beverages or beer – on the licensed premises.
- (21) Employer Responsible for Employee's Action.
- (a) Licensees are at all times responsible for the conduct of their businesses and are at all times directly responsible for any act or conduct of any employee which is in violation of the state statutes, the rules and regulations of the Commission, and/or any local ordinance or federal statute whether the licensee be present at any such time or not. This section is defined to mean that any unlawful, unauthorized, or prohibited act on the part of a licensee's agent or employee shall be construed as the act of the employer, and disciplinary actions will proceed as though he were present and had an active part in such unlawful, unauthorized, or prohibited act, and as if having been at the employer's direction and with his knowledge.
- (b) In any disciplinary proceeding, it shall be no defense that an employee or agent of a licensee acted contrary to order, or that a licensee did not personally participate in the violating action or actions. However, disciplinary actions related to sales of alcoholic beverages to minors, intra-industry violations, and trade violations are subject to the provisions of Rule 0100-05-.07, the Responsible Licensee Program.
- (22) Application Process for On-premise Consumption Licenses.
- (a) Applications, in duplicate, shall be submitted to the nearest office of the ABC. In addition, the following documents must be submitted in support of an application for license to sell alcoholic beverages for consumption on premises:
1. Completed application;
 2. Questionnaire for anyone having at least five percent (5%) ownership in the business, for any officers of a corporate applicant, and for any manager, assistant manager, and/or any individual working in such capacity and having duties which directly or indirectly impacts on the selling and dispensing of alcoholic beverages;
 3. Lease agreements, assignments, subleases, and/or deed to property;

4. Current Certificate of Occupancy;
5. Inspection by the Tennessee Alcoholic Beverage Commission;
6. Acknowledgment of the rules and regulations;
7. Menu;
8. Price Schedule of Drinks;
9. Proof that applicant entity, if a corporation, LLC, LP, etc., is registered with the Tennessee Secretary of State's office, and the submission by said applicant entity of a Certificate of Existence/Good Standing issued by the Tennessee Secretary of State's Office within thirty (30) days of applicant's application for a new license or renewal of an existing license. If the applicant entity was formed in another state or foreign jurisdiction, the applicant must submit a Certificate of Authorization issued by the Tennessee Secretary of State's Office within thirty (30) days of the applicant's application for a new license or renewal of an existing license.
10. Corporate charter/Articles of Organization;
11. List of Officers/Owners/Members/Partners;
12. Sales & Use Tax Certificate of Registration;
13. Bond Posted with the Department of Revenue;
14. Application fee;
15. Completed declaration of citizenship form to be submitted by owner(s), officer(s), and/or principal(s) of the applicant or others as required by [P.C. 1061 \(2012\) T.C.A. § 4-58-101, et seq.](#)
16. Any other information that the Tennessee Alcoholic Beverage Commission may request.

(b) In addition, any of the following documents which exist must also be submitted:

1. Management agreements;
2. Bill of sale.

Authority: [T.C.A. §§ 4-58-103, 57-1-207, 57-3-104\(e\), 57-3-406\(b\), 57-3-704, 57-3-710, 57-4-102\(29\), 57-4-104\(e\), 57-4-201\(a\)\(2\), and 57-4-203, 57-7-223 and Chapter 371, Public Acts of 2017. and 2008 Public Chapter 649.](#)

0100-01-.04 Transfer Of Locations.

(1) The transfer of an on-premise consumption liquor license from one location to another shall be subject to the following provisions:

(a) The licensee must submit to the Commission prior to the actual move the following documents for approval:

1. Completed application;

2. Lease agreements, assignments, subleases, and/or deed to property;
 3. Use and Occupancy permit;
 4. Inspection by the Tennessee Alcoholic Beverage Commission;
 5. Letter of explanation for the request; and
 6. Any other information that the Tennessee Alcoholic Beverage Commission may request.
- (b) Selling, consuming, and/or otherwise dispensing alcoholic beverages at the new location prior to the approval by the Commission is in violation of T.C.A. § 57-4-203(i).

Authority: T.C.A. §§ 57-3-205, ~~57-4-207~~, 57-1-201, 57-1-209, ~~57-3-104, 57-3-212~~ and 57-4-201~~(a)(2)~~.

0100-01-.05 Applications By Private Clubs.

- (1) Public Notice. ~~Each club, as defined by Pursuant to~~ T.C.A. § 57-4-102~~(7)~~, ~~each club~~ applying for a license to sell alcoholic beverages for consumption on its premises shall place a notice in a newspaper of general circulation in the county or municipality to be served indicating the club's intention to apply for a license from the Alcoholic Beverage Commission. The notice shall contain the information prescribed in subsection (2) below and shall appear in at least three (3) consecutive issues preceding the date that the application is filed with the Commission. The application shall be accompanied by a copy of the published notice and the sworn statement of the applicant that the notice was published in accordance with this section.
- (2) Format of Notice. Each private club applicant shall place the following notice in the newspaper as described above:
PRIVATE CLUB LIQUOR LICENSE NOTICE
 Take notice that _____
 (Name of Club)
 intends to seek a license from the Tennessee Alcoholic Beverage Commission, ~~226 Capitol Boulevard Building 500 James Robertson Parkway; 3rd Floor~~; Nashville, Tennessee 37243-~~0755~~, to sell alcoholic beverages to its members and guests for consumption on the club's premises at _____. The officers of
 (Address of club's premises) _____ are: _____
 (Name of Club) _____
 (Name and address of officers) _____
 The club currently has approximately _____ regular dues paying members.

 (Name/Address of Person Actually in Charge of Sale of Alcoholic Beverages)
 will be in actual charge of the sale of alcoholic beverages at the club's premises and has applied to _____
 (City or County)
 for a certificate of good moral character.
- (3) Size of Notice. The title of the notice shall be all capital letters and at least ten (10) point type size. The text of the notice shall be at least eight (8) point type size and the size of

the entire notice shall not be less than two (2) columns by two (2) inches of newspaper space.

(4) Change of Manager. Whenever there is a change in person or persons who are in actual charge of the sale of alcoholic beverages by a private club licensee, the licensee must submit to the Alcoholic Beverage Commission a certificate of good moral character for the new person or persons who will be in actual charge of the sale of alcoholic beverages within thirty (30) days of the change. Nothing in this rule should be interpreted to relieve a private club licensee from the obligation to inform the Commission of a change in management as set out in Rule 0100-01-.03(1).

(5) Application Process for New Private Club Licenses.

(a) Applications, in duplicate, shall be submitted to the nearest office of the ABC. In addition, the following documents must be submitted in support of an application by a private club for a license to sell alcoholic beverages for consumption on premises:

1. Application (in duplicate) (Form ABC-OPP);
2. Questionnaires - officers of club and managers in control of actual sale of alcoholic beverages;
3. List of club officers (names, addresses, date assumed office);
4. Charter, constitution, and any amendments thereto, if club is incorporated;
5. Lease, sublease, deed or other instrument indicating ownership and/or possession of physical premises;
6. Certificate of good moral character for person(s) in actual charge of sale of alcoholic beverages;
7. Newspaper notice accompanied by sworn statement as required by subsections (2) through (3) above;
8. Menu;
9. Department of Revenue Drink Price Schedule;
10. Employees work permit applications;
11. Answers to questions on ABC form - Questions For Private Club Applicants.

(b) In addition, any of the following documents which exist must be submitted:

1. Bylaws;
2. Minutes of membership or board meetings;
3. Management contract;
4. Loan or financing agreements;

5. Past tax returns (2 years);
 6. Resolutions relative to changes in name, purpose, or location of club;
 7. Financial statements;
 8. Written approval of use and occupancy by appropriate local authorities, where applicable.
- (c) Applicants should submit any other documents which indicate the club's compliance with licensing requirements. Such documentation may include items such as announcements of past activities, newsletters sent to members, ledgers reflecting payment of dues in past years and disbursement of funds, IRS recognition as tax-exempt nonprofit organization, sworn statements regarding the club's history and activities, etc. The applicant for a license has the burden of proving that it meets the requirement of the law and is, therefore, eligible to hold a license to sell alcoholic beverages. The fact that the applicant submits all the documents listed above does not automatically entitle the applicant to a license. Further, the applicant may be required to submit additional information or documentation if questions arise.
- (d) A license for a private club to sell alcoholic beverages on its premises may only be granted by action of the Alcoholic Beverage Commission itself.
- (6) License Renewal and Transfer of Location by Private Clubs.
- (a) License Renewal. Each license issued is valid for one (1) year from the date of issuance and expires at midnight on the expiration date. Both the issuance date and the expiration date shall be clearly printed on the face of the license. Failure to timely and properly file the material required by this rule shall result in the expiration of the license.
1. On or before the expiration date of the license, the licensee shall submit an application for license renewal and the appropriate license fee to the nearest office of the Alcoholic Beverage Commission.
 2. Applications for license renewal need not submit that material required by rule 0100-01-.05(5) of new applicants.
 3. All financial records shall be maintained and available for inspection for a minimum of three (3) years.
- (b) Transfer of Location. Licenses issued to private clubs may be transferred from one location to another only upon the following conditions:
1. Written request for approval of such a transfer with adequate explanation for the need of such a transfer.
 2. Submittal of a satisfactory lease or deed to the proposed new location.
 3. Written approval of the use and occupancy of the proposed new space by the appropriate local officials.
 4. Inspection by the Tennessee Alcoholic Beverage Commission.

5. Submittal of a petition or resolution in favor of such a transfer which reflects that it was adopted by a quorum of the club's members at a membership meeting held pursuant to the club's charter and by-laws.
 6. When the proposed transfer is into a new jurisdiction, the club shall publish a new notice in compliance with paragraphs (1) through (3) of this rule and supply copies of that notice along with required sworn statement to the ABC as well as a certificate of good moral character upon the person pursuant to T.C.A. § 57-4-201(c)(2).
 7. No such transfer shall be approved unless the Commission, in its sole discretion, determines that the licensee continues to meet the requirements of these rules and Chapter 4 of Title 57, T.C.A.
- (7) Definitions. For the purpose of this chapter, the following definitions shall be used:
- (a) "Non-profit association" shall mean a legal entity which is not-for-profit and has at least the following characteristics:
 1. Financial statements covering the immediately preceding years of the club's operations. Financial statements shall clearly indicate the amount and source of all club receipts and the amount and purpose of all club disbursements in specific categories consistent with standard accounting practices. In addition, the financial statements must show a balance sheet of the club's assets and liabilities at the end of the immediately preceding year. Copies of IRS Form W-2 for each employee shall be maintained and made available upon request.
 2. Bylaws or rules of the association which provide membership application procedures. Those bylaws or rules shall provide for (a) at least one (1) week waiting period between application for membership and election to membership and (b) a committee composed of three (3) or more members of the club vested with the authority by charter, bylaws or regulations, to approve, reject, or make recommendations on membership applications.
 3. An association shall have a written guest policy which reasonably limits access to club facilities by guests.
 - (b) "In existence and operating" shall mean for at least two (2) years prior to the application for a club license, the association shall have had at least an annual meeting of the membership with a quorum present, shall have taken actions toward the performance of their non-profit purposes, and shall have elected a governing body which meets periodically.
 - (c) "Regularly paying dues" shall mean that the members have paid dues on a regular schedule at least annually.
 - (d) "Salary" shall mean a fixed periodical compensation paid for services rendered. No salary may be paid which is based on the amount of liquor or malt beverages sold or on the profits made from such sales.
 - (e) "Suitable kitchen" shall mean that the kitchen is adequate to prepare regular meals. Said kitchen shall have sufficient cookware, tableware, and food preparation and storage equipment to actually store, prepare, and serve meals.

These facilities shall be inspected and approved by appropriate local zoning and codes inspectors.

(8) Additional Rules for Private Clubs.

- (a) Each club shall maintain a complete membership roster. The membership roster shall contain the names of all members, their addresses, and the date on which their dues are to be paid. Private club licensees shall maintain their membership records at the club premises and make them available to representatives of the Alcoholic Beverage Commission during hours when the club is open to its members. Since minimum membership is one hundred (100), failure to have ten (10) members at any annual meeting shall be prima-facie evidence of the non-existence of the association.
- (b) All salaries, rents, or management fees paid by a private club to any person or legal entity must be reasonable and proper compensation under the circumstances.
- (c) No private club shall dispense alcoholic beverage on the premises of the club to any person other than a bona fide member of the club or a bona fide guest of a member of the club. Alcoholic beverages should not be served in an area to which the general public is admitted. If the club's bar area is in a separate room from that to which the general public is admitted and admission to the bar is limited to members of the club and their guests, the bar may remain open. If, however, the bar is in the room to which the general public is admitted, no alcoholic beverages are to be served in that room during the time the general public is present.
- (d) The Alcoholic Beverage Commission shall determine whether a club exists exclusively for non-profit purposes. No such license shall be issued where the ABC determines that the purpose is to make a profit.
- (e) Violation of any of the rules set out herein may, in the judgment of the ABC, result in the suspension or revocation of the club's license or the imposition of a fine under the rules of the Commission. These rules are in addition to the other rules of the ABC and shall apply to club licensees only.
- (f) Whenever membership in the club drops below one hundred (100), the club ceases to have facilities in which to serve its members or guests, or the club discontinues its operations, it shall surrender its license immediately.
- (g) No private club licensed by the Commission shall utilize any name other than the name approved by the Commission and appearing on the club's license. Use of a d/b/a name is prohibited.

Authority: T.C.A. §§ 57-1-209, [57-3-104](#), 57-4-102 and 57-4-201; 1980 Tennessee Public Acts, Chapter 895.

0100-01-.06 Additional Rules Applicable To Caterers.

- (1) Commission licensed caterers shall have available for inspection at catered events involving the sale or dispersion of alcoholic beverages by that caterer, its catering license or a copy as issued by the Commission.

- (2) Only employees of a licensed caterer who are in possession of a valid server's permit may serve alcoholic beverages at any event, whether at the caterer's designated premises or a remote venue.
- (3) Commission licensed caterers may only sell alcoholic beverages on a by-the-drink basis, collecting appropriate taxes, and only in cities, municipalities, and/or counties where such sales are authorized.
- (4) No Commission licensed caterer may provide only alcohol without food items present and available for consumption at any catered event.
- (5) Commission licensed caterers must provide and the Commission must receive at its Nashville office, a written and/or electronic notice of any catered event involving the sale or distribution of alcohol. Such notice must be provided by the caterer and received by the Commission at least two (2) full business days prior to the event during state working hours, prevailing time. Such notice shall include the date of the event, the address of the event, the host of the event, and the time of the event.
- (6) If a Commission licensed caterer is providing and selling the alcohol at a catered event, then all proceeds generated from the sale of alcoholic beverages at the catered event shall be deposited into the caterer's monetary account(s). No third party shall receive any proceeds from the sale of alcoholic beverages at a catered event.
- (7) Alcohol may be transported by the caterer to the premises of the catered event no earlier than 8:00 am. At the conclusion of the catered event, all alcohol must be removed from the premises no later than 12:00 p.m. of the following day. No one other than the licensed caterer or its employees may serve, sell, or otherwise dispense, and/or have access to any alcohol on the premises of the catered event.
- (8) During the duration of the catered event, the licensed caterer is responsible and liable for full compliance with all laws of Tennessee, Commission rules and regulations, federal statutes, and ordinances and laws of the municipality and/or county where licensed premises are located at all times.

Authority: T.C.A. §§ 57-1-209, [57-3-104](#), 57-4-102 and 57-4-201.

0100-01-.07 Applications For Special Occasion Permits.

- (1) Special Occasion Permits are a one-day (1) permit allowing the sale, service, and/or otherwise dispensing of alcoholic beverages at specifically designated areas by certain qualified entities and are subject to the laws governing the consumption of alcoholic beverages. Special Occasion Permits are required if an entity does not otherwise hold an on-premise consumption liquor license, and/or if the entity is selling, serving, or otherwise dispensing alcoholic beverages to the general public. A special occasion permit is also required if the entity is selling alcoholic beverages to invited guests only.
- (2) To obtain a special occasion permit, the following documents must be submitted to the Commission at least two (2) calendar weeks prior to the date of the event:
 - (a) A completed and notarized application;
 - (b) Certification of recognition of 501(c) status from the IRS, and/or financial records for two (2) years preceding the date of the application indicating that at least sixty percent (60%) of the gross revenues have been used exclusively for religious, educational, or charitable purposes;

- (c) If the applicant is a bona fide political organization, then the applicant will submit documentation that it is either a political campaign committee as defined at T.C.A. § 2-10-102(a) or that it is a political party as defined at T.C.A. § 2-13-101;
 - (d) Proof that the applicant is registered with the Secretary of State's Office as a charitable, non-profit organization;
 - (e) Application fee;
 - (f) Letter of permission from the owner of the property where the event will be held granting permission to the applicant to sell or serve alcoholic beverages on its premises; and
 - (g) Any other documentation that the Commission may request.
- (3) All proceeds generated from the sale of alcoholic beverages pursuant to the special occasion permit must be deposited into the special occasion permittee's monetary account(s).
- (4) Special occasion permittees shall be responsible for complying with state statutes, rules and regulations related to the sale of alcoholic beverages to minors, the sale of alcoholic beverages to visibly intoxicated persons, and/or the sale of alcoholic beverages by the bottle.

Authority: T.C.A. §§ 57-1-209, [57-3-104](#), 57-4-102 and 57-4-201.

Chapter 0100-03 Local Option Liquor Rules is amended by deleting the chapter in its entirety and by substituting instead the following language:

RULES OF TENNESSEE ALCOHOL BEVERAGE COMMISSION CHAPTER

CHAPTER 0100-03 LOCAL OPTION LIQUOR RULES

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- 0100-03-.01 Advertising of ~~Distilled Spirits in Newspapers, Magazines, or Similar Publications~~ Alcoholic Beverages Generally.

- (1) Statements Prohibited in Advertisements of ~~Distilled Spirits in Newspapers, Magazines, or Other Publications~~ Alcoholic Beverages.
 - (a) Restrictions. An advertisement shall not contain:
 - 1. Any statement that is materially false or misleading in any material particular.
 - 2. Any statement that is disparaging of a competitor's products.
 - 3. Any statement, design, device, or representation which is obscene or indecent.
 - 4. Any statement, design, device, or representation of or relating to analysis, standards, or tests, irrespective of falsity, which is likely to mislead the consumer.
 - 5. Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which is likely to mislead the consumer.

6. Any statement that the product is produced, blended, made, bottled, packed, or sold under, or in accordance with, any authorization, law, or regulation of any municipality, county, or state, federal or foreign government unless such statement is required or specifically authorized by the laws or regulations of such government; and if a municipal, county, state, or federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto.
- (b) Statements Inconsistent with Labeling. No advertisement shall contain any statement concerning a brand or lot of ~~distilled spirits~~ alcoholic beverages that is inconsistent with any statement on the labeling thereof.
- (c) Curative and Therapeutic Effects. No advertisement shall contain any statement, design, or device representing that the use of ~~distilled spirits~~ alcoholic beverages has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.
- (d) Place of Origin. No advertisement shall represent that the ~~distilled spirits~~ alcoholic beverages were manufactured in, or imported from a place or country other than that of their actual origin, or were produced or processed by one who was not in fact the actual producer or processor.
- (e) Flags, Seals, Coats of Arms, Crests, and Other Insignia. No advertisement shall contain:
1. ~~any~~ Any statement, design, devices, or pictorial representation of or relating to, or capable of being construed as relating to the armed forces of the United States, or of the American flag, any state flag, or of any emblem, seal, insignia, or decoration associated with any such flag or the armed forces of the United States if including such statement, design, devices, or pictorial representation is likely to falsely lead the consumer to believe that the product has been endorsed, made, used by, produced for, under the supervision of, or in accordance with the specifications of the government or armed forces; nor shall any advertisement contain or
 2. ~~any~~ Any statement, device, design, or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia, if including such flag, emblem, seal, coat of arms, crest, insignia, or decoration is likely to falsely lead the consumer to believe that the product has been endorsed, made, used by, produced for, under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.
- (2) Prior Approval. Advertisements conforming to the foregoing provisions need not have prior approval of the Commission before publication.
- (3) Advertising by Licensees and Permittees.
- (a) Advertising by ~~a person or other legal entity licensed as a wholesaler or retailer~~ any licensee or permittee shall be allowed on the internet, or any other computer-accessed communication; however, such advertisement shall be subject to ~~TABC Rules 0100-03-.01 and 0100-03-.02~~ Rule 0100-03-.01 and Rule 0100-03-.03.
 - (b) ~~Wholesalers and retailers~~ Any licensee or permittee under Title 57 of Tennessee Code Annotated may develop e-mail or other computer-access communication mailing lists, and may respond by electronic mail or other computerized communication (including, but

~~not limited to, mobile devices and electronic communications via social media) to any party making inquiry by providing information regarding an alcoholic beverages or any other products or services which may be sold or provided in accordance with laws, rules, and regulations of the State of Tennessee. No retailer shall authorize or send any unsolicited electronic mail to a consumer.~~

~~(c) Manufacturers, importers, non-resident sellers, non-manufacturer non-resident sellers, wholesalers, or any representative thereof, may place posts or messages on social media to identify to consumers the retail locations where the industry member's product may be purchased at retail in the manner specified in Rule 0100-06-.03(4).~~

~~(e)(d) Licensees and permittees engaged in internet advertising may shall not directly or indirectly falsely identify itself themselves in any advertising or in domain addresses. Further, such licensee must submit to the Commission the exact "web site" or domain address it intends to use prior to beginning the advertising.~~

Authority: T.C.A. §§ 57-818, ~~and~~ 57-1-203, 57-3-104, and 57-4-201.

0100-03-.02 ~~Reserved~~ Advertising of Wine in Newspapers, Magazines or Similar Publications.

~~(1) Prohibited Statements.~~

~~(a) Restrictions. An advertisement shall not contain:~~

~~1. Any statement that is false or misleading in any material particular.~~

~~2. Any statement that is disparaging of a competitor's products.~~

~~3. Any statement, design, device, or representation which is obscene or indecent.~~

~~4. Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which is likely to mislead the consumer.~~

~~5. Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which is likely to mislead the consumer.~~

~~6. Any statement that the product is produced blended, made, bottled, packed, or sold under, or in accordance with, any authorization, law or regulations of any municipality, county, or State, Federal, or foreign government unless such statement is required or specifically authorized by the laws or regulations of such government; and if a municipal, county, State, or Federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto.~~

~~(b) Statements Inconsistent with Labeling. No advertisement shall contain any statement concerning brand or lot of wine that is inconsistent with any statement on the labeling thereof.~~

~~(c) Curative and Therapeutic Effects. No advertisement shall contain any statement, design or device representing that the use of any wine has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.~~

~~(d) Place or Origin. No advertisement shall represent that the wine was manufactured in, or imported from, a place or country other than that of the actual origin, or was produced or processed by one who was not in fact and actual producer or processor.~~

~~(e) Flags, Seals, Coats of Arms, Crests, and other Insignia. No advertisement shall contain any statement, design, device, or pictorial representation of or relating to, or capable of being construed as relating to, the armed forces of the United States, or of the American flag, any State flag, or of any emblem, seal, insignia, or decoration associated with any such flag or the armed forces of the United States; nor shall any advertisement contain any statement, device design, or pictorial representation of or concerning any flag, seal, coat of arms, crests, or other insignia, likely to falsely lead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, code of arms, crest or insignia is associated.~~

~~(2) Prior Approval. Advertisements conforming to the foregoing provisions need not have prior approval by the Commission before publication.~~

~~Authority: T.C.A. § 57-1-209.~~

0100-03-.03 Advertising of ~~Distilled Spirits~~ Alcoholic Beverages and Wine by Direct ~~Mail~~ Communications.

(1) Brands ~~Only~~. Manufacturers, importers, ~~non-resident sellers, non-manufacturer non-resident sellers,~~ and Tennessee licensed wholesalers of ~~distilled spirits alcoholic beverages and wines, or any representative thereof~~ whose brands have been approved for distribution in Tennessee ~~and Tennessee licensed wholesalers~~ may advertise brands ~~only directly to consumers~~ by ~~direct~~ mail and/or e-mail, ~~internet, or any other computer-accessed communication (including, but not limited to, mobile devices and communications via social media); provided, however, measures are taken to prevent such communications from targeting individuals under the age of twenty-one (21).~~

(2) Restrictions. Direct ~~mail communications~~ advertising must conform substantially, where applicable, with the provisions of ~~Rule 0100-03-.01 or 0100-03-.02~~ and in addition must not contain the name, address, or telephone number of any Tennessee-licensed wholesaler, ~~retail food store,~~ or retailer, ~~other than the individual wholesaler, retail food store, or retailer that is directly responsible for sending the direct communication,~~ and this extends to the return address on the envelope. ~~The prohibition of 0100-03-.07(1) is also applicable.~~

(3) Retailer Advertising. Subject to the restrictions of ~~subsection paragraphs (2) and (4) of this rule,~~ a retailer licensed under T.C.A. § 57-3-204 may advertise ~~consumer education seminars, distilled spirits, wines and alcoholic beverages by direct mail to consumers in the form of a newsletter, catalogue or similar communications~~ any and all services and products the retailer is authorized to sell or provide under Title 57 of Tennessee Code Annotated or any rules and regulations adopted by the Commission in accordance therewith.

(4) Restrictions on Direct ~~Mail~~ Communications.

(a) ~~A retailer, package store or retail food store may send a communication directly mail or email a newsletter, catalogue, or similar communication only to a consumer who has requested to receive such communication in writing or via email, unless a consumer has made a request to the licensee to not receive such communication in writing or via e-mail.~~

~~(b) The written request or email of a consumer must be maintained in hard copy, scanned, or electronic format by the retailer to whom it is addressed and is valid until such written notification is received by the retailer from the consumer requesting withdrawal of his/her name from the direct mail listing.~~

~~(c) Each written request by a consumer must state the retailer to whom it is addressed and must include the date upon which it is signed by the consumer.~~

- ~~(d)(b)~~ No ~~industry member~~ manufacturers, importers, non-resident sellers, ~~non-manufacturer non-resident sellers, and Tennessee licensed wholesalers of alcoholic beverages~~ may subsidize, contribute, or otherwise compensate a retailer, ~~wholesaler, or retail food store~~ for ~~such any~~ direct ~~mailing communication~~ advertising ~~or otherwise assist, directly or indirectly, with the cost or preparation of any direct communication advertisement.~~
- ~~(e)(c)~~ A retailer shall not be deemed to be in violation of this section unless it can be established that a consumer has made ~~at least one requests a request~~ to be removed from the mailing, ~~or e-mail list, or other direct communication~~ and such consumer continued to receive ~~mailings or e-mail such~~ communications after ~~thirty fourteen (14)~~ days following ~~the second~~ such ~~a~~ request.
- ~~(d)~~ For any direct communications, measures must be taken to prevent such communications from targeting individuals under the age of twenty-one (21). Any direct communications must afford the consumer the ability to opt out of the communications.
- ~~(e)~~ Each violation of this rule may result in suspension or revocation of a license or a fine not to exceed the statutory maximum.

Authority: T.C.A. §§ 57-1-209, ~~and 57-3-104(e)(4), and 57-4-201.~~

0100-03-.04 ~~Reserved Advertising of Distilled Spirits and Wine on Radio or Television by Manufacturers, Importers and wholesalers.~~

- ~~(1)~~ ~~Radio or Television Advertising. Manufacturers and importers of distilled spirits and wine and Tennessee licensed wholesalers and retailers may advertise via the radio or television.~~
- ~~(2)~~ ~~Restrictions. Such advertisements must comply with the provisions of 0100-03-.01(1) and 0100-03-.02(1).~~
- ~~(3)~~ ~~Wine Permitted But Restricted.~~
 - ~~(a)~~ ~~Such advertisements must comply with the provisions of 0100-03-.02(1).~~
 - ~~(b)~~ ~~Such advertisements must not give the name, address or telephone number of a Tennessee licensed wholesaler or retailer.~~

Authority: T.C.A. §§ 57-1-209, 57-3-104(e)(4) and 57-3-104(e)(9).

0100-03-.05 Advertising ~~Distilled Spirits and Wine~~ Alcoholic Beverages on Billboards and Outside Signs.

- (1) Limited to Local Option Counties. Alcoholic beverages may be advertised on signs and billboards only in those counties which have legalized the off-premise or on-premise retail sale of such beverages under the provisions of T.C.A. § 57-3-106.
- (2) Restrictions on Billboard and Outside Sign Advertising.
 - (a) No such sign or billboard shall contain the statements prohibited by Rule 0100-03-.01(1) ~~and 0100-03-02(1).~~
 - (b) No such sign or billboard which bears a trademark, trade name, trade slogan, or a facsimile of a product, container, or display associated with a particular brand shall also bear the name or advertise the establishment or refer to the services of any wholesale or retail licensee of this state.

- (c) No manufacturer, importer, non-resident seller, non-manufacturer non-resident seller, wholesaler, or representative thereof, may directly or indirectly give, loan, or supply any retail licensee a sign of any nature bearing the name of the retail establishment or referring to its services in any manner, nor shall they cause such signs to be painted on exterior walls of the retail premises.
 - (d) Signs advertising brands only painted on the exterior walls of a retail licensee's establishment and paid for directly or indirectly by a manufacturer, importer, wholesaler, or representative thereof shall not extend more than 18 inches beyond the body of the sign and no other painting of the exterior shall be furnished the retail licensee are permitted.
 - (e) No manufacturer, importer, non-resident seller, non-manufacturer non-resident seller, wholesaler, or representative thereof, shall directly or indirectly (through a sign company or advertising agency) pay, credit, or otherwise offer inducement of any nature to a retail licensee for the display of any sign or billboard or for the use of space involved therein, nor shall they reimburse the retailer for any expense incidental thereto. No A billboard or other structure for which a retail licensee is paid a rental or offered any inducement may not be used as a billboard for advertising alcoholic beverages.
- (3) Local Control. Signs and billboards approved herein are subject to reasonable rules and regulations duly adopted by proper governing bodies in the county and city wherein located.

Authority: T.C.A. §§ 57-111, 57-818, 57-1-209, and 57-3-104, 57-3-106 and 57-4-201.

0100-03-.06 Advertising Materials Within Retail Premises.

- (1) Who May Supply and Install. Subject to the provisions of Rule 0100-06-.03 ~~of these regulations,~~ manufacturers, and importers, non-resident sellers, and non-manufacturer non-resident sellers, or any representative thereof may give, rent, loan or sell to Tennessee licensed wholesalers or retailers, but to no other person, signs, posters, placards, decorations, employee clothing, devices, statuettes or geographic displays – printed, painted or electric – for point-of-sale brand advertising, provided such items include branding or advertising of products or brands directly controlled by the manufacturers, importers, non-resident sellers, non-manufacturer non-resident sellers, providing such items to the retailers. ~~Wholesalers, Manufacturers, importers, non-resident sellers, and non-manufacturer non-resident sellers, wholesalers, or any such representative thereof~~ may install or set up such materials in the windows or elsewhere in the interior of a retail establishment. Retailers may not give, rent, loan, or sell such material referenced above to a consumer.
- (2) Restrictions on Advertising Within a Retail Premises.
 - (a) All advertising materials provided under paragraph (1) of this Rule 0100-03-.06(1) must conform to Rule 0100-03-.01(1) and Rule 0100-03-.02(1), with the only exception being that such material may contain specific prices and statements of pecuniary appeal.
 - b) All such material must have the primary value to the retailer of brand advertising only. Brand advertisements must be an integral and not easily separable part of any material that has a secondary or utility value (such as change mats, calendars, thermometers, ash trays, lamps, bottle racks, etc.).
- (3) Prohibitions.
 - (a) The practice of painting the interior of retail licensed premises under the guise of advertising is prohibited. Decorating with crepe paper, “Corabuff” matting, or similar

material as a background or setting for advertising material only is permitted but such decoration is limited to a twenty (20) square foot area, per manufacturer, importer, non-resident seller, non-manufacturer non-resident seller, wholesaler, or representative thereof.

- (b) Except as permitted by the provisions of Rule 0100-06-.03, no manufacturer, importer, non-resident seller, non-manufacturer non-resident seller, wholesaler, or representative thereof, shall give, rent, loan, or sell a retail license any fixtures, furnishings, or equipment of a permanent nature under the guise of advertising except as permitted by Rule 0100-06-.01, et seq.
- (c) No manufacturer, importer, non-resident seller, non-manufacturer non-resident seller, wholesaler, or representative thereof, shall directly or indirectly through an agent pay, credit, or otherwise offer any inducement whatsoever to the retailer for displaying such materials as authorized herein for any expenses incidental thereto.
- ~~(d) No manufacturer, importer, wholesaler or representative thereof, shall directly or indirectly through an agent pay, credit, otherwise offer any inducement whatsoever to the retailer for displaying such materials as authorized herein for any expenses incidental thereto.~~

Authority: T.C.A. §§ 57-818, and 57-1-209, 57-3-104, and 57-4-201.

0100-03-.07 Advertising Novelties and Specialties. Authorized Products and Services by Retailers

- ~~(1) Off-premise retailers licensed under T.C.A. § 57-3-204 may distribute to consumers only alcoholic beverages and those types of items specifically authorized under chapter 0100-06 of these regulations. A retail licensee is permitted to advertise or sell at retail items related to or incidental to the use, consumption, dispensing, or storage of alcoholic beverages, together with merchandise and supplies related to special events or parties.~~
- ~~(2) The list of items a retail licensee may sell, contained in T.C.A. § 57-3-404(e)(4), is illustrative in nature and non-exclusive. The Commission shall have the right to specifically enumerate additional items it deems to be within the intent of the statute.~~
- ~~(3) A retail licensee may conduct demonstrations at any time of nonalcoholic products, both within the licensed premises and at locations outside of the licensed premises, without any restrictions and is not subject to any advertising restrictions of such demonstrations or other events occurring upon its premises or away from its premises, except as expressly set forth in Rules 0100-03-.01 through 0100-03-.08.~~

Authority: T.C.A. §§ 57-818, 57-1-201, and 57-1-209, 57-3-104, 57-3-202, and 57-3-404.

0100-03-.08 Advertising Approval Does Not Sanction Any Violation, Commission Discretion on Advertising.

- (1) No Advertising Shall Indicate Any Violation Permitted. No advertising permitted herein shall imply sanction in any manner of any violation of the Tennessee Code, rules and regulations of the Commission, or valid ordinance of a duly constituted authority.
- (2) Commission May Compel Discontinuance. The Commission reserves the right to instruct the discontinuance and withdrawal of any advertisement in any medium whatsoever which in its discretion, is determined to be inconsistent with the public interest.

Authority: T.C.A. §§ 57-818, and 57-1-209, 57-3-104, and 57-4-201.

0100-03-.09 Licenses and Permits.

- (1) Full-time Municipal Law Enforcement Department Required. No retail liquor license shall be granted for a location which is not situated within the jurisdiction of a regular full-time municipal law enforcement department or within a jurisdiction that has contracted with a regular full-time law enforcement department to provide services to the jurisdiction.
- (2) Financial Disclosure.
 - (a) Applicants for retail liquor licenses shall submit, in conjunction with their application, proof of financial responsibility. Specifically required with each application are the following:
 1. Financial statements containing financial information as requested by the Commission;
 2. Loan agreements related to the licensed premises, the retail liquor operation, or any other interests in other liquor-related businesses owned by the applicant;
 3. Gifts related to the licensed premises, the retail liquor operation, or any other interest in other liquor-related businesses owned by the applicant; and
 4. Any other information requested by the Commission.
 - (b) The Commission may refuse to grant a retail liquor license to any applicant who fails to demonstrate, by a preponderance of the evidence, the financial ability and responsibility to reasonably conduct business.
 - (c) Upon renewal of an existing license the applicant for renewal need submit only the financial information as specifically requested by the Commission.
- (3) Limit on Wholesalers' Licenses. No person, partnership, or corporation will be issued a wholesaler's license in more than one (1) municipality in the same county.
- (4) Restriction on License After Surrender or Revocation.
 - (a) No ~~wholesale or retail~~ license will be issued to the spouse, child or children, son-in-law, daughter-in-law, or other person having any interest in the business of a licensee whose license has been revoked, for the privilege of doing business at the same location or in close proximity to the location of the establishment whose license was revoked for a period of one (1) year after said revocation. The Commission may, in its discretion, waive this prohibition.
 - (b) The Commission may refuse to reissue a license to the same person, firm, or corporation whose license has been revoked for one (1) year from the date of said revocation.
 - (c) The Commission may treat a surrender of a license as a revocation under the restrictions contained in this paragraph.
- (5) Must Surrender License If Business Discontinued. Whenever any licensee discontinues business for any reason, he shall immediately notify the Commission in writing and surrender his license.
- (6) Time Requirement to Commence Business. Approval, by the Commission, of the issuance of a new wholesaler's or retailer's license or the transfer of such a license to a different entity, shall automatically expire ninety (90) calendar days after such approval if the new license has not opened for business, unless a written request is received by the Commission for an extension of approval.

(7) Licensees Not Required To Have Permits. Persons whose names are listed on a wholesale or retail license issued by the Commission are not required to obtain permits, ~~and no such persons shall hold any permit issued by the Alcoholic Beverage Commission.~~

(8) Retail Licensees Not To Hold Federal Wholesale Stamp. No licensed retail liquor dealer shall purchase or have issued to him, nor may he possess, any federal liquor license, stamp, or permit without the corresponding state liquor license. Possession by any licensed retail liquor dealer of any such federal license, stamp, or permit without the corresponding state liquor license will be grounds for the revocation of his retail liquor license.

(9) Procedure for Off-Premise Retail License Application. Whenever any person has applied to the Alcoholic Beverage Commission for a license pursuant to T.C.A. § 57-3-204, except for an application for license renewal, the Commission may, at its discretion, conduct a hearing pursuant to the provisions of T.C.A. § 4-5-101 *et seq.* to determine whether the license shall be issued. The hearing may be held unless the applicant, municipality, or civil district wherein the applicant intends to conduct business and the Commission have stipulated in writing that no such hearing is necessary. However, when the municipality or civil district wherein the applicant intends to conduct business fails to grant or deny the certificate required by T.C.A. § 57-3-208 within sixty (60) days of the written application, the certificate is deemed to be granted, and further, the municipality or civil district is deemed to have stipulated that the hearing regarding the issuance of a license is not necessary.

~~(10) Public Notice. The Commission shall require each applicant for a new retail liquor license, pursuant to Chapter 3 of Title 57 of the Tennessee Code Annotated, to place a notice in a newspaper of general circulation in the area proposed to be served concerning the applicant's intent to seek a license from the Commission. The notice shall contain such information as is prescribed in Section (11) below and shall appear for at least three (3) consecutive issues immediately preceding the date that the applicant applies to the city or county for a certificate of compliance. The application shall be accompanied by a copy of the public notice and the sworn statement of the applicant that the notice was published in.~~

~~(11) Format of Notice.~~

~~(a) Anyone applying for a Tennessee retail liquor license shall place the following notice in a newspaper of general circulation:~~

~~RETAIL LIQUOR LICENSE NOTICE~~

~~Take notice that _____ (Name and address of applicant)
has _____~~

~~applied to _____ (City or County) _____ for a certificate of
compliance~~

~~and has or will apply to the Tennessee Alcoholic Beverage Commission at Nashville for a retail
liquor license for a store to be named _____~~

~~_____ and to be located
at
(Name of Store)~~

~~_____ and
owned by _____
(Address of Store)~~

~~_____
(List whether individual, partnership, or corporation. List individual owners except if corporation, list officers and manager.)~~

~~All persons wishing to be heard on the certificate of compliance may personally or through counsel appear or submit their views in writing at~~

~~_____
(Name of City or Government to issue certificate and address)~~

~~on _____ at _____. The Tennessee Alcoholic Beverage
(Date) (Time)~~

~~Commission will consider the application at a later date to be set by the Tennessee Alcoholic Beverage Commission in Nashville, Tennessee. Interested persons may personally or through counsel submit their views in writing by the hearing date to be scheduled by the TABC. (Rule 0100-03-.09, continued) Anyone with questions concerning this application or the laws relating to it may call or write the Alcoholic Beverage Commission at~~

~~_____
(Address) (Phone)~~

~~(b) The title of the notice shall be all capital letters and at least 10 point size. The text of the notice shall be at least eight point size type, and the size of the entire notice shall be not less than two columns by two inches of newspaper space. Such newspaper notice shall be published prior to the issuance of the Certificate of Compliance.~~

Authority: T.C.A. §§ 57-1-209, 57-3-104(e)(4), and 57-3-208(e), 57-4-201, and 57-3-203 and Chapter 147, Public Acts of 2017.

0100-03-.10 Transportation and Delivery of Alcoholic Beverages.

- (1) Requirement For All Transporters. Any person transporting alcoholic beverages within, into, through, or from the State of Tennessee must comply with the provisions of T.C.A. § 57-3-403, ~~Tennessee Code Annotated~~ and shall, when requested by any representative of the Commission, or person having police authority, exhibit to such person the required bill of lading or other memorandum of shipment covering the cargo of the vehicle.
- (2) Requirements for Tennessee-Licensed Wholesalers.
 - (a) Trucks and other motor vehicles owned or operated by wholesalers, when transporting alcoholic beverages, are forbidden to carry any other commodities of any nature, except those items specifically authorized by statute or Chapter 0100-06 of these Regulations Rules.
 - (b) All trucks and other motor vehicles owned or leased and operated by any Tennessee licensee ed wholesaler, and used to transport, haul, deliver, or carry alcoholic beverages, shall have the name and address of such licensee printed on each side and on the rear of said truck or motor vehicle in legible letters of a minimum height as hereinafter prescribed. The name of the licensee shall be in letters not less than four (4) inches in height, the address of such licensee shall appear in letters of not less than two and one half (2 ½) inches in height and the license number shall appear in letters not less than one and one half (1 ½) inches in height. The following words, but no others, may be abbreviated: Tennessee (Tenn.), Company (Co.), and Incorporated (Inc.).
 - (c) Irrespective of any provision to the contrary contained within this regulation, a licensed wholesaler, a salesperson employed by a licensed wholesaler, or an employee of a

wholesaler who has an active employee permit issued by the Commission, may transport and make deliveries of beverage alcohol in amounts less than twenty (20) cases in vehicles which may or may not be owned or leased by the licensed wholesaler so long as the wholesaler, salesman, or employee possesses written documentation identifying the seller, purchaser, and the quantity and identity of products being delivered and so long as such delivery and transportation complies with the other transportation and delivery provisions of this regulation. Any wholesaler who authorizes such individual to transport in such a fashion shall be responsible for that individual's compliance with these rules.

- (3) Wholesaler Must Deliver Off Premises. All alcoholic beverages sold by a wholesaler must be delivered away from his premises and then only to another licensed wholesaler, to a retailer or his employee at the retailer's licensed premises, to a retail food store or any employee of the retail food store at the retail food store's licensed premises, or to a Department of Defense Installation after compliance with T.C.A. § 57-3-110. Delivery to a wholesaler in another county must be by common carrier.
- (4) Pickup By Retailer Prohibited. No retailer or his employees shall accept any alcoholic beverages at the wholesaler's premises or elsewhere other than at the licensed premises of the retailer.
- (5) Transportation of Alcoholic Beverages by Retailers Retail Package Stores and Delivery Service Licensees.
 - (a) ~~The sales of all alcoholic beverages by a retailer shall be made within the licensed premises; provided, that deliveries of alcoholic beverages sold within the premises may be made by the retailer only to a vehicle of the purchaser parked on the lot or lots upon which said licensed premises are situated or at the curb immediately adjacent to the lot or lots upon which said licensed premises are situated, and not elsewhere. The sale of alcoholic beverages or beer by delivery may occur in accordance with T.C.A. § 57-3-406 and this paragraph.~~
 1. A delivery may occur in any jurisdiction located within one hundred (100) miles of the retail package store where the alcoholic beverages or beer are purchased; provided, that it is within the state.
 2. Orders for alcoholic beverages or beer may only be accepted during the legal hours of sale of a retail package store and deliveries must be completed within such hours of sale.
 3. Alcoholic beverages or beer may be delivered to any location other than an establishment holding a license for on-premise consumption; provided that it is permissible for a delivery to be made to a hotel with a license for on-premise consumption. The delivery must be for personal consumption and not for resale in any manner.
 4. Payment for alcoholic beverages or beer may be accepted and processed over the phone or by electronic means; provided, that the sale is not complete until an employee of the retail package store or employee of the delivery service licensee checks the identification of the adult customer accepting delivery (which must include a photograph and birth date verifying the person is at least twenty-one (21)) and transfers possession. If the transfer of possession does not occur because the person lacks identification, is visibly intoxicated, or for other reasons, then the retail package store shall void the transaction not more than twenty-four (24) hours after the order is received.
 5. Regardless of the medium used for ordering the delivery of alcoholic beverages, it is the responsibility of the retail package store or delivery service licensee and

its employees to ensure the purchasing customer and the person accepting delivery are of legal drinking age and is not visibly intoxicated.

6. An employee of a retail package store or delivery service licensee shall, in a face-to-face transaction, check the identification of the person accepting delivery of the alcoholic beverages or beer to verify that the person is at least twenty-one (21) years old before transferring possession. The employee must obtain proof of identity and the person's signature. A retail package store or delivery service licensee shall keep a record of the person's name, signature, and address, as well as the quantity of alcoholic beverages delivered, for a period of three years.

7. A violation of this subparagraph may result in suspension, revocation, or a fine against the retail package store or delivery service licensee and the employee of the licensee.

(b) Where alcoholic beverages are desired to be transported for consumer education^{al} seminars authorized by Rule 0100-03-.11(5), such transportation may be conducted by the wholesaler or retailer in accordance with the following provisions of this section subparagraph:

1. The wholesaler or retailer shall transport alcoholic beverages directly to the location of the consumer education^{al} seminar no more than twenty-four (24) hours prior to the time reported to the Commission for the start of the consumer education^{al} seminar.

2. All unsealed or otherwise opened containers of alcoholic beverages not consumed during the registered time of a consumer education^{al} seminar shall be disposed of by removing opened container(s) and returning the product to the retail or wholesale premises. Such product, if returned to the retail licensee's premises, shall be documented as to its source and may only be used for employee training purposes. No sealed or unsealed containers of alcoholic beverages shall be given, sold, or otherwise transferred to persons attending a consumer education^{al} seminar, to an on-premises consumption licensee, or to any other person.

3. The wholesaler or retailer shall transport any unopened containers directly back to the licensed retail location within twenty-four (24) hours of the conclusion of the consumer education^{al} seminar if the retailer purchased the alcohol. However, if the wholesaler donated the alcohol, then the wholesaler may, at its option, return such alcohol to its inventory or provide such alcohol to the retailer for use in employee training and not for resale.

4. There shall accompany such alcoholic beverages at all times during transportation by the wholesaler or retailer as authorized herein, a copy of the written notification to the Commission regarding the consumer education^{al} seminar and a copy of the invoice. Further, any retailer transporting the alcohol to the approved seminar shall take a reasonably direct route from the location where the alcohol is obtained (either the wholesaler's licensed premises or the retailer's licensed premises) to the address of the consumer education^{al} seminar approved by the Commission.

(6) Metric Net Contents.

(a) Distilled Spirits. The authorized standards of fill for distilled spirits shall be those container sizes authorized by 27 CFR § 5.47a.

- (b) Wine. The authorized standards of fill for wine, as defined in 27 CFR § 24.10, shall be those container sizes authorized by 27 CFR § 4.72.

Authority: T.C.A. §§ 57-132, 57-136, 57-151, 57-818, 57-1-201, 57-1-209, 57-3-104, ~~57-3-301, 57-3-303, 57-3-307~~, 57-3-110, ~~67-101 and 67-1-102~~, 57-3-224, 57-3-225, 57-3-402, 57-3-403, 57-3-406, and Chapter 787, 1045, and 1068, Public Acts of 2016.

0100-03-.11 Solicitation of Business, Services Restricted.

(1) Manufacturers and Importers Limited to Wholesale Solicitation.

- (a) No manufacturer, importer, ~~non-resident seller, non-manufacturer non-resident seller,~~ or any representative thereof shall solicit orders in any manner for alcoholic beverages from anyone in the state except those holding wholesale licenses. ~~The marketing, advertising, or promoting, or the encouraging of the public to purchase the manufacturer's, non-resident seller's, or non-manufacturer non-resident seller's product, does not constitute soliciting an order and does not require a permit.~~
- (b) No manufacturer, importer, ~~non-resident seller, non-manufacturer non-resident seller,~~ or any representative thereof shall perform or provide any service whatsoever for a retail on-premise or off-premise licensee or his employee in the state, and no on-premise or off-premise licensee shall accept any service whatsoever, whether on or away from the retail premises—except as specifically authorized under Rules ~~0100-03-.06 and 0100-06-.03. No manufacturer, importer or representative shall enter the premises of any retailer except in the main salesroom of said establishment.~~
- (c) No manufacturer, importer, ~~non-resident seller, non-manufacturer non-resident seller,~~ or any representative thereof shall give anything of value whatsoever, including but not limited to alcoholic beverages and money, to any Tennessee retail on-premise or off-premise licensee or his employee, and no on-premise or off-premise licensee shall accept anything of value whether on or away from the retail premises except as specifically authorized under Rules ~~0100-03-.06 and 0100-06-.03.~~
- (d) ~~Notwithstanding the restrictions contained herein, a~~ A manufacturer, importer, ~~non-resident seller, non-manufacturer non-resident seller,~~ or representative thereof may enter ~~the public and non-storage related areas the premises~~ of a retail licensee for the purpose of promoting the products manufactured, imported, or represented by ~~the~~ manufacturer, importer, ~~non-resident seller, non-manufacturer non-resident seller,~~ or representative, surveying or examining the retail and marketing operations of such ~~on-premise or off-premise~~ retail licensee or examining the advertising displays within the premises of such ~~on-premise or off-premise~~ retail licensee. Such manufacturer, importer, ~~non-resident seller, non-manufacturer non-resident seller,~~ or representative may also provide, orally or in writing, information related to such products to any licensee or employee of such licensee on the ~~on-premise or off-premise~~ retail licensee's premises ~~as well as customers of the retail package store licensee in relation to tastings held under T.C.A. § 57-3-404(h)(2).~~
- (e) ~~Notwithstanding the restrictions contained herein, a~~ A manufacturer, importer, ~~non-resident seller, non-manufacturer non-resident seller,~~ or representative thereof may, with the consent ~~of the retailer retail package store,~~ “face up” or dress a display of those products (and only those products) manufactured, imported, or represented by such person which displays are already established at such retail licensee premises and may arrange or rearrange those products manufactured, imported, or represented by such person which have been placed on display on the retail premises ~~but is limited to “pulling forward” inventory already in the showroom and no restocking may occur from any area off the showroom floor.~~ While providing such service, such person may not move, disturb,

relocate, or re-shelve any product other than the products manufactured, imported, or represented by such person. No services of this kind may be provided to any retail food store licensee on or off their premises.

(2) Wholesale Sales Limited to Retailers.

- (a) No wholesaler, salesman, or employee thereof shall solicit orders in any manner for alcoholic beverages from anyone in this state except those holding retail licenses.
- (b) No wholesaler, salesman, or employee thereof shall provide any service whatsoever for a retail licensee or his employee whether within or away from the retail premises with the following exceptions:
 - 1. Delivering alcoholic beverages or any item permitted under Chapter 0100-06 to the licensed premises.
 - 2. Arranging stock delivered by his company in retail establishments package stores.
 - 3. Setting up advertising signs or displays at retail package stores as set forth in Rules 0100-03-.05 and 0100-03-.06.
 - 4. Assisting in the conduct of any retailer sponsored consumer educational seminar held in accordance with Rule 0100-03-.11(5).
 - 5. Providing the services to retail food store licensees authorized by Chapter 443 of the Public Acts of 2017.
- (c) No wholesaler, his salesman, or employee shall give anything of value whatsoever including, but not limited to, money and alcoholic beverages to any retail licensee or his employee except as otherwise permitted in these rules. No Tennessee retail licensee or his employee shall accept any alcoholic beverages, money, or other things of value except as allowed or provided for by the applicable regulations as set forth at Chapter 0100-06.
- (d) Wholesalers are prohibited from accepting an order for alcoholic beverages from one retailer and delivering and invoicing part of the order to one retailer and the remainder of the order to another licensee. Retailers are prohibited from placing an order for one licensee, and having part of the order delivered to another licensee.
- (e) Notwithstanding the limitations contained herein, a wholesaler, its salesman or its employees may solicit orders from any entity that has submitted to the Commission an application for license under T.C.A. §§ 57-3-204 or 57-4-101, but the wholesaler may not deliver any alcoholic beverages until the Commission has approved and issued such license.

(3) Complimentary Alcohol from Retailers Shall Not Solicit at Residence or Place of Business of Consumer.

- ~~(a) No retail licensee or his employee shall solicit orders for alcoholic beverages by any method directed at the residence or place of business of a consumer any place in this State, other than as permitted by 0100-03-.03 or 0100-03-.04.~~
- ~~(b) No retail package store licensee or his employee shall give any consumer anything of value whatsoever except as provided in 0100-03-.07(2), and then only within the licensed premises or as may be permitted in Rule 0100-03-.11(5). Nothing herein shall prohibit a~~

~~retail licensee from making withdrawals from inventory for donations to any organization that has been recognized as exempt from federal taxes under § 501(c) of the Internal Revenue Code (26 U.S.C. § 501(c)). Upon request, retailers shall present documentation to the Commission agent or representative of such withdrawals any complimentary alcohol except as provided in T.C.A. § 57-3-404 or this rule.~~

- (4) Tax Laws Unaffected. No provision of this rule is intended to restrict or otherwise affect the deductions available to manufacturers, importers, wholesalers or retailers for purposes of calculating taxes due to the United States.
- (5) ~~Retailer Retail Package Store~~ Sponsored ~~Tastings Consumer Educational Seminars~~. A ~~retailer retail package store~~ licensed under T.C.A. § 57-3-204 may conduct consumer educational seminars, which may include providing alcoholic beverages and wine directly to consumers for tasting purposes. A retailer must provide to the Commission written notification on forms prescribed by the Commission if the licensee or its representative or employee is present to discuss the product being sampled, if the licensee is sponsoring or co-sponsoring the event, if the licensee has provided the product to be sampled, and/or if the licensee is soliciting orders at the event.
- (a) No consumer education~~al~~ seminar which includes the consumption of alcoholic beverages or wine by a consumer may occur at a premises licensed by the Tennessee Alcoholic Beverage Commission pursuant to T.C.A. § 57-3-204. (See T.C.A. § 57-3-406(f)). Further, consumer education~~al~~ seminars must occur within the boundaries of a political subdivision wherein the sale of alcoholic beverages at retail has been approved pursuant to T.C.A. §§ 57-3-106 and 57-4-103.
- (b) Any retailer desiring to conduct a consumer education~~al~~ seminar which involves the consumption of alcoholic beverages must provide written notification to the Commission disclosing the following information:
1. The date, time, and exact location of the consumer education~~al~~ seminar;
 2. The sponsors of such consumer education~~al~~ seminar and any supplier or wholesaler involved, either directly or indirectly, with such consumer education~~al~~ seminar;
 3. Whether any fee or cost is assessed to the attendees in order to attend the consumer education~~al~~ seminar, and if so, the amount of such fee; and
 4. Any other relevant information as may be required by the Commission.
- (c) Written or electronic notifications must be submitted to the Commission not less than ~~four (4)~~ two (2) calendar days prior to the date of the consumer education~~al~~ seminar. Proof of such written notification shall be available for inspection at the event. ~~Upon approval, the Commission will issue a letter of permission to the retailer which will be valid for no longer than one 24-hour period, subject to the hours set forth in T.C.A. § 57-4-203(d)(1). Such letter of permission must be available for inspection at the event.~~
- ~~(d) Failure to comply with the sub-paragraphs (b) and (c) above may result in a violation of this section.~~
- ~~(e)(d)~~ No manufacturer, ~~or~~ non-resident seller, or non-manufacturer non-resident seller may directly supply any product to a retailer for use at a consumer education~~al~~ seminar. Nothing herein shall prohibit a wholesaler licensed pursuant to T.C.A. § 57-3-203 from providing product to the retailer for use at a consumer education~~al~~ seminar, nor shall this provision preclude a manufacturer or nonresident seller from providing product to a

wholesaler with the intent that such product be used at a consumer education~~al~~ seminar. A wholesaler who provides such product for an event should make a reasonable effort to provide a sufficient quantity of alcohol, but not in excess of the amount needed to conduct the consumer education~~al~~ seminar. Any unopened salable product remaining at the conclusion of the seminar shall be returned to the wholesaler who provided the product if the product was donated for the event, pursuant to T.C.A. § 57-3-403 and Rules 0100-03-.14(1)(a) and 0100-03-.10(5).

- ~~(f)~~(e) Any consumer education~~al~~ seminar conducted under this section rule shall be conducted in accordance with the hour limitations set forth at T.C.A. § 57-4-203(d)(1).
- ~~(g)~~(f) A manufacturer, non-resident seller, non-manufacturer non-resident seller, retailer, wholesaler, or representative thereof whose products are to be tasted may advertise, in accordance with all other applicable regulations of the Commission, the date, time, location, sponsors, speakers, products to be tasted, food to be served, charge for attendance, and such other information as may be appropriate to inform the consumers of the consumer education~~al~~ seminar. A retail location of a consumer educational seminar included in an industry member advertisement shall be relatively inconspicuous in relation to the advertisement as a whole.
- (g) A manufacturer, non-resident seller, non-manufacturer non-resident seller, wholesaler, or representative thereof whose products are to be tasted may furnish consumer advertising specialties permitted under the rules directly to consumers, or to a retailer for distribution to consumers, at the consumer educational seminar.
- (h) A consumer education~~al~~ seminar conducted under this section rule may be conducted at any premises licensed pursuant to T.C.A. § 57-4-101. If so, a retailer may impose a reasonable charge for attendance at a the consumer education~~al~~ seminar, and may solicit orders from consumers at the tasting seminars, provided that final sales of wines and alcoholic beverages must be completed within the licensed premises of the retailer or package store or delivered pursuant to Rule 100-03-.10(5)(a).
- (i) ~~On-premise consumption licensee employees shall not serve, sell, or otherwise dispense any alcoholic beverages not owned outright by such licensee. Any retailer employee and/or representative serving, selling, or otherwise dispensing alcoholic beverages at a consumer education seminar must first obtain a server's permit and such permit must be available for inspection while the consumer education seminar is being conducted. Individuals holding any permit issued by the Commission or certified clerks employed by retail package stores may serve or dispense alcoholic beverages. Nothing in this paragraph authorizes an on-premise consumption licensee to purchase and resell alcoholic beverages from any entity other than a licensed wholesaler.~~ In addition, an individual listed as licensee or manager on the license application or in the records of the Commission may serve or dispense alcoholic beverages at such educational~~al~~ seminar.
- (j) If a consumer education~~al~~ seminar is to be conducted at a premises not licensed pursuant to T.C.A. § 57-4-101, the following additional conditions shall apply:
1. No food, goods or services may be purchased or sold and no solicitation of orders may occur.
 2. No person may attend such consumer education~~al~~ seminar unless such person has received a written invitation, addressed to the invitee.
 3. No charge may be imposed upon such invitee for attendance or for any food or product consumed.

- (k) The retail licensee shall be responsible for compliance with all statutes, rules, and regulations, including but not limited to the prohibitions of selling to a minor or to an intoxicated individual. Violations of any statutes, rules, or regulations may result in disciplinary action against the appropriate licensee.

Authority: T.C.A. §§ 57-818, ~~and 57-1-209, 57-3-104, 57-3-202, and 57-3-404, 57-3-815, Chapter 443, Public Acts of 2017.~~

0100-03-.12 Containers and Sizes.

- (1) Original Retail Containers Required.

No licensee shall import into Tennessee or sell in Tennessee any alcoholic beverages, except ~~wine as provided by T.C.A. § 57-3-404(e)(4)(E) or § 57-4-108,~~ not in original retail containers.

- ~~(2) Wine May Be Imported In Bulk.~~

~~Tennessee-licensed wineries and wholesalers may import wine in bulk for the purpose of bottling only. When wine is imported hereunder, it shall be stored on the licensed premises only, in containers approved by the Commission which shall have the right in its discretion to seal such containers and require them to be opened only after notice to the Commission and with its consent.~~

- ~~(3)(2) Standards of Fill for Wine.~~

All wine bottled in, sold in, and shipped into this state shall be in containers specified in the Standards of Fill for Wine prescribed by the Department of the Treasury of the United States for wine shipped in interstate commerce; and, said Federal Regulations relating to Standards of Fill for Wine are hereby adopted and incorporated by reference herein. See Rule 0100-03-.10(6).

- ~~(4)(3) Distilled Spirits May Be Imported In Bulk~~

~~Tennessee-licensed manufacturers may import distilled spirits in bulk for the purpose of manufacturing, rectifying, or blending, except that distilled spirits imported in bulk from outside of the State of Tennessee shall not be used in the manufacturing, rectifying, or blending of Tennessee whiskeys as defined in T.C.A. § 57-2-106. Such bulk shipments shall only be permitted in compliance with the rules and requirements of the Tobacco Tax and Trade Bureau ("TTB"), and T.C.A. § 57-3-202(f).~~

- ~~(5)(4) Standards of Fill for Distilled Spirits~~

~~All distilled spirits bottled in, sold in, and shipped into this state shall be in containers specified in the Standards of Fill for Distilled Spirits prescribed by the TTB for shipments of distilled spirits; and, said Federal Regulations relating to Standards of Fill for Distilled Spirits are hereby adopted and incorporated by reference herein. See Rule 0100-03-.10(6).~~

Authority: T.C.A. §§ 57-818, ~~57-1-201, 57-1-209, 57-3-104, 57-1-209, 57-3-202, 57-3-207, 57-3-303, 57-3-404, 57-4-201, and 57-4-108, 67-1-102, 57-3-303, 57-3-307 and 57-1-201.~~

0100-03-.13 Conduct of Business – Wholesaler and Retailer.

- ~~(1) Retail Licensees to Sell Nothing Except Alcoholic Beverages. No retailer or employee thereof shall store, sell or offer for sale on his licensed premises any article or commodity whatsoever except alcoholic beverages or otherwise provided by statute. However, a wholesaler may store, sell or offer for sale those items specifically authorized under T.C.A. §57-3-404 and Chapter~~

~~0100-06 of these regulations, and a retailer may store, display and distribute those items authorized under Chapter 0100-06 of these regulations.~~

- ~~(2)(1)~~ All Licensees Must Keep Records Available Three (3) Years. Each licensee shall keep, for at least three (3) years, all purchase orders, invoices, and all other records of all purchases and sales of alcoholic beverages made by such licensee. All such orders, invoices, and all other books and records pertaining to the licensee's operation shall be open for inspection to any authorized representative of the Alcoholic Beverage Commission or Department of Revenue during business hours and failure to make such available shall be deemed cause for revocation of his license. For the purposes of this paragraph, electronic records are sufficient if they are readily available and easily accessible.
- ~~(3)(2)~~ Business Management Restricted. Every licensed wholesale or retail business shall be managed by the holder of the license, if an individual, or by a partner or corporate officer, in the event that the business is operated by a partnership or corporation. In every case where alcoholic beverages at wholesale or retail are sold by a partnership or corporation, the managing partner or corporation officer in active control and management of the business shall be designated to the Commission.
- ~~(4)(3)~~ Hours Licensees May Remain Open. Wholesalers and Retailers may remain open for business between the hours of 8:00 a.m. and 11:00 p.m. by the time zone and system in effect in the city where the store is located.
- ~~(5)(4)~~ Storage Limited to Ground Floor of Licensed Premises. No wholesaler or retailer shall store alcoholic beverages at any place other than the ground floor constituting his licensed premises without written permission of the Commission.
- ~~(6)(5)~~ No Wholesaler May Store for Retailer. No wholesaler shall store alcoholic beverages for a retail dealer without written approval of the Commission.
- ~~(7)(6)~~ No Retailer May Store for Another Retailer. No retailer shall store alcoholic beverages belonging to another retail licensee.
- ~~(8)~~ ~~"Lugs" Prohibited-Pre Sacking Restricted.~~
- ~~(a)~~ ~~No bottles of alcoholic beverages shall be removed from the delivery case and wrapped into packages for the purposes of resale commonly known as "lugs" on the premises of a licensed wholesaler or retailer, except a packaged "less than case" order delivered by a wholesaler to a retailer will not be construed as a "lug" if accompanied by an invoice. Retailers shall not sell alcoholic beverages to or pre-package alcoholic beverages for bootleggers.~~
- ~~(b)~~ ~~Any such "lug" found on the premises of a retailer or wholesaler shall be prima facie evidence of a violation of this regulation.~~
- ~~(c)~~ ~~No licensed retailer shall have on hand, in stock or stored in his possession, any alcoholic beverages that have been pre-sacked prior to the actual receipt by such retailer of a specific order therefore. However, notwithstanding the provisions of this paragraph, nothing shall preclude a retailer from pre-sacking an order for personal consumption after being requested to do so by a consumer.~~
- ~~(7)~~ ~~A retailer shall not sell alcoholic beverages to an individual whom the retailer should reasonably believe is reselling such alcoholic beverages not permitted by law.~~
- ~~(9)(8)~~ Contests Involving Alcoholic Beverages Prohibited. No manufacturer, wholesaler, non-resident seller, non-manufacturer non-resident seller, retailer, or representative or employee thereof may:

- (a) Sponsor or conduct a contest in which alcoholic beverages are offered as prizes, premiums, or rewards;
 - (b) Offer as a prize, premium, or reward any alcoholic beverages; or
 - (c) Directly or indirectly aid or assist in the promotion of a contest involving alcoholic beverages which is conducted or sponsored by any person not a licensee.
 - (d) Notwithstanding the foregoing, a manufacturer, wholesaler, ~~non-resident seller, non-manufacturer non-resident seller~~, or retailer may sponsor or conduct a contest in which alcoholic beverages are offered as prizes, premiums, or rewards for their own employees.
- ~~(10)(9)~~ Gift Certificates. Tennessee-licensed retailers may sell gift certificates or gift cards to consumers. ~~However, no gift certificate shall be honored, accepted, or sold to anyone under the age of twenty-one or to anyone visibly intoxicated. If a gift certificate is honored, accepted, or sold to anyone under the age of twenty-one (21) or to anyone visibly intoxicated, then such practice will be deemed to be the equivalent of selling alcohol to a minor or selling alcohol to a person visibly intoxicated. No gift card shall be honored, accepted, or sold to anyone visibly intoxicated. No gift card shall be honored or accepted from anyone under the age of twenty-one (21) for the purchase of alcoholic beverages or beer. Such practices will be deemed to be a violation.~~
- ~~(11)(10)~~ Refusal of Cooperation. Any licensee who refuses to open or disclose records to, or furnish information to, or who furnishes false and/or misleading information to an agent 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.
- ~~(12)(11)~~ Open Access to Licensed Premises Without Warrant. Immediate access, without a warrant, to all parts of a licensed premise shall at all times be accorded agents or representatives of the Tennessee Alcoholic Beverage Commission.
- ~~(13)(12)~~ Licensee Responsible For Law and Order On Licensed Premises. Each licensee shall maintain his establishment in a decent, orderly, and respectable manner in full compliance with all laws of Tennessee and ordinances and laws of the municipality and/or county where licensed premises are located at all times.
- ~~(14)(13)~~ Notwithstanding any provisions herein, a retailer may accept a tentative order for alcoholic beverages from consumers by telephone, e-mail, facsimile transmission, or other electronic means, provided, however:
- ~~(a)~~ The retailer maintains a record, written or electronic, of the items tentatively ordered for a period of thirty (30) days following the actual purchase of the items; and
 - ~~(b)~~ The sale and delivery of any such tentative order shall occur on the license premises in a face-to-face purchase
- ~~(14)~~ A retail package store may sell or deliver alcoholic beverages or supply, deliver, and install products authorized to be sold by the retailer pursuant to T.C.A. § 57-3-406(j).
- (15) Any government-issued document that has expired shall not be deemed to be "valid" for purposes of T.C.A. § 57-3-406(d), and as such, a retailer may not sell alcoholic beverages to a person who has not provided an unexpired government-issued document that meets the requirements of T.C.A. § 57-3-406(d).

Authority: T.C.A. §§ 57-109(g), (1) and (3), 57-818(2), ~~67-101~~, 57-132, 57-136, ~~57-1-201~~, 57-1-209, 57-3-

104~~(c)(4)~~, 57-3-202, 57-3-303, 57-3-404, 57-4-108, and 57-3-406~~(d)~~.

0100-03-.14 Conduct of Business of Wholesalers.

(1) Wholesaler Accountable for Inventory; Methods of Disposition of Alcoholic Beverage Limited. A wholesaler is strictly accountable for his inventory which he may deplete in the following manners only:

- (a) Sales to a licensed retailer and to no other person and each sale and delivery must be covered by an invoice.
- (b) Wholesalers may deplete inventories for personal or training use, for purposes of contributing to a charitable organization, for marketing, or for use at educational seminars held pursuant to Rule 0100-03-.11 or held for the benefit of retailer customers of the wholesaler. The wholesaler shall retain records of all such withdrawals showing the amount of inventory withdrawn, the purpose of the withdrawal and the employee responsible for such withdrawal. These records shall be retained in accordance with Rule 0100-03-.13~~(12)~~.
- (c) Broken and deteriorated merchandise (method of handling set forth in Rule 0100-03-.~~1415~~(3)).
- (d) Courtesy sales from one wholesaler to another within the state.
- (e) Returned merchandise to the manufacturer or importer.

(2) Consignment and Returns.

- (a) No wholesaler shall sell and no retailer shall accept any alcoholic beverage on consignment, or upon condition, or with the privilege of return, or on any condition other than a bona fide sale, except as may be permitted pursuant to Chapter 0100-06.
- (b) Novelty containers, commonly known as Christmas decanters, must be accepted back upon request in exchange for similar quantity of alcoholic beverages of the same brand and proof in conventional containers by the wholesaler from the retailer and by the manufacturer from the wholesaler. Such requests shall not be submitted before January 15 next after the Christmas season for which such decanters were delivered.

(3) Breakage and Deteriorated Merchandise.

The following procedure shall be followed in handling and accounting for broken or deteriorated merchandise:

- (a) Wholesalers shall return broken bottles or deteriorated merchandise from the retailer involved to his warehouse before replacing same with the retailer.
- (b) Replacement shall be listed on the wholesaler's standard invoice and designated whether breakage or deteriorated merchandise.
- (c) The wholesaler shall prepare a standard invoice covering the breakage or deteriorated merchandise within his own stock on the date it is broken or the deteriorated merchandise is removed from his inventory.
- (d) No later than the fifth (5th) day of the month each wholesaler shall prepare from invoices of the previous month a complete list of breakage and deteriorated merchandise. The list shall be prepared in triplicate and shall include the invoice number, retail license number

(or wholesaler's license number), brand, and size.

- (e) An agent of the Tennessee Alcoholic Beverage Commission shall use this list in checking and destroying broken bottles, and checking the deteriorated merchandise which he shall mark as unsaleable. The agent will certify all three (3) copies of the list and forward one (1) copy to the Commission. The wholesaler shall mail another copy to the Miscellaneous Tax Division of the Department of Revenue and retain the third (3rd) as a part of its records.
- (f) After checking and marking, the wholesaler may dispose of the deteriorated merchandise without regard to the limitation established in [Rule 0100-03-.16\(1\)\(b\)](#) provided, however, the wholesaler will incur tax liability at the same time all such unsaleable alcoholic beverages are removed from inventory and not destroyed.
- (4) Wholesaler Assistance at Special Occasion Events. A wholesaler or employee thereof may participate in, assist, and serve alcoholic beverages on behalf of a holder of special occasion permits issued pursuant to T.C.A. § 57-4-101(g).

Authority: T.C.A. §§ 57-1-209, 57-3-104(~~(c)(4)~~), [67-1-102](#), 57-3-303, ~~57-3-307~~, and Public Acts of 1974, Chapter 707, § 1.

0100-03-.15 Restrictions on Premises, Conduct of Business of Retailers.

- (1) Retailers Not to Combine. No combination of retailers shall be permitted to purchase merchandise in the name of one (1) retailer and subsequently distribute merchandise which they have purchased in combination with each other to any one of the combination and no retailer shall be permitted to transfer goods from one to another. If any member of the combination is found to have violated this regulation, every member shall likewise be deemed to have violated this regulation, and it shall also be a violation for the wholesale distributor to furnish merchandise to any combination of retail dealers.
- (2) Living Quarters Prohibited. No part of the licensed premises occupied by a liquor store shall be used as living quarters by any person.
- ~~(3) [No Commodity Except Alcoholic Beverages May Be Stored. No part of a licensed premises occupied by a liquor store shall be used as a storeroom for any commodity having no relation to the sale of alcoholic beverages.](#)~~
- ~~(4) [Services Restricted. No retailer within or on his licensed premises shall offer by sign or otherwise to perform any service whatsoever for a consumer except the sale of alcoholic beverages.](#)~~
- ~~(5)~~(3) Drinking In or On Premises Prohibited. No retail licensee or his employee shall consume alcoholic beverages or permit alcoholic beverages to be consumed within publicly accessible areas of the retail establishment. Employee-only tastings are authorized to be conducted on the retail premises as authorized by T.C.A. § 57-3-404(h). Alcoholic beverages used for employee-only tastings/education must be properly identified as such and proper documentation from the wholesaler must be maintained on the premises. Notwithstanding this provision, all open alcohol being used for employee tastings/education must be removed within seven (7) days of the wholesaler documentation. No licensee or his employee shall engage in the sale of alcoholic beverages on the licensed premises while under the influence of intoxicants or drugs.
- ~~(4)~~ [Notwithstanding paragraph \(3\) of this rule, a retail package store may conduct tastings pursuant to T.C.A. § 57-3-404\(h\).](#)
- ~~(6)~~(5) Operation of a Licensee. Every retail licensee shall register and designate on its application one or more persons as managers of the retail operation. All managers of retail licensees shall submit

to the Alcoholic Beverage Commission a completed questionnaire within one (1) week of assuming such duties. Such person may be the licensee, if the licensee is an individual. The designated manager or managers of the licensee shall be either the owner or a full-time employee of the licensee and shall not be an employee of any other licensee nor shall such be a consultant, advisor, or provide any services to any other licensee. Only the licensee, if an individual, or the designated manager or managers may engage in any of the following activities:

- (a) Select, order, or price inventory,
- (b) Employ or discharge the employees of the retail establishment,
- (c) Approve advertising, marketing programs of the licensee.

Authority: (1) and (3) - T.C.A. § 57-818; (2) - §§ 67-101, 57-132, 57-136, 57-1-209, 57-3-104, and Public Acts of 1974, Chapter 707, § 1.

0100-03-.16 Dual Interests Prohibited.

(1) Manufacturer, and Importer, Non-Resident Seller, and Non-manufacturer Non-Resident Seller.

(a) No manufacturer, or importer, non-resident seller, non-manufacturer non-resident seller, or representative of the same, shall have any kind of direct or indirect interest financial, fixtures, furnishings, stock ownership, loans, gifts, securing loans, guaranteeing payment of any loan, lease of property or participate in the profits, either directly or indirectly, in any wholesaler or any retail on-premise or off-premise liquor establishment in Tennessee. A prohibited interest includes the possessing of any financial or other interest in the establishment, providing or having interest in any fixtures or furnishings, stock ownership, loans, gifts, the securing of loans, the guaranteeing of any loan payment, or participating in the profits.

(b) No importer, non-resident seller, non-manufacturer non-resident seller, or representative of the same shall have any kind of direct or indirect interest in any retail on-premise or off-premise establishment in Tennessee. A prohibited interest includes the possessing of any financial or other interest in the establishment, providing or having interest in any fixtures or furnishings, stock ownership, loans, gifts, the securing of loans, the guaranteeing of any loan payment, or participating in the profits.

(c) An importer, non-resident seller, non-manufacturer non-resident seller, or representative of the same may have a direct or indirect interest in a wholesaler.

(d) "Indirect interest" as used in this Rule means any kind of interest in the wholesaler, retail on-premise, or retail off-premise establishment by way of stock ownership, loan, partner's interest, or control, including the use of a brand name, trademark, or sponsorship of the, manufacturer wholesaler, importer, non-resident seller, non-manufacturer non-resident seller, or representative of the same.

(e) "Direct or indirect interest" between 1) a manufacturer, importer, non-resident seller, non-manufacturer non-resident seller, or representative of the same and 2) an on-premise establishment does not include:

1. An interest held by a spouse or child over the age of twenty-one (21) as separate and distinct property; provided, that there is no commingling of assets or sharing of control in such arrangement;
2. An interest of a person or entity having less than a five percent (5%) ownership interest in a manufacturer, importer, non-resident seller, non-manufacturer non-

resident seller, or on-premise establishment; or

3. An interest held in an irrevocable trust by an independent trustee; provided that such interest is held in an irrevocable trust by an independent trustee.

(2) Wholesaler ~~or~~ and Retailer.

No wholesaler, and no partner, member, or person owning stock in a corporation licensed as a wholesaler, and no employee of same, shall have any interest ~~as set forth above~~ in any business licensed as an on-premise or off-premise retailer, and no retailer and no retailer's employee, shall have any such interest in any wholesale establishment. A prohibited interest includes the possessing of any financial or other interest in the establishment, providing or having interest in any fixtures or furnishings, stock ownership, loans, gifts, the securing of loans, the guaranteeing of any loan payment, or participating in the profits.

Authority: T.C.A. §§ 57-818, ~~and~~ 57-1-209, 57-3-104, 57-3-210, 57-4-201, 57-3-604, Chapter 968, Public Acts of 2012, and Chapter 371, Public Acts of 2017.

0100-03-.17 Responsibility and Penalties for Violations.

- (1) Employer Responsible for Employee's Action. Licensees are at all times responsible for the conduct of their businesses and are at all times directly responsible for any act or conduct of any employee which is in violation of the laws of Tennessee, the rules and regulations of the Commission, any local ordinance and/or any federal statute, ~~or the rules and regulations of the Commission.~~ whether the licensee be present at any such time or not. ~~This section is defined to mean that~~ Any unlawful, unauthorized, or prohibited act on the part of an agent or employee shall be construed as the act of the employer, and the employer shall be ~~proceeded against~~ liable as though he were present and had an active part in such unlawful, unauthorized, or prohibited act, and as if having been at the employer's direction and with his knowledge. Notwithstanding this provision, a licensee may present mitigating factors.
- (2) In Disciplinary Action. In disciplinary proceedings, it shall be no defense that an employee or agent of a licensee acted contrary to order, or that a licensee did not personally participate in the violating action or actions – except as permitted under Rule 0100-05-.07.
- (3) Avoidance of Tax Liability. Any manufacturer, importer, or representative of the same, and any wholesaler or retailer or employee of the same, who shall evade, or render direct or indirect assistance in the evasion of, the payment of the taxes imposed in T.C.A. §§ 57-3-302, 57-3-303, 57-4-301, and 57-6-201, or who shall violate, in any manner aid or abet, participate in any scheme to violate the local option law, or fail or neglect to comply with any regulations here in ~~before set out~~, shall be deemed to have given cause for suspension or revocation of his license, or permit, or if holding no license or permit, to have given cause for withdrawal or suspension of any privilege granted in Tennessee, ~~as by the~~ Commission in its discretion.

Authority: T.C.A. §§ 57-818, 57-1-201, ~~and~~ 57-1-209, 57-3-104, to implement T.C.A. §§ 57-3-302, and 57-3-303, and 57-4-201.

0100-03-.18 Transfer of Licenses.

- (1) The transfer of a retail liquor license from one location to another shall be subject to the following provisions:
 - (a) The new location must be within the same city as the original location.
 - (b) The application for transfer must pay or must have paid the full annual license fee for the year in which the transfer is requested.

- (c) The physical transfer of the store must be completed within ninety (90) days after the transfer is granted. Under exceptional and unusual circumstances, the applicant may request an additional thirty (30) days' time. However, the request must be made in writing and must state the reasons for the extension. Such request must be submitted to the Commission prior to the aforementioned ninetieth (90th) day.
- (d) The approval of all applications for the transfer of a retail liquor license shall be within the discretion of the Alcoholic Beverage Commission.
- (e) Circumstances which may be considered by the Commission include:
 - 1. Physical destruction of the premises not the fault of the licensee.
 - 2. Bona fide termination of the lease, with the remaining term of the lease not to exceed one (1) year from the date the transfer is considered by the Commission.
 - (i) Accompanying each application for transfer shall be a sworn statement by the applicant declaring the reason for the lease termination.
 - (ii) If the applicant for transfer is purchasing the property for the proposed new location, then the appropriate documents shall be submitted with the application evidencing the purchase.
 - (iii) If the applicant for transfer is building a new structure for the proposed new location, the structure's blue prints or other building plans shall be submitted with the application.
 - 3. Eminent domain or condemnation proceeding causing serious disruption of the business.
 - 4. Substantial changes in traffic patterns surrounding the existing store.
 - 5. Situations, which in the discretion of the Commission, are determined to be a material change of circumstances.
- (f) The application for a transfer of a retail liquor license shall follow the procedural requirements prescribed for applications for new licenses contained in [Rule](#) 0100-03-.09(9).
- (g) The proposed new location must comply with such statutes, regulations, and ordinances for new licenses as are determined to be applicable and material in the discretion of the Commission.

Authority: T.C.A. §§ 57-818, 57-1-209, 57-3-104~~(e)(4)~~, [57-3-212](#), and 57-4-201~~(a)(2)~~.

0100-03-.19 ~~Repealed.~~ [Manufacturer Representative Permits.](#)

- (1) [A manufacturer representative permit issued pursuant to T.C.A. § 57-3-202\(d\) is only required for owners, officers, employees, or representatives soliciting orders from licensed wholesalers in Tennessee and shall not be required of owners, officers, employees, or representatives that are marketing and promoting the product to the general public or to situations described in T.C.A § 57-3-202\(k\)\(3\). In addition, a manufacturer representative permit is not required for individuals who work at a manufacturer's or importer's premises unless they also perform such other tasks that require such a permit.](#)

- (2) A manufacturer representative permit issued pursuant to T.C.A § 57-3-202(d) shall be issued exclusively to the individual applying for such permit and shall not reference any manufacturer, rectifier, or importer. Such permit belongs to the individual holding such permit and not to any manufacturer, rectifier, or importer.

Authority: T.C.A. § ~~57-818~~ 57-3-104 and 57-3-202.

0100-03-20 ~~Repealed.~~ Donations to Nonprofit Organizations.

- (1) Any licensee shall be permitted to make withdrawals from inventory for donations to any organization that has been recognized as exempt from federal taxes under § 501(c) of the Internal Revenue Code (26 U.S.C. § 501(c)) and that will serve or sell the donated products at a special occasion licensed event. A donation may occur before a qualified entity receives a special occasion license from the Commission.
- (2) Donations made pursuant to this rule may be delivered by the licensee to the recipient organization or may be picked up by the recipient organization at the licensee's premises.
- (3) Licensee's making donations under this rule shall maintain adequate records of the donation, including the amount donated, the FEIN of the recipient organization, and a copy of the letter from the IRS granting exempt status to such recipient organization received by the licensee from recipient organization. Upon request, licensees shall present documentation to the Commission of such withdrawals.
- (4) Licensees making donations under this rule are responsible for paying all required state and federal taxes for the donated product. Failure to do so could lead to suspension, revocation, or a fine not to exceed the statutory maximum.

Authority: T.C.A. § ~~57-818~~ to implement T.C.A. §§ ~~57-131, 57-132, 57-701 through 57-707 and 57-1-209~~ 57-3-104, 57-3-303, 57-4-201, and Chapter 147, Public Acts of 2017.

0100-03-21 ~~Repealed.~~ Noncontiguous Premises of Manufacturers.

- (1) A manufacturer licensed under T.C.A § 57-3-202 shall be permitted to have a noncontiguous area for storage of spirits as long as such noncontiguous premises have been authorized by the United States Alcohol and Tobacco Tax and Trade Bureau ("TTB").
- (2) No application or application fee is required to establish this noncontiguous premises with the Commission and only the basic details of the location and a floor plan of such noncontiguous premises are required in addition to a copy of proof of TTB approval.
- (3) Manufacturers shall notify the Commission within thirty (30) days after commencing use of this noncontiguous premises, or sooner if preferred by the manufacturer.

Authority: T.C.A. §§ ~~57-1-209~~, 57-3-104 ~~(e)(4)~~, 57-2-104, and ~~57-4-201(a)(2)~~ 57-3-202.

0100-03-22 Private Events

A license or permit is not required for an event where alcoholic beverages are served if:

- (1) The event is private and includes a bona fide guest list restricting access to invited guests only;
- (2) The hosts or bona fide guests of the event are providing all of the alcoholic beverages;
- (3) All alcoholic beverages are served without charge;

- (4) There is no admission cost for the event, including ticket price, required donation, or door charge; and
- (5) There is no commercial purpose related to the sale, marketing, or promotion of alcoholic beverages for the private party or event.

Authority: T.C.A. §§ 57-3-104, 57-4-201, Public Chapter 147, Public Acts of 2017.

0100-03-.23 Rectifying

- (1) The definition of “rectifier” in T.C.A § 57-3-101 includes anyone who blends alcoholic beverages with other ingredients or alcoholic beverages as long as such operations are permitted under and operated in compliance with the rules and regulations of the Alcohol and Tobacco Tax and Trade Bureau.
- (2) An applicant for license under T.C.A § 57-3-202 shall not be required to designate whether they are a distiller, a rectifier, or both.

Authority: T.C.A. §§ 57-3-101, 57-3-104, 57-3-202 and 57-3-207.

DRAFT

Chapter 0100-06 Intra-Industry Conduct and Regulations is amended by deleting the chapter in its entirety and by substituting instead the following language:

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 products from a trade buyer to an industry member with other product 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, non-manufacturer 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.
- (10) Return. The transfer of distilled spirits, wine, or other product from a trade buyer to the industry member from whom they were 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 and 57-3-104.

0100-06-.02 General Prohibitions.

- (1) Except as provided in Rule 0100-03-.16, 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) Except as provided in Rule 0100-03-.16, 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, 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, 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 (1) 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 (2) 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, non-manufacturing non-resident seller or any representative thereof – e.g. third party marketing entities – may shall solicit orders in

any manner for alcoholic beverages from anyone in this state except ~~from~~ those holding wholesale ~~liquor~~ licenses. The marketing, advertising, or promoting, or the encouraging of the public to purchase the manufacturer's, non-resident seller's, or non-manufacturer non-resident seller's product, does not constitute soliciting an order and does not require a permit.

- (9) It is unlawful for one (1) 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
 - (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 shall~~ not require, nor may a retailer request, offer, and/or accept an exclusive arrangement wherein the retailer agrees, in exchange for money, services, 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 57-3-104, 57-3-202, 57-1-209, 57-3-210, 57-4-201, and Public Chapter 371, Public Acts of 2017.

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, place cards, 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 subparagraph (b) of this section paragraph.

(b) Conditions and Limitations.

1. The total value of all product displays furnished by an industry member under subparagraph (a) of this section paragraph may not exceed three hundred dollars (\$300) or current federal limits per brand in use at any one time in any one retail 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 for the purposes of this calculation.

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) 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. The name and address of the retailer may appear on the product displays.

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) Advertising Service. An industry member or any representative thereof – e.g. third party marketing entities – may list in its advertisement the names and addresses of all retailers

selling the alcoholic beverage product(s) of the industry member within the geographic area targeted by the advertisement, provided that:

- (a) The advertisement does not also contain the retail price of the product;
- (b) The listing is the only reference to the retailers in the advertisement and is relatively inconspicuous in relation to the advertisement as a whole; and
- (c) The advertisement does not refer only to one retailer or only to retail premises controlled directly or indirectly by the same licensed entity and refers to all retailers selling the alcoholic beverage product(s) of the industry member within the geographic area targeted by the advertisement.

(4)(5) Outside Signs.

- (a) General. Subject to local ordinances, 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 (electrical, mechanical, inflatable, or otherwise) 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) per brand, 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, or in a retailer's parking lot.
 - 4. The name and address of the retailer may appear on the outside sign.
 - 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)(6) 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;
- (f) Transportation and lodging costs associated with any of the forgoing listed under these subparagraphs (a)-(e).

(6)(7) 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 subparagraphs (b), (c), or (d) of paragraph (6) of this rule-, provided however that transportation pursuant to subparagraph (f) of paragraph (6) or lodging to or for an event under subparagraphs (b), (c), or (d) of paragraph (6) is subject to the three hundred dollar (\$300) limit of subparagraph (c) below.
- (c) Routine business entertainment expenses under subparagraphs (a), (e), or (f) of paragraph (6) shall not exceed a fair market value of 100.00 three hundred dollars (\$300) per twenty-four (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, 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 subparagraph (c) of paragraph (7) 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 paragraph (6) above must occur either within the state of Tennessee or, if outside the state of Tennessee, within one hundred (100) miles of the premises of the retail licensee receiving the routine business entertainment.
- ~~(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)(8) Retailer Advertising Specialties – Point-of-Sale.

- (a) General. An industry member or any representative thereof – e.g. 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 decorations, trays, coasters, mats, menu cards, meal checks, paper napkins, napkin holders, foam scrapers, back bar mats, placemats, bar utensil caddies, other bar utensils, and items (such as

strainers, citrus pressers, and stir rods), tap standards, shakers, stir sticks, ice molds and ice trays, cups, glassware, pitchers, carafes, and similar containers made of other materials, thermometers, clocks, lamps, calendars, and alcoholic beverage lists or menus, lighted displays, display mirrors, chalkboards, bulletin boards, dart board backgrounds, table tents, menu and table tent holders, case cards, candles and holders, check and credit card holders, empty flash and jump drives, umbrellas, and apparel (such as shirts, hats, caps, and visors).

(b) Consumer Advertising Specialties. An industry member or any representative thereof – e.g. third party marketing entities - may furnish, give, rent, loan, or sell to a retailer, advertising specialties that are designed to be carried away by consumers, such as including, without limitation, trading stamps, pouring racks, non-alcoholic mixers, ash trays, bottle or can openers, cork screws, shopping bags, matches, candles and holders, printed recipes (including drink recipes), pamphlets, cards, leaflets, brochures, blotters, post cards, pencils, cups, mugs, glassware, pens, plates, knives, bar utensil caddies, shakers, pitchers, other bar utensils and items (such as strainers, citrus presses and stir rods), apparel (such as shirts, hats, caps, and visors), pins, buttons, key chains, check and credit card holders, empty flash and jump drives, 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 – e.g., 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)(9) Wine Lists or Menus. An industry member may furnish, give, rent, loan, or sell alcoholic beverage lists or menus to retailers whether in hard copy, electronic (digital or analogue), or online formats. Nothing in this paragraph 9 authorizes an industry member to provide a retailer with electronic hardware, including iPads, tablets, laptops, or other electronic devices used as menus.

(9)(10) Samples. An industry member may furnish or give a sample of branded distilled spirits, wine, or alcoholic beverages to a retailer (including, without limitation, any of their managers, salespersons, or bartenders) who has not previously purchased the brand or vintage of wine from that member within the past twelve (12) months for the purposes of enhancing sales of its products at retail. For each retail establishment, the industry member may give not more than 1.75 liters of any brand of distilled spirits or wine per sampling. 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. An industry member may only provide such a sampling of a specific brand once every three months. An industry member who furnishes a container for sampling or tasting purposes must conspicuously mark the container as “not for resale.”

(10)(11) Combination Packaging.

An industry member or trade buyer (other than a retailer which sells for consumption on the premises or a retail food store) may package, distribute, and sell wine or alcoholic beverages in combination with other related items, other alcoholic beverages, or beer, 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)~~(12) 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 employees of retailers, or tours of an 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. This paragraph (12) does not preclude providing reasonable meals and local ground transportation nominal hospitality during the event.

~~(12)~~(13) Stocking, Rotating, Pricing, and Other Services.

- (a) A wholesaler, wholesale salesman, or permitted representative thereof may, at a retail package store 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 (including point-of sale advertising materials and consumer advertising specialties), rearrange or reset that portion of a retail package store licensee as is necessary for the display or placement of its product. In providing the services herein, a wholesaler, wholesale salesman or permitted representative thereof may enter the private or non-public areas of the retail package store licensee.
- ~~(b) When accompanied by a wholesaler, a wholesale salesman, or other representative of the A~~ wholesaler, a manufacturer, importer, non-resident seller, non-manufacturer non-resident seller, or any representative thereof – e.g. third party marketing entities - may also provide ~~those services designated in 0100-06-03(9)(a) above~~ recommended shelf plans or shelf schematics for alcoholic beverages, provided that such industry members may not provide anything of value, and retailers may not accept anything of value, in exchange for complying or otherwise using any recommended shelf plan or schematic.
- (c) Notwithstanding the restrictions contained herein, a manufacturer, importer, non-resident seller, non-manufacturer non-resident seller, or representative thereof – e.g. third party marketing entities - must may deliver point-of-sale advertising

materials intended for retail use ~~directly to a retail package store to a wholesaler's warehouse~~, and a manufacturer, importer, ~~non-resident seller, non-manufacturer non-resident seller~~, or representative thereof – ~~e.g. third party marketing entities~~ - may provide and set up such point-of-sale ~~or logoed advertising materials (including, but not limited to, product displays, interior signs, point-of-sale advertising materials, and consumer advertising specialties)~~ at a retail ~~package store without wholesaler involvement~~, 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~~. ~~In providing the services herein, a manufacturer, importer, non-resident seller, non-manufacturer non-resident seller or representative thereof – e.g. third party marketing entities - may enter the private or non-public areas of the retail package store. As used in this paragraph, "point-of-sale advertising materials" include point-of-sale displays and refer to the advertising items described under paragraph (1) of Rule 0100-03-.06 and paragraph (8) of this Rule. "Point of sale advertising materials" do not include product displays (i.e. wine racks, bins, barrels, casks, shelving, and the like from which distilled spirits, wine, and beverages are held, shelved, displayed and sold).~~

~~(d)~~ (d) ~~Nothing in this paragraph (13) shall be construed to authorize any services or conduct that is otherwise prohibited for retail food stores in T.C.A. § 57-3-815.~~

~~(13)~~(14) ~~Consumer Promotions – Direct Offerings. A manufacturer, supplier, importer, non-resident seller, non-manufacturer non-resident seller, distiller, or winery, or any representative thereof – e.g. third party marketing entities -~~, 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 member's advertising or marketing program through newspapers or magazines, ~~combination packaging, the internet, any other social media platform, neck hangers (on or in caps, cap liners, corks, containers, labels, cartons, cases, or other materials which comes with a purchased alcohol beverage), other point-of-sale advertising (e.g., tear pads that are part of shelf talkers, and case cards), flyers, and by direct mail~~. 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 ~~or any representative thereof – e.g. third party marketing entities~~ - directly to consumers at point-of-sale, ~~via neck hangers (on or in caps, cap liners, corks, containers, labels, cartons, cases, or other materials which come with a purchased alcohol beverage) and other point-of-sale advertising (e.g., tear pads that are part of shelf talkers and case cards)~~, through newspapers or magazines, and through the internet, ~~mobile/other electronic communication devices and communications via social media, flyers, and by direct mail in conjunction with combination packaging~~. 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 ~~or any representative thereof – e.g. third party marketing entities~~ - to induce or reward participation in any practice allowed hereunder. Industry members ~~or any representative thereof – e.g. third party marketing entities~~ - 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 or any representative thereof – e.g. third party marketing entities - for participation in any practice allowed hereunder.

(d) Notwithstanding subparagraph (c), an industry member or any representative thereof – e.g. third party marketing entities - may award prizes to a retail employee as part of a nationwide or statewide contest, such as a bartender's contest or drink recipe contest, conducted by the industry member or such representative, in accordance with applicable contest rules; provided, that the entry or award is not based upon retail sales of the sponsor's product and the industry member has received advance written approval of the contest by the TABC. Such contest shall be open to all retail licensees of the same type - e.g., "on-premise or off-premise" consumption licensees, or both.

(d)(e) 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, non-resident seller, non-manufacturer non-resident seller, distiller, or winery, or any representative thereof – e.g. third party marketing entities -, that are redeemable by a consumer's mailing or transmitting directly to such manufacturer, supplier, importer, non-resident seller, non-manufacturer non-resident seller, distiller, winery, or an authorized redemption agent.

(e)(f) 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 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)(15) 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 ten (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)(16) Withdrawals for Special Occasion Licensees.

(a) An industry member licensee may deplete inventories for purposes of contributing to any qualified entity that has obtained has applied or will apply for a special occasion permit license issued by the Commission and may transport such inventories directly to the qualified entity. If the industry member is a manufacturer, then such contribution shall be distributed through a licensed wholesaler. The licensed donating licensee wholesaler shall retain records of all such withdrawals showing the amount of inventory withdrawn, the purpose of withdrawal, and the employee responsible for such withdrawal in accordance with Rule 0100-03-.14(1).

(b) In addition to product withdrawals for special occasion licensees, an industry member may further provide such items as promotional items, equipment, fixtures, posters, supplies, sponsorships, etc. to special occasion licensees

without being subject to the limitations and restrictions found in Rules 0100-06-.02 and 0100-06-.03. However, any such physical promotional items provided to the special occasion licensee for an event must be returned to the industry member at the conclusion of the event and may not be given to or left for the use of a Tennessee-licensed retailer.

(c) Further, notwithstanding Rule 0100-06-.03(8), industry members may give branded or non-branded advertising specialty items that are designed to be carried away by consumers and that are of nominal value directly to the consumer and/or attendee at a special occasion licensed event. At the conclusion of the event, any remaining branded advertising items must be returned to the industry member.

(17) Retail and Industry Association Activities. An industry member may participate in the following retailer and industry association activities:

(a) Displaying its products at a convention or trade show;

(b) Renting display booth space if the rental fee is the same as paid by all exhibitors at the event;

(c) Providing its own hospitality, which is independent from association sponsored activities;

(d) Purchasing tickets to functions and paying registration fees if the payments or fees are the same paid by all attendees, participants, or exhibitors at the event; and

(e) Making payments for advertisements, programs, or brochures issued by retail associations at a convention or trade show if the total payments made by the member and its representatives do not exceed three hundred dollars (\$300) per year.

Authority: T.C.A. §§ 57-1-209, 57-1-201, and 57-3-104, 57-3-202, 57-4-201, Public Chapter 147, Public Acts of 2017.

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. The ten-day period begins from delivery and receipt by the retail licensee. The ten-day period cannot include any day that the wholesaler is not open to make deliveries, receive payment, or receive mail.

- (b) ~~Payment sent by mail and postmarked by midnight of the due date shall be considered compliance. Any suspension of deliveries is a credit decision to be made by a wholesaler and a retail licensee.~~
- (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 ten-day (10) credit period but which is dishonored for any reason after the ten-day (10) 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.~~
- ~~(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)~~(5) 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 paragraph (5) are not intended to otherwise affect or amend paragraphs (1)-(4).

Authority: T.C.A. §§ ~~57-1-201 and~~ 57-1-209, ~~57-3-104, 57-3-202, 57-3-404, and 57-3-815.~~

0100-06-.05 Dual Permits Prohibited.

- (1) No person shall be issued more than one (1) of the following permits:
 - (a) Manufacturer or importer representative permit;
 - (b) Wholesale salesman or representative permit;
 - (c) Wholesale employee's permit;
 - (d) Off-premises retail employee's permit;
 - (e) On-premises retail employee's permit; or
 - (f) Manager's permit.
- (2) Notwithstanding the provisions of **Rule** 0100-06-.05(1) above, any individual may be issued an off-premise retail employee permit, an on-premise server permit, and a manager's permit, or any combination thereof, 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 only when such employee and/or representative is acting within the scope of their employment of such industry member, but not within the scope of employment of another industry member.

Authority: T.C.A. §§ 57-1-201, 57-1-209, ~~and 57-3-104(e)(4), 57-3-710, and 57-4-202.~~

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).

Authority: T.C.A. §§ ~~57-1-201,~~ 57-1-209, ~~and~~ 57-3-709.

0100-06-.07 Retail Employee Permits.

- ~~(1) Any permit issued by the Commission pursuant to T.C.A. § 57-3-204(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. § 57-3-204(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. § 57-3-204(c) shall be considered unless the application is accompanied by a processing fee of twenty dollars (\$20.00).~~

(4) After the conclusion of business on June 30, 2016, no permit issued pursuant to T.C.A. § 57-3-204(c) shall be issued by the Commission. Any permit issued by such time shall remain in effect and be valid for five (5) years after the permit's issuance, and any employee of a retail package store who has a valid permit under T.C.A. § 57-3-204(c) on July 1, 2016, shall not be required to be a certified clerk pursuant to T.C.A. § 57-3-818 until that permit expires.

Authority: T.C.A. §§ ~~57-1-201~~, 57-1-209, 57-3-104~~(c)(4)~~, 57-3-204~~(c)~~, and 57-3-~~709~~ 710.

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 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 (1) 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 paragraph (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, ~~57-3-104~~, and ~~57-3-202~~.

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 beverages bearing the same brand or trade name and of like age and quality.
- (2) The restrictions imposed in paragraph (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~~ 57-3-204 or 57-3-803 pursuant to a bona fide marketing plan.

- (3) Notwithstanding the prohibitions of paragraph (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, 57-3-104, 57-3-202, and 57-4-201.

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