STATE OF TENNESSEE
OFFICE OF THE
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Opinion No. 01-117

Beer sales to golf course patrons away from the golf course clubhouse or restaurant

QUESTION

In a Class "A" County, under what conditions, if any, is it legal for a permit holder on a golf course to sell beer outside the clubhouse or restaurant to persons on the course?

OPINION

It is the Opinion of this Office that a clubhouse or restaurant beer permit holder located on a golf course cannot sell beer to individuals on the golf course itself, away from the building, under any circumstances.

ANALYSIS

Pursuant to Tenn. Code Ann. § 57-5-103(a)(1), "[i]t is unlawful to operate any business engaged in the sale, distribution, manufacture, or storage of beer without a permit issued by the county or city where such business is located under the authority herein delegated to counties and cities." The question posed presumes that such a permit has been procured by a clubhouse or restaurant located on the premises of a golf course. The controlling statute provides that "[a] permit shall be valid . . . [o]nly for a single location, except as provided in subdivision (a)(4), and cannot be transferred to another location. A permit shall be valid for all decks, patios, and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located and that are operated by the business . . . ."[1] Tenn. Code Ann. § 57-5-103(a)(3)(B).

Under the maxim *ejusdem generis*, in instances "[w]here general words follow

[1]The question submitted speaks of Class A counties, but in the instant case this specificity is immaterial. The analysis would be the same for golf courses with clubhouses or restaurants in incorporated towns, cities, Class A counties and Class B counties. These classifications are relevant to the different licensing powers of cities and counties and the different application processes required of permit seekers in the various classifications of cities and counties. *See* Tenn. Code Ann. §§ 57-5-105 and 57-5-106.

specific words in a statutory enumeration, the general words are construed to embrace only objects similar in nature to those objects enumerated by the preceding specific words." *See Circuit City Stores, Inc. v. Adams*, 121 S.Ct. 1302, 1309 (2001) (*quoting* 2A N. Singer, Sutherland on Statutes and Statutory Construction § 47.17 (1991)). As such, the term "other outdoor serving areas" must be read to refer only to areas like "decks" and "patios," since these specific words immediately precede the general phrase in the statute. A golf course, while potentially "contiguous to the exterior" of the course's restaurant or clubhouse, does not constitute an "outdoor serving area" within the meaning of the statute. A golf course is not like a deck or patio, since the latter areas are mere extensions of the clubhouse or restaurant designed to attract and accommodate customers wishing to dine outdoors, while the former has a completely distinct use as a place to play a sport. Thus, beer sales on the course itself are not permissible under the grant of power given to the clubhouse or restaurant permit holder.

Additionally, Tenn. Code Ann. § 57-5-103(a)(3)(B) states that a permit can be used "[o]nly for a single location, except as provided in subdivision (a)(4), and cannot be transferred to another location." Tenn. Code Ann. § 57-5-103(a)(4) allows an owner who "operates two (2) or more restaurants or businesses within the same building" to "operate some or all such businesses pursuant to the same permit." Since an additional structure or building on the course itself would not be "within the same building" as the course's clubhouse or restaurant, the aforementioned exception is inapplicable to the matter herein considered. The only way a golf course patron could purchase beer on the course itself, away from the clubhouse or restaurant, would be at a building for which a separate permit has been issued.

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