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Opinion No. 13-73

Hours for Sale of Alcoholic Beverages

QUESTION

Do businesses licensed to sell alcoholic beverages and fronting streets located to the north or south of Beale Street in Memphis qualify for extended hours for sale under Tenn. Code Ann. § 57-4-203(d)(4)?

OPINION

No. To qualify for extended hours for the sale of alcoholic beverages under Tenn. Code Ann. § 57-4-203(d)(4), a person must be licensed to sell alcoholic beverages on "premises," as defined under Tenn. Code Ann. § 57-4-102(27), located inside a national historic landmark or within four blocks west of the western boundary of a national historic landmark and on the same street as the national historic landmark. The Beale Street Historic District consists of Beale Street from Main Street to Fourth Street. Licensed businesses fronting streets located to the north or south of Beale Street do not fall within the provisions of Tenn. Code. Ann. § 57-4-203(d)(4) and thus do not qualify for extended hours for the sale of alcoholic beverages.

ANALYSIS

Tennessee laws governing the sale of alcoholic beverages provide for extended hours of sale in a defined area within the City of Memphis related to the Beale Street Historic District. The extended hours for the sale of alcoholic beverages in this area are governed by Tenn. Code Ann. § 57-4-203(d), which states in relevant part:

> [L]icensees under § 57-4-102(27) may not sell or give away alcoholic beverages and/or malt beverages and/or wine between the hours of five o'clock a.m. (5:00 a.m.) and eight o'clock a.m. (8:00 a.m.) on weekdays or between the hours of five o'clock a.m. (5:00 a.m.) and twelve o'clock (12:00) noon on Sundays.

Tenn. Code Ann. § 57-4-203(d)(4). Under this provision, any person to whom a license has been issued to sell alcoholic beverages on premises as defined under Tenn. Code Ann. § 57-4-102(27) are explicitly allowed to do so until 5:00 a.m.

The "premises" eligible for the extended hours of sale are defined as:

(27) "Premises," when:

(A) Referring to an establishment licensed under this chapter;
(B) Such establishment is located within an historical district which has been designated as a national historic landmark;
(C) Such a national historic landmark centers around a public street or right-of-way; and
(D) Such a public street or right-of-way is closed to motor vehicular traffic on a regular basis;

includes the area encompassed by the boundaries of the historic district; provided, that the granting of a license for a business location within such historical district shall not preclude the granting of another license to another establishment located within the boundaries of the historic district. The provisions of this subdivision (27) shall apply only to counties with a population of more than four hundred thousand (400,000) according to the 1980 census, but those counties having a metropolitan form of government shall be exempt from the provisions of this subdivision (27). In such county, only for the purposes of the hours of sale provided in § 57-4-203(d)(4), "premises" also includes any establishment located within four (4) blocks west of the western boundary of the historic district and on the same public street or right of way as the historic district; provided, that the requirement of closing the street or right-of-way to motor vehicular traffic on a regular basis shall not apply to the extension of the premises established by this sentence.

Tenn. Code Ann. § 57-4-102(27).

Beale Street is located in Shelby County, a county having a population of more than 400,000 according to the 1980 census. Tenn. Code Ann., Tables Volume at 1341 (listing population of Shelby County as 777,113). The National Park Service has designated the Beale Street Historic District as a national historic landmark and defined the Beale Street Historic District as Beale Street, from Main to Fourth Streets, in Memphis, Tennessee. *See* National Park Service website, National Historic Landmarks Programs, *available at* http://tps.cr.nps.gov/NHL. *See also* National Historic Landmarks by State, *available at* http://www.nps.gov/NHL. Beale Street runs approximately east and west. Fourth and Main Streets intersect Beale Street to the east and west, respectively. *See* Figure 1 below.

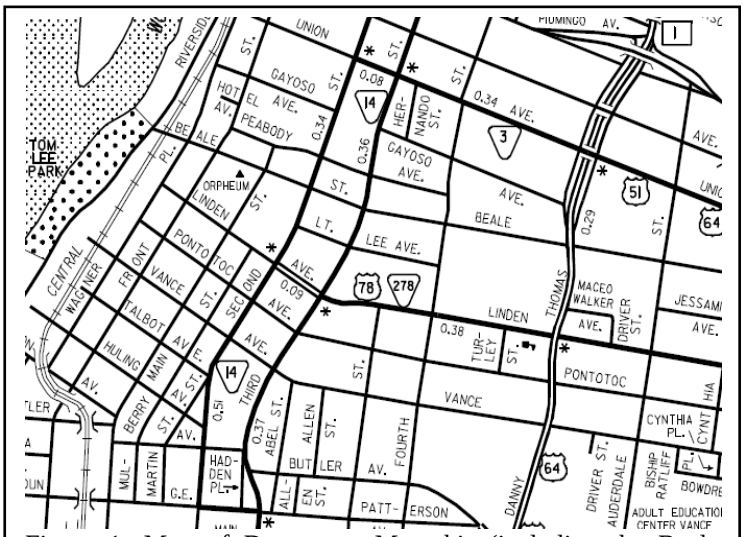

Figure 1: Map of Downtown Memphis (including the Beale Street Historic District)

When construing statutes, Tennessee courts will determine the General Assembly's intent by looking to the text of the statute and giving "the words their natural and ordinary meaning in the context in which they appear and in light of the statute's general purpose." *Britt v. Dyer's Employment Agency, Inc.*, 396 S.W.3d 519, 523 (Tenn. 2013). Under Tenn. Code Ann. § 57-4-102(27), a licensed establishment must be located within a historical district designated as a national historic landmark, or within four blocks west of the western boundary and on the same street as the national historic landmark, to sell or give away alcoholic beverages and/or malt beverages and/or wine until 5:00 a.m. Tenn. Code Ann. §§ 57-4-102(27), 57-4-203(d)(4). The plain language of the statute thus permits extended hours only for licensed establishments along Beale Street between Fourth and Main Streets, when the street is closed to vehicular traffic, and within the four blocks west "of the western boundary of the historic district and on the same public street or right of way as the historic district." Tenn. Code Ann. § 57-4-102(27). Businesses on streets outside of those areas do not qualify for the extended hours of sale set forth in Tenn. Code Ann. 57-4-203(d)(4), including businesses fronting streets to the north or south of Beale Street.

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