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Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: Tennessee Alcoholic Beverage Commission
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Revision Type (check all that apply):

- Amendment Content based on previous emergency rule filed on _____
 New Content is identical to the emergency rule
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0100-01	Rules for the Sale of Liquor by the Drink
Rule Number	Rule Title
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0100-01-.06	Additional Rules Applicable to Caterers
0100-01-.07	Applications for Special Occasion Permits
0100-01-.09	Applications for On-premises Consumption Licenses

Chapter Number	Chapter Title
0100-03	Local Option Liquor Rules
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0100-03-.10	Transporting and Delivery of Alcoholic Beverages
0100-03-.13	Conduct of Business-Wholesaler and Retailer
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0100-07	Production, Sale, and Transport of Wine
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Chapter Number	Chapter Title
0100-14	Access to Public Records Held by the Commission
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0100-14-.07	Fees, Payments, and Waivers
0100-14-.08	Aggregation of Frequent and Multiple Requests
0100-14-.09	Failure to Inspect or Failure to Pay for Copies

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

RULES
OF
THE TENNESSEE ALCOHOLIC BEVERAGE COMMISSION
CHAPTER 0100-01
RULES FOR SALE OF LIQUOR BY THE DRINK
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0100-01-.07 Applications for Special Occasion Permits
0100-01-.08 Terminal Building of a Commercial Air Carrier
0100-01-.09 Renewal Applications for On-Premises Consumption Licenses

Rule 0100-01-.01 is amended by deleting the existing language for the following paragraphs and sub-paragraphs in its entirety and replacing it with the following:

0100-01-.01 ADVERTISING

- (1) Billboards and Outside Signs.
 - (a) Alcoholic beverages may be advertised on signs and billboards in 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, or other distinctive designations associated with a particular brand, while also bearing the name, advertising the establishment, or referring to the services of any licensee. All advertising costs, direct or indirect, must be borne by the on-premises consumption licensee, except as permitted by Rule 0100-06-.03.

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

Rule 0100-01-.03 is amended by deleting 0100-01-.03(1)(c) in its entirety. Rule 0100-01-.03 is amended by deleting the existing language for the following paragraphs and sub-paragraphs in its entirety and replacing it with the following:

0100-01-.03 CONDUCT OF BUSINESS.

- (1) Business Management Restricted.
 - (a) Every licensed business must be managed by the holder of the license or a designated manager. The Alcoholic Beverage Commission must be notified in a manner approved by the Commission of any change in management within seven (7) days of the change.
 - (b) Each on-premises manager, assistant manager, and/or any individual working in such capacity, with duties that directly or indirectly impact the selling and dispensing of alcoholic beverages, must have a valid server permit subject to the provisions of T.C.A. § 57-3-707.

- (3) Free Access to Licensed Premises Without Warrant. Licensees must provide Tennessee Alcoholic Beverage Commission agents immediate access, without a warrant, to all parts of a licensed premise at all times.
- (4) Refusal of Cooperation. Any licensee, licensee's agent, or licensee's employee subjects the licensee to suspension or revocation of the liquor-by-the-drink license if they refuse to open or disclose records, refuse to furnish information, or furnish false and/or misleading information to an agent or representative of the Tennessee Alcoholic Beverage Commission.
- (6) Licensee Responsible for Law and Order on Licensed Premises. Each licensee will maintain the licensed establishment in a decent, orderly, and respectable manner and in full compliance with federal statutes, Tennessee laws, Commission rules and regulations, and local ordinances and laws in the municipality and/or county where licensed premises are located. Licensees remain responsible for complying with this rule if the licensed owner or operator rents, leases, or otherwise permits another to occupy the licensed premises.
- (8) On-Premises Sale by Bottle Restricted. On-premises licensees are restricted from selling or giving away distilled spirits by the bottle or package. Licensees have the right to sell wine, champagne, or malt beverages by the bottle or container for on-premises consumption. The bottle or container must be opened prior to being served to the consumer, except as specifically provided in T.C.A. § 57-4-203.
- (9) On-Premises Employees' Activities Restricted ("B-Girl" Activity). It is unlawful for any employee or agent of an on-premises licensee to solicit alcoholic beverages for public consumption by the employee or agent. It is further unlawful to dispense or consume any beverage under the pretense that it is an alcoholic beverage for public consumption. Nothing in this section precludes an industry member, its employees, or representatives from promoting products as permitted under Rule 0100-03-.11.
- (18) Server Permits. On-premises consumption licensees should maintain and have documentation of the hire date for employees that serve or handle alcohol, on-site and available for review. Acceptable documentation includes 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 longer than sixty-one (61) days.
- (20) Minors in Possession of Alcohol. On-premises consumption licensees must ensure that minors do not possess or consume any alcoholic beverage – including malt beverages or beer – on the licensed premises.
- (22) Application Process for On-premises Consumption Licenses.
 - (a) Applications must be submitted in a manner specified by the Commission. The following documents must be submitted in support of an application for license to sell alcoholic beverages for consumption on premises:
 9. List of Officers/Owners/Members/Partners;
 10. Sales & Use Tax Certificate of Registration or equivalent verification issued by the Tennessee Department of Revenue;
 11. Sufficient bond posted with the Department of Revenue;
 12. Application fee;
 13. Business Hours;
 14. Current manager(s);

15. Department of Health issued health inspection or an equivalent document, unless otherwise prohibited by statute; and

Authority: T.C.A. §§ 57-1-207; 57-1-209; 57-3-104; 57-3-406; 57-3-704; 57-3-710; 57-4-101; 57-4-102; 57-4-104; 57-4-201; and 57-4-203.

Rule 0100-01-.04 is amended by deleting the existing language for the following paragraph in its entirety and replacing it with the following:

0100-01-.04 TRANSFER OF LOCATIONS.

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

Authority: T.C.A. §§ 57-1-201, 57-1-207, 57-1-209, 57-3-104, 57-3-205, 57-3-212, 57-4-201, and 57-4-203.

Rules 0100-01-.05(3), 0100-01-.05(4)(a)(10), and 0100-01-.05(4)(a)(11) are amended by deleting the existing language in its entirety and renumbering the remaining paragraphs accordingly. Rule 0100-01-.05 is amended by deleting the existing language for the following paragraphs and sub-paragraphs in its entirety and replacing it with the following:

0100-01-.05 APPLICATIONS BY PRIVATE CLUBS.

- (1) Public Notice. Each club, as defined by T.C.A. § 57-4-102, applying for a license to sell alcoholic beverages for on-premises consumption has a duty to place a notice in a newspaper of general circulation in the county or municipality where the club is or will be located indicating the club's intention to apply for a license with the Tennessee Alcoholic Beverage Commission. The notice is required to contain the information prescribed in subsection (2) below. A copy of the published notice is required to be submitted with the club license application.
- (3) 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).
- (4) Application Process for New Private Club Licenses.
 - (a) A complete application includes the contact name and information for club officers that will control the sale of alcohol and must be submitted in a manner specified by the Commission. In addition, the following documents must be submitted in support of an on-premises consumption license application by a private club:
 1. Charter, constitution, and any amendments, if the club is incorporated;
 2. A valid lease, lease assignment, or sublease, and/or deed, or other instrument indicating the club's ownership and/or right of possession of the physical premises;
 3. A certificate of good moral character, issued by the city or county, for the person(s) in charge of the sale of alcoholic beverages;

4. Verification that the applicant has complied with 0100-01-.05(2) and 0100-01-.05(3);
 5. Menu;
 6. Price schedule as set forth by the Department of Revenue;
 7. Verification that all alcohol handling employees have TABC issued server permits;
 8. Department of Health issued health inspection, or an equivalent government issued document from an appropriate inspector; and
 9. Business hours.
- (5) 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.
 2. Applications for license renewal need not submit material that is required of new applicants by rule 0100-01-.05(5), unless otherwise requested by the Commission.
- (6) Definitions. For the purpose of this chapter, the following definitions shall be used:
- (7) Additional Rules for Private Clubs.

Authority: T.C.A. §§ 57-1-209, 57-3-104, 57-4-102, and 57-4-201.

Rule 0100-01-.06 is amended by deleting the existing language for the following paragraphs in its entirety and replacing it with the following:

0100-01-.06 ADDITIONAL RULES APPLICABLE TO CATERERS.

- (4) Commission licensed caterers may provide alcohol if there are some food items present and available for consumption that was prepared by the licensed caterer in the licensee's commercial kitchen or in a kitchen where the event will be held. New catering applicants are required to have a commercial kitchen, which must include a fixed stove or cooktop, an oven, a refrigerator, a freezer, a sink, and counter space necessary to prepare food for commercial purposes.
- (5) Commission licensed caterers must submit electronic notice of any catered event involving the sale or distribution of alcohol at least two (2) calendar days prior to the event during state business hours, prevailing time. Such notice should include the date, address, host, and time of the event. The Commission will confirm receipt of the notification.

Authority: T.C.A. §§ 57-1-209, 57-4-102, 57-4-115, and 57-4-201.

Rule 0100-01-.07(4) is amended by deleting the existing language in its entirety. Rule 0100-01-.07 is amended by deleting the existing language for the following paragraphs and sub-paragraphs in its entirety and replacing it with the following:

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 designated areas by qualified entities. Special Occasion Permits are required if an entity does not otherwise hold an on-premises consumption liquor license, and/or if the entity is selling, serving, or otherwise dispensing alcoholic beverages to invited guests or the public. Special Occasion permittees are subject to the laws and rules governing the sale and service of alcoholic beverages.
- (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 complete application submitted in a manner specified by the Commission;

Authority: T.C.A. §§ 57-1-209, 57-3-104, 57-4-101, 57-4-102 and 57-4-201.

Rule 0100-01 is amended by adding the following as a new rule:

0100-01-.09 RENEWAL APPLICATIONS FOR ON-PREMISES CONSUMPTION LICENSES.

- (1) Renewal applications must be submitted in a manner specified by the Commission, in which the licensee acknowledges and accepts the Tennessee Alcoholic Beverage Commission rules and regulations. Renewal applicants are required to submit the renewal fee at the time of application. The renewal process is complete when the Tennessee Alcoholic Beverage Commission issues an updated license that is valid for one (1) year from the prior license expiration date.

Authority: T.C.A. §§ 57-4-201 and 57-3-213.

RULES
OF
THE TENNESSEE ALCOHOLIC BEVERAGE COMMISSION
CHAPTER 0100-03
LOCAL OPTION LIQUOR RULES
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0100-03-.23 Rectifying
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Rule 0100-03-.09 is amended by deleting the existing language for 0100-03-.09(3), (8), and (9) in its entirety and renumbering the remaining paragraphs:

0100-03-.09 LICENSES AND PERMITS.

Authority: T.C.A. §§ 57-1-201, 57-1-209, 57-3-104, 57-3-203, 57-3-204, 57-3-208, and 57-4-201.

Rule 0100-03-.10(2)(a) is amended by deleting the existing language in its entirety and renumbering the remaining sub-paragraphs.

0100.03-.10 TRANSPORTATION AND DELIVERY OF ALCOHOLIC BEVERAGES.

Authority: T.C.A. §§ 57-1-201, 57-1-209, 57-3-104, 57-3-203, 57-3-204, 57-3-208, and 57-4-201.

Rule 0100-03-.13 is amended by deleting the existing language for the following paragraph in its entirety and replacing it with the following:

0100-03-.13 CONDUCT OF BUSINESS – WHOLESALER AND RETAILER.

- (12) Licensee Responsible for Law and Order on Licensed Premises. Each licensee will maintain the licensed establishment in a decent, orderly, and respectable manner and in full compliance with federal statutes, Tennessee laws, Commission rules and regulations, and local ordinances and laws in the municipality and/or county where licensed premises are located. Licensees remain responsible for complying with this rule if the licensed owner or operator rents, leases, or otherwise permits another to occupy the licensed premises.

Rule 0100-03-.13 is amended by adding the following as a new rule: 0100-01-.13(16)

- (16) A retailer, whose primary purpose for existing is to sell alcoholic beverages, is restricted from operating on Christmas, Thanksgiving, and Easter.

Authority: T.C.A. §§ 57-1-201, 57-1-209, 57-3-104, 57-3-202, 57-3-203, 57-3-404, 57-3-406, and 57-4-108.

Rule 0100-03 is amended by adding the following as a new rule: 0100-03-.24

0100-03-.24 LICENSURE APPLICATIONS.

- (1) Each applicant that applies for a license under Title 57 must pay to the Commission a one-time, nonrefundable fee in the amount of three hundred dollars (\$300.00), excluding temporary licenses applied for by non-profit entities, unless otherwise specified in statute.
- (2) Renewal applications must be submitted in a manner specified by the Commission, in which the licensee acknowledges and accepts TABC rules and regulations. Renewal applicants are required to submit the renewal fee at the time of application. The renewal process is complete when the Tennessee Alcoholic Beverage Commission issues an updated license that is valid for one (1) year from the prior license expiration date.

Authority: T.C.A. §§ 57-3-202, 57-3-203, 57-3-204, and 57-3-213.

RULES
OF
THE TENNESSEE ALCOHOLIC BEVERAGE COMMISSION
CHAPTER 0100-07
PRODUCTION, SALE, AND TRANSPORT OF WINE

- 0100-07-.01 Applications for Winery Licenses
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- 0100-07-.08 Sale of Other Wine Related Items
- 0100-07-.09 Statutes Applicable to Winery Licensees

Rule 0100-07-.09 is amended by deleting the existing language for the following paragraph in its entirety and replacing it with the following:

0100-07-.09 STATUTES APPLICABLE TO WINERY LICENSEES.

- (3) Licensee Responsible for Law and Order on Licensed Premises. Each licensee will maintain the licensed establishment in a decent, orderly, and respectable manner and in full compliance with federal statutes, Tennessee laws, Commission rules and regulations, and local ordinances and laws in the municipality and/or county where licensed premises are located. Licensees remain responsible for complying with this rule if the licensed owner or operator rents, leases, or otherwise permits another to occupy the licensed premises.

Authority: T.C.A. §§ 57-1-209, 57-3-104, and 57-3-207.

RULES
OF
THE TENNESSEE ALCOHOLIC BEVERAGE COMMISSION
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- 0100-08-.06 Fines
- 0100-08-.07 Repealed

Rule 0100-08-.03(4) is amended by deleting it in its entirety. Rule 0100-08-.03 is amended by deleting the existing language for the following paragraphs and sub-paragraphs in its entirety and replacing it with the following:

0100-08-.03 APPLICATIONS FOR SERVER PERMITS.

- (1) Every person seeking a server permit, authorizing that person to sell, serve, or handle alcoholic beverages for consumption on-premises, must apply for a permit in a manner specified by the

Commission. A twenty dollar (\$20.00) non-refundable application fee is required at the time of application. A cost adjustment factor for permit fees will be updated by the Executive Director of the Commission based upon the consumer price index at regular intervals beginning in January, 2013.

- (2) All information submitted in and with the application must be accurate and is submitted under the penalty of perjury. Failure to submit accurate information or documentation is grounds for suspension or revocation of the server permit.
- (3) Every complete application for a server permit includes verification from a certified program instructor that the applicant successfully completed a certified course on alcohol awareness within one (1) year of the date of the application.
 - (a) It is the applicant's duty to ensure that the alcohol awareness program attended is certified by the Commission. To ensure the program is certified, the applicant may look for the following:

Authority: T.C.A. §§ 57-1-209, 57-3-104, 57-3-212, 57-3-705, 57-3-710, and 57-4-201.

Rule 0100-08-.04 is amended by deleting the existing language for the following paragraphs and sub-paragraphs in its entirety and replacing it with the following:

0100-08-.04 CERTIFICATION OF TRAINING PROGRAM

- (1) Application for Certification. Any entity or individual seeking to have a training program certified shall complete and submit a written application on forms prescribed by the Commission. The application shall disclose the following information:
 - (a) The complete identity of the entity seeking to have the program certified, including the address, names of all individuals responsible for server training, and the source of the curriculum utilized by the entity.
 1. If the entity is a corporation, a copy of the corporate charter and/or certificate of authority is required.
 - (d) Training Program Format.
 1. Complete training programs must be, at least, three and one half (3 1/2) hours of instruction, excluding breaks for attendees, in an accessible location. In-person training programs may not be conducted in private homes.
 3. The training program must be supervised by qualified and trained instructors, who are present during all training sessions.
 4. At the beginning of each training program, the certified trainer will advise attendees that they may not meet the qualifications for a server permit if they are not at least 18 years of age, have been convicted of any felony within eight (8) years of the date of application, have been convicted of any statute involving the sale of alcoholic beverages, beer, or Schedule I or II controlled substances or any sex-related crime or embezzlement within the previous eight (8) years, had a server permit or a similar permit revoked by the state, a local jurisdiction, or a foreign jurisdiction within the prior five (5) years, and/or had ownership interest in a license or permit that was revoked by the issuing authority within the prior eight (8) years. The certified trainer will refund any fee previously received by any attendee who advises they will not continue with the class after hearing such restrictions.

- (i) Following the program completion, the certified program instructor must provide the Commission a list of all servers that have successfully completed the program - along with a fee of fifteen dollars (\$15.00) for each individual.

Authority: T.C.A. §§ 57-1-209, 57-3-104, 57-3-212, 57-3-705, 57-3-710, and 57-4-201.

Rule 0100-08-.05 is amended by deleting the existing language for the following paragraph in its entirety and replacing it with the following:

0100-08-.08-05 MISCELLANEOUS PROVISIONS.

- (4) Server Permit to be Available for Review. On-premises consumption licensees must maintain a readily accessible physical or electronic copy of server permits issued to all alcohol handling employees.

Authority: T.C.A. §§ 57-1-209, 57-3-104, 57-3-212, 57-3-705, 57-3-710, and 57-4-201.

RULES
OF
THE TENNESSEE ALCOHOLIC BEVERAGE COMMISSION
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- 0100-11-.06 Operation of Liquor by the Drink Establishments within Retail Food Stores
- 0100-11-.07 Conduct of Industry Members with Retail Food Stores

Rule 0100-11-.03 is amended by deleting the existing language of 0100-11-.03(2) in its entirety and renumbering the following paragraphs.

0100-11-.03 CONDUCT OF BUSINESS.

Authority: T.C.A. §§ 57-1-209, 57-3-104, 57-3-202, 57-3-207, 57-3-210, 57-3-404, 57-3-406, 57-3-412, 57-3-802, 57-3-803, 57-3-806, 57-3-807, 57-3-808, 57-3-811, 57-3-812, 57-3-815, 57-3-903, and 57-3-909.

The Tennessee Alcoholic Beverage Commission Rules are amended by adding a new chapter 0100-14.

RULES
OF
THE TENNESSEE ALCOHOLIC BEVERAGE COMMISSION
CHAPTER 0100-14
ACCESS TO PUBLIC RECORDS HELD BY THE COMMISSION
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- 0100-14-.08 Aggregation of Frequent and Multiple Requests
- 0100-14-.09 Failure to Inspect Records or Failure to Pay for Copies

0100-14-.01 PURPOSE AND SCOPE.

- (1) Pursuant to T.C.A. § 10-7-503(g), the purpose of the following public records rules are to provide timely and efficient access to public records of the Commission while at the same time preserving the confidentiality and protection of records or information as provided under state and federal law.
- (2) The Tennessee Public Records Act provides that all state public records shall, at all times during regular business hours, be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law.
- (3) Through the Public Records Request Coordinator, the Tennessee Alcoholic Beverage Commission shall timely and efficiently provide access and assistance to persons requesting to view or receive copies of public records. No provisions of this Rule shall be used to hinder access to open public records. However, the integrity and organization of public records, as well as the efficient and safe operation of the Commission, shall be protected as provided by current law. Questions about these Rules should be addressed to the Commission's Public Records Request Coordinator or to the Tennessee Office of Open Records Counsel ("OORC").

Authority: T.C.A. § 10-7-503.

0100-14-.02 DEFINITIONS.

- (1) "Commission" or "TABC" means the Tennessee Alcoholic Beverage Commission.
- (2) "Public Record" means all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency.
- (3) "Public Records Request Coordinator" or "PRRC" means the individual(s) whose responsibility it is to ensure public record requests are routed to the appropriate records custodian and fulfilled in accordance with the Tennessee Public Records Act.
- (4) "Records Custodian" means the office, official, or employee lawfully responsible for the direct custody and care of a public record. The records custodian is not necessarily the original preparer or receiver of the record.
- (5) "Requestor" means a citizen of the State of Tennessee seeking access to a public record, whether for inspection or duplication.
- (6) "Tennessee Public Records Act" or "TPRA" means the State law codified in T.C.A. §§ 10-7-503, *et seq.*

Authority: T.C.A. § 10-7-503.

0100-14-.03 REQUESTS FOR ACCESS TO PUBLIC RECORDS.

- (1) Public record requests, whether written or oral, shall be made to the PRRC or designee to ensure that such requests are routed to the appropriate records custodian and fulfilled in a timely manner.
- (2) Public record requests shall include the following information clearly and concisely expressed:
 - (a) Name and Tennessee contact information, including telephone and email address (in order to provide any communication required under the TPRA);
 - (b) Detailed description of the records being requested, including type, time frame, subject matter or key words, and any other information identifying the records;
 - (c) Statement whether the request is for inspection or receipt of copies, or both; and
 - (d) Delivery preference if requesting copies.
- (3) Proof of Tennessee citizenship by the presentation of a valid, unexpired state government issued photo identification is required in order to inspect or receive copies of public records. If a person does not possess photo identification or validity of the identification is in question, the PRRC may require other forms of identification. Upon a satisfactory showing, such proof of state citizenship will not be kept or retained by the PRRC. If copies of documentation are provided by mail or electronically to the PRRC, after verification, the information will be disposed of in such a way as to maintain the confidentiality of the information.
- (4) Requests for access to inspect public records maintained or received by the Commission may be made to the PRRC in-person, by mail, telephone, fax, or email.
- (5) Requests for copies, or requests for inspection and copies of public records, shall be made in writing. A requestor may use the TABC Public Records Request form available on the TABC website. If the TABC Public Records Request form is not used, the written request must still contain all information required under (2) of this section.
- (6) Requests not made in an appropriate manner or requests that are not directed to the PRRC as provided herein, will not be accepted. Requests made via any method other than those prescribed herein will not be accepted.
- (7) The contact information for the PRRC is as follows:

Tennessee Alcoholic Beverage Commission
ATTN: Public Records Request Coordinator
Davy Crockett Tower,
500 James Robertson Parkway, 3rd Floor
Nashville, Tennessee 37243
Phone: 615-741-1602
Fax: 615-741-0847
Email: TABC.PublicRecords@tn.gov
- (8) Any changes to the contact information for the PRRC shall be posted on the TABC's website.

Authority: T.C.A. § 10-7-503.

0100-14-.04 RESPONSES TO REQUESTS FOR PUBLIC RECORDS.

- (1) Public Records Request Coordinator.
 - (a) The PRRC shall review public records requests and determine the following:

1. Whether the requester has provided evidence of Tennessee citizenship pursuant to Rule 0100-14-.03(3);
 2. Whether the records requested are described with sufficient specificity to identify them;
 3. Whether the TABC is the custodian of the records; and
 4. Whether the records requested, or any of their contents, are protected and, thus, not subject to disclosure based on applicable federal or state law or rules.
- (b) The PRRC shall acknowledge receipt of the request and take any of the following appropriate actions:
1. Inform the requester of this rule chapter and the determinations made regarding:
 - (i) Evidence of Tennessee citizenship;
 - (ii) Fees (and labor threshold and waivers, if applicable);
 - (iii) Aggregation of multiple or frequent requests; or
 - (iv) Need for clarification of the request(s).
 2. As appropriate, deny the request in writing and provide the appropriate ground(s) for denial, which may include:
 - (i) The requester is not a Tennessee citizen or has not presented evidence of Tennessee citizenship;
 - (ii) The request lacks specificity. The Commission may work with a requestor to clarify the request;
 - (iii) An exemption makes the requested record protected from disclosure;
 - (iv) TABC is not the custodian of the requested records;
 - (v) The records requested do not exist; or
 - (vi) Any other legal grounds for denial.
 3. As appropriate, contact the requestor to see if the request can be narrowed or otherwise clarified.
 4. Forward the records request to the appropriate records custodian within TABC.
 5. If requested records are in the custody of a different governmental entity, and the PRRC knows the correct governmental entity, advise the requestor of the correct governmental entity and PRRC for that entity, if known.

(2) Records Custodian.

- (a) Upon receiving a public records request, a TABC records custodian in collaboration with the PRRC shall gather the requested public records in accordance with T.C.A. § 10-7-503. Before making the records available, General Counsel or his/her designee shall conduct a review to ensure the preservation of confidential or protected information as provided in state and federal law.
- (b) If it is not practicable to promptly provide the requested records, the records custodian in collaboration with the PRRC shall, within seven (7) business days from the records

custodian's receipt of the request, direct the PRRC to send the requestor a written response indicating the reason for the delay and an estimate of the additional time necessary to produce the records or information. Reasons for delay may include:

1. To determine whether the requested records exist;
 2. To search for, retrieve, or otherwise gain access to records;
 3. To determine whether all or part of the records are open or confidential;
 4. To redact records; or
 5. For other similar reasons.
- (c) If a records custodian in collaboration with the PRRC denies a public records request, the PRRC shall deny the request in writing.
- (d) If a records custodian in collaboration with the PRRC reasonably determines that production of records should be segmented because the records request is for a large volume of records, or additional time is necessary to prepare the records for access, the PRRC's response shall notify the requester that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable. As appropriate, the records custodian or PRRC should contact the requester to see whether the request can be narrowed.
- (e) If a records custodian discovers that records responsive to a request were omitted, the records custodian shall promptly contact the PRRC concerning the omission and produce the records as quickly as practicable. The PRRC will contact the requestor and supplement the records response.

Authority: T.C.A. §§ 10-7-503 and 10-7-504.

0100-14-.05 REDACTION OF RECORDS.

- (1) If a record contains confidential information, or information that is not open for public inspection, the PRRC or the records custodian shall prepare a redacted copy of the record and consult with General Counsel or his/her designee before providing access to the records.
- (2) Whenever a redacted record is provided, the PRRC will provide the requestor with the general basis for redaction without revealing confidential or protected information.

Authority: T.C.A. §§ 10-7-503 and 10-7-504.

0100-14-.06 INSPECTION AND COPIES.

- (1) For inspection of public records:
 - (a) There shall be no charge for the inspection of public records.
 - (b) The location for inspection of public records will be in the office location of the PRRC in Nashville and such inspection will occur during the Commission's normal business hours.
 - (c) Under reasonable circumstances, the PRRC may require an appointment for inspection or may require inspection of records at an alternate location.

- (2) If after viewing the records, a requestor wishes to obtain copies, the Commission will make copies and assess charges in accordance with Rule 0100-14-.07, or copies may be made as follows:
 - (a) A requestor may use a personal camera or cell phone to take a photograph of a public record so long as the organization and integrity of the record is maintained. If a record contains confidential or protected information, the record may not be photographed until all appropriate redactions are completed.
 - (b) The requestor will not be allowed to connect any personal equipment to a TABC computer or electronic device, including but not limited to utilizing a flash drive, in order to make copies of public records.
- (3) Upon receipt of a request for copies of open public records, the Commission shall calculate the cost based on copy and labor charges for the entire request, or pro-rate the charges on a per page basis and promptly make the copies available to the requestor in the following manner:
 - (a) For pickup at a location specified by the PRRC;
 - (b) By regular mail delivery through the United States Postal Service to the requestor's home or other acceptable address within Tennessee; or
 - (c) Electronic records that can be sent in a single transmission will be sent by email, except when such records include personally identifiable information.

Authority: T.C.A. § 10-7-503.

0100-14-.07 FEES, PAYMENTS, AND WAIVERS.

- (1) The Commission shall assess charges for copying and labor required to produce copies of the requested public records based on the most current version of the Schedule of Reasonable Charges issued by the OORC. The Schedule of Reasonable Charges is available on the Tennessee Comptroller of the Treasury's website on the OORC page.
- (2) The PRRC will provide requestors with an itemized written estimate of the charges prior to producing copies of records. Requestors must pay the estimate before the records will be released.
- (3) When fees for copies and labor do not exceed ten dollars (\$10.00), the fees may be waived by the PRRC.
- (4) Fees associated with aggregated record requests will not be waived.
- (5) Payment of charges shall be payable to the Commission by cashier's check, money order, or other reliable means determined by the TABC, and delivered as specified by the PRRC.

Authority: T.C.A. § 10-7-503.

0100-14-.08 AGGREGATION OF FREQUENT AND MULTIPLE REQUESTS.

- (1) TABC will aggregate record requests for records of TABC when four (4) or more requests are received within a calendar month either from a single individual or a group of individuals deemed working in concert by the PRRC.

- (2) The PRRC is responsible for making the determination that a group of individuals are working in concert, and upon such determination, shall inform the individuals that they have been deemed to be working in concert and that requests will be aggregated.
- (3) Routinely released and readily accessible records shall be excluded from aggregation. Such records include, but are not limited to, notices, orders, agendas, meeting minutes, and other materials that are accessible on the Tennessee Alcoholic Beverage Commission's website.

Authority: T.C.A. § 10-7-503.

0100-01-04-.09 FAILURE TO INSPECT OR FAILURE TO PAY FOR COPIES.

- (1) If a requestor makes two (2) or more requests to view a public record within a six-month period and, for each request, the requestor fails to view the public record within fifteen (15) business days of receiving notification that the record is available to view, or misses two (2) or more scheduled appointments to view, TABC will not comply with any public records request from the requestor for a period of six (6) months from the date of the second request to view the public record unless the TABC determines failure to view the public record was for good cause.
- (2) If, after agreeing to pay an estimated cost prior to the production of copies, a requestor fails to pay the cost to produce the requested copies, TABC will not comply with any public record requests from the requestor until payment is received.

Authority: T.C.A. § 10-7-503.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
<i>Andrew K. ...</i>	✓				<i>[Signature]</i>
<i>John ...</i>	✓				<i>[Signature]</i>
<i>[Signature]</i>	✓				<i>[Signature]</i>

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Alcoholic Beverage Commission (board/commission/other authority) on June 2, 2023, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: June 2, 2023

Rulemaking Hearing(s) Conducted on: (add more dates) July 26, 2023

Date: 12/11/23

Signature: *[Signature]*

Name of Officer: Russell F. Thomas

Title of Officer: Director

Agency/Board/Commission: Tennessee Alcoholic Beverage Commission

Rule Chapter Number(s): 0100-01, 0100-03, 0100-07, 0100-08, 0100-11, 0100-14

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

[Signature]
Jonathan Skrmetti
Attorney General and Reporter

Feb. 5, 2024
Date

Department of State Use Only

Filed with the Department of State on: 2/9/2024

Effective on: 5/9/2024

RECEIVED

Feb 09 2024, 12:03 pm

Secretary of State
Division of Publications

[Signature]
Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

See attached

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

One of the proposed changes will likely positively impact server-trainers, who are often small business owners, because it removes a predetermined deadline and allows them greater flexibility to provide information when it is provided by their customer.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, "On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits or the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments. The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues."

The proposed rules are not expected to have an impact on local government.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The proposed rules primarily aligned the language throughout the rules for continuity. Some of the rule updates will align the language of the existing rules with subsequent statutory changes in T.C.A. §§ 57-3-704, 57-3-802, and 57-4-115. A rule will clarify the specific equipment needed to obtain a license under T.C.A. § 57-4-102(6) that is not otherwise described or defined in statute. Finally, TABC added a new section to establish rules in accordance with T.C.A. § 10-7-503.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

TABC has operated as required under the following statutory authority: T.C.A. §§ 10-7-503; 57-1-209; 57-3-104; 57-3-201; 57-3-202; 57-3-203; 57-3-205; 57-3-207; 57-3-212; 57-3-704; 57-3-710; 57-4-101; 57-4-102; 57-4-115; and 57-4-201.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The proposed rules will impact caterers, which is not a group that is represented by an overarching association. We have not, however, received feedback or concerns from the small group of attorneys that work in this area of law, other industry members, and/or any prospective or current licensee.

The rules will impact server-trainers and TABC received positive feedback on the proposed change to the application section from an active licensee. This group is also not represented by an association.

There is no other group, organization, association, corporation, or government entity that is being impacted by the remaining rule changes. Additionally, TABC has not received feedback on any other rule change that is being implemented.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There are no attorney general opinions or judicial rulings directly related to the rules.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The financial impact of the proposed rule changes should be minimal as they are unlikely to have an impact on the number of applications submitted or licenses issued.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Russell Thomas, Director; Tabatha Blackwell, Assistant Director; Aaron Rummage, Director of Legislation, Policy, and Communication

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Russell Thomas, Director; Aaron Rummage, Director of Legislation, Policy, and Communication.

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Davy Crockett Tower - 500 James Robertson Parkway, 3rd Floor, Nashville, Tennessee 37243, 615-741-8930, Ebony.Connor@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A

Responses to Comments

Comment 1: Collective Comment (Curtis Harrington – attorney representing the Wine and Spirits Wholesalers of Tennessee; Danielle Elks – Elks Law Firm; Tice White – Director Public and Government Affairs Walmart, Inc.; Rob Mortensen, representing the Broadway Entertainment Association)

Proposed Rule TABC Rule 0100-05-.02(4) Regulatory citations must be resolved by remitting payment for the civil penalty, contacting the legal department to determine/dispute the penalty, or appealing the citation within twenty (20) calendar days of the citation issuance date. Failing to act prior to day twenty-one (21) constitutes acceptance of the citation penalty, and the citation may no longer be appealed.

The collective comments requested the timeline for filing a timely appeal be extended from twenty (20) calendar days from issuance to twenty-one (21) days from acknowledged receipt, or as many as sixty (60) calendar days from the date of issuance. The basis for the comments were similar: the twenty (20) calendar day timeline to appeal was too narrow for varying reasons including concerns about service of the citation and the length of time that may be necessary for the appropriate party to receive the citation, investigate the basis of the citation, and decide the course of action.

Agency Response: The Commission elected not to add the proposed new rule, 0100-05-.02(4).

Comment 2: Rob Mortensen, representing the Broadway Entertainment Association stated that “meals can be served off a smaller space than twenty (20) inches in depth,” and requiring that bars be that depth could require costly renovations in response to changes to TABC Rule 0100-01-.03(19).

Agency Response: The Commission elected not to make any changes to TABC Rule 0100-01-.03(19).

Comment 3: Rob Mortensen, representing the Broadway Entertainment Association, 0100-01-.06 (4) stated that caterers often prepare food in the kitchen of the venue, not their own catering kitchen, and as written, a caterer must prepare the food in their own commercial kitchen. Additionally, the proposed change that specifies the equipment required to constitute a commercial kitchen would make some currently licensed caterers ineligible, so there should be a grandfather clause for existing licensees.

Agency Response: The Commission agreed with Mr. Mortensen’s recommendations and updated the language of 0100-01-.06(4) to reflect that a licensed caterer may prepare food in their commercial kitchen or in a kitchen where the event will be held. Additionally, TABC updated the language of 0100-01-.06(4) to reflect that the specific equipment required to meet the statutory requirement for a commercial kitchen is a requirement for new catering applications.

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Sequence Number: _____
 Rule ID(s): _____
 File Date: _____
 Effective Date: _____

Rulemaking Hearing Rule(s) Filing Form - REDLINE

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Alcoholic Beverage Commission
Division:	
Contact Person:	Ebony Connor
Address:	500 James Robertson Parkway, 3 rd Floor, Nashville, Tennessee
Zip:	37243
Phone:	615-741-8930
Email:	Ebony.Connor@tn.gov

Revision Type (check all that apply):

- Amendment Content based on previous emergency rule filed on _____
 New Content is identical to the emergency rule
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0100-01	Rules for the Sale of Liquor by the Drink
Rule Number	Rule Title
0100-01-.01	Advertising
0100-01-.03	Conduct of Business
0100-01-.04	Transfer of Locations
0100-01-.05	Applications by Private Clubs
0100-01-.06	Additional Rules Applicable to Caterers
0100-01-.07	Applications for Special Occasion Permits
0100-01-.09	Applications for On-premises Consumption Licenses

Chapter Number	Chapter Title
0100-03	Local Option Liquor Rules
Rule Number	Rule Title
0100-03-.09	Licenses and Permits
0100-03-.10	Transporting and Delivery of Alcoholic Beverages
0100-03-.13	Conduct of Business-Wholesaler and Retailer
0100-03-.24	Licensure Applications

Chapter Number	Chapter Title
0100-07	Production, Sale, and Transport of Wine
Rule Number	Rule Title
0100-07-.09	Sale of Wine by Winery

Chapter Number	Chapter Title
0100-08	Rules for Professional Alcohol Server Training
Rule Number	Rule Title
0100-08-.03	Applications for Server Permits
0100-08-.04	Certification of Training Program
0100-08-.05	Miscellaneous Provisions

Chapter Number	Chapter Title
0100-11	Rules for Sales of Wine at Retail Food Stores
Rule Number	Rule Title
0100-11-.03	Conduct of Business

Chapter Number	Chapter Title
0100-14	Access to Public Records Held by the Commission
Rule Number	Rule Title
0100-14-.01	Purpose and Scope
0100-14-.02	Definitions
0100-14-.03	Requests for Access to Public Records
0100-14-.04	Responses to Requests for Public Records
0100-14-.05	Redaction of Records
0100-14-.06	Inspection and Copies
0100-14-.07	Fees, Payments, and Waivers
0100-14-.08	Aggregation of Frequent and Multiple Requests
0100-14-.09	Failure to Inspect or Failure to Pay for Copies

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

RULES
OF
THE TENNESSEE ALCOHOLIC BEVERAGE COMMISSION
CHAPTER 0100-01
RULES FOR SALE OF LIQUOR BY THE DRINK
TABLE OF CONTENTS

- 0100-01-.01 Advertising
- 0100-01-.02 Solicitation of Business and Services Restricted
- 0100-01-.03 Conduct of Business
- 0100-01-.04 Transfer of Locations
- 0100-01-.05 Applications by Private Clubs
- 0100-01-.06 Additional Rules Applicable to Caterers
- 0100-01-.07 Applications for Special Occasion Permits
- 0100-01-.08 Terminal Building of a Commercial Air Carrier
- 0100-01-.09 Renewal Applications for On-Premises Consumption Licenses

Rule 0100-01-.01 is amended by deleting the existing language for the following paragraphs and sub-paragraphs in its entirety and replacing it with the following:

0100-01-.01 ADVERTISING

- (1) Billboards and Outside Signs.
 - (a) Alcoholic ~~B~~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, or other distinctive designations associated with a particular brand, while also bearing the name, ~~or~~ advertising the establishment, or referring to the services of any licensee. ~~However, a~~ All advertising costs, direct or indirect, must be borne by the on-premise s consumption licensee, except as permitted by Rule 0100-06-.03.

Authority: T.C.A. §§ 57-1-209, ~~57-2-209 to implement § 57-3-106 and Chapter 211, Public Acts of 1967~~, 57-3-104, and 57-4-201, and 57-818 to implement § 57-111 and Chapter 211, Public Acts of 1967.

Rule 0100-01-.03 is amended by deleting 0100-01-.03(1)(c) in its entirety. Rule 0100-01-.03 is amended by deleting the existing language for the following paragraphs and sub-paragraphs in its entirety and replacing it with the following:

0100-01-.03 CONDUCT OF BUSINESS.

- (1) Business Management Restricted.
 - (a) Every licensed business shall must be managed by the holder of the license, or a designated manager 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~~ must be notified in a manner approved by the Commission writing, by certified mail, of any change in management within seven (7) days

of the **actual** change.

- (b) Each on-premise~~s~~ manager, assistant manager, and/or any individual working in such capacity, ~~whether paid by salary or hourly and/or in training, and having with~~ duties ~~that which~~ directly or indirectly impacts ~~on~~ the selling and dispensing of alcoholic beverages, must ~~must complete and submit to the Tennessee Alcoholic Beverage Commission a questionnaire within seven (7) days of assuming their managerial duties.~~ have a valid server permit subject to the provisions of T.C.A. § 57-3-707.
- (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.~~
- (3) Free Access to Licensed Premises Without Warrant. Licensees must provide Tennessee Alcoholic Beverage Commission agents immediate access, without a warrant, to all parts of a licensed premises ~~shall~~ at all times ~~be accorded agents of the Tennessee Alcoholic Beverage Commission.~~
- (4) Refusal of Cooperation. Any licensee, ~~his licensee's~~ agent, or ~~licensee's~~ employee subjects the licensee to suspension or revocation of the liquor-by-the-drink license if they who refuses to open or disclose ~~his~~ records ~~to, refuse 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.
- (6) Licensee Responsible ~~F~~or Law and Order on Licensed Premises. Each licensee ~~shall will~~ maintain his the licensed establishment in a decent, orderly, and respectable manner and in full compliance with ~~all laws of~~ federal statutes, Tennessee laws, Commission rules and regulations, ~~federal statutes,~~ and local ordinances and laws of in the municipality and/or county where licensed premises are located ~~at all times.~~ Licensees remain responsible for complying with this rule if the licensed owner or operator rents, leases, or otherwise permits another to occupy the licensed premises. 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.
- (8) On-Premises~~s~~ Sale ~~B~~by Bottle Restricted. On-premise~~s~~ licensees are restricted from selling or giving 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 on-premises consumption ~~on the premises only, and said.~~ The 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-Premises~~s~~ Employees' Activities Restricted ("B-Girl" Activity). It ~~shall be is~~ unlawful for any ~~person who is an~~ employee or agent of an on-premise~~s~~ licensee ~~or any other person on behalf of the on-premise licensee~~ to solicit alcoholic beverages for public consumption by the employee or ~~any other person agent,~~ and if it shall be is further unlawful to dispense or consume any beverage under the pretense that it is an alcoholic beverage for public consumption ~~but is not.~~ However, Nothing in this section shall preclude~~s~~ an industry member, and/or its employees, or representatives from promoting products as permitted under Rule 0100-03-.11.
- (18) Server Permits. On-premise~~s~~ consumption licensees should maintain and have available for review on the premises documentation of the hire date of hire for employees that serve or handle alcohol, anyone working in a capacity to serve alcoholic beverages on-site and available for review. Acceptable documentation shall include~~s~~ 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 longer than sixty-one (61) days.
- (20) Minors in Possession of Alcohol. ~~All o~~On-premise~~s~~ consumption licensees are required to must insure ensure that minors do not possess or are not in possession of and/or are not allowed to

consume any alcoholic beverage – including malt beverages or beer – on the licensed premises.

(22) Application Process for On-premises Consumption Licenses.

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

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. List of Officers/Owners/Members/Partners;~~
10. ~~Corporate charter/Articles of Organization Sales & Use Tax Certificate of Registration or equivalent verification issued by the Tennessee Department of Revenue;~~
11. ~~List of Officers/Owners/Members/Partners Sufficient bond posted with the Department of Revenue;~~
12. ~~Sales & Use Tax Certificate of Registration Application fee;~~
13. ~~Bond Posted with the Department of Revenue Business Hours;~~
14. ~~Application fee Current manager(s);~~
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 T.C.A. §§ 4-58-101, et seq. Department of Health issued health inspection or an equivalent document, unless otherwise prohibited by statute; and~~

Authority: T.C.A. §§ ~~4-58-103; 57-1-207; 57-1-209; 57-3-104; 57-3-104(c); 57-3-406; 57-3-406(b); 57-3-704; 57-3-710; 57-4-101; 57-4-102; 57-4-102(29); 57-4-104(c); 57-4-201; 57-4-201(a)(2); and 57-4-203; 57-7-223; Chapter 649, Public Acts 2008; and Chapter 371, Public Acts of 2017.~~

Rule 0100-01-.04 is amended by deleting the existing language for the following paragraph in its entirety and replacing it with the following:

0100-01-.04 TRANSFER OF LOCATIONS.

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

Authority: T.C.A. §§ ~~57-1-201, 57-1-207, 57-1-209, 57-3-104, 57-3-205, 57-3-212, 57-4-201, 57-4-201(a)(2), and 57-4-203.~~

Rules 0100-01-.05(3), 0100-01-.05(4)(a)(10), and 0100-01-.05(4)(a)(11) are amended by deleting the existing language in its entirety and renumbering the remaining paragraphs accordingly. Rule 0100-01-.05 is amended by deleting the existing language for the following paragraphs and sub-paragraphs in its entirety and replacing it with the following:

0100-01-.05 APPLICATIONS BY PRIVATE CLUBS.

- (1) Public Notice. Each club, as defined by T.C.A. § 57-4-102, applying for a license to sell alcoholic beverages for on-premises consumption ~~on its premises shall~~ has a duty to place a notice in a newspaper of general circulation in the county or municipality to be served where the club is or will be located indicating the club's intention to apply for a license ~~from with~~ the Tennessee Alcoholic Beverage Commission. The notice shall is required to 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 A copy of the published notice and the sworn statement of the applicant that the notice was published in accordance with this section is required to be submitted with the club license application.~~
- ~~(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.
- (34) 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).
- (45) Application Process for New Private Club Licenses.
- (a) A complete application Applications, in duplicate, shall includes the contact name and information for club officers that will control the sale of alcohol and must be submitted to the nearest office of the ABC in a manner specified by the Commission. In addition, the following documents must be submitted in support of an on-premises consumption license application by a private club for a license to sell alcoholic beverages for consumption on premises:
1. Application (in duplicate) (Form ABC-OPP); Charter, constitution, and any amendments, if club the is incorporated;
 2. Questionnaires – officers of club and managers in control of actual sale of alcoholic beverages; A valid lease, lease assignment, or sublease, and/or deed, or other instrument indicating the club's ownership and/or right of possession of the physical premises;
 3. List of club officers (names, addresses, date assumed office); A certificate of good moral character, issued by the city or county, for the person(s) in charge of the sale of alcoholic beverages;
 4. Charter, constitution, and any amendments thereto, if club is incorporated; Verification that the applicant has complied with 0100-01-.05(2) and 0100-01-.05(3);
 5. Lease, sublease, deed or other instrument indicating ownership and/or possession of physical premises; Menu;
 6. Certificate of good moral character for person(s) in actual charge of sale of alcoholic beverages; Price schedule as set forth by the Department of Revenue;
 7. Newspaper notice accompanied by sworn statement as required by subsections (2) through (3) above; Verification that all alcohol handling employees have TABC issued server permits;

- 8. ~~Menu; Department of Health issued health inspection, or an equivalent government issued document from an appropriate inspector; and~~
- 9. ~~Department of Revenue Drink Price Schedule; Business hours.~~
- 10. ~~Employees work permit applications;~~
- 11. ~~Answers to questions on ABC form – Questions For Private Club Applicants~~

(65) 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.
- 2. Applications for license renewal need not submit ~~that material that is required of new applicants~~ by rule 0100-01-.05(5), ~~of new applicants, unless otherwise requested by the Commission.~~

(76) Definitions. For the purpose of this chapter, the following definitions shall be used:

(87) Additional Rules for Private Clubs.

Authority: T.C.A. §§ 57-1-209, 57-3-104, 57-4-102, ~~and 57-4-201, and Chapter 895, Public Acts of 1980.~~

Rule 0100-01-.06 is amended by deleting the existing language for the following paragraphs in its entirety and replacing it with the following:

0100-01-.06 ADDITIONAL RULES APPLICABLE TO CATERERS.

- (4) ~~No-Commission licensed caterers~~ may provide ~~only~~ alcohol ~~without if there are some~~ food items present and available for consumption ~~at any catered event that was prepared by the licensed caterer in the licensee's commercial kitchen or in a kitchen where the event will be held. New catering applicants are required to have a commercial kitchen, which must include a fixed stove or cooktop, an oven, a refrigerator, a freezer, a sink, and counter space necessary to prepare food for commercial purposes.~~
- (5) Commission licensed caterers must ~~provide and the Commission must receive at its Nashville office, a written and/or submit~~ 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~~ calendar days prior to the event during state ~~working business~~ hours, prevailing time. Such notice ~~shall should~~ include the date ~~of the event~~, address ~~of the event~~, the host ~~of the event~~, and ~~the~~ time of the event. ~~The Commission will confirm receipt of the notification.~~

Authority: T.C.A. §§ 57-1-209, 57-4-102, ~~57-4-115,~~ and 57-4-201.

Rule 0100-01-.07(4) is amended by deleting the existing language in its entirety. Rule 0100-01-.07 is amended by deleting the existing language for the following paragraphs and sub-paragraphs in its entirety and replacing it with the following:

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^s consumption liquor license, and/or if the entity is selling, serving, or otherwise dispensing alcoholic beverages to invited guests or the general public. ~~A special occasion permit is also required if the entity is selling alcoholic beverages to invited guests only.~~ Special Occasion permittees are subject to the laws and rules governing the sale and service of alcoholic beverages.

- (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 submitted in a manner specified by the Commission;
- (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, 57-4-101, 57-4-102 and 57-4-201.

Rule 0100-01 is amended by adding the following as a new rule:

0100-01-.09 RENEWAL APPLICATIONS FOR ON-PREMISES CONSUMPTION LICENSES.

- (1) Renewal applications must be submitted in a manner specified by the Commission, in which the licensee acknowledges and accepts the Tennessee Alcoholic Beverage Commission rules and regulations. Renewal applicants are required to submit the renewal fee at the time of application. The renewal process is complete when the Tennessee Alcoholic Beverage Commission issues an updated license that is valid for one (1) year from the prior license expiration date.

Authority: T.C.A. §§ 57-4-201 and 57-3-213.

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- 0100-03-.21 Noncontiguous Premises of Manufacturers
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- 0100-03-.24 Licensure Applications

Rule 0100-03-.09 is amended by deleting the existing language for 0100-03-.09(3), (8), and (9) in its entirety and renumbering the remaining paragraphs:

0100-03-.09 LICENSES AND PERMITS.

- ~~(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.~~
- (34) Restriction on License After Surrender or Revocation.
- (45) 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.
- (56) 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.
- (67) Licensees Not Required To Have Permits. Persons whose names are listed on a license issued by the Commission are not required to obtain permits.
- ~~(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.~~

Authority: T.C.A. §§ 57-1-201, 57-1-209, 57-3-104, ~~57-3-104(c)(4)~~, 57-3-203, 57-3-204, 57-3-208, ~~57-3-208(e)~~, and 57-4-201.

Rule 0100-03-.10(2)(a) is amended by deleting the existing language in its entirety and re-lettering the remaining sub-paragraphs:

0100.03-.10 TRANSPORTATION AND DELIVERY OF ALCOHOLIC BEVERAGES.

- (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 Rules.~~

(ab) All trucks and other motor vehicles owned or leased and operated by any Tennessee licensed 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. The following words, but no others, may be abbreviated: Tennessee (Tenn.), Company (Co.), and Incorporated (Inc.).

(be) 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.

Authority: T.C.A. §§ ~~57-132, 57-136, 57-151, 57-1-201, 57-1-209, 57-3-104, 57-3-203, 57-3-218, 57-3-301, 57-3-303, 57-3-307, 57-3-110, 57-3-402, 57-3-403, 57-818, 67-101, and 67-1-102~~ 57-3-208, and 57-4-201.

Rule 0100-03-.13 is amended by deleting the existing language for the following paragraph in its entirety and replacing it with the following:

0100-03-.13 CONDUCT OF BUSINESS – WHOLESALER AND RETAILER.

(12) Licensee Responsible ~~F~~or Law and Order ~~O~~on Licensed Premises. Each licensee ~~shall~~ will maintain ~~his~~ the licensed establishment in a decent, orderly, and respectable manner and in full compliance with federal statutes, Tennessee laws, Commission rules and regulations, and local all laws of Tennessee and ordinances and laws of the municipality and/or county where the licensed premises are located at all times. Licensees remain responsible for complying with this rule if the licensed owner or operator rents, leases, or otherwise permits another to occupy the licensed premises.

Rule 0100-03-.13 is amended by adding the following as a new rule: 0100-01-.13(16).

(16) A retailer, whose primary purpose for existing is to sell alcoholic beverages, is restricted from operating on Christmas, Thanksgiving, and Easter.

Authority: T.C.A. §§ ~~57-109(g), (1) and (3), 57-132, 57-136, 57-1-201, 57-1-209, 57-3-104, 57-3-104(c)(4), 57-3-202, 57-3-203, 57-3-404, 57-3-406, 57-3-406(d), and 57-4-108, 57-818(2), and 67-101.~~

Rule 0100-03 is amended by adding the following as a new rule: 0100-03-.24.

0100-03-.24 LICENSURE APPLICATIONS.

(1) Each applicant that applies for a license under Title 57 must pay to the Commission a one-time, nonrefundable fee in the amount of three hundred dollars (\$300.00), excluding temporary licenses applied for by non-profit entities, unless otherwise specified in statute.

- (2) Renewal applications must be submitted in a manner specified by the Commission, in which the licensee acknowledges and accepts TABC rules and regulations. Renewal applicants are required to submit the renewal fee at the time of application. The renewal process is complete when the Tennessee Alcoholic Beverage Commission issues an updated license that is valid for one (1) year from the prior license expiration date.

Authority: T.C.A. §§ 57-3-202, 57-3-203, 57-3-204, and 57-3-213.

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CHAPTER 0100-07
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- 0100-07-.08 Sale of Other Wine Related Items
- 0100-07-.09 Statutes Applicable to Winery Licensees

Rule 0100-07-.09 is amended by deleting the existing language for the following paragraph in its entirety and replacing it with the following:

0100-07-.09 STATUTES APPLICABLE TO WINERY LICENSEES.

- (3) Licensee Responsible for Law and Order on Licensed Premises. —Each licensee **shall will** maintain the licensed establishment in a decent, orderly, and respectable manner **and** in full compliance with all laws of Tennessee, Commission rules and regulations, and federal statutes, Tennessee laws, Commission rules and regulations, and local ordinances and laws of the municipality and/or county where licensed premises are located. Licensees remain responsible for complying with this rule if the licensed owner or operator rents, leases, or otherwise permits another to occupy the licensed premises.

Authority: T.C.A. §§ 57-1-209, 57-3-104(e)(4), and 57-3-207.

RULES
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Rule 0100-08-.03(4) is amended by deleting it in its entirety. Rule 0100-08-.03 is amended by deleting the existing language for the following paragraphs and sub-paragraphs in its entirety and replacing it with the following:

0100-08-.03 APPLICATIONS FOR SERVER PERMITS.

- (1) Every person seeking a server permit, ~~from the Commission~~ authorizing that person to sell, ~~or serve,~~ or handle alcoholic beverages for consumption on ~~the premises,~~ must ~~make written apply for a permit in a manner specified by application to the Commission for a sever permit on forms prescribed by the Commission.~~ A twenty dollar ~~(\$20.00)~~ non-refundable application fee ~~shall accompany each is required at the time of~~ application. A cost adjustment factor for permit fees will be updated by the Executive Director of the Commission based upon the consumer price index at regular intervals beginning in January, 2013.
- (2) All information submitted ~~pursuant to such written in and with the~~ application must be accurate and is submitted under ~~oath the penalty of perjury.~~ Failure to submit accurate information ~~or documentation~~ is grounds for suspension or revocation of ~~such the~~ server permit.
- (3) Every complete application for a server's permit ~~shall include~~ verification from a certified program instructor that the applicant a certificate from a Commission certified organization or entity, demonstrating that the applicant has successfully completed a certified course on alcohol awareness within one (1) year of the date of the application. ~~Copies of the certificate are acceptable to obtain a new permit.~~
 - (a) ~~The applicant must successfully complete a certified program to receive a certificate.~~
 - (b) It is the applicant's duty to ensure that the alcohol awareness program attended ~~has been~~ is certified by the Commission. To ensure the program is certified, the applicant may look for the following:
 - ~~(4) If an individual can produce evidence (i.e. a Certificate of Completion) that he or she has successfully completed a server training program, within one (1) year from the date of application, from another state that has been certified by the state in which the program was taught and approved by the State of Tennessee, the Commission shall recognize such training. However, such individual shall still be required to pay the requisite fifteen dollar (\$15.00) fee.~~

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

Rule 0100-08-.04 is amended by deleting the existing language for the following paragraphs and sub-paragraphs in its entirety and replacing it with the following:

0100-08-.04 CERTIFICATION OF TRAINING PROGRAM.

- (1) Application for Certification. Any entity or individual seeking to have a training program certified shall complete and submit a written application on forms prescribed by the Commission. The application shall disclose the following information:
 - (a) The complete identity of the entity seeking to have the program certified, including the address, names of all individuals responsible for server training, and the source of the curriculum utilized by the entity.
 1. If the entity is a corporation, a copy of the corporate charter character and/or certificate of authority is required.
 - (d) Training Program Format.
 1. Complete training programs must be at least three and one half (3 1/2) five (5) hours of classroom instruction, excluding breaks for attendees, in an accessible

~~location. Such training program must take place in a publicly accessible location. In-person training programs may not be conducted in private homes.~~

3. The training program must be supervised by qualified and trained instructors, who are ~~physically~~ present during all training sessions. ~~Further, instructors must submit a trainer questionnaire to the Commission prior to providing any instruction.~~
4. At the beginning of each training program, the certified trainer ~~shall will~~ advise ~~all~~ attendees that ~~if they may not meet the qualifications for a server permit if they~~ are not at least 18 years of age, ~~and/or~~ have been convicted of any felony within ~~four~~ eight (8) years of the date of application, ~~and/or~~ have been convicted of any statute involving the sale of alcoholic beverages, beer, or Schedule I or II controlled substances or any sex-related crime or embezzlement within the previous eight (8) years, ~~had a server permit or a similar permit revoked by the state, a local jurisdiction, or a foreign jurisdiction within the prior five (5) years, and/or had ownership interest in a license or permit revoked by the issuing authority within the prior eight (8) years then they do not meet the qualifications for a server permit.~~ The certified trainer ~~shall will~~ refund any fee previously received by any attendee who ~~does not~~ advises they will not continue with the class after hearing such restrictions.
 - (i) ~~Within twenty-one (21) calendar days of the training~~ Following the program completion, date, the certified program instructor must provide ~~to~~ the Commission a list of all servers ~~who that~~ have successfully completed the program - along with a fee of fifteen dollars (\$15.00) for each individual.

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

Rule 0100-08-.05 is amended by deleting the existing language for the following paragraph in its entirety and replacing it with the following:

0100-08-.05 MISCELLANEOUS PROVISIONS.

- (4) Server Permit to be Available for Review. On-premises consumption licensees must maintain a readily accessible physical or electronic copy of server permits issued to all alcohol handling employees shall have on their premises and available for review at least a copy of the server permit issued for each server.

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

RULES
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THE TENNESSEE ALCOHOLIC BEVERAGE COMMISSION
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RULES FOR SALES OF WINE AT RETAIL FOOD STORES
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0100-11-.03 Conduct of Business
0100-11-.04 Renewal
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0100-11-.06 Operation of Liquor by the Drink Establishments within Retail Food Stores
0100-11-.07 Conduct of Industry Members with Retail Food Stores

Rule 0100-11-.03 is amended by deleting the existing language of 0100-11-.03(2) in its entirety and renumbering

the following paragraphs.

0100-11-.03 CONDUCT OF BUSINESS.

~~(2) Wine that May Be Sold.~~

~~(a) The Commission will analyze particular products on a case-by-case basis to determine whether a product may be sold in a retail food store. In determining which products are included in the definition of "wine" at T.C.A. § 57-3-802(2), the following factors, among others, will be considered:~~

~~1. Whether the product has had substantial changes due to the addition of flavorings and additives;~~

~~2. Whether the product had been sold in grocery, convenience, and similar stores before July 1, 2016;~~

~~3. The specific nature of the product and the manufacturing process; and~~

~~4. The manner in which the product is marketed and labeled.~~

~~(b) The nature of the product and the manufacturing process are critical factors for determining whether a product is included in the definition of "wine" at T.C.A. § 57-3-802(2).~~

~~(c) The labeling, suffix, or prefix of the product as descriptive of a fruit or other suitable agricultural product, and as descriptive of a wine, is another critical factor for determining whether a product is included in the definition of "wine" at T.C.A. § 57-3-802(2). "Suitable agricultural product" does not include grain, cereal, malt, or molasses.~~

~~(d) Wine does not include any product that contains caffeine, mood enhancers, or other stimulants.~~

~~(e) Wine does not include any product that is marketed to appear or bottled to appear as an imitation liquor or cocktail substitute, including any product that appears to contain vodka, whiskey, rum, gin, tequila, applejack, mescal, liqueur, or cordial.~~

~~(f) Wine is not a product marketed or labeled as "cider," and nothing in this part shall affect the marketing of cider products distributed as beer by wholesalers permitted under § 57-5-103.~~

~~(23) Responsibility for Penalties and Violations.~~

~~(34) Pricing of Wine at Retail Food Stores.~~

~~(45) If a retail food store fails to sell all wine offered during a closeout, it may only:~~

~~(56) All Licensees Must Keep Records Available Three 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 wine 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 Tennessee Alcoholic Beverage Commission or Department of Revenue and failure to make such available shall be deemed cause for revocation of its license. Such records may be maintained in electronic format, and will be deemed available and open for inspection if the Commission or the Department of Revenue can review such records at the licensed premises or, if such records are stored in a central office, can be supplied to the Commission or Department of Revenue within three (3) business days upon request.~~

~~(67) Hours Licensee May Sell Wine. A retail food store may sell wine only between the hours of 8:00 a.m. and 11:00 p.m. on Monday through Saturday. A retail food store may not make any sale of wine on Sunday or on Christmas, Thanksgiving, Labor Day, New Year's Day, or the Fourth of July.~~

- (78) Mandatory Carding. Prior to making a sale of wine, a retail food store certified clerk must inspect a valid unexpired government issued form of identification to ensure that the purchaser is over the age of 21. The inspection of the identification must take place in a faceto-face transaction. Any government-issued document that has expired shall not be deemed to be "valid" for purposes of T.C.A. § 57-3-808, and as such, a retail food store may not sell wine to a person who has not provided an unexpired government-issued document that meets the requirements of T.C.A. § 57-3-808.
- (89) Sales to Intoxicated Customers. A retail food store shall not make a sale of wine to a customer who is visibly intoxicated or accompanied by a person who is visibly intoxicated.
- (940) Customer assistance. An employee of a retail food store may assist customers with loading wine in their vehicles as long as the vehicle is parked in the parking area of the licensee and such parking area is identified in the application of the retail food store. A retail food store permitted clerk must check the identification of any person purchasing wine as part of the sale prior to assistance being given to that customer by an employee with loading of wine to a vehicle.
- (104) Managers.
- (112) Free Access to Licensed Premises Without Warrant. Immediate access, without a warrant, to all parts of a retail food store shall at all times be accorded agents, officers or representatives of the Commission.
- (123) Refusal of Cooperation. Any licensee, his agent, or employee who refuses to open or disclose records to, or furnish information to, or who furnishes false and/or misleading information to an agent, officer or representative of the Commission upon any matter relating to or arising out of the conduct of the retail food store premises shall subject the license to revocation or suspension.
- (134) 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 the licensed premises are located at all times. The renting or leasing of the licensed premises for an event to a nonlicensed entity, person or corporation is specifically deemed not to be a defense for a violation of this rule and does not diminish licensee's responsibility to comply with this rule.
- (145) Restriction as to Age of Licensee's Employees. Nothing herein shall prohibit a licensee from hiring a person under the age of 18 years, however employees under the age of 18 shall not be permitted to sell wine, beer, malt beverages or hard cider in any establishment licensed under the provisions of T.C.A. § 57-3-803.
- (156) Purchases. Only the designated permitted manager(s) of a retail food store wine licensee may place orders for wine with wholesalers. No discounts for wine may take into account orders for wine at other locations owned by the licensee.

Authority: T.C.A. §§ 57-1-209, 57-3-104, ~~57-3-104(c)(4) and (9)~~, 57-3-202, 57-3-207, 57-3-210, 57-3-404, ~~57-3-404(i)~~, 57-3-406, 57-3-412, 57-3-802, 57-3-803, 57-3-806, 57-3-807, 57-3-808, 57-3-811, 57-3-812, 57-3-815, 57-3-903, and 57-3-909.

The Tennessee Alcoholic Beverage Commission Rules are amended by adding a new chapter 0100-14.

RULES
OF
THE TENNESSEE ALCOHOLIC BEVERAGE COMMISSION
CHAPTER 0100-14
ACCESS TO PUBLIC RECORDS HELD BY THE COMMISSION
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0100-14-.01 PURPOSE AND SCOPE.

- (1) Pursuant to T.C.A. § 10-7-503(g), the purpose of the following public records rules are to provide timely and efficient access to public records of the Commission while at the same time preserving the confidentiality and protection of records or information as provided under state and federal law.
- (2) The Tennessee Public Records Act provides that all state public records shall, at all times during regular business hours, be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law.
- (3) Through the Public Records Request Coordinator, the Tennessee Alcoholic Beverage Commission shall timely and efficiently provide access and assistance to persons requesting to view or receive copies of public records. No provisions of this Rule shall be used to hinder access to open public records. However, the integrity and organization of public records, as well as the efficient and safe operation of the Commission, shall be protected as provided by current law. Questions about these Rules should be addressed to the Commission's Public Records Request Coordinator or to the Tennessee Office of Open Records Counsel ("OORC").

Authority: T.C.A. § 10-7-503.

0100-14-.02 DEFINITIONS.

- (1) "Commission" or "TABC" means the Tennessee Alcoholic Beverage Commission.
- (2) "Public Record" means all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency.
- (3) "Public Records Request Coordinator" or "PRRC" means the individual(s) whose responsibility it is to ensure public record requests are routed to the appropriate records custodian and fulfilled in accordance with the Tennessee Public Records Act.
- (4) "Records Custodian" means the office, official, or employee lawfully responsible for the direct custody and care of a public record. The records custodian is not necessarily the original preparer or receiver of the record.
- (5) "Requestor" means a citizen of the State of Tennessee seeking access to a public record, whether for inspection or duplication.
- (6) "Tennessee Public Records Act" or "TPRA" means the State law codified in T.C.A. §§ 10-7-503, et seq.

Authority: T.C.A. § 10-7-503.

0100-14-.03 REQUESTS FOR ACCESS TO PUBLIC RECORDS.

- (1) Public record requests, whether written or oral, shall be made to the PRRC or designee to ensure that such requests are routed to the appropriate records custodian and fulfilled in a timely manner.
- (2) Public record requests shall include the following information clearly and concisely expressed:
 - (a) Name and Tennessee contact information, including telephone and email address (in order to provide any communication required under the TPRA);
 - (b) Detailed description of the records being requested, including type, time frame, subject matter or key words, and any other information identifying the records;
 - (c) Statement whether the request is for inspection or receipt of copies, or both; and
 - (d) Delivery preference if requesting copies.
- (3) Proof of Tennessee citizenship by the presentation of a valid, unexpired state government issued photo identification is required in order to inspect or receive copies of public records. If a person does not possess photo identification or validity of the identification is in question, the PRRC may require other forms of identification. Upon a satisfactory showing, such proof of state citizenship will not be kept or retained by the PRRC. If copies of documentation are provided by mail or electronically to the PRRC, after verification, the information will be disposed of in such a way as to maintain the confidentiality of the information.
- (4) Requests for access to inspect public records maintained or received by the Commission may be made to the PRRC in-person, by mail, telephone, fax, or email.
- (5) Requests for copies, or requests for inspection and copies of public records, shall be made in writing. A requestor may use the TABC Public Records Request form available on the TABC website. If the TABC Public Records Request form is not used, the written request must still contain all information required under (2) of this section.
- (6) Requests not made in an appropriate manner or requests that are not directed to the PRRC as provided herein, will not be accepted. Requests made via any method other than those prescribed herein will not be accepted.
- (7) The contact information for the PRRC is as follows:

Tennessee Alcoholic Beverage Commission
ATTN: Public Records Request Coordinator
Davy Crockett Tower,
500 James Robertson Parkway, 3rd Floor
Nashville, Tennessee 37243
Phone: 615-741-1602
Fax: 615-741-0847
Email: TABC.PublicRecords@tn.gov
- (8) Any changes to the contact information for the PRRC shall be posted on the TABC's website.

Authority: T.C.A. § 10-7-503.

0100-14-.04 RESPONSES TO REQUESTS FOR PUBLIC RECORDS.

- (1) Public Records Request Coordinator.
 - (a) The PRRC shall review public records requests and determine the following:

1. Whether the requester has provided evidence of Tennessee citizenship pursuant to Rule 0100-14-.03(3);
 2. Whether the records requested are described with sufficient specificity to identify them;
 3. Whether the TABC is the custodian of the records; and
 4. Whether the records requested, or any of their contents, are protected and, thus, not subject to disclosure based on applicable federal or state law or rules.
- (b) The PRRC shall acknowledge receipt of the request and take any of the following appropriate actions:
1. Inform the requester of this rule chapter and the determinations made regarding:
 - (i) Evidence of Tennessee citizenship;
 - (ii) Fees (and labor threshold and waivers, if applicable);
 - (iii) Aggregation of multiple or frequent requests; or
 - (iv) Need for clarification of the request(s).
 2. As appropriate, deny the request in writing and provide the appropriate ground(s) for denial, which may include:
 - (i) The requester is not a Tennessee citizen or has not presented evidence of Tennessee citizenship;
 - (ii) The request lacks specificity. The Commission may work with a requestor to clarify the request;
 - (iii) An exemption makes the requested record protected from disclosure;
 - (iv) TABC is not the custodian of the requested records;
 - (v) The records requested do not exist; or
 - (vi) Any other legal grounds for denial.
 3. As appropriate, contact the requestor to see if the request can be narrowed or otherwise clarified.
 4. Forward the records request to the appropriate records custodian within TABC.
 5. If requested records are in the custody of a different governmental entity, and the PRRC knows the correct governmental entity, advise the requestor of the correct governmental entity and PRRC for that entity, if known.

(2) Records Custodian.

- (a) Upon receiving a public records request, a TABC records custodian in collaboration with the PRRC shall gather the requested public records in accordance with T.C.A. § 10-7-503. Before making the records available, General Counsel or his/her designee shall conduct a review to ensure the preservation of confidential or protected information as provided in state and federal law.

- (b) If it is not practicable to promptly provide the requested records, the records custodian in collaboration with the PRRC shall, within seven (7) business days from the records custodian's receipt of the request, direct the PRRC to send the requestor a written response indicating the reason for the delay and an estimate of the additional time necessary to produce the records or information. Reasons for delay may include:
1. To determine whether the requested records exist;
 2. To search for, retrieve, or otherwise gain access to records;
 3. To determine whether all or part of the records are open or confidential;
 4. To redact records; or
 5. For other similar reasons.
- (c) If a records custodian in collaboration with the PRRC denies a public records request, the PRRC shall deny the request in writing.
- (d) If a records custodian in collaboration with the PRRC reasonably determines that production of records should be segmented because the records request is for a large volume of records, or additional time is necessary to prepare the records for access, the PRRC's response shall notify the requester that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable. As appropriate, the records custodian or PRRC should contact the requester to see whether the request can be narrowed.
- (e) If a records custodian discovers that records responsive to a request were omitted, the records custodian shall promptly contact the PRRC concerning the omission and produce the records as quickly as practicable. The PRRC will contact the requestor and supplement the records response.

Authority: T.C.A. §§ 10-7-503 and 10-7-504.

0100-14-.05 REDACTION OF RECORDS

- (1) If a record contains confidential information, or information that is not open for public inspection, the PRRC or the records custodian shall prepare a redacted copy of the record and consult with General Counsel or his/her designee before providing access to the records.
- (2) Whenever a redacted record is provided, the PRRC will provide the requestor with the general basis for redaction without revealing confidential or protected information.

Authority: T.C.A. §§ 10-7-503 and 10-7-504.

0100-14-.06 INSPECTION AND COPIES.

- (1) For inspection of public records:
 - (a) There shall be no charge for the inspection of public records.
 - (b) The location for inspection of public records will be in the office location of the PRRC in Nashville and such inspection will occur during the Commission's normal business hours.
 - (c) Under reasonable circumstances, the PRRC may require an appointment for inspection or may require inspection of records at an alternate location.

- (2) If after viewing the records, a requestor wishes to obtain copies, the Commission will make copies and assess charges in accordance with Rule 0100-14-.07, or copies may be made as follows:
 - (a) A requestor may use a personal camera or cell phone to take a photograph of a public record so long as the organization and integrity of the record is maintained. If a record contains confidential or protected information, the record may not be photographed until all appropriate redactions are completed.
 - (b) The requestor will not be allowed to connect any personal equipment to a TABC computer or electronic device, including but not limited to utilizing a flash drive, in order to make copies of public records.
- (3) Upon receipt of a request for copies of open public records, the Commission shall calculate the cost based on copy and labor charges for the entire request, or pro-rate the charges on a per page basis and promptly make the copies available to the requestor in the following manner:
 - (a) For pickup at a location specified by the PRRC;
 - (b) By regular mail delivery through the United States Postal Service to the requestor's home or other acceptable address within Tennessee; or
 - (c) Electronic records that can be sent in a single transmission will be sent by email, except when such records include personally identifiable information.

Authority: T.C.A. § 10-7-503.

0100-14-.07 FEES, PAYMENT, AND WAIVERS.

- (1) The Commission shall assess charges for copying and labor required to produce copies of the requested public records based on the most current version of the Schedule of Reasonable Charges issued by the OORC. The Schedule of Reasonable Charges is available on the Tennessee Comptroller of the Treasury's website on the OORC page.
- (2) The PRRC will provide requestors with an itemized written estimate of the charges prior to producing copies of records. Requestors must pay the estimate before the records will be released.
- (3) When fees for copies and labor do not exceed ten dollars (\$10.00), the fees may be waived by the PRRC.
- (4) Fees associated with aggregated record requests will not be waived.
- (5) Payment of charges shall be payable to the Commission by cashier's check, money order, or other reliable means determined by the TABC, and delivered as specified by the PRRC.

Authority: T.C.A. § 10-7-503.

0100-14-.08 AGGREGATION OF FREQUENT AND MULTIPLE REQUESTS.

- (1) TABC will aggregate record requests for records of TABC when four (4) or more requests are received within a calendar month either from a single individual or a group of individuals deemed working in concert by the PRRC.
- (2) The PRRC is responsible for making the determination that a group of individuals are working in concert, and upon such determination, shall inform the individuals that they have been deemed to be working in concert and that requests will be aggregated.

- (3) Routinely released and readily accessible records shall be excluded from aggregation. Such records include, but are not limited to, notices, orders, agendas, meeting minutes, and other materials that are accessible on the Tennessee Alcoholic Beverage Commission's website.

Authority: T.C.A. § 10-7-503.

0100-01-04-.09 FAILURE TO INSPECT OR FAILURE TO PAY FOR COPIES.

- (1) If a requestor makes two (2) or more requests to view a public record within a six-month period and, for each request, the requestor fails to view the public record within fifteen (15) business days of receiving notification that the record is available to view, or misses two (2) or more scheduled appointments to view, TABC will not comply with any public records request from the requestor for a period of six (6) months from the date of the second request to view the public record unless the TABC determines failure to view the public record was for good cause.
- (2) If, after agreeing to pay an estimated cost prior to the production of copies, a requestor fails to pay the cost to produce the requested copies, TABC will not comply with any public record requests from the requestor until payment is received.

Authority: T.C.A. § 10-7-503.