



# State of Tennessee

## PUBLIC CHAPTER NO. 448

HOUSE BILL NO. 986

By Representatives Todd, Haynes

Substituted for: Senate Bill No. 1224

By Senators Overbey, Stewart, Marrero, Ketron, Tate, Ford

AN ACT to amend Tennessee Code Annotated, Title 57, relative to alcoholic beverages.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 57-3-602, is amended by inserting the language ", § 57-3-203" after the language "§ 57-3-202" where it appears in the last sentence.

SECTION 2. Tennessee Code Annotated, Section 57-3-606, is amended by deleting the period (.) at the end of the first sentence and inserting in lieu thereof the following:

or a wholesaler licensed pursuant to § 57-3-203 holding a basic permit under the Federal Alcohol Administration Act as an importer.

SECTION 3. Tennessee Code Annotated, Section 57-3-605, is amended by inserting after subsection (c) the following new subsection, re-designating subsection (d) as subsection (e):

(d) Any wholesaler, holding a license issued pursuant to § 57-3-203, shall be authorized to act as an importer of alcoholic beverages and wine if such wholesaler holds a basic permit issued pursuant to the Federal Alcohol Administration Act as an importer, advises the commission of its intent to act as an importer, pays an additional annual fee of two hundred fifty dollars (\$250) to the commission and otherwise complies with the obligations of an importer pursuant to § 57-3-301 and title 47, chapter 25, part 15.

SECTION 4. Tennessee Code Annotated, Section 57-2-104, is amended by deleting the section in its entirety and by substituting instead the following language:

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

SECTION 5. Tennessee Code Annotated, Section 57-2-105(a), is amended by deleting the word "Nothing" and by substituting instead the language "Except as otherwise provided by law, nothing".

SECTION 6. Tennessee Code Annotated, Section 57-3-602, is amended by designating the existing language as subsection (a) and by adding the following language as a new subsection (b):

(b)

(1) A nonresident seller's permit is also required of any importer, broker, or other entity that imports alcoholic beverages into the state of Tennessee for the purpose of the following:

(A) Warehousing wine and other alcoholic beverage in the state for the purpose of sale to entities legally authorized to purchase such wine and alcoholic beverages outside the state of Tennessee;

(B) Selling wines which are not registered pursuant to § 57-3-301 and which are not capable of being registered in that no qualified manufacturer, winery or distiller exists to approve such registration, provided such sales within the state shall be permitted only to wholesalers licensed pursuant to § 57-3-203; and

(C) Selling wines which are registered pursuant to § 57-3-301 but as to which vintages are not available from the manufacturer, winery, or distiller, but such sales shall be permitted only to those wholesalers authorized to distribute such wines by the manufacturer, winery, or distiller as identified on the registration records of the department of revenue.

(2) A nonresident seller licensed under this subsection is not subject to the provisions of §§ 57-3-607 and 57-3-608.

SECTION 7. Tennessee Code Annotated, Section 57-3-101(a)(1)(A), is amended by inserting the language "high alcohol content beer," after the language "wine," where such word appears in the first sentence of that subdivision.

SECTION 8. Tennessee Code Annotated, Section 57-3-101(a)(10), is amended by inserting the language "brewing high alcohol content beer," between the language "includes" and the language "distilling."

SECTION 9. Tennessee Code Annotated, Section 57-3-101(a)(11), is amended by inserting the language "brewer of high alcohol content beer," between the language "includes a" and the words "distiller".

SECTION 10. Tennessee Code Annotated, Section 57-3-101(a), is amended by adding the following language as a new, appropriately designated subdivision:

( ) "High alcohol content beer" means an alcoholic beverage which is beer, ale or other malt beverage having an alcoholic content of more than five percent (5%) by weight and not more than twenty percent (20%) by weight, except wine as defined in § 57-3-101, that is brewed, regulated, distributed or sold pursuant to title 57, chapter 3; provided that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol.

SECTION 11. Tennessee Code Annotated, Section 57-3-101(a), is amended by deleting the word "chapter" and by substituting instead the word "title".

SECTION 12. Tennessee Code Annotated, Section 57-2-103, is amended by adding the following language as a new subsection:

(f)

(1)

(A) Notwithstanding (a) – (c), it shall be lawful to manufacture high alcohol content beer as defined in § 57-3-101(a) within the boundaries of a municipality if both retail package sales and consumption of alcoholic beverages on the premises have been approved through voter referendum of voters within such municipality and in the unincorporated areas of any county if both retail package sales and consumption of alcoholic beverages on the premises have been approved

through voter referendum of voters in any jurisdiction located within the county, or if the county is included in the Tennessee River resort district as defined in § 57-4-102 and retail package sales have been approved through voter referendum within the county, and if the manufacturer also holds a Brewer's Notice approved by the U.S. Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, or any successor federal beer manufacturing permit granted by a federal bureau having jurisdiction over the manufacture of beer.

(B) In all jurisdictions not meeting the requirements of subdivision (f)(1)(A), it shall be lawful to manufacture high alcohol content beer as defined in § 57-3-101(a) within the boundaries of a municipality or in the unincorporated area of such county upon such jurisdiction meeting the requirements of (a) – (c), and if the manufacturer also holds a Brewer's Notice approved by the U.S. Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, or any successor federal beer manufacturing permit granted by a federal bureau having jurisdiction over the manufacture of beer.

(2) Notwithstanding any other provision of law to the contrary, it shall be lawful for any manufacturer of high alcohol content beer authorized to manufacture such beverages pursuant to subdivision (f)(1) to also brew beer as this term is defined in § 57-5-101(b) on the same premises of the manufacturer of high alcohol content beer, upon meeting necessary federal, state and local license requirements.

(3) The general assembly hereby ratifies any action which may have been taken by the alcoholic beverage commission in issuing a license to a manufacturer of high alcohol content beer prior to the effective date of this act.

SECTION 13. Tennessee Code Annotated, Section 57-3-204(f), is amended by adding the following language as a new subdivision as follows:

(7) If the retail license under this subsection (f) is held by a manufacturer of high alcohol content beer authorized to manufacture such beverages, then:

(A) Notwithstanding any other provision of law, the retailer may sell its products at such retail location which are manufactured on the manufacturer's premises in accordance with subdivisions (B) and (C) in sizes and containers that are made available through the general wholesale/retail distribution system; provided that, the provisions of subsection (g) related to the delivery of alcoholic beverages by wholesalers shall be applicable;

(B)

(1) Such retailer may also offer and sell beer, as beer is defined in § 57-5-101(b), for consumption on or off-premises, at the same physical location at which it offers samples of and sells its high alcohol content beer; provided such beer and high alcohol content beer is brewed on the manufacturer's premises located at the retail location, and further provided that such manufacturer may distribute such beer as defined in § 57-5-101(b) only to wholesalers licensed pursuant to title 57, chapter 5. A wholesaler of such products may permit a manufacturer to deliver its products to the retail premises operated by such manufacturer directly; provided, that the wholesaler permitting such direct shipment must include the amounts delivered in its inventory and depletions for purposes of tax collections.

(2) Notwithstanding any other provision of law to the contrary, the hours and days on which such beer or high alcohol content beer may be sold at retail by a manufacturer authorized to manufacture such beverages pursuant to § 57-2-103(f) shall be as set by the governing body of the local jurisdiction in which the manufacturer is located, and such governing body shall further have the authority to authorize the sale

of high alcohol content beer and beer within the same store notwithstanding § 57-3-404(e)(1).

(C) Such retailer may sell no more than five (5) gallons or one-sixth (1/6) of a barrel of beer or high alcohol content beer or any combination of such beverages to any one (1) individual per visit to the premises.

SECTION 14. Tennessee Code Annotated Section 57-4-201, is amended by adding the following language as a new, appropriately designated subsection:

( )

(1) Notwithstanding any provision of this title to the contrary, an entity holding a license to manufacture high alcohol content beer issued by the commission shall be authorized to also obtain a license as a restaurant or a limited service restaurant located on the premises of the manufacturer. The premises of any restaurant or limited service restaurant licensed under this subsection shall mean any or all of the property on which the restaurant is located, including exterior areas. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing.

(2) Notwithstanding any provision of law to the contrary, any manufacturer to whom a restaurant or limited service restaurant license is issued pursuant to subdivision (1), shall also be authorized to sell beer as this term is defined in § 57-5-101(b) at such restaurant or limited service restaurant upon meeting necessary federal, state and local license requirements.

SECTION 15. Tennessee Code Annotated, Section 57-3-204(f), is amended by deleting subdivision (4) in its entirety and by substituting instead the following language:

(4) A manufacturer licensed to sell at retail at its retail location under this subsection (f) may sell only such products as are manufactured on the manufacturer's premises; provided that at such retail location no more than five (5) gallons or one-sixth (1/6) of a barrel of its products may be sold to any one (1) individual per visit to the premises.

SECTION 16. Tennessee Code Annotated, Section 57-3-204(g), is amended by deleting the language "a special decanter or commemorative bottle" or "such special decanter or commemorative bottle" wherever such language appears in subdivision (1) and (2) and by substituting instead the language "its products".

SECTION 17. Tennessee Code Annotated, Section 57-3-501(a), is amended by designating the existing language as subdivision (1) and by adding the following language to be designated as subdivision (2):

(2) If, pursuant to § 57-3-204(f)(7), a manufacturer of high alcohol content beer obtains a retail license to sell its products which are manufactured on the manufacturer's premise, the governing body of the municipality or county in which such a manufacturer is located shall impose by ordinance or resolution, as appropriate, a fifteen percent (15%) inspection fee to inspect the retail store in which such products are sold by the manufacturer. Such inspection fee shall be imposed on the wholesale price of the high alcohol content beer supplied pursuant to § 57-3-204(f)(7)(B) by a wholesaler for those products manufactured and sold by the manufacturer at its retail store as authorized pursuant to § 57-3-204(f)(7).

SECTION 18. Tennessee Code Annotated, Title 57, Chapter 3, Part 3, is amended by adding the following language as a new, appropriately designated section:

57-3-3\_\_\_. The taxes imposed on high alcohol content beer shall be as provided in § 57-3-303(l) or § 57-3-302(a), whichever is applicable.

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SECTION 19. Tennessee Code Annotated, Section 57-3-404(h), is amended by designating the existing language as subdivision (1) and by adding the following language to be designated as subdivision (2):

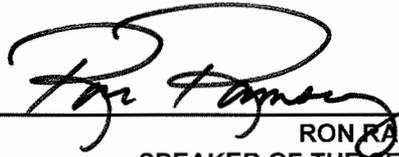
(2) A retail licensee may offer complimentary samples of the products it sells for tastings to be held on the premises of the retail licensee. Such tastings shall be for sales, education and promotional purposes. No person holding a license under § 57-3-203 shall, directly or indirectly, provide any products, funding, labor, support or reimbursement to a retailer for the consumer tastings authorized by this subdivision (2).

SECTION 20. This act shall take effect upon becoming a law, the public welfare requiring it.

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PASSED: May 21, 2011

  
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BETH HARWELL, SPEAKER  
HOUSE OF REPRESENTATIVES

  
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RON RAMSEY  
SPEAKER OF THE SENATE

APPROVED this 10th day of June 2011

  
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BILL HASLAM, GOVERNOR