



# *State of Tennessee*

## **PUBLIC CHAPTER NO. 1045**

**SENATE BILL NO. 1879**

**By Johnson, Ketron**

Substituted for: House Bill No. 1994

By Sanderson, Cooper

AN ACT to amend Tennessee Code Annotated, Title 39 and Title 57, relative to delivery or transportation of alcoholic beverages and beer.

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

SECTION 1. Tennessee Code Annotated, Section 39-17-703, is amended by adding the following new subsection (c) and redesignating existing subsections accordingly:

(c) No person, unless authorized to do so pursuant to title 57, shall receive, possess, or transport an intoxicating liquor with the intent to deliver the intoxicating liquor to customers resulting in a fee or service charge.

SECTION 2. Tennessee Code Annotated, Section 57-3-224(a), is amended by deleting the subsection and substituting instead the following:

There is created a delivery service license to be issued by the commission to any delivery service that delivers prepared food from restaurants to customers as part of the delivery service's business and seeks to deliver sealed packages of alcoholic beverages or beer or both sold by a retailer licensed under § 57-3-204 or an off-premise retail permittee licensed under § 57-5-103 as part of such delivery service.

SECTION 3. Tennessee Code Annotated, Section 57-3-224(b), is amended by deleting the language "sold by a retailer licensed under § 57-3-204" and substituting instead the language "sold by a retailer licensed under § 57-3-204 or an off-premise retail permittee licensed under § 57-5-103".

SECTION 4. Tennessee Code Annotated, Section 57-3-225, is amended by adding the following new subsections:

(d) If an applicant does not meet the requirements of subsection (b), but is otherwise eligible for a delivery employee permit, then the applicant's application shall be initially denied pursuant to this subsection (d). Within thirty (30) days of such initial denial, the applicant may request a hearing to be held pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. At such hearing, the administrative law judge or hearing officer may consider any evidence the administrative law judge or hearing officer deems relevant to the matter and may, if in the administrative law judge's or hearing officer's judgment the principles of equity require, approve the application and grant the delivery employee permit, notwithstanding the requirements of subsection (b).

(e) If an applicant does not request a hearing pursuant to subsection (d) within the required period, then the application's denial will be final and the applicant shall not reapply for a delivery employee permit until five (5) years from the application's final denial. If a person applies for a delivery employee permit in violation of this subsection (e), then such application shall be denied and subsection (d) shall not apply.

(f) If the administrative law judge, hearing officer, or commission denies an application at a hearing held pursuant to subsection (d), then the application's denial will be final and the applicant shall not reapply for a delivery employee permit until five (5) years from the application's final denial. If a person applies for a delivery employee permit in violation of this subsection (f), then such application shall be denied and subsection (d) shall not apply.

(g) If a person is convicted of an offense described in subdivision (b)(2) after being issued a delivery employee permit pursuant to this section, the commission may institute proceedings to revoke the person's employee permit pursuant to § 57-3-214; provided, that the administrative law judge or hearing officer may, if in the administrative law judge's or hearing officer's judgment the principles of equity require, refuse to revoke the person's delivery employee permit, notwithstanding a finding that the person has been convicted of an offense described in subdivision (b)(2). If the administrative law judge, hearing officer, or commission revokes a delivery employee permit pursuant to this subsection (g), then the applicant shall not reapply for a delivery employee permit until five (5) years from the revocation. If a person applies for a delivery employee permit in violation of this subsection (g), then such application shall be denied and subsection (d) shall not apply.

SECTION 5. Tennessee Code Annotated, Section 57-3-406(k)(1), is amended by deleting the language "sold by a retailer licensed under § 57-3-204 to the delivery service's customers if" and substituting instead the language "sold by a retailer licensed under § 57-3-204 to the delivery service's customers and to deliver sealed packages of beer sold by an off-premise retail permittee licensed under § 57-5-103 to the delivery service's customers during the hours that these products may legally be sold if".

SECTION 6. Tennessee Code Annotated, Section 57-3-406(k)(1)(A), is amended by deleting the subdivision and substituting instead the following:

(A) The amount of alcoholic beverages or beer delivered to a customer is in such an amount to satisfy the customer's order; provided, however, if an amount ordered exceeds two gallons (2 gal.), then the delivery driver shall have available for inspection by a commission representative or other law enforcement official, a copy of the customer's order indicating the:

- (i) Name of the customer and the name of the recipient of the alcoholic beverages or beer;
- (ii) Address where the alcoholic beverages or beer is to be delivered; and
- (iii) Amount of the alcoholic beverages or beer to be delivered;

SECTION 7. Tennessee Code Annotated, Section 57-3-406(k)(1)(E), is amended by deleting the subdivision in its entirety and substituting instead the following:

(E) The delivery service has a written agreement with the retailer or permittee to deliver the retailer's or permittee's alcoholic beverages or beer to customers; and

SECTION 8. Tennessee Code Annotated, Section 57-3-406(k)(2), is amended by deleting the subdivision and substituting instead the following:

A delivery service described in subdivision (k)(1) shall not be prohibited from charging a fee either to customers, retailers, or beer permittees with whom the delivery service has previously entered into a written agreement as required by subdivision (k)(1)(E) when delivering sealed packages of alcoholic beverages or beer sold by a retailer or beer permittee.

SECTION 9. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 1879

PASSED: April 19, 2016

  
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RON RAMSEY  
SPEAKER OF THE SENATE

  
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BETH HARWELL, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 28<sup>th</sup> day of April 2016

  
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BILL HASLAM, GOVERNOR