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Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission: Tennessee Alcoholic Beverage Commission
Division:
Contact Person: Shari Danielle Elks
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact: Carolyn Smith
Address: 226 Capitol Boulevard; Suite 300; Nashville, Tennessee 37243
Phone: 615-741-1602
Email: Carolyn.smith@state.tn.us

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	226 Capitol Boulevard; Suite 300
Address 2:	
City:	Nashville
Zip:	37243
Hearing Date:	04/01/09
Hearing Time:	10:00 am
	<input checked="" type="checkbox"/> CST <input type="checkbox"/> EST

Additional Hearing Information:

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only ONE Rule Number/RuleTitle per row.)

Chapter Number	Chapter Title
0100-01	Rules for the Sale of Liquor by the Drink
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0100-01-.02	Solicitation of Business and Services Restricted
0100-01-.03	Conduct of Business

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0100-03	Local Option Liquor Rules
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0100-03-03	Advertising of Distilled Spirits and Wine by Direct Mail
0100-03-04	Advertising of Distilled Spirits and Wine on Radio or Television by Manufacturers, Importers and Wholesalers
0100-03-05	Advertising Distilled Spirits and Wine on Billboards and Outside Signs
0100-03-06	Advertising Materials Within a Retail Premises
0100-03-07	Advertising Novelties and Specialties
0100-03-08	Advertising Approval Does Not Sanction Any Violation, Commission Discretion Advertising
0100-03-09	Licenses and Permits
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0100-03-13	Conduct of Business – Wholesaler and Retailer
0100-03-14	Conduct of Business of Wholesaler
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0100-03-18	Transfer of Licenses
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0100-05	Fines
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0100-05-02	Violations
0100-05-03	Schedule of Range of Fines For Violations by Permittees for Consumption of Alcoholic Beverages on the Premises, Pursuant to T.C.A. §57-04-201
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0100-05-06	Schedule of Range of Fines For Violations by Manufacturers Licensed Under T.C.A. §57-03-202 or Chapter 2 of Title 57 of the Code.
0100-05-07	Responsible Vendor
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0100-06	Intra-Industry Conduct and Regulations
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Chapter 0100-01-.01 Advertising is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

Rules Of The Alcohol Beverage Commission

Chapter 0100-01

Rules For The Sale Of Liquor By The Drink

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0100-01-.01 Advertising.

(1) Billboards and Outside Signs.

- (a) Alcoholic 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, trade slogans or other distinctive designations associated with a particular brand while also bearing the name, or advertise the establishment, or refer to the services of any licensee. However, all advertising costs, direct or indirect must be borne by the on-premise consumption licensee.

(2) Advertising Outside the Licensed Premises Relating to the Availability of Alcoholic Beverages.

- (a) Advertising on Radio or Television Stations. The availability of alcoholic beverages may be advertised on radio or television stations in Tennessee subject to the following restrictions:
 - 1. Restrictions. An advertisement shall not contain:
 - a. Any statement that is false or misleading in any material particular.
 - b. Any statement that is disparaging of a competitor's products.
 - c. Any statement, design, device, or representation which is obscene or indecent.
 - d. Any statement, design, device, or representation of or relating to analysis, standards, or tests, irrespective of falsity, which is likely to mislead the consumer.
 - e. Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which is likely to mislead the consumer.
 - f. Any statement that the product is produced, blended, made, bottled, packed, or sold under, or in accordance with, any authorization, law, or regulation of any

Pages 5 through 7 are reserved.

municipality, county, or State, Federal or foreign government unless such statement is required or specifically authorized by the laws or regulations of such government; and if a municipal, county, State, or Federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto.

- (b) **Statements Inconsistent with Labeling.** No advertisement shall contain any statement concerning a brand or lot of distilled spirits that is inconsistent with any statement on the labeling thereof.
- (c) **Curative and Therapeutic Effects.** No advertisement shall contain any statement, design, or device representing that the use of distilled spirits has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.
- (d) **Place of Origin.** No advertisement shall represent that the distilled spirits were manufactured in, or imported from a place or country other than that of their actual origin, or were produced or processed by one who was not in fact the actual producer or processor.
- (e) **Flags, Seals, Coats of Arms, Crests, and Other Insignia.** No advertisement shall contain any statement, design, devices, or pictorial representation of or relating to, or capable of being construed as relating to the armed forces of the United States, or of the American flag, any State flag, or of any emblem, seal, insignia, or decoration associated with any such flag or the armed forces of the United States; nor shall any advertisement contain any statement, device, design, or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia, likely to falsely lead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.
- (f) **Brand and Establishment Advertisement Prohibited.** No advertisement relating to the availability of any alcoholic beverages in any licensed premises shall carry any advertising associated with a particular brand of alcoholic beverages if the cost of such advertising is paid by the industry member.

Authority: T.C.A. §§57-1209, 57-4-201 and 57-818 to implement §57-111 and Chapter 211, Public Acts of 1967. Administrative History: Original rule certified June 7, 1974. Amendment filed July 21, 1981; effective October 29, 1981. Amendment filed December 1, 1982, effective January 3, 1983. Amendment by Public Chapter 261; effective July 1, 1983. Amendment filed May 10, 1983; effective August 15, 1983. Amendment filed July 8, 1983; effective October 14, 1983.

Chapter 0100-01-.02 Solicitation of Business, and Services Restricted is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-01-.02 Solicitation of Business, and Services Restricted

- (1) **Manufacturer and Importer Limited to Wholesale Solicitation.**
 - (a) No manufacturer, importer or representative thereof shall solicit orders of alcoholic beverages or wine in any manner from anyone in this state except from those holding wholesale liquor licenses.
 - (b) No manufacturer, importer, or representative thereof shall perform or provide any service whatsoever for a licensee hereunder, or his employee in this state, whether on or away from the licensed premises. No manufacturer, importer, or representative thereof shall enter the premises of any licensee hereunder, except as a bona fide customer.
 - (c) No manufacturer, importer or representative thereof shall give anything of value whatsoever, including but not limited to alcoholic beverages and money, to any

Tennessee retail licensee or his employee whether on or away from the retail premises. Furthermore, no manufacturer, importer or representative thereof may take into any licensed premises hereunder any alcoholic beverages in any quantity.

- (d) Notwithstanding the prohibitions contained herein all conduct or services permitted by 0100-6 of these regulations is permitted.

Authority: T.C.A. §§57-818, 57-1-209. Administrative History: Original rule certified June 7, 1974. Amendment filed September 9, 1983; effective October 11, 1983.

Chapter 0100-01-.03 Conduct of Business is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-01-.03 Conduct of Business.

- (1) Business Management Restricted.
- (a) Every licensed business shall be managed by the holder of the license, 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 be notified in writing, by certified mail, of any change in management within seven (7) days of the actual change.
- (b) Each on-premise manager, assistant manager, and/or any individual working in such capacity, whether paid by salary or hourly and/or in training, and having duties which directly or indirectly impacts on the selling and dispensing of alcoholic beverages, must complete and submit to the Tennessee Alcoholic Beverage Commission a questionnaire within seven (7) days of assuming their managerial duties.
- (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.
- (2) Consumption on Licensed Premises. No licensee shall permit alcoholic or malt beverages to be consumed on the licensed premises between the hours of 3 a.m. and 8 a.m. on Monday through Saturday or between the hours of 3 a.m. and 10 a.m. on Sunday unless the local jurisdiction has opted out of the expanded hours. If such is the case, then the consumption and/or sale of alcoholic beverages may begin at 12 noon on Sunday.
- (3) Free Access to Licensed Premises Without Warrant. Immediate access, without a warrant, to all parts of a licensed premise shall at all time be accorded agents of the Tennessee Alcoholic Beverage Commission.
- (4) Refusal of Cooperation. Any licensee, his agent, or employee who refuses to open or disclose his records to, or 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.
- (5) Licensees Not to Combine. No combination of licensees shall be permitted to purchase merchandise in the name of licensee and subsequently distribute merchandise which they have purchased in combination with each other to any one of the combination, and no licensee shall be permitted to transfer goods from one to another. If any member of the combination is apprehended violating this regulation, every member shall likewise be guilty of a violation, and it shall also be a violation for the wholesale distributor to furnish merchandise to any combination of licensee dealers.

- (6) 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 licensed premises are located at all times. 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 licensee's responsibility to comply with this rule.
- (7) Sanitary and Fire Standards. All licensed premises shall be kept in clean and proper sanitary condition, and in full compliance with the provisions and regulations of all duly authorized health authorities whether State, County or City.
- (8) On-Premise Sale By Bottle Restricted. On-premise licensees 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 consumption on the premises only, and said 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-Premise Employees' Activities Restricted ("B-Girl" Activity). It shall be unlawful for any person who is an employee of an on-premise licensee or any other person on behalf of the on-premise licensee to solicit alcoholic beverages or distilled spirits for public consumption by the employee or any other person, and it shall be further unlawful to dispense or consume any beverage under the pretense that it is an alcoholic beverage or distilled spirit for public consumption but is not. However, nothing in this section shall preclude an industry member and/or its employees or representatives from promoting products as permitted under 0100-3-.11.
- (10) Restriction As To Age Of Dispensing Employees. No person under the age of 18 years shall be permitted to dispense, serve, or sell alcoholic or malt beverages in any establishment licensed under the provisions of T.C.A. §57-4-101, *et seq.*
- (11) Dual Interests Prohibited.
 - (a) No licensee holding a license issued pursuant to T.C.A. § 57-4-101, *et seq.* and no person owning an interest financial or otherwise in a partnership or corporation holding such a license, shall have any interest, directly or indirectly, in any business licensed under the provisions of T.C.A. §§57-3-202, 57-3-203, or 57-3-204.
 - (b) No person having any interest financial or otherwise, directly or indirectly, in any business licensed under the provisions of T.C.A. §§57-3-202, 57-3-203, or 57-3-204, shall have any interest in any business licensed under T.C.A. §57-4-101, *et seq.*
- (12) Restrictions on License After Revocation.
 - (a) No license will be issued to the spouse, child or children, son-in-law or daughter-in-law, employee or other person having any interest in the business of a licensee whose license has been revoked, for the privilege of doing business at the same location or in close proximity to the location of the establishment whose license was revoked.
 - (b) The commission may refuse to re-issue a license to the same person, firm or corporation whose license has been revoked for one (1) year from the date of said revocation.
- (13) Licensee 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.
- (14) Prohibited Practices. No licensee or employee or agent of a licensee shall give away any sealed package, or any drink, of wine or alcoholic beverages. "Give" for the purpose of this paragraph, shall include:

- (a) offering or delivering any free alcoholic beverage or wine to any person or group of persons;
 - (b) offering or delivering unlimited drinks of wine or alcoholic beverages for a fixed price if the actual cost of all ingredients, including the alcohol and all applicable taxes, of the drinks actually served to a customer exceeds the fixed price charged; and
 - (c) awarding any wine or alcoholic beverages as a prize or free drink or encouraging or conducting any game or contest which involves drinking or uses wine or alcohol as a prize or free drink.
- (15) **Happy Hour Restrictions.** No licensee or employee or agent of a licensee shall engage in any of the following promotional practices during the period beginning with 10:00 p.m., prevailing time, until the time set by law for closing of such licensed establishments:
- (a) Serve two or more drinks or containers of alcoholic beverages to a consumer at one time.
 - (b) Sell, offer to sell, or deliver to any person or group of persons any drinks that are priced less than the price regularly charged for that drink in that size during the same calendar week, except at private functions not open to the public; or
 - (c) Increase the volume of alcohol contained in any such drink during any calendar week without increasing proportionately the price regularly charged for such drink.
- (16) **Business Name Change.** At least seven (7) calendar days prior to any change in its business name or "d/b/a" name, a licensee must submit the proposed change in writing to the Commission for approval. Upon approval, the Commission will amend the license to reflect the licensee's new business or "d/b/a" name.
- (17) **Display of License.** Any person, partnership, corporation, or other legal entity holding an on-premise consumption liquor-by-the-drink license issued under Chapter 4 of Title 57, shall prominently display and post, and keep displayed and posted, in the most conspicuous place in the licensed premises, the license so issued.
- (18) **Server Permits.** On-premise consumption licensees should maintain and have available for review on the premises documentation of the date of hire for anyone working in a capacity to serve alcoholic beverages. Acceptable documentation shall include 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 than sixty-one (61) days.
- (19) **Seating.** All on-premise consumption licensees licensed as a restaurant or hotel shall maintain a minimum seating for seventy-five people at tables during business hours with the exception of wine-only restaurants as defined at T.C.A. §57-4-101(c), gourmet restaurants as defined at T.C.A. §57-4-102(27)(e), or any other statutory exception. Seasonal seating (i.e. outside patio seating) shall count toward total numbers, but not toward the minimum seating requirements at tables. Seats at bars will be counted toward the minimum number of seats at tables if the bar is at least 20 inches in depth and meals may be served and are regularly served at the bar. Those bars containing less than 20 inches in depth will be looked at on a case by case basis with such factors as the type of menu served, placement of the bar, and whether food is regularly served at that bar.
- (20) **Minors in Possession of Alcohol.** All on-premise consumption licensees are required to insure that minors are not in possession of and/or are not allowed to consume any alcoholic beverage – including malt beverages or beer – on the licensed premises.
- (21) **Employer Responsible for Employee's Action.**
- (a) Licenses are at all times responsible for the conduct of their business and are at all times directly responsible for any act or conduct of any employee which is in violation of the state statutes, the rules and regulations of the Commission, and/or any local ordinance or

federal statute whether the licensee be present at any such time or not. This section is defined to mean that any unlawful, unauthorized, or prohibited act on the part of a licensee's agent or employee shall be construed as the act of the employer, and disciplinary actions will proceed as though he were present and had an active part in such unlawful, unauthorized, or prohibited act, and as if having been at the employer's direction and with his knowledge.

- (b) In any disciplinary proceeding, it shall be no defense that an employee or agent of a licensee acted contrary to order, or that a licensee did not personally participate in the violating action or actions. However, disciplinary actions related to sales of alcoholic beverages to minors, intra-industry violations and trade violations are subject to the provisions of 0100-5-.07, the Responsible Licensee Program.

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

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

1. Completed application;
2. Questionnaire for anyone having at least five percent (5%) ownership in the business, for any officers of a corporate applicant, and for any 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;
3. Lease agreements, assignments, subleases, and/or deed to property;
4. Current Certificate of Occupancy;
5. Inspection by the Tennessee Alcoholic Beverage Commission;
6. Acknowledgment of the rules and regulations;
7. Menu;
8. Price Schedule of Drinks;
9. Proof that Applicant Entity is registered with the Tennessee Secretary of State's office;
10. Corporate charter/Articles of Organization;
11. List of Officers/Owners/Members/Partners;
12. Sales & Use Tax Certificate of Registration;
13. Bond Posted with the Department of Revenue;
14. Application fee;
15. Any other information that the Tennessee Alcoholic Beverage Commission may request.

- (b) In addition, any of the following documents which exist must also be submitted:

1. Management agreements;
2. Bill of sale.

Authority: T.C.A. §§57-1-207, 57-3-104(c) and 57-4-201(a)(2). Administrative History: Original rule certified June 7, 1974. Amendment by Public Chapter 261 effective July 1, 1983. Amendment filed May 10, 1983; effective August 15, 1983. Amendment filed July 8, 1983; effective October 11, 1983. Amendment filed November 14, 1983; effective February 13, 1984. Amendment filed January 14, 1986; effective February 13, 1986. Amendment filed June 12 1988; effective August 5, 1988. Amendment filed December 4, 1996; effective April 30, 1997. Amendment filed December 29, 2000; effective March 14, 2001.

Chapter 0100-01-.04 Transfer of Locations is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-01-.04 Transfer of Locations.

- (1) The transfer of an on-premise consumption liquor license from one location to another shall be subject to the following provisions:
 - (a) The licensee must submit to the Commission prior to the actual move the following documents for approval:
 1. Completed application;
 2. Lease agreements, assignments, subleases, and/or deed to property;
 3. Use and Occupancy permit;
 4. Inspection by the Tennessee Alcoholic Beverage Commission;
 5. Letter of explanation for the request; and
 6. Any other information that the Tennessee Alcoholic Beverage Commission may request.
 - (b) Selling, consuming, and/or otherwise dispensing alcoholic beverages at the new location prior to the approval by the Commission is in violation of T.C.A. §57-4-203(i).

Authority: T.C.A. §§57-1-207 and 57-4-201(a)(2).

Chapter 0100-01-.05 Applications by Private Clubs is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-01-.05 Applications by Private Clubs.

- (1) Public Notice. Pursuant to T.C.A. § 57-4-102(7), each club applying for a license to sell alcoholic beverages for consumption on its premises shall place a notice in a newspaper of general circulation in the county or municipality to be served indicating the club's intention to apply for a license from the Alcoholic Beverage Commission. The notice shall 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 copy of the published notice and the sworn statement of the applicant that the notice was published in accordance with this section.
- (2) Format of Notice. Each private club applicant shall place the following notice in the newspaper as described above:

PRIVATE CLUB LIQUOR LICENSE NOTICE

Take notice that _____
(Name of Club)

intends to seek a license from the Tennessee Alcoholic Beverage Commission, 226 Capitol Boulevard Building; Suite 300; Nashville, Tennessee 37243-0755, to sell alcoholic beverages to its members and guests for consumption on the club's premises at _____ . The officers of

(Address of club's premises)

are:

(Name of Club)

(Name and address of officers)

The club currently has approximately _____ regular dues paying members.

(Name/Address of Person Actually in Charge of Sale of Alcoholic Beverages)

will be in actual charge of the sale of alcoholic beverages at the club's premises and has applied to _____

(City or County)

for a certificate of good moral character.

- (3) Size of Notice. The title of the notice shall be all capital letters and at least 10 point type size. The text of the notice shall be at least 8 point type size and the size of the entire notice shall not be less than two columns by two inches of newspaper space.
- (4) 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, 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 0100-1-.03(1).
- (5) Application Process for New Private Club Licenses.
 - (a) Applications, in duplicate, shall be submitted to the nearest office of the ABC. In addition, the following documents must be submitted in support of an application by a private club for a license sell alcoholic beverages for consumption on premises:
 1. Application (in duplicate) (Form ABC-OPP);
 2. Membership List (names, addresses, date and amount of dues paid);
 3. Questionnaires - officers of club and managers in control of actual sale of alcoholic beverages;
 4. List of club officers (names, addresses, date assumed office);
 5. Charter, constitution, and any amendments thereto, if club is incorporated;
 6. Lease, sublease, deed or other instrument indicating ownership and/or possession of physical premises;
 7. Certificate of good moral character for person(s) in actual charge of sale of alcoholic beverages;
 8. Newspaper notice accompanied by sworn statement as required by subsections (2) through (3) above;
 9. Menu;
 10. Department of Revenue Drink Price Schedule;

11. Employees work permit applications;
12. Answers to questions on ABC form - Questions For Private Club Applicants

(b) In addition, any of the following documents which exist must be submitted:

1. Bylaws;
2. Minutes of membership or board meetings;
3. Management contract;
4. Loan or financing agreements;
5. Past tax returns (2 years);
6. Resolutions re changes in name, purpose or location of club;
7. Financial statements;
8. Written approval of use and occupancy by appropriate local authorities, where applicable.

(c) Applicants should submit any other documents which indicate the club's compliance with licensing requirements.

Such documentation may include items such as announcements of past activities, newsletters sent to members, ledgers reflecting payment of dues in past years and disbursement of funds, IRS recognition as a tax-exempt, nonprofit organization, sworn statements regarding the club's history and activities, etc. The applicant for a license has the burden of proving that it meets the requirement of the law and is, therefore, eligible to hold a license to sell alcoholic beverages. The fact that the applicant submits all the documents listed above does not automatically entitle the applicant to a license. Further, the applicant may be required to submit additional information or documentation if questions arise.

(d) A license for a private club to sell alcoholic beverages on its premises may only be granted by action of the Alcoholic Beverage Commission itself.

(6) License Renewal and Transfer of Location by Private Clubs.

(a) License Renewal. Each license issued is valid for one 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.

1. On or before the expiration date of the license, the licensee shall submit an application for license renewal and the appropriate license fee to the nearest office of the Alcoholic Beverage Commission.
2. Applications for license renewal need not submit that material required by rule 0100-1-.05(5) of new applicants.
3. All financial records shall be maintained and available for inspection for a minimum of three (3) years.

(b) Transfer of Location. Licenses issued to private clubs may be transferred from one location to another only upon the following conditions:

1. Written request for approval of such a transfer with adequate explanation for the need of such a transfer.
2. Submittal of a satisfactory lease or deed to the proposed new location.
3. Written approval of the use and occupancy of the proposed new space by the appropriate local officials
4. Inspection by the Tennessee Alcoholic Beverage Commission.
5. Submittal of a petition or resolution in favor of such a transfer which reflects that it was adopted by a quorum of the club's members at a membership meeting held pursuant to the club's charter and by-laws.
6. When the proposed transfer is into a new jurisdiction, the club shall publish a new notice in compliance with paragraphs (1) through (3) of this rule and supply copies of that notice along with required sworn statement to the ABC as well as a certificate of good moral character upon the person T.C.A. §57-4-201(c)(2).
7. No such transfer shall be approved unless the Commission, in its sole discretion, determines that the licensee continues to meet the requirements of these rules and Chapter 4 of Title 57, T.C.A.

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

- (a) "Non-profit association" shall mean a legal entity which is not-for-profit and has at least the following characteristics:
 1. Financial statements covering the immediately preceding years of the club's operations. Financial statements shall clearly indicate the amount and source of all club receipts and the amount and purpose of all club disbursements in specific categories consistent with standard accounting practices. In addition, the financial statements must show a balance sheet of the club's assets and liabilities at the end of the immediately preceding year. Copies of IRS Form W-2 for each employee shall be maintained and made available upon request.
 2. Bylaws or rules of the association which provide membership application procedures. Those bylaws or rules shall provide for (a) at least one week waiting period between application for membership and election to membership and (b) a committee composed of three or more members of the club vested with the authority by charter, bylaws or regulations, to approve, reject, or make recommendations on membership applications.
 3. An association shall have a written guest policy which reasonably limits access to club facilities by guests.
- (b) "In existence and operating" shall mean for at least two years prior to the application for a club license, the association shall have had at least an annual meeting of the membership with a quorum present, shall have taken actions toward the performance of their non-profit purposes, and shall have elected a governing body which meets periodically.
- (c) "Regularly paying dues" shall mean that the members have paid dues on a regular schedule at least annually.
- (d) "Salary" shall mean a fixed periodical compensation paid for services rendered. No salary may be paid which is based on the amount of liquor or malt beverages sold or on the profits made from such sales.
- (e) "Suitable kitchen" shall mean that the kitchen is adequate to prepare regular meals. Said kitchen shall have sufficient cookware, tableware and food preparation and storage

equipment to actually store, prepare and serve meals. These facilities shall be inspected and approved by appropriate local zoning and codes inspectors.

(8) Additional Rules for Private Clubs.

- (a) Each club shall maintain a complete membership roster. The membership roster shall contain the names of all members, their addresses, and the date on which their dues are to be paid. Private club licensees shall maintain their membership records at the club premises and made them available to representatives of the Alcoholic Beverage Commission during hours when the club is open to its members. Since minimum membership is one hundred, failure to have ten members at any annual meeting shall be prima-facie evidence of the non-existence of the association.
- (b) All salaries, rents or management fees paid by a private club to any person or legal entity must be reasonable and proper compensation under the circumstances.
- (c) No private club shall dispense alcoholic beverage on the premises of the club to any person other than a bona fide member of the club or a bona fide guest of a member of the club. Alcoholic beverages should not be served in an area to which the general public is admitted. If the club's bar area is in a separate room from that to which the general public is admitted and admission to the bar is limited to members of the club and their guests, the bar may remain open. If, however, the bar is in the room to which the general public is admitted, no alcoholic beverages are to be served in that room during the time the general public is present.
- (d) The Alcoholic Beverage Commission shall determine whether a club exists exclusively for non-profit purposes. No such license shall be issued where the ABC determines that the purpose is to make a profit.
- (e) Violation of any of the rules set out herein may, in the judgment of the ABC, result in the suspension or revocation of the club's license or the imposition of a fine under the rules of the Commission. These rules are in addition to the other rules of the ABC and shall apply to club licensees only.
- (f) Whenever membership in the club drops below 100, the club ceases to have facilities in which to serve its members or guests, or the club discontinues its operations, it shall surrender its license immediately.
- (g) No private club licensed by the Commission shall utilize any name other than the name approved by the Commission and appearing on the club's license. Use of a d/b/a name is prohibited.

Authority: T.C.A. §§57-1-209, 57-4-102 and 57-4-201; 1980 Tennessee Public Acts, Chapter 895. Administrative History: Original rule filed July 29, 1980; effective October 29, 1980. Amendment filed April 26, 1984; effective May 26, 1984. Amendment filed August 20, 1985; effective November 14, 1985.

Chapter 0100-01-.06 Additional Rules Applicable to Caterers is a proposed rule:

0100-01-.06 Additional Rules Applicable to Caterers.

- (1) Commission licensed caterers shall have available for inspection at catered events involving the sale or dispersion of alcoholic beverages by that caterer, its catering license or a copy as issued by the Commission.
- (2) Only employees of a licensed caterer who are in possession of a valid server's permit may serve alcoholic beverages at any event, whether at the caterer's designated premises or a remote venue.

- (3) Commission licensed caterers may only sell alcoholic beverages on a by-the-drink basis, collecting appropriate taxes, and only in cities, municipalities, and/or counties where such sales are authorized.
- (4) No Commission licensed caterer may provide only alcohol without food items present and available for consumption at any catered event.
- (5) Commission licensed caterers must provide, and the Commission must receive at its Nashville office, a written and/or 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 full business days prior to the event during state working hours, prevailing time. Such notice shall include the date of the event, the address of the event, the host of the event, and the time of the event.
- (6) If a Commission licensed caterer is providing and selling the alcohol at a catered event, then all proceeds generated from the sale of alcoholic beverages at the catered event shall be deposited into the caterer's monetary account(s). No third party shall receive any proceeds from the sale of alcoholic beverages at a catered event.
- (7) Alcohol may be transported by the caterer to the premises of the catered event no earlier than 8:00 am. At the conclusion of the catered event, all alcohol must be removed from the premises no later than 12 noon of the following day. No one other than the licensed caterer or its employees may serve, sell or otherwise dispense, and/or have access to any alcohol on the premises of the catered event.
- (8) During the duration of the catered event, the licensed caterer is responsible and liable for full compliance with all laws of Tennessee, Commission rules and regulations, federal statutes, and ordinances and laws of the municipality and/or county where licensed premises are located at all times.

Authority: T.C.A. §§57-1-209, 57-4-102 and 57-4-20.

Chapter 0100-01-.07 Applications for Special Occasion Permits is a proposed rule:

0100-01-.07 Applications for Special Occasion Permits.

- (1) Special Occasion Permits are a one-day 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 consumption liquor license, and/or if the entity is selling, serving or otherwise dispensing alcoholic beverages to the general public. A special occasion permit is also required if the entity is selling alcoholic beverages to invited guests only.
- (2) To obtain a special occasion permit, the following documents must be submitted to the Commission at least two calendar weeks prior to the date of the event:
 - (a) A completed and notarized application;
 - (b) Certification of recognition of 501(c) status from the IRS, and/or financial records for two years preceding the date of the application indicating that at least 60% of the gross revenues have been used exclusively for religious, educational or charitable purposes;
 - (c) If the applicant is a bona fide political organization, then the applicant will submit documentation that it is either a political campaign committee as defined at T.C.A. §2-10-102(a) or that is a political party as defined at T.C.A. §2-13-101;
 - (d) Proof that the Applicant is registered with the Secretary of State's Office as a charitable, non-profit organization;

- (e) Application fee;
 - (f) Letter of permission from the owner of the property where the event will be held granting permission to the applicant to sell or serve alcoholic beverages on its premises; and
 - (g) Any other documentation that the Commission may request.
- (3) All proceeds generated from the sale of alcoholic beverages pursuant to the special occasion permit must be deposited into the special occasion permittee's monetary account(s).
 - (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, 57-4-102 and 57-4-201.

Chapter 0100-03-.01 Advertising of Distilled Spirits in Newspapers, Magazines, or Similar Publications amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

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0100-03-.01 Advertising of Distilled Spirits in Newspapers, Magazines, or Similar Publications.

- (1) Statements Prohibited in Advertisements of Distilled Spirits in Newspapers, Magazines, or Other Publications.
 - (a) Restrictions. An advertisement shall not contain:
 1. Any statement that is false or misleading in any material particular.
 2. Any statement that is disparaging of a competitor's products.
 3. Any statement, design, device, or representation which is obscene or indecent.
 4. Any statement, design, device, or representation of or relating to analysis, standards, or tests, irrespective of falsity, which is likely to mislead the consumer.

5. Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which is likely to mislead the consumer.
 6. Any statement that the product is produced, blended, made, bottled, packed, or sold under, or in accordance with, any authorization, law, or regulation of any municipality, county, or State, Federal or foreign government unless such statement is required or specifically authorized by the laws or regulations of such government; and if a municipal, county, State, or Federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto.
 - (b) Statements Inconsistent with Labeling. No advertisement shall contain any statement concerning a brand or lot of distilled spirits that is inconsistent with any statement on the labeling thereof.
 - (c) Curative and Therapeutic Effects. No advertisement shall contain any statement, design, or device representing that the use of distilled spirits has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.
 - (d) Place of Origin. No advertisement shall represent that the distilled spirits were manufactured in, or imported from a place or country other than that of their actual origin, or were produced or processed by one who was not in fact the actual producer or processor.
 - (e) Flags, Seals, Coats of Arms, Crests, and Other Insignia. No advertisement shall contain any statement, design, devices, or pictorial representation of or relating to, or capable of being construed as relating to the armed forces of the United States, or of the American flag, any State flag, or of any emblem, seal, insignia, or decoration associated with any such flag or the armed forces of the United States; nor shall any advertisement contain any statement, device, design, or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia, likely to falsely lead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.
- (2) Prior Approval. Advertisements conforming to the foregoing provisions need not have prior approval of the Commission before publication.
 - (3) Advertising by Licensees.
 - (a) Advertising by a person or other legal entity licensed as a wholesaler or retailer shall be allowed on the Internet, or any other computer-accessed communication; however, such advertisement shall be subject to TABC Rules 0100-3-.01 and 0100-3-.02.
 - (b) Wholesalers and retailers may develop electronic mail or other computer-access communication mailing lists, and may respond by electronic mail or other computerized communication to any party making inquiry by providing information regarding an alcoholic beverage. No retailer shall authorize or send any unsolicited electronic mail to a consumer.
 - (c) Licensees engaged in Internet advertising may not directly or indirectly falsely identify itself in any advertising or in domain addresses. Further, such licensee must submit to the Commission the exact "web site" or domain address it intends to use prior to beginning the advertising.

Authority: T.C.A. Section 57-818. Administrative History: Original rule certified June 7, 1974. Amendment by Public Chapter 261; effective July 1, 1983. Amendment filed October 1, 1998; effective December 15, 1998.

Chapter 0100-03-.02 Advertising of Wine in Newspapers, Magazines or Similar Publications is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the

rule shall read:

0100-03-.02 Advertising of Wine In Newspapers, Magazines or Similar Publications.

(1) Prohibited Statements.

(a) Restrictions. An advertisement shall not contain:

1. Any statement that is false or misleading in any material particular.
2. Any statement that is disparaging of a competitor's products.
3. Any statement, design, device, or representation which is obscene or indecent.
4. Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which is likely to mislead the consumer.
5. Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which is likely to mislead the consumer.
6. Any statement that the product is produced blended, made, bottled, packed, or sold under, or in accordance with, any authorization, law or regulations of any municipality, county, or State, Federal, or foreign government unless such statement is required or specifically authorized by the laws or regulations of such government; and if a municipal, county, State, or Federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto.

(b) Statements Inconsistent with Labeling. No advertisement shall contain any statement concerning brand or lot of wine that is inconsistent with any statement on the labeling thereof.

(c) Curative and Therapeutic Effects. No advertisement shall contain any statement, design or device representing that the use of any wine has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.

(d) Place or Origin. No advertisement shall represent that the wine was manufactured in, or imported from, a place or country other than that of the actual origin, or was produced or processed by one who was not in fact and actual producer or processor.

(e) Flags, Seals, Coats of Arms, Crests, and other Insignia.-No advertisement shall contain any statement, design, device, or pictorial representation of or relating to, or capable of being construed as relating to, the armed forces of the United States, or of the American flag, any State flag, or of any emblem, seal, insignia, or decoration associated with any such flag or the armed forces of the United States; nor shall any advertisement contain any statement, device design, or pictorial representation of or concerning any flag, seal, coat of arms, crests, or other insignia, likely to falsely lead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, code of arms, crest or insignia is associated.

(2) Prior Approval. Advertisements conforming to the foregoing provisions need not have prior approval of the Commission before publication.

Authority: T.C.A. §57-1-209. Administrative History: Original rule certified June 7, 1974. Amendment by Public Chapter 261, effective July 1, 1983.

rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-03-.03 Advertising of Distilled Spirits And Wine By Direct Mail.

- (1) Brands Only. Manufacturers, importers and Tennessee licensed wholesalers of distilled spirits and wines whose brands have been approved for distribution in Tennessee and Tennessee-licensed wholesalers may advertise brands only by direct mail and/or email.
- (2) Restrictions. Direct mail advertising must conform substantially, where applicable, with the provisions of 0100-3-.01 or 0100-3-.02 and in addition must not contain the name, address or telephone number of any Tennessee-licensed wholesaler or retailer, and this extends to return address on envelope. The prohibition of 0100-3-.07(1) is also applicable.
- (3) Retailer Advertising. Subject to the restrictions of subsection (4) of this rule, a retailer licensed under T.C.A. §57-3-204 may advertise consumer education seminars, distilled spirits, wines and alcoholic beverages by direct mail to consumers in the form of a newsletter, catalogue or similar communications.
- (4) Restrictions on Direct Mail.
 - (a) A retailer may mail or email a newsletter, catalogue or similar communication only to a consumer who has requested to receive such communication in writing or via email.
 - (b) The written request or email of a consumer must be maintained in hard copy, scanned, or electronic format by the retailer to whom it is addressed and is valid until such written notification is received by the retailer from the consumer requesting withdrawal of his/her name from the direct mail listing.
 - (c) Each written request by a consumer must state the retailer to whom it is addressed and must include the date upon which it is signed by the consumer.
 - (d) No industry member may subsidize, contribute or otherwise compensate a retailer for such direct mailing advertising.
 - (e) A retailer shall not be deemed to be in violation of this section unless it can be established that a consumer has made at least one requests to be removed from the mailing or e-mail list and such consumer continued to receive mailings or e-mail communications after thirty days following the second such request.

Authority: T.C.A. §57-1-209 and 57-3-104(c)(4). Administrative History: Original rule certified June 7, 1974. Amendment filed October 29, 1984; effective November 28, 1984. Amendment filed August 15, 1997; effective December 29, 1997. Amendment filed August 18, 1998; effective December 29, 1998.

Chapter 0100-03-.04 Advertising of Distilled Spirits and Wine on Radio or Television By Manufacturers, Importers and Wholesalers is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-03-.04 Advertising Of Distilled Spirits And Wine On Radio Or Television By Manufacturers, Importers And Wholesalers.

- (1) Radio or Television Advertising. Manufacturers and importers of distilled spirits and wine and Tennessee licensed wholesalers and retailers may advertise via the radio or television.
- (2) Restrictions. Such advertisements must comply with the provisions of 0100-3-.01(1) and 0100-3-.02(1).

- (3) Wine Permitted But Restricted.
 - (a) Such advertisements must comply with the provisions of 0100-3-.02(1).
 - (b) Such advertisements must not give the name, address or telephone number of a Tennessee licensed wholesaler or retailer.

Authority: T.C.A. §57-1-209, 57-3-104(c)(4) and 57-3-104(c)(9). Administrative History: Original rule certified June 7, 1974. Amendment by Public Chapter 261; effective July 1, 1983. Amendment filed May 10, 1983; effective August 15, 1983. Amendment filed December 17, 1991; effective January 31, 1992. Amendment filed August 23, 1993; effective December 17, 1993. Amended by Public Chapter 957, Acts of 1994 effective May 10, 1994. (See Attorney General opinion No. 094-080). Amendment filed August 15, 1997; effective December 29, 1997.

Chapter 0100-03-.05 Advertising Distilled Spirits and Wine on Billboards and Outside Signs is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-03-.05 Advertising Distilled Spirits and Wine on Billboards and Outside Signs.

- (1) Limited to Local Option Counties. Alcoholic beverages may be advertised on signs and billboards only in those counties which have legalized the sale of such beverages under the provisions of T.C.A. §57-3-106.
- (2) Restrictions on Billboard and Outside Sign Advertising.
 - (a) No such sign or billboard shall contain the statements prohibited by 0100-3-.01(1) and 0100-3-.02(1).
 - (b) No such sign or billboard which bears a trademark, trade name, trade slogan or a facsimile of a product, container, or display associated with a particular brand shall also bear the name or advertise the establishment or refer to the services of any wholesale or retail licensee of this State.
 - (c) No manufacturer, importer or wholesaler, or representative thereof, may directly or indirectly give, loan or supply any retail licensee a sign of any nature bearing the name of the retail establishment or referring to its services in any manner, nor shall they cause such signs to be painted on exterior walls of the retail premises.
 - (d) Signs advertising brands only painted on the exterior walls of a retail licensee's establishment and paid for directly or indirectly by a manufacturer, importer, wholesaler or representative thereof shall not extend more than 18 inches beyond the body of the sign and no other painting of the exterior shall be furnished the retail licensee.
 - (e) No manufacturer, importer, wholesaler or representative thereof, shall directly or indirectly (through a sign company or advertising agency) pay, credit or otherwise offer inducement of any nature to a retail licensee for the display of any sign or billboard or for the use of space involved therein, nor shall they reimburse the retailer for any expense incidental thereto. No billboard or other structure for which a retail licensee is paid a rental of offered any inducement may be used as a billboard for advertising alcoholic beverages.
- (3) Local Control. Signs and billboards approved herein are subject to reasonable rules and regulations duly adopted by proper governing bodies in the county and city wherein located.

Authority: T.C.A. §57-818 to implement T.C.A. §§57-111 and 57-1-209. Administrative History: original rule certified June 7, 1974. Amendment by Public Chapter 261; effective July 1, 1983. Amendment filed May 10, 1983:

effective August 15, 1983.

Chapter 0100-03-.06 Advertising Materials Within a Retail Premises is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-03-.06 Advertising Materials Within a Retail Premises.

- (1) Who May Supply and Install. Subject to the provisions of 0100-6-03 of these regulations, manufacturers and importers may give, rent, loan or sell to Tennessee licensed wholesalers, but to no other person, signs, posters, placards, decorations, devices, statuettes or geographic displays-printed, painted or electric-for point-of-sale brand advertising. Wholesalers may give, rent, loan or sell same to Tennessee licensed retailers, but to no other person, and may install or set up such materials in the windows or elsewhere in the interior of a retail establishment. Retailers may not give, rent, loan or sell such material referenced above to a consumer.
- (2) Restrictions on Advertising Within a Retail Premises.
 - (a) All advertising materials provided under this Rule 0100-3-.06(1) must conform with Rule 0100-3-.01(1) and Rule 0100-3-.02(1), with the only exception being that such material may contain specific prices and statements of pecuniary appeal.
 - (b) All such material must have the primary value to the retailer of brand advertising only. Brand advertisements must be an integral and not easily separable part of any material that has a secondary or utility value (such as change mats, calendars, thermometers, ash trays, lamps, bottle racks, etc.).
- (3) Prohibitions.
 - (a) The practice of painting the interior of retail licensed premises under the guise of advertising is prohibited. Decorating with crepe paper, "Corabuff" matting, or similar material as a background or setting for advertising material only is permitted but such decoration is limited to a 20-square-foot area, per wholesaler.
 - (b) Except as permitted by the provisions of 0100-6-.03, no manufacturer, importer, wholesaler or representative thereof, shall give, rent, loan or sell a retail license any fixtures, furnishings or equipment of a permanent nature under the guise of advertising except as permitted by 0100-6-.01, *et seq.*
 - (c) No manufacturer, importer, wholesaler or representative thereof, shall directly or indirectly through an agent pay, credit or otherwise offer any inducement whatsoever to the retailer for displaying such materials as authorized herein for any expenses incidental thereto.
 - (d) No manufacturer, importer, wholesaler or representative thereof, shall directly or indirectly through an agent pay, credit, otherwise offer any inducement whatsoever to the retailer for displaying such materials as authorized herein for any expenses incidental thereto.

Authority: T.C.A. §§57-818 and 57-1-209. Administrative History: Original rule certified June 7, 1974. Amendment filed December 1, 1980; effective March 31, 1981. Amendment by Public Chapter 261; effective July 1, 1983. Amendment filed May 10, 1983; effective August 15, 1983. Amendment filed September 9, 1983; effective October 11, 1983.

Chapter 0100-03-.07 Advertising Novelties and Specialties is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-03-.07 Advertising Novelties and Specialties.

- (1) Off-premise retailers licensed under T.C.A. § 57-3-204 may distribute to consumers only alcoholic beverages and those types of items specifically authorized under chapter 0100-6 of these regulations.

Authority: T.C.A. §§57-818, 57-11-201 and 57-11-209. Administrative History: Original rule certified June 7, 1974. Amendment filed September 9, 1983; effective October 11, 1983

Chapter 0100-03-.08 Advertising Approval Does Not Sanction Any Violation, Commission Discretion on Advertising is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-03-.08 Advertising Approval Does Not Sanction Any Violation, Commission Discretion On Advertising.

- (1) No Advertising Shall Indicate Any Violation Permitted. No advertising permitted herein shall imply sanction in any manner of any violation of the Tennessee Code, rules and regulations of the Commission, or valid ordinance of a duly constituted Authority.
- (2) Commission May Compel Discontinuance. The Commission reserves the right to instruct the discontinuance and withdrawal of any advertisement in any medium whatsoever which in its discretion, is determined to be inconsistent with the public interest.

Authority: T.C.A. §57-818. Administrative History: Original rule certified June 7, 1974.

Chapter 0100-03-.09 Licenses and Permits is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-03-.09 Licenses and Permits.

- (1) Full-time Municipal Law Enforcement Department Required. No retail liquor license shall be granted for a location which is not situated within the jurisdiction of a regular full-time municipal law enforcement department or within a jurisdiction that has contracted with a regular full-time law enforcement department to provide services to the jurisdiction.
- (2) Financial Disclosure.
 - (a) Applicants for retail liquor licenses shall submit, in conjunction with their application, proof of financial responsibility. Specifically required with each application are the following:
 1. Financial statements containing financial information as requested by the Commission;
 2. Loan agreements related to the licensed premises, the retail liquor operation, or any other interests in other liquor-related businesses owned by the applicant;
 3. Gifts related to the licensed premises, the retail liquor operation, or any other interest in other liquor-related businesses owned by the applicant; and
 4. Any other information requested by the Commission.
 - (b) The Commission may refuse to grant a retail liquor license to any applicant who fails to demonstrate, by a preponderance of the evidence, the financial ability and responsibility to reasonably conduct business.

- (c) Upon renewal of an existing license the applicant for renewal need submit only the financial information as specifically requested by the Commission.
- (3) Limit on Wholesalers' Licenses. No person, partnership, or corporation will be issued a wholesaler's license in more than one municipality in the same county.
- (4) Restriction on License After Revocation.
 - (a) No wholesale or retail license will be issued to the spouse, child or children, son-in-law, daughter-in-law or other person having any interest in the business of a licensee whose license has been revoked, for the privilege of doing business at the same location or in close proximity to the location of the establishment whose license was revoked for a period of one (1) year after said revocation. The Commission may, in its discretion, waive this prohibition.
 - (b) The Commission may refuse to reissue a license to the same person, firm or corporation whose license has been revoked for one (1) year from the date of said revocation.
- (5) 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.
- (6) 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 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.
- (7) Licensees Not Required To Have Permits. Persons whose names are listed on a wholesale or retail license are not required to obtain permits, and no such persons shall hold any permit issued by the Alcoholic Beverage Commission.
- (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 has 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.
- (10) Public Notice. The Commission shall require each applicant for a new retail liquor license, pursuant to Chapter 3 of Title 57 of the Tennessee Code Annotated, to place a notice in a newspaper of general circulation in the area proposed to be served concerning the applicant's intent to seek a license from the Commission. The notice shall contain such information as is prescribed in Section (11) below and shall appear for at least three (3) consecutive issues immediately preceding the date that the applicant applies to the city or county for a certificate of compliance. The application shall be accompanied by a copy of the public notice and the sworn statement of the applicant that the notice was published in.
- (11) Format of Notice.
 - (a) Anyone applying for a Tennessee retail liquor license shall place the following notice in a

newspaper of general circulation:

RETAIL LIQUOR LICENSE NOTICE

Take notice that _____ has
(Name and address of applicant)
applied to _____ for a certificate of compliance
(City or County)
and has or will apply to the Tennessee Alcoholic Beverage Commission at Nashville for a
retail liquor license for a store to be named
_____ and to be located at
(Name of Store)
_____ and owned by
(Address of Store)

(List whether individual, partnership, or corporation. List individual owners except if corporation, list officers and manager.)

All persons wishing to be heard on the certificate of compliance may personally or through counsel appear or submit their views in writing at

(Name of City or Government to issue certificate and address)
on _____ at _____. The Tennessee Alcoholic
(Date) (Time)

Beverage Commission will consider the application at a later date to be set by the Tennessee Alcoholic Beverage Commission in Nashville, Tennessee. Interested persons may personally or through counsel submit their views in writing by the hearing date to be scheduled by the TABC. (Rule 0100-3-.09, continued) Anyone with questions concerning this application or the laws relating to it may call or write the Alcoholic Beverage Commission at

(Address) (Phone)

- (b) The title of the notice shall be all capital letters and at least 10 point size. The text of the notice shall be at least eight point size type, and the size of the entire notice shall be not less than two columns by two inches of newspaper space. Such newspaper notice shall be published prior to the issuance of the Certificate of Compliance.

Authority: T.C.A. §§57-1-209, 57-3-104(c)(4) and 57-3-208(e). Administrative History: Original rule certified June 7, 1974. Amendment filed September 6, 1978; effective October 23, 1978. Amendment filed November 21, 1979; effective February 28, 1982. Amendment and new rule filed March 17, 1980; effective May 1, 1980. Amendment by Public Chapter 261; effective July 1, 1983. Amendment filed May 10, 1983; effective August 15, 1983. Amendment filed April 23, 1984; effective July 14, 1984. Amendment filed January 14, 1986; effective April 15, 1986. Amendment filed February 12, 1990; effective May 29, 1990. Amendment filed October 15, 1991; effective January 29, 1992.

Chapter 0100-03-.10 Transportation and Delivery of Alcoholic Beverages is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-03-.10 Transportation and Delivery of Alcoholic Beverages.

- (1) Requirement For All Transporters. Any person transporting alcoholic beverages within, into, through or from the State of Tennessee must comply with the provisions of T.C.A. § 57-3-403, Tennessee Code Annotated and shall, when requested by any representative of the Commission, or person having police authority, exhibit to such person the required bill of lading or other memorandum of shipment covering the cargo of the vehicle.
- (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 Chapter 0100-6 of these Regulations.
 - (b) All trucks and other motor vehicles owned, or leased and operated by any Tennessee licensee, 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 4 inches in height, the address of such licensee shall appear in letters of not less than 2 ½ inches in height and the license number shall appear in letters not less than 1 ½ inches in height. The following words, but no others, may be abbreviated: Tennessee (Tenn.), Company (Co.) and Incorporated (Inc.).
 - (c) 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.
- (3) Wholesaler Must Deliver Off Premises. All alcoholic beverages sold by a wholesaler must be delivered away from his premises and then only to another licensed wholesaler, to a retailer or his employee at the retailer's licensed premises, or to a Department of Defense Installation after compliance with T.C.A. § 57-3-110. Delivery to a wholesaler in another county must be by common carrier.
- (4) Pickup By Retailer Prohibited. No retailer or his employees shall accept any alcoholic beverages at the wholesaler's premises or elsewhere other than at the licensed premises of the retailer.
- (5) Transportation of Alcoholic Beverages by Retailers.
- (a) The sales of all alcoholic beverages by a retailer shall be made within the licensed premises; provided, that deliveries of alcoholic beverages sold within the premises may be made by the retailer only to a vehicle of the purchaser parked on the lot or lots upon which said licensed premises are situated or at the curb immediately adjacent to the lot or lots upon which said licensed premises are situated, and not elsewhere.
 - (b) Where alcoholic beverages are desired to be transported for consumer education seminars authorized by Rule 0100-3-.11(5), such transportation may be conducted by the wholesaler or retailer in accordance with the following provisions of this section:
 - 1. The wholesaler or retailer shall transport alcoholic beverages directly to the location of the consumer education seminar no more than 24 hours prior to the time reported to the Commission for the start of the consumer education seminar.
 - 2. All unsealed or otherwise opened containers of alcoholic beverages not consumed during the registered time of a consumer education seminar shall be disposed of by removing opened container(s) and returning the product to the retail or wholesale premises. Such product, if returned to the retail licensee's premises, shall be documented as to its source and may only be used for employee training purposes. No sealed or unsealed containers of alcoholic beverages shall be given, sold or otherwise transferred to persons attending a consumer education seminar, to an on-premises consumption licensee, or to any other person.

3. The wholesaler or retailer shall transport any unopened containers directly back to the licensed retail location within 24 hours of the conclusion of the consumer education seminar if the retailer purchased the alcohol. However, if the wholesaler donated the alcohol, then the wholesaler may, at its option, return such alcohol to its inventory or provide such alcohol to the retailer for use in employee training and not for resale.
4. There shall accompany such alcoholic beverages at all times during transportation by the wholesaler or retailer as authorized herein, a copy of the written notification to the Commission regarding the consumer education seminar and a copy of the invoice. Further, any retailer transporting the alcohol to the approved seminar shall take a reasonably direct route from the location where the alcohol is obtained (either the wholesaler's licensed premises or the retailer's licensed premises) to the address of the consumer education seminar approved by the Commission.

(6) Metric Net Contents.

- (a) Distilled Spirits. The authorized standards of fill for distilled spirits shall be those container sizes authorized by 27 CFR §5.47a.
- (b) Wine. The authorized standards of fill for wine, as defined in 27 CFR §24.10, shall be those container sizes authorized by CFR §4.72.

Authority: T.C.A. §§57-132, 57-136, 57-151, 57-818, 57-1-201, 57-1-209, 57-3-104 and 67-101. Administrative History: Original rule certified June 7, 1974. Amendment filed April 29, 1982; effective July 29, 1982. Amendment by Public Chapter 261; effective July 1, 1983. Amendment filed May 10, 1983; effective August 15, 1983. Amendment filed September 9, 1983; effective October 11, 1983. Amendment filed April 23, 1984; effective May 23, 1984. Amendment filed September 10, 1985; effective December 14, 1985. Amendment filed July 31, 1987; effective October 28, 1987. Amendment filed August 15, 1997; effective December 29, 1997. Amendment filed August 18, 1998; effective December 29, 1998.

Chapter 0100-03-.11 Solicitation of Business, Services Restricted is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-03-.11 Solicitation Of Business, Services Restricted.

- (1) Manufacturers and Importers Limited to Wholesale Solicitation.
 - (a) No manufacturer, importer or representative thereof shall solicit orders in any manner for alcoholic beverages from anyone in the State except those holding wholesale licenses.
 - (b) No manufacturer, importer or representative thereof shall perform or provide any service whatsoever for a retail on-premise or off-premise licensee or his employee in the State, and no on-premise or off-premise licensee shall accept any service whatsoever, whether on or away from the retail premises—except as specifically authorized under Rule 0100-6-.03. No manufacturer, importer or representative shall enter the premises of any retailer except in the main salesroom of said establishment.
 - (c) No manufacturer, importer or representative thereof shall give anything of value whatsoever, including but not limited to alcoholic beverages and money, to any Tennessee retail on-premise or off-premise licensee or his employee, and no on-premise or off-premise licensee shall accept whether on or away from the retail premises—except as specifically authorized under Rule 0100-6-.03.
 - (d) Notwithstanding the restrictions contained herein, a manufacturer, importer, or representative thereof may enter the public and non-storage related areas of a retail licensee for the purpose of promoting the products manufactured, imported or

represented by manufacturer, importer, or representative, surveying or examining the retail and marketing operations of such retail licensee or examining the advertising displays within the premises of such retail licensee. Such manufacturer, importer, or representative may also provide, orally or in writing, information related to such products to any licensee or employee of such licensee on the retail licensee's premises.

- (e) Notwithstanding the restrictions contained herein, a manufacturer, importer, or representative thereof may, with the consent the retailer, "face up" or dress a display of those products (and only those products) manufactured, imported or represented by such person which displays are already established at such retail licensee premises and may arrange or rearrange those products manufactured, imported or represented by such person which have been placed on display on the retail premises. While providing such service, such person may not move, disturb, relocate or re-shelve any product other than the products manufactured, imported or represented by such person.

(2) Wholesale Sales Limited to Retailers.

- (a) No wholesaler, salesman or employee thereof shall solicit orders in any manner for alcoholic beverages from anyone in this State except those holding retail licenses.

- (b) No wholesaler, salesman or employee thereof shall provide any service whatsoever for a retail licensee or his employee whether within or away from the retail premises with the following exceptions:

1. Delivering alcoholic beverages or any item permitted under Chapter 0100-6 of these regulations to the licensed premises.
2. Arranging stock delivered by his company in retail establishments;
3. Setting up advertising signs or displays as set forth in 0100-3-.05 and 0100-3-.06.
4. Assisting in the conduct of any retailer sponsored consumer education seminar held in accordance with 0100-3-.11(5).

- (c) No wholesaler, his salesman or employee shall give anything of value whatsoever including, but not limited to, money and alcoholic beverages to any retail licensee or his employee except as otherwise permitted in these rules. No Tennessee retail licensee or his employee shall accept any alcoholic beverages, money, or other things of value except as allowed or provided for by the applicable regulations as set forth at Chapter 0100-6 of these rules.

- (d) Wholesalers are prohibited from accepting an order for alcoholic beverages from one retailer and delivering and invoicing part of the order to one retailer and the remainder of the order to another licensee. Retailers are prohibited from placing an order for one licensee, and having part of the order delivered to another licensee.

- (e) Notwithstanding the limitations contained herein, a wholesaler, its salesman or its employees may solicit orders from any entity that has submitted to the Commission an application for license under T.C.A. § 57-3-204 or § 57-4-101, but the wholesaler may not deliver any alcoholic beverages until the Commission has approved and issued such license.

(3) Retailer Shall Not Solicit at Residence or Place of Business of Consumer.

- (a) No retail licensee or his employee shall solicit orders for alcoholic beverages by any method directed at the residence or place of business of a consumer any place in this State, other than as permitted by 0100-3-.03 or 0100-3-.04.

- (b) No retail licensee or his employee shall give any consumer anything of value whatsoever except as provided in 0100-3-.07(2), and then only within the licensed premises or as

may be permitted in Rule 0100-3-.11(5). Nothing herein shall prohibit a retail licensee from making withdrawals from inventory for donations to any organization that has been recognized as exempt from federal taxes under §501(c) of the Internal Revenue Code (26 U.S.C. §501(c)). Upon request, retailers shall present documentation to the Commission agent or representative of such withdrawals.

- (4) **Tax Laws Unaffected.** No provision of this section is intended to restrict or otherwise affect the deductions available to manufacturers, importers, wholesalers or retailers for purposes of calculating taxes due to the United States.
- (5) **Retailer Sponsored Tastings.** A retailer licensed under T.C.A. §57-3-204 may conduct consumer educational seminars, which may include providing alcoholic beverages and wine directly to consumers for tasting purposes. A retailer must provide to the Commission written notification on forms prescribed by the Commission if the licensee or its representative or employee is present to discuss the product being sampled, if the licensee is sponsoring or co-sponsoring the event, if the licensee has provided the product to be sampled, and/or if the licensee is soliciting orders at the event.
 - (a) No consumer education seminar which includes the consumption of alcoholic beverages or wine by a consumer may occur at a premises licensed by the Tennessee Alcoholic Beverage Commission pursuant to T.C.A. §57-3-204. (See, T.C.A. §57-3-406(f)). Further, consumer education seminars must occur within the boundaries of a political subdivision wherein the sale of alcoholic beverages at retail has been approved pursuant to T.C.A. §§57-3-106 and 57-4-103.
 - (b) Any retailer desiring to conduct a consumer education seminar which involves the consumption of alcoholic beverages must provide written notification to the Commission disclosing the following information:
 - 1. The date, time, and exact location of the consumer education seminar;
 - 2. The sponsors of such consumer education seminar and any supplier or wholesaler involved, either directly or indirectly, with such consumer education seminar;
 - 3. Whether any fee or cost is assessed to the attendees in order to attend the consumer education seminar, and if so, the amount of such fee; and
 - 4. Any other relevant information as may be required by the Commission.
 - (c) Written notifications must be submitted to the Commission not less than four (4) calendar days prior to the date of the consumer education seminar. Proof of such written notification shall be available for inspection at the event. Upon approval, the Commission will issue a letter of permission to the retailer which will be valid for no longer than one 24-hour period, subject to the hours set forth in T.C.A. §57-4-203(d)(1). Such letter of permission must be available for inspection at the event.
 - (d) Failure to comply with the sub-paragraphs (b) and (c) above may result in a violation of this section.
 - (e) No manufacturer or non-resident seller may directly supply any product to a retailer for use at a consumer education seminar. Nothing herein shall prohibit a wholesaler licensed pursuant to T.C.A. §57-3-203 from providing product to the retailer for use at a consumer education seminar, nor shall this provision preclude a manufacturer or nonresident seller from providing product to a wholesaler with the intent that such product be used at a consumer education seminar. A wholesaler who provides such product for an event should make a reasonable effort to provide a sufficient quantity of alcohol, but not in excess of the amount needed to conduct the consumer education seminar. Any unopened salable product remaining at the conclusion of the seminar shall be returned to the wholesaler who provided the product if the product was donated for the event, pursuant to T.C.A. §57-3-403 and Rules 0100-3-.15(1)(a) and 0100-3-.10(6).

- (f) Any consumer education seminar conducted under this section shall be conducted in accordance with the hour limitations set forth at T.C.A. § 57-4-203(d)(1).
- (g) A retailer may advertise, in accordance with all other applicable regulations of the Commission, the date, time, location, sponsors, speakers, products to be tasted, food to be served, charge for attendance, and such other information as may be appropriate in inform the consumers of the consumer education seminar.
- (h) A consumer education seminar conducted under this section may be conducted at any premises licensed pursuant to T.C.A. §57-4-101. If so, a retailer may impose a reasonable charge for attendance at a consumer education seminar and solicit orders from consumers at the tasting, providing that final sales of wines and alcoholic beverages must be completed within the licensed premises of the retailer.
- (i) On-premise consumption licensee employees shall not serve, sell, or otherwise dispense any alcoholic beverages not owned outright by such licensee. Any retailer employee and/or representative serving, selling, or otherwise dispensing alcoholic beverages at a consumer education seminar must first obtain a server's permit and such permit must be available for inspection while the consumer education seminar is being conducted. In addition, an individual listed as licensee or manager on the license application or in the records of the Commission may serve or dispense alcoholic beverages at such education seminar.
- (j) If a consumer education seminar is to be conducted at a premises not licensed pursuant to T.C.A. § 57-4-101, the following additional conditions shall apply:
 1. No food, goods or services may be purchased or sold and no solicitation of orders may occur.
 2. No person may attend such consumer education seminar unless such person has received a written invitation, addressed to the invitee.
 3. No charge may be imposed upon such invitee for attendance or for any food or product consumed.
- (k) The retail licensee shall be responsible for compliance with all statutes, rules, and regulations, including but not limited to the prohibitions of selling to a minor or to an intoxicated individual. Violations of any statutes, rules, or regulations may result in disciplinary action against the appropriate licensee.

Authority: T.C.A. §57—818 Administrative History: Original rule certified June 7, 1974; Amendment filed August 3, 1979, Disapproved by G.O.C. December 13, 1974, Amendment filed December 4, 1979; Disapproval hearing notice filed March 13, 1980; approved by G.O.C. April 8, 1980. Amendment filed September 9, 1983; effective October 11, 1983. Amendment filed August 18, 1998; effective December 29, 1998.

Chapter 0100-03-.12 Containers and Sizes is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-03-.12 Containers and Sizes.

- (1) Original Retail Containers Required.

No licensee shall import into Tennessee or sell in Tennessee any alcoholic beverages, except wine, not in original retail containers.

- (2) Wine May Be Imported In Bulk.

Tennessee licensed wineries and wholesalers may import wine in bulk for the purpose of bottling only. When wine is imported hereunder, it shall be stored on the licensed premises only, in containers approved by the Commission which shall have the right in its discretion to seal such containers and require them to be opened only after notice to the Commission and with its consent.

(3) Standards of Fill.

All wine bottled in, sold in and shipped into this state shall be in container specified in the Standards of Fill for wine prescribed by the Department of the Treasury of the United States for wine shipped in interstate commerce; and, said Federal Regulations relating to Standards of Fill for wine are hereby adopted and incorporated by reference herein. See 0100-3-.10(6).

Authority: T.C.A. §§57—109(g), (1) and (3), 57—818(2), 67—101, 57—132, §57—136, 57—1—201 and 57—1—209. Administrative History: Original paragraphs (1) and (3) certified by the Alcoholic Beverage Commission June 7, 1974. Original paragraph (2) certified by the Department of Revenue June 7, 1974. Original paragraph (4) filed October 22, 1975; effective January 14, 1976. Amendment by Public Chapter 261; effective July 1, 1983.

Chapter 0100-03-.013 Conduct of Business – Wholesaler and Retailer is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-03-.13 Conduct Of Business - Wholesaler and Retailer.

- (1) Retail Licensees to Sell Nothing Except Alcoholic Beverages. No retailer or employee thereof shall store, sell or offer for sale on his licensed premises any article or commodity whatsoever except alcoholic beverages or otherwise provided by statute. However, a wholesaler may store, sell or offer for sale those items specifically authorized under T.C.A. §57-3-404 and Chapter 0100-6 of these regulations, and a retailer may store, display and distribute those items authorized under Chapter 0100-6 of these regulations.
- (2) All Licensees Must Keep Records Available Three Years. Each licensee shall keep, for at least three years, all purchase orders, invoices and all other records of all purchases and sales of alcoholic beverages 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 Alcoholic Beverage Commission or Department of Revenue during business hours and failure to make such available shall be deemed cause for revocation of his license.
- (3) Business Management Restricted. Every licensed wholesale or retail business shall be managed by the holder of the license, if an individual, or by a partner or corporate officer, in the event that the business is operated by a partnership or corporation. In every case where alcoholic beverages at wholesale or retail are sold by a partnership or corporation, the managing partner or corporation officer in active control and management of the business shall be designated to the Commission.
- (4) Hours Licensees May Remain Open. Wholesalers and Retailers may remain open for business between the hours of 8:00 a.m. and 11:00 p.m. by the time zone and system in effect in the city where the store is located.
- (5) Storage Limited to Ground Floor of Licensed Premises. No wholesaler or retailer shall store alcoholic beverages at any place other than the ground floor constituting his licensed premises without written permission of the Commission.
- (6) No Wholesaler May Store for Retailer. No wholesaler shall store alcoholic beverages for a retail dealer without written approval of the Commission.
- (7) No Retailer May Store for Another Retailer. No retailer shall store alcoholic beverages belonging to another retail licensee.

- (8) "Lugs" Prohibited-Pre-Sacking Restricted.
- (a) No bottles of alcoholic beverages shall be removed from the delivery case and wrapped into packages for the purposes of resale commonly known as "lugs" on the premises of a licensed wholesaler or retailer, except a packaged "less than case" order delivered by a wholesaler to a retailer will not be construed as a "lug" if accompanied by an invoice. Retailers shall not sell alcoholic beverages to or pre-package alcoholic beverages for bootleggers.
 - (b) Any such "lug" found on the premises of a retailer or wholesaler shall be prima facie evidence of a violation of this regulation.
 - (c) No licensed retailer shall have on hand, in stock or stored in his possession, any alcoholic beverages that have been pre-sacked prior to the actual receipt by such retailer of a specific order therefore. However, notwithstanding the provisions of this paragraph, nothing shall preclude a retailer from pre-sacking an order for personal consumption after being requested to do so by a consumer.
- (9) Contests Involving Alcoholic Beverages Prohibited. No manufacturer, wholesaler, retailer or representative or employee thereof may:
- (a) Sponsor or conduct a contest in which alcoholic beverages are offered as prizes, premiums or rewards;
 - (b) Offer as a prize, premium or reward any alcoholic beverages; or
 - (c) Directly or indirectly aid or assist in the promotion of a contest involving alcoholic beverages which is conducted or sponsored by any person no a licensee.
- (10) Gift Certificates. Tennessee licensed retailers may sell gift certificates or gift cards to consumers. However, no gift certificate shall be honored, accepted, or sold to anyone under the age of twenty-one or to anyone visibly intoxicated. If a gift certificate is honored, accepted, or sold to anyone under the age of twenty-one or to anyone visibly intoxicated, then such practice will be deemed to be the equivalent of selling alcohol to a minor or selling alcohol to a person visibly intoxicated.
- (11) Refusal of Cooperation. Any licensee who refuses to open or disclose records to, or furnish information to, or who furnishes false and/or misleading information to an Agent 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.
- (12) Open Access to Licensed Premises Without Warrant. Immediate access, without a warrant, to all parts of a licensed premise shall at all time be accorded agents or representatives of the Tennessee Alcoholic Beverage.
- (13) 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 and ordinances and laws of the municipality and/or county where licensed premises are located at all times.
- (14) Not withstanding any provisions herein, a retailer may accept a tentative order for alcoholic beverages from consumers by telephone, e-mail, facsimile transmission or other electronic means, provided, however:
- (a) The retailer maintains a record, written or electronic, of the items tentatively ordered for a period of thirty (30) days following the actual purchase of the items; and
 - (b) The sale and delivery of any such tentative order shall be effected on the license premises.

Authority: T.C.A. §§57—1—209 and 57—3—104(c)(4). Administrative History: Original paragraphs (1) and (3) –

(10) certified by the Alcoholic Beverage Commission June 7, 1974. Original paragraph (2) certified by the Department of Revenue June 7, 1974. Amendment filed October 15, 1981; effective January 27, 1982. Amendment by Public Chapter 261; effective July 1, 1983. Amendment filed September 9, 1983; effective October 11, 1983. Amendment filed November 7, 1997; effective March 30, 1998.

Chapter 0100-03-.14 Conduct of Business of Wholesalers is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-03-.14 Conduct of Business of Wholesalers.

- (1) Wholesaler Accountable for Inventory; Methods of Disposition of Alcoholic Beverage Limited. A wholesaler is strictly accountable for his inventory which he may deplete in the following manner only:
 - (a) Sales to a licensed retailer and to no other person, and each sale and delivery must be covered by an invoice.
 - (b) Wholesalers may deplete inventories for personal or training use, for purposes of contributing to a charitable organization, for marketing or for use at educational seminars held pursuant to 0100-3-.11 or held for the benefit of retailer customers of the wholesaler. The wholesaler shall retain records of all such withdrawals showing the amount of inventory withdrawn, the purpose of the withdrawal and the employee responsible for such withdrawal. These records shall be retained in accordance with 0100-3-.13(2).
 - (c) Broken and deteriorated merchandise (method of handling set forth in 0100-3-.15(3)).
 - (d) Courtesy sales from one wholesaler to another within the State.
 - (e) Returned merchandise to the manufacturer or importer.
- (2) Consignment and Returns.
 - (a) No wholesaler shall sell and no retailer shall accept any alcoholic beverage on consignment, or upon condition, or with the privilege of return, or on any condition other than a bona fide sale, except as may be permitted pursuant to Chapter 0100-.6
 - (b) Novelty containers, commonly known as Christmas decanters, must be accepted back upon request in exchange for similar quantity of alcoholic beverage of the same brand and proof in conventional containers by the wholesaler from the retailer and by the manufacturer from the wholesaler. Such requests shall not be submitted before January 15 next after the Christmas season for which such decanters were delivered.
- (3) Breakage and Deteriorated Merchandise.

The following procedure shall be followed in handling and accounting for broken or deteriorated merchandise:

- (a) Wholesalers shall return broken bottles or deteriorated merchandise from the retailer involved to his warehouse before replacing same with the retailer.
- (b) Replacement shall be listed on the wholesaler's standard invoice and designated whether breakage or deteriorated merchandise.
- (c) The wholesaler shall prepare a standard invoice covering the breakage or deteriorated merchandise within his own stock on the date it is broken or the deteriorated merchandise is removed from his inventory.
- (d) No later than the fifth day of the month each wholesaler shall prepare from invoices of the previous month a complete list of breakage and deteriorated merchandise. The list shall

be prepared in triplicate and shall include the invoice number, retail license number (or wholesaler's license number), brand and size.

- (e) An agent of the Tennessee Alcoholic Beverage Commission shall use this list in checking and destroying broken bottles, and checking the deteriorated merchandise which he shall mark as unsalable. The agent will certify all three copies of the list and forward one copy to the Commission. The wholesaler shall mail another copy to the Miscellaneous Tax Division of the Department of Revenue and retain the third as a part of its records.
 - (f) After checking and marking, the wholesaler may dispose of the deteriorated merchandise without regard to the limitation established in 0100-3-.16(1)(b) provided, however, the wholesaler will incur tax liability at the same time all such unsaleable alcoholic beverages are removed from inventory and not destroyed.
- (4) Wholesaler Assistance at Special Occasion Events. A wholesaler or employee thereof may participate in, assist and serve alcoholic beverages on behalf of a holder of special occasion permit issued pursuant to T.C.A. § 57-4-101(g).

Authority: (1) and (3) - T.C.A. §57—818; (2) - §67—101, §57—132 and §57—136 and §1 of Chapter 707 of the Public Acts of 1974. Administrative History: Original paragraphs 11) and 13) certified by the Alcoholic Beverage Commission June 7, 1974. Original paragraph (2) certified by the Department of Revenue June 7, 1974. Amendment filed August 3, 1979, Disapproved by G.O.C. December 13, 1979; filed December 4, 1979, Disapproval Hearing Notice filed March 13, 1980; Approved by G.O.C. April 8, 1980. Amendment by Public Chapter 261; effective July 1, 1983. Amendment filed August 18, 1998; effective December 29, 1998.

Chapter 0100-03-.15 Restrictions on Premises, Conduct of Business of Retailers is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-03-.15 Restrictions on Premises, Conduct of Business of Retailers.

- (1) Retailers Not to Combine. No combination of retailers shall be permitted to purchase merchandise in the name of (1) one retailer and subsequently distribute merchandise which they have purchased in combination with each other to any one of the combination and no retailer shall be permitted to transfer goods from one to another. If any member of the combination is found to have violated this regulation, every member shall likewise be deemed to have violated this regulation, and it shall also be a violation for the wholesale distributor to furnish merchandise to any combination of retail dealers.
- (2) Living Quarters Prohibited. No part of the licensed premises occupied by a liquor store shall be used as living quarters by any person.
- (3) No Commodity Except Alcoholic Beverages May Be Stored. No part of a licensed premises occupied by a liquor store shall be used as a storeroom for any commodity having no relation to the sale of alcoholic beverages.
- (4) Services Restricted. No retailer within or on his licensed premises shall offer by sign or otherwise to perform any service whatsoever for a consumer except the sale of alcoholic beverages.
- (5) Drinking In or On Premises Prohibited. No retail licensee or his employee shall consume alcoholic beverages or permit alcoholic beverages to be consumed within publicly accessible areas of the retail establishment. Employee-only tastings are authorized to be conducted on the retail premises as authorized by T.C.A §57-3-404(h). Alcoholic beverages used for employee-only tastings/education must be properly identified as such and proper documentation from the wholesaler must be maintained on the premises. Notwithstanding this provision, all open alcohol being used for employee tastings/education must be removed within seven days of the wholesaler documentation. No licensee or his employee shall engage in the sale of alcoholic beverages on the licensed premises while under the influence of intoxicants or drugs.
- (6) Operation of a Licensee. Every retail licensee shall register and designate on its application one

or more persons as managers of the retail operation. All managers of retail licensees shall submit to the Alcoholic Beverage Commission a completed questionnaire within one week of assuming such duties. Such person may be the licensee, if the licensee is an individual. The designated manager or managers of the licensee shall be either the owner or a full time employees of the licensee and shall not be employees of any other licensee nor shall such be a consultant, advisor, or provide any services to any other licensee. Only the licensee, if an individual, or the designated manager or managers may engage in any of the following activities:

- (a) Select, order or price inventory,
- (b) Employ or discharge the employees of the retail establishment,
- (c) Approve advertising, marketing programs of the licensee.

Authority: T.C.A. §57-818. Administrative History: Original rule certified June 7, 1974. Amendment filed February 22, 1980; effective April 6, 1980. Amendment filed December 1, 1980; effective March 31, 1981. Amendment filed April 16, 1981; effective July 29, 1981. Amendment by Public Chapter 261; effective July 1, 1983.

Chapter 0100-03-.16 Dual Interests Prohibited is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-03-.16 Dual Interests Prohibited.

(1) Manufacturer and Importer.

No manufacturer or importer, or representative of the same, shall have any kind of interest financial, fixtures, furnishings, stock ownership, loans, gifts, securing loans, guaranteeing payment of any loan, lease of property or participate in the profits, either directly or indirectly, in any wholesaler or any retail on-premise or off-premise liquor establishment in Tennessee.

(2) Wholesaler or Retailer.

No wholesaler, and no partner, member or person owning stock in a corporation licensed as a wholesaler, and not employee of same, shall have any interest as set forth above in any business licensed as a retailer, and no retailer and no retailer's employee, shall have any such interest in any wholesale establishment.

Authority: T.C.A. §57-818. Administrative History. Original rule certified June 7, 1974.

Chapter 0100-03-.17 Responsibility and Penalties for Violations is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-03-.17 Responsibility and Penalties for Violations.

- (1) Employer Responsible for Employee's Action. Licensees are at all times responsible for the conduct of their business and are at all time directly responsible for any act or conduct of any employee which is in violation of the laws of Tennessee, the rules and regulations of the Commission, any local ordinance and/or any federal statute or the rules and regulations of the Commission, whether the licensee be present at any such time or not. This section is defined to mean that any unlawful, unauthorized, or prohibited act on the part of an agent or employee shall be construed as the act of the employer, and the employer shall be proceeded against as though he were present and had an active part in such unlawful, unauthorized, or prohibited act, and as if having been at the employer's direction and with his knowledge. Notwithstanding this provision, a licensee may present mitigating factors.

- (2) In Disciplinary Action. In disciplinary proceedings, it shall be no defense that an employee or agent of a licensee acted contrary to order, or that a licensee did not personally participate in the violating action or actions – except as permitted under 0100-5-.07.
- (3) Avoidance of Tax Liability. Any manufacturer, importers, or representative of the same, and any wholesaler or retailer or employee of the same, who shall evade, or render direct or indirect assistance in the evasion of, the payment of the taxes imposed in sections 57-3-302, 57-3-303, 57-4-301, and 57-6-201, T.C.A., or who shall violate or in any manner aid or abet or participate in any scheme to violate the local option law, or fails or neglects to comply with any regulations here in before set out, shall be deemed to have given cause for suspension or revocation of his license, or permit, or if holding no license or permit, to have given cause for withdrawal or suspension of any privilege granted in Tennessee, as the Commission in its discretion

Authority: T.C.A. Section 57-818 to implement T.C.A. Section 57-131, 57-132, 57-701 through 57-707 and 57-1-209. Administrative History: Original rule certified June 7, 1974. Amendment by Public Chapter 261; effective July 1, 1983. Amendment filed May 10, 1983; effective August 15, 1983.

Chapter 0100-03-.18 Transfer of Licenses is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-03-.18 Transfer of Licenses.

- (1) The transfer of a retail liquor license from one location to another shall be subject to the following provisions:
 - (a) The new location must be within the same city as the original location
 - (b) The application for transfer must pay or must have paid the full annual license fee for the year in which the transfer is requested.
 - (c) The physical transfer of the store must be completed within ninety (90) days after the transfer is granted. Under exceptional and unusual circumstances, the applicant may request an additional thirty (30) days time. However, the request must be made in writing and must state the reasons for the extension. Such request must be submitted to the Commission prior to the aforementioned ninetieth day.
 - (d) The approval of all applications for the transfer of a retail liquor license shall be within the discretion of the Alcoholic Beverage Commission.
 - (e) Circumstances which may be considered by the Commission include:
 - 1. Physical destruction of the premises not the fault of the licensee.
 - 2. Bona fide termination of the lease, with the remaining term of the lease not to exceed one year from the date the transfer is considered by the Commission.
 - (i) Accompanying each application for transfer shall be a sworn statement by the applicant declaring the reason for the lease termination.
 - (ii) If the applicant for transfer is purchasing the property for the proposed new location, then the appropriate documents shall be submitted with the application evidencing the purchase.
 - (iii) If the applicant for transfer is building a new structure for the proposed new location, the structure's blue prints or other building plans shall be submitted with the application.
 - 3. Eminent domain or condemnation proceeding causing serious disruption of the business.

4. Substantial changes in traffic patterns surrounding the existing store.
 5. Situations, which in the discretion of the Commission, are determined to be a material change of circumstances.
- (f) The application for a transfer of a retail liquor license shall follow the procedural requirements prescribed for applications for new licenses contained in regulations 0100-3-.09(9) and 0100-3-.09(10).
- (g) The proposed new location must comply with such statutes, regulations, and ordinances for new licenses as are determined to be applicable and material in the discretion of the Commission.

Authority: T.C.A. §§57-1-209, 57-3-104(c)(4) and 57-4-201(a)(2). Administrative History: Original rule filed January 14, 1978; effective February 13, 1978. Amendment filed October 15, 1991; effective January 29, 1992. Amendment filed December 4, 1996; effective April 30, 1997.

Chapter 0100-05-.01 Purpose is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

CHAPTER 0100-5 FINES
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0100-05-.01 Purpose	0100-05-.05	Schedule of Range of Fines for Violations by Wholesalers Licensed Pursuant to T.C.A. § 57-3-203
0100-05-.02 Violations	0100-05-.06	Schedule of Range of Fines for Violations by Manufacturers Licensed under T.C.A. §57-3-202 or Chapter 2 of Title 57 of the Code
0100-05-.03 Schedule of Range of Fines for Violation by Permittees for Consumption of Alcoholic Beverages on the Premises, Pursuant to T.C.A. § 57-4-201	0100-05-.07	Responsible Vendor Mitigation Program
0100-05-.04 Schedule of Range of Fines for Violations by Retailers Licensed under T.C.A. § 57-3-204 or T.C.A. § 57-3-207		

0100-05-.01 Purpose.

- (1) In any case where the Alcoholic Beverage Commission is given the power to suspend or revoke any license or permit issued pursuant to Title 57, Tennessee Code Annotated, the Commission may, in the alternative to suspension or revocation, impose a fine as set out hereafter.
- (2) Fines may be used to informally remedy a matter by written consent of all parties to the matter.

Authority: T.C.A. §§ 57-1-201 and 57-1-209. Administrative History: Original rule filed December 9, 199; effective January 10, 1983.

Chapter 0100-05-.02 Violations is repealed by deleting in its entirety and replacing with the following so that it shall read as follows:

0100-05-.02 Violations.

- (1) If one or more violations result from one illegal act or set of circumstances, the fine for each individual violation may not exceed the maximum fine for any of the involved categories of licenses.
- (2) Each separate offense of multiple violations occurring at the same time, not arising from the same illegal act or set of circumstances, may result in individual fines being levied at the maximum for the categories of licensees.
- (3) Repeat occurrences of the same violation by a licensee within a license year may result in separate fines for each violation.

Authority: T.C.A. §§ 57-1-201 and 57-1-209. Administrative History: Original rule filed December 9, 1992; effective January 10, 1983.

Chapter 0100-05-.03 Schedule of Range of Fines for Violations by Permittees for Consumption of Alcoholic Beverages on the premises, Pursuant to T.C.A. §57-4-201 is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-05-.03 Schedule of Range of Fines for Violations by Permittees for Consumption of Alcoholic Beverages on the Premises, Pursuant to T.C.A. § 57-4-201.

- (1) The following violations may result in fines from a minimum of two hundred dollars (\$200.00) to the maximum statutorily allowed.
 - (a) Sale of alcoholic beverages for consumption of the premises as prohibited by T.C.A. §57-4-203(e).
 - (b) Giving away alcoholic beverages contrary to T.C.A. §57-4-203(e).
 - (c) Selling or giving away alcoholic beverages or allowing the same to be consumed contrary to Rule 0100-1-03(2) [after hours].
 - (d) Selling alcoholic beverages to person who are visibly intoxicated contrary to T.C.A. §57-4-203(c).
- (2) The following violations may result in fines ranging from a minimum of one hundred dollars (\$100.00) to the maximum statutorily allowed.
 - (a) Advertising the availability of alcoholic beverages on signs on or adjacent to the exterior of such a licensed premises contrary to T.C.A. §57-4-203(a).
 - (b) Failure to comply with T.C.A. §57-4-203(b)(3), relative to not employing persons to dispense or serve alcoholic beverages without a liquor by the drink employee permit.
 - (c) Failure to notify the Commission of a change in management pursuant to Rule 0100-1-03(1).
- (3) The following violations may result in fines ranging from a minimum of three hundred dollars (\$300.00) to the maximum statutorily allowed.
 - (a) Sale of alcoholic beverages to minors in violation of T.C.A. §57-4-203.
 - (b) Failure to comply with Rule 0100-1-.03(7), relative to licensees' responsibility for law and order in licensed premises.
 - (c) Violation of Rule 0100-1-.03(10) relative improper employee conduct.

- (4) Buying alcoholic beverages from sources other than a licensed wholesaler may result in a fine of one thousand five hundred dollars (\$1,500.00), or to the maximum statutorily allowed.
- (5) Allowing persons under the age of 18 years to dispense, serve or sell alcoholic beverages, contrary to T.C.A. § 57-4-203, may result in a fine ranging from four hundred dollars (\$400.00) to the maximum statutorily allowed.
- (6) All other violations of the rules of the Commission or of Tennessee statutes not specifically listed above may result in a fine ranging from one hundred dollars (\$100.00) to the maximum statutorily allowed.

Authority: T.C.A. §§57-1-201 and 57-1-209. Administrative History: Original rule filed December 29, 1982; effective January 10, 1983.

Chapter 0100-05-.04 Schedule of Range of Fines for Violations by Retailers Licensed Under T.C.A. §57-3-204 is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-05-.04 Schedule of Range of Fines for Violations by Retailers Licensed Under T.C.A. §57-3-204.

- (1) The following violations may result in fines from a minimum of one hundred dollars (\$100.00) to a maximum seven hundred and fifty dollars.
 - (a) Improper use of a sign or bill board as prohibited by Rule 0100-3-.05(2)(e).
 - (b) Failure to maintain proper records as required by Rule 0100-3-.14(2).
 - (c) Employing persons to dispense alcoholic beverages who do not possess or have on his person the employee permit required by T.C.A. Section 57-3-204.
 - (d) Soliciting business as prohibited by Rule 0100-3-.11(3).
 - (e) Violation of direct mail advertising prohibition contained in Rule 0100-3-.03.
- (2) The following violations may result in fines from a minimum of two hundred dollars (\$200.00) to a maximum of seven hundred and fifty dollars (\$750.00).
 - (a) Giving away any items of value contrary to Rule 0100-3-.11(3)(b).
 - (b) Storing alcoholic beverages for another retailer contrary to Rule 0100-3-.14(8).
 - (c) Consuming or allowing others to consume alcoholic beverages within the licensed premises contrary to Rule 0100-3-.16(9).
 - (d) Keeping or allowing unsealed containers of alcoholic beverages within the licensed premises contrary to Rule 0100-3-.16(10).
 - (e) Purchasing alcoholic beverages from other than a licensed wholesaler contrary to T.C.A. Section §57-3-404(b).
 - (f) Purchasing alcoholic beverages while on a no-buy status contrary to Rule 0100-3-.17.
 - (g) Selling alcoholic beverages before or after authorized hours contrary to T.C.A. §57-3-406(e).
 - (h) Violation of 0100-3-.14(9) relative to the sale of "lugs" or pre-sacking of liquor.
- (3) Selling alcoholic beverages on credit contrary to T.C.A. § 57-3-404(g) or purchasing alcoholic beverages in combination with other retailers contrary to Rule 0100-3-.16 may result in the

imposition of a fine from a minimum of three hundred dollars (\$300.00) to a maximum of seven hundred and fifty dollars (\$750.00).

- (4) Selling alcoholic beverages at wholesale contrary to T.C.A. § 57-3-404, operating another business in conjunction with a liquor store contrary to T.C.A. § 57-3-404, or selling alcoholic beverages to a person known to be a minor contrary to T.C.A. § 57-3-406 will result in a fine of seven hundred and fifty dollars.
- (5) Any other violations of law or rule which are not specifically listed above may result in a fine from a minimum of one hundred dollars (\$100.00) to a maximum of seven hundred and fifty dollars (\$750.00).

Authority: T.C.A. §§57-1-201 and 57-1-209. Administrative History: Original rule filed December 29, 1982; effective January 10, 1983.

Chapter 0100-05-.05 Schedule of Range of Fines for Violations by Wholesalers Licensed Pursuant to T.C.A. §57-3-203 is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

- 0100-05-.05 Schedule of Range of Fines for Violations by Wholesalers Licensed Pursuant to T.C.A. §57-3-203.
- (1) The following violations by a licensed wholesaler may result in a fine from a minimum of two hundred dollars (\$200.00) to the maximum statutorily allowed:
 - (a) Giving to any retailer or his employee anything of value as prohibited by Rule 0100-3-.11.
 - (b) Selling alcoholic beverages on consignment or upon condition contrary to Rule 0100-3-.15(2)(a).
 - (c) Accepting the return of alcoholic beverages where the return is not authorized by law or rule contrary to Rule 0100-3-.15.
 - (d) Delivery of alcoholic beverages in improper vehicles contrary to Rule 0100-3-.10(2).
 - (e) Failure to see that persons dispensing alcoholic beverages in the licensee's place of business have employee permits and that the permits are on the employee or the licensee's premises as required by the T.C.A. §57-3-203.
 - (2) The following violations may result in a fine from a minimum of one thousand dollars (\$1,000.00) to the maximum statutorily allowed:
 - (a) Selling alcoholic beverages to a licensee in a "no buy" status contrary to Rule 0100-3-.17(6).
 - (b) Delivering alcoholic beverages to an unauthorized location contrary to Rule 0100-3-.10.
 - (c) Violations of rule 0100-3-.18 prohibiting dual interests.
 - (d) Purchasing alcoholic beverages from other than an appropriately licensed source contrary to T.C.A. §57-3-404(a).
 - (3) Failure to obtain proper representative or salesman permits and to see that such permits are kept on the person of such employee or upon the premises of such licensee at all times may result in a fine from a minimum of four hundred dollars (\$400.00) to the maximum statutorily allowed.
 - (4) Employing individuals who are underage may result in a fine from a minimum of five hundred dollars (\$500.00) to the maximum statutorily allowed.

- (5) All other violations of statute or rule may result in a fine from a minimum of one hundred dollars (\$100.00) to the maximum statutorily allowed.

Authority: T.C.A. §§57-1-201 and 57-1-209. Administrative History: Original rule filed December 9, 1982; effective January 10, 1983.

Chapter 0100-05-.06 Schedule of Range of Fines for Violations by Manufacturers Licensed Under T.C.A. §57-3-202 or Chapter 2 of Title 57 of the Code is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-05-.06 Schedule of Range of Fines for Violations by Manufacturers Licensed Under T.C.A.
Section 57-3-202 or Chapter 2 of Title 57 of The Code.

- (1) Any violation of law or regulation by a manufacturer or distiller may result in a fine ranging from a minimum of one hundred dollars (\$100.00) to the maximum statutorily allowed.

Authority: T.C.A. §§57-1-201 and 57-1-209. Administrative History: Original rule filed December 9, 1982; effective January 10, 1983.

Chapter 0100-05-.07 Responsible Vendor is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-05-.07 Responsible Vendor

- (1). The fines established in this Chapter 5 may be mitigated and the maximum fine may be one half of the amounts specified therein where the licensee or permittee can establish the following:
 - a. The licensee or permittee holds a valid license or permit pursuant to T.C.A. §57-3-202, 203, 204, 207 or 57-4-101.
 - b. The licensee or permittee has a written policy requiring all employees to complete a course in alcohol awareness which course includes training on the laws and regulations of the Commission, methods of recognizing and dealing with underage customers.
 - c. The licensee or permittee has a written policy requiring periodic refresher training as noted above for all employees involved in the sale, purchase or distribution of alcoholic beverages no less frequently than every twelve (12) months and can prove that the periodic refresher training has been conducted.
 - d. The licensee or permittee conducts periodic meetings with its staff and employees involved in the sale and distribution of alcoholic beverages to review Tennessee statutes and the rules and regulations of the Commission. Licensee or permittee must be able to prove that periodic meetings have been where the review has occurred
- (2) The mitigation provided under Section (1) above shall be available to a licensee or permittee no more frequently than once per year.
- (3) Any licensee or permittee seeking to apply this mitigation program must retain employment and responsible contemporaneous training records adequate to demonstrate compliance with this part 07.

Authority: T.C.A. §§57-1-201 and 57-1-209.

Chapter 0100-06-.01 Definitions is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

CHAPTER 0100-06 INTRA-INDUSTRY CONDUCT AND REGULATIONS
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0100-06-.01 Definitions	0100-06-.05 Dual Permits Prohibited
0100-06-.02 General Prohibitions	0100-06-.06 Non-Resident Seller Permits
0100-06-.03 Exceptions to General Prohibitions	0100-06-.07 Prohibition on Discrimination
0100-06-.04 Limitations on Credit Sales	

0100-06-.01 Definitions.

- (1) General. As used in this chapter, unless the context otherwise requires, terms have the meanings given in this section. Any other term defined in Title 57 of the Tennessee Code Annotated shall have the meaning assigned to it by that Title.
- (2) Consignment Sales. The term "consignment sales" shall mean arrangements where the trade buyer is under no obligation to pay for distilled spirits or wine until they are sold by the trade buyer.
- (3) Equipment and Supplies. The term "equipment and supplies" shall include, but is not limited to, glassware (other than glassware bearing conspicuous and substantial advertising matter which is a consumer advertising specialty or similar containers made of different material), dispensing accessories, and carbon dioxide (and other gases used in dispensing equipment), pouring racks, and other similar items used to conduct a retailer's business. "Dispensing Accessories" include, but are not limited to, standards, faucets, cold plates, rods, vents, taps, tap boxes, tap standards, hoses, washers, couplings, gas gauges, vent tongues, shanks, and check valves.
- (4) Exchange. The transfer of distilled spirits, wine, or other product from a trade buyer to an industry member with other products taken as a replacement.
- (5) Industry Member. The term "industry member" shall mean any person engaged in business as a manufacturer, distiller, rectifier, blender, non-resident seller, or other producer, or as an importer, or wholesaler, of distilled spirits, or wine, or as a bottler, or warehousemen and bottler, of distilled spirits, licensed in the state of Tennessee.
- (6) Product. The term "product" shall mean distilled spirits, wine, or alcoholic beverages, as defined in Title 57 of the Tennessee Code Annotated.
- (7) Product Display. The term "product display" shall mean any wine racks, bins, barrels, casks, shelving, and the like from which distilled spirits, wine, and beverages are held, shelved, displayed and sold.
- (8) Retailer. The term "retailer" shall mean any person engaged in the sale of distilled spirits, wine, or alcoholic beverages to consumers, licensed in the state of Tennessee, whether such sales are made for consumption on or off the premises where sold.
- (9) Retail Establishment. The term "retail establishment" shall mean any premises where distilled spirits, wine, or alcoholic beverages are sold or offered for sale to consumers, whether for consumption on or off the premises where sold.

- (10) Return. The transfer of distilled spirits, wine, or other product from a trade buyer to the industry member from whom purchased, for cash or credit.
- (11) Trade Buyer. Any person who is a wholesaler or retailer of distilled spirits, wine, or other product.

Authority: T.C.A. §§57-1-201 and 57-1-209. Administrative History: Original rule filed September 9, 1983; effective October 11, 1983.

Chapter 0100-06-02 General Prohibitions is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-06-02 General Prohibitions.

- (1) Industry members are prohibited from acquiring or holding any interest, directly or indirectly, in any license (State, county, or municipal) with respect to the premises of a retailer.
- (2) Industry members are prohibited from acquiring any interest, directly or indirectly, in real or personal property owned, occupied, or used by a retailer in the conduct of the business.
- (3) Subject to the exceptions listed herein, industry members, or any representative thereof - e.g. third party marketing entities, are prohibited from furnishing, giving, renting, lending, or selling to the retailer, and the retailer is prohibited from accepting any equipment, fixtures, signs, supplies, money, services, or other thing of value. The furnishing of free warehousing by delaying delivery of distilled spirits, wine, or alcoholic beverages or by storing such for a retailer by an industry member is prohibited.
- (4) Industry members, or any representative thereof - e.g. third party marketing entities, are prohibited from paying or crediting the retailer, and the retailer is prohibited from accepting any advertising, display or distribution service, whether or not the advertising, display or distribution service received is commensurate with the amount paid by the retailer.
- (5) An industry member or any representative thereof is prohibited from requiring a trade buyer to take and dispose of any quota of distilled spirits, wine, or malt beverages.
- (6) A requirement that a retailer purchase one product in order to purchase another is prohibited. This includes combination sales if one or more products may be purchased only in combination with other products and not individually. However, an industry member is not prohibited from selling at a special combination price, two or more kinds of brands of products to a retailer, provided that:
 - (a) The retailer has the option of purchasing either product at the usual price, and
 - (b) The retailer is not required to purchase any product he or she does not want.
- (7) No retailer shall obtain alcoholic beverages from any source not designated to sell that brand under the brand registration statute, T.C.A. §57-3-301.
- (8) No manufacturer, importer, non-resident seller, or any representative thereof - e.g. third party marketing entities - may solicit orders in any manner for alcoholic beverages from anyone in this State except from those holding wholesale liquor licenses.
- (9) It is unlawful for one industry member to sell, offer for sale or contract to sell to any trade buyer, or for any such trade buyer to purchase, or contract to purchase any products:
 - (a) On consignment; or
 - (b) Under conditional sale; or

- (c) With the privilege of return; or
- (d) On any basis other than a bona fide sale; or
- (e) If any part of the sale involves, directly or indirectly, the acquisition by such person of other products from the trade buyer or the agreement to acquire other products from the trade buyer.

Transactions involving the bona fide return of products for ordinary and usual commercial reasons arising after the product has been sold are not prohibited.

- (10) (a) Tied Sales Prohibited. A sale in which any part of the sale involves, directly or indirectly, the acquisition by the industry members from the trade buyer, or the agreement, as a condition to present or future sales, to accept other products from the trade buyer is prohibited.
- (b) Exchange. The exchange of one product for another is prohibited as a sales transaction conditioned on the acquisition of other products. However, the exchange of a product for equal quantities (case for case) of the same type and brand of product, in containers of another size is not considered an acquisition of "other" products and is not prohibited if there was no direct or implied privilege of return extended when the product was originally sold. Industry members may make price adjustments on products eligible for exchange under this paragraph.
- (c) Exclusion. An industry member, or any representative thereof - e.g. third party marketing entities, may not require, nor may a retailer request, offer and/or accept an exclusive arrangement wherein the retailer agrees, in exchange for money, services, and/or any other thing of value from the industry member, to offer for sale the industry member's product exclusively to the exclusion of other related products.

Authority: T.C.A. §§57-1-201 and 57-1-209. Administrative History: Original rule filed September 9, 1983; effective October 11, 1983.

Chapter 0100-06-.03 Exceptions to General Prohibitions is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-06-.03 Exceptions to General Prohibitions.

- (1) General. An industry member or any representative thereof - e.g. third party marketing entities, may furnish a retailer equipment and supplies, signs, posters, placards, decorations, devices, statuettes, or geographic displays (printed, painted or electric) for point-of-sale advertising, and services or other things of value in accordance with the exceptions provided in this part and may install or set up such materials in the windows or elsewhere in the interior of a retail establishment. The cost limitations imposed in this rule will be deemed adjusted upon any modification in a similar rule made by the Trade and Taxation Bureau of the United States Department of the Treasury.
- (2) Product Displays.
 - (a) General. An industry member may furnish, give, rent, loan, or sell product displays to a retailer, subject to the limitations prescribed in paragraph (b) of this section.
 - (b) Conditions and Limitations.
 - 1. The total value of all product displays furnished by an industry member under paragraph (a) of this section may not exceed three hundred dollars (\$300.00) or current federal limits per brand in use at any one time in any one retail

establishment. The value of a product display is the actual cost to the industry member who initially purchased it. Transportation and installation costs are excluded.

2. Industry members may not pool or combine their dollar limitations in order to provide a retailer a product display valued in excess of three hundred dollars (\$300.00) or current federal limits per brand.
3. Product displays shall bear conspicuous and substantial advertising matter about the product or the industry member which is permanently inscribed or securely affixed.
4. The furnishing, giving, renting, loaning, or selling of such product displays may be conditioned upon the purchase of the products advertised on those displays in a quantity necessary to initially stock such display.

(3) Interior Signs.

- (a) General. An industry member or any representative thereof - e.g. third party marketing entities, may furnish, give, rent, loan, or sell to a retailer inside signs which bear advertising matter. Inside signs include such things as posters, placards, designs, mechanical devices, and window decorations.
- (b) Conditions and limitations. Industry members or any representative thereof - e.g. third party marketing entities, may furnish inside signs to retailers under the following limitations:
 1. The inside sign shall have no secondary value and be of value to the retailer only as advertising.
 2. The inside sign shall be used only in the windows or other interior portions of the retail establishment.
 3. The industry member may not directly or indirectly pay or credit the retailer for displaying the inside sign or for any expense incidental to its operation.

(4) Outside Signs.

- (a) General. An industry member or any representative thereof - e.g. third party marketing entities, may furnish, give, rent, loan, or sell to a retailer outside signs which bear advertising matter subject to local ordinances.
- (b) Conditions and limitations. Industry members, or any representative thereof - e.g. third party marketing entities, may furnish outside signs to retailers under the following limitations:
 1. The sign must bear conspicuous and substantial advertising matter about the product or the industry member that is permanently inscribed or securely affixed.
 2. The cost of the signs may not exceed four hundred dollars (\$400.00), which includes installation costs.
 3. The outside sign must be located on the wall or roof of a building adjacent to or occupied by the retailer.
 4. The name and address of the retailer may appear on the outside sign.
 5. The industry member, or any representative thereof - e.g. third party marketing entities, may not directly or indirectly pay or credit the retailer for displaying the sign or for any expense incidental to its operation.

- (5) Routine Business Entertainment. Nothing in this chapter shall prohibit an industry member or any representative thereof-- e.g. third party marketing entities, from providing a retail licensee or its employee routine business entertainment which is defined as follows:
- (a) Meals or beverages;
 - (b) Concerts, theatre and arts entertainment;
 - (c) Sports participation and entertainment;
 - (d) Entertainment at charitable events;
 - (e) Private parties
- (6) Limitations on Routine Business Entertainment. For the purposes of this section:
- (a) Routine business entertainment shall be provided only if such is provided without a corresponding obligation on the part of the retail licensee or on-premise consumption licensee to purchase alcoholic beverages or to provide any other benefit to such industry member or to exclude from sale the products of any other industry member.
 - (b) There is no maximum dollar amount for providing routine business entertainment designated under Section (5)(b), (c), or (d), provided, however, that the entertainment and/or participation is in the immediate presence of an employee or agent of both the industry member providing the routine business entertainment and the trade buyer receiving such routine business entertainment.
 - (c) Routine business entertainment expenses may not exceed \$100.00 per 24 hour period for an employee of any retail or on-premise consumption licensee including a self-employed sole proprietor or, if the licensee is a partnership, or any partner or employee thereof, or if the licensee is a corporation, on any corporate officer, director or shareholder, or the guest of such, or to any third party partnership, LLC or corporation associated directly or indirectly with the retail or on-premise consumption licensee designed to circumvent the intent of this provision. Further, routine business entertainment expenses as stated above may not exceed six (6) employees/per day from the same licensee.
 - (d) No person enumerated in section (b) above may be entertained by a wholesaler more than four (4) times per calendar year. The wholesaler shall maintain documentation of all expenditures under this section containing sufficient information to fully document the expenditure.
 - (e) Routine business entertainment permitted under Section (5) above shall not include transportation to or from an event that is otherwise permitted beyond one hundred (100) miles.
- (7) Retailer Advertising Specialties - Point of Sale.
- (a) General. An industry member or any representative thereof - including third party marketing entities, may furnish, give, rent, loan, or sell point of sale advertising materials to a retailer if such items bear advertising matter and are primarily valuable to the retailer as point of sale advertising to attract consumer attention to the products of the industry member who furnished them. Such items include, but are not limited to: posters, placards, designs, inside signs (electric, mechanical or otherwise), window decorations, trays, coasters, mats, menu cards, meal checks, paper napkins, foam scrapers, back bar mats, thermometers, clocks, calendars, and alcoholic beverage lists or menus.

- (b) Consumer Advertising Specialties. An industry member may furnish, give, rent, loan or sell to a retailer advertising specialties that are designed to be carried away by consumers, such as trading stamps, pouring racks, ash trays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters post cards, pencils, cups, glassware, pens, shirts, hats, visors, and other branded items of nominal value.
- (c) Conditions and limitations.
 - 1. All point of sale advertising materials and consumer advertising specialties must bear conspicuous and substantial advertising matter about the product or the industry member which is permanently inscribed or securely affixed. The name and address of the retailer may appear on the point of sale advertising materials and on the consumer advertising specialties.
 - 2. The industry member or any representative thereof - including third party marketing entities, may not directly or indirectly pay or credit the retailer for using or distributing these materials or for any expense incidental thereto.
- (8) Wine Lists or Menus. An industry member may furnish, give, rent, loan, or sell alcoholic beverage lists or menus to retailers.
- (9) Samples. An industry member may furnish or give a sample of branded distilled spirits, wine, or alcoholic beverages to a retailer who has not previously purchased the brand or vintage of wine from that member within the past twelve (12) months. For each retailer establishment, the industry member may give not more than 1.75 liters of any brand of distilled spirits or wine. If a particular product is not available in a size within the quantity limitations of this section, an industry member may furnish to a retailer the next largest size.
- (10) Combination Packaging.

An industry member or trade buyer (other than a retailer which sells for consumption on the premises) may package, distribute and sell wine or alcoholic beverages in combination with other related items provided that:

 - (a) The items have no value or benefit to the retailer other than that of having the potential of attracting purchasers and thereby promoting sales;
 - (b) The package (product plus non-alcoholic item) is designed to be delivered intact to the consumer and consumer shall not dictate the specific packaging;
 - (c) The non-alcoholic item does not exceed twice the cost of the product, exclusive of the packaging material, to the industry member or trade buyer creating the package;
 - (d) The non-alcoholic item may not be a perishable food item; and
 - (e) Any additional cost incurred in creating the combination package may not be borne by the industry member.
- (11) Educational Seminars. An industry member may give or sponsor educational seminars for employees of retailers either at the industry member's premises or at the retail establishment. Examples would be seminars dealing with use of a retailer's equipment, training seminars for employees of retailers, or tours of industry member's plant premises. This section does not authorize an industry member to pay a retailer's expense in conjunction with an educational seminar.
- (12) Stocking, Rotating and Pricing Services.
 - (a) A wholesaler, wholesale salesman or representative thereof may, at a retail licensee, with the consent of the retailer, stock, rotate and affix the price to distilled spirits, wine or other alcoholic beverages that they sell, provided products purchased from other

wholesalers are not altered or disturbed. Such wholesaler may also set up a point of sale display, product display, logoed and promotional items, rearrange or reset that portion of a retail licensee as is necessary for the display or placement of its product. In providing the services herein, a wholesaler, wholesale salesman or representative thereof may enter the private or non-public areas of the retail licensee.

- (b) When accompanied by a wholesaler, a wholesale salesman, or other representative of the wholesaler, a manufacturer, importer, or representative thereof may also provide those services designated in 0100-6-.03(9)(a) above.
 - (c) Notwithstanding the restrictions contained herein, a manufacturer, importer or representative thereof must deliver point of sale materials intended for retail use to a wholesaler's warehouse, and a manufacturer, importer or representative thereof may provide and set up such point of sale or logoed materials (including, but not limited to, product displays, interior signs, point of sale advertising materials, and consumer advertising specialties) at a retail establishment only in consultation and by mutual agreement with the wholesaler from which such point of sale or logoed materials were obtained as to the intended use and recipient(s) thereof.
- (13) Consumer Promotions – Direct Offerings. A manufacturer, supplier, importer, distiller, or winery may offer coupons for refunds and contest prizes, premium offers and sweepstakes to consumers only on the following basis:
- (a) A refund coupon may be distributed to a consumer only as an element of the industry members advertising or marketing program through newspapers or magazines. Retailers for on-premise consumption may not participate in such programs.
 - (b) Contest prizes, premium offers, sweepstakes and like items may be offered by industry members directly to consumers at point-of-sale, through newspapers or magazines, and through the Internet. Retailers for on-premise consumption may participate in such programs.
 - (c) Officers, employees and representatives of wholesalers and retailers are excluded from participation. Nothing of value may be supplied to a trade buyer by an industry member to induce or reward participation in any practice allowed hereunder. Industry members are prohibited from requiring any retailer to participate in any practice allowed hereunder nor shall a particular retailer or group of retailers be specified by an industry member for participation in any practice allowed hereunder.
 - (d) No coupon shall be permitted for a refund by a retailer at the point-of-sale ("cents-off" coupons). Refund coupons may be utilized by a manufacturer, supplier, importer, distiller or winery which are redeemable by a consumer mailing directly to such manufacturer, supplier, importer, distiller or winery, or an authorized redemption agent.
 - (e) No coupon may be redeemed by, or refund sent to any person who is under the age set by law to purchase, possess, and consume alcoholic beverages in Tennessee. No contest or sweepstakes prize shall be awarded to any person who is under the age set by law to purchase, possess, and consume alcoholic beverages in Tennessee. No premium offer shall be sent to any person who is under the age set by law to purchase, possess, and consume alcoholic beverages in Tennessee.
- (14) Equipment and Supplies. An industry member may sell equipment or supplies to a retailer.
- (a) Equipment or supplies may be sold at a price not less than the cost to the industry member who initially purchased them, and the price must be collected within 10 days of the date of sale or rent.
 - (b) An industry member may install dispensing accessories at the retailer's establishment as long as the retailer pays the cost of initial installation.
 - (c) An industry member may furnish, give or sell coil cleaning services to a retailer.

- (15) Withdrawals for Special Occasion Licensees. An industry member may deplete inventories for purposes of contributing to any entity that has obtained a special occasion permit issued by the Commission. If the industry member is a manufacturer, then such contribution shall be distributed through a licensed wholesaler. The licensed wholesaler shall retain records of all such withdrawals showing the amount of inventory withdrawn, the purpose of withdrawal and the employee responsible for such withdrawal in accordance with 0100-3-14(2).

Authority: T.C.A. §§57-1-209, 57-1-201, and 57-3-104. Administrative History: Original rule filed September 9, 1983; effective October 11, 1983. Amendment filed October 19, 1984; effective November 18, 1984. Amendment filed July 18, 1989; effective September 1, 1989. Amendment filed February 8, 1994; effective April 24, 1994.

Chapter 0100-06-.04 Limitation on Credit Sales is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-06-.04 Limitation on Credit Sales.

- (1) No alcoholic beverage shall be sold by any wholesaler nor shall any retailer purchase any alcoholic beverages except for cash or on terms requiring payment by the purchaser within ten (10) days.
- (2) Each and every delivery of merchandise by a wholesaler to a retailer must be accompanied by an invoice of sale bearing the actual date of the delivery. A wholesaler must keep and maintain a current and accurate accounts receivable ledger as a part of his records.
- (3)
 - (a) The 10-day credit period begins on the day immediately following the invoice date and concludes at midnight of the tenth day including Sundays and holidays, immediately following which the account is considered delinquent.
 - (b) Payment sent by mail and postmarked by midnight of the due date shall be considered compliance.
- (4)
 - (a) Wholesalers must deposit all checks for payment of retail accounts no later than the first banking day following actual receipt of said check.
 - (b) An account paid for by check within the 10-day credit period but which is dishonored for any reason after the 10-day credit period has elapsed is delinquent.
 - (c) A wholesaler shall not accept and a licensee shall not offer a postdated check.
- (5) A wholesaler must report each and every delinquent account as set forth above by telephone to the Commission's nearest Regional Representative, and, as each such account is paid in full, he shall report that fact to the Commission's representative also.
- (6) A retailer reported delinquent shall not be permitted to purchase merchandise for cash or otherwise from any licensed wholesaler until said licensee satisfies all obligations then outstanding to all wholesalers although the ten (10) day credit period may not have expired on such obligations.
 - (a) If such delinquency is the first in a license year, and such retailer sells for consumption on the premises all wholesalers will be required to sell such retailer merchandise only for cash on delivery for a minimum period of thirty (30) days from notice by the Commission.
 - (b) If such delinquency is the second in a license year, all wholesalers will be required to sell such retailer merchandise only for cash on delivery for a period of twenty (20) days, if such retailer sells for off-premises consumption, or for a period of sixty (60) days, if such retailer sells for on premises consumption.

- (c) If such delinquency is the third in a license year, all wholesalers will be required to sell such retailer merchandise only for cash on delivery until notice to the contrary by the Commission. Such retailer shall be required by the Commission to appear and show cause why the retail liquor license should not be suspended or revoked, or why said licensee should not be placed on a cash on delivery basis for all merchandise sold to said licensee by any wholesaler for a period fixed by the Commission.
- (7) Payment by Electronic Funds Transfer ("EFT").
- (a) Electronic Funds Transfer shall mean any transfer of funds other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, direct deposits or withdrawals of funds, and transfers initiated by telephone.
 - (b) To facilitate payment between wholesale licensees and the retail on-premise and off-premise consumption licensees, electronic funds transfers are an approved method of payment; however, participation by the retail on-premise and off-premise consumption licensees shall be voluntary. The wholesaler shall initiate the electronic fund transfer transmittal. Payment is considered to be made when the funds are deposited in the wholesale licensee's account.
 - (c) The provisions of subsection (7) are not intended to otherwise affect or amend subsections (1) through (6) of this rule 0100-6-.04.

Authority: T.C.A. §§57-1-201 and 57-1-209. Administrative History: Original rule filed September 9, 1983; effective October 11, 1983. Amendment filed August 15, 1997; effective December 29, 1997.

Chapter 0100-06-.05 Dual Permits Prohibited is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-06-.05 Dual Permits Prohibited.

- (1) No person shall be issued more than one of the following permits:
 - (a) Manufacturer or importer representative permit,
 - (b) Wholesale salesman or representative permit,
 - (c) Wholesale employee's permit,
 - (d) Off premises retail employee's permit,
 - (e) On premises retail employee's permit.
- (2) Notwithstanding the provisions of 0100-6-.05(1) above, any individual may be issued both an off-premise retail employee permit and an on-premise server permit if that individual has completed and submitted the appropriate applications. Further, that person must qualify for and meet all the requirements to obtain each permit.
- (3) In all cases, the industry member is responsible for the actions of their employees and/or representatives when such employee and/or representative is acting within the scope of their employment.

Authority: T.C.A. §§57-1-201 and 57-1-209. Administrative History: Original rule filed September 9, 1983; effective October 11, 1983. Amendment filed August 15, 1997; effective December 29, 1997.

Chapter 0100-06-.06 Wholesale Sales and Employee Permits is a proposed rule:

0100-06-.06 Wholesale Sales and Employee Permits.

- (1) Any permit issued by the Commission pursuant to T.C.A. §57-3-203(d) or (e) shall be valid for a period of five (5) years from its date of issuance.
- (2) Any person seeking a permit authorized pursuant to T.C.A. §57-3-203(d) or (e) shall submit an application in writing to the Commission on forms approved by the Commission.
- (3) No application for permit issued pursuant to T.C.A. §57-3-203(d) or (e) shall be considered unless the application is accompanied by a processing fee of twenty dollars (\$20.00).

Authority: T.C.A. §§57-1-201, 57-1-209, 57-3-709.

Chapter 0100-06-.07 Retail Employee Permits is a proposed rule:

0100-06-.07 Retail Employee Permits.

- (1) Any permit issued by the Commission pursuant to T.C.A. §57-3-203(c) shall be valid for a period of five (5) years from its date of issuance.
- (2) Any person seeking a permit authorized pursuant to T.C.A. §57-3-203(c) shall submit an application in writing to the Commission on forms approved by the Commission.
- (3) No application for permit issued pursuant to T.C.A. §57-3-203(c) shall be considered unless the application is accompanied by a processing fee of twenty dollars (\$20.00).

Authority: T.C.A. §§57-1-201, 57-1-209, 57-3-709.

Chapter 0100-06-.08 Non-Resident Seller Permits is a proposed rule:

0100-06-.08 Non-Resident Seller Permits.

- (1) Anyone desiring to import, ship, or transport alcoholic beverages into the State of Tennessee for distribution and/or sale within the State of Tennessee must make application to the Commission for a non-resident seller's permit. Such application shall include the name of the entity applying for the permit, and the true ownership thereof. Before alcohol may be imported, shipped or transported into the State of Tennessee for distribution and/or sale within the boundaries of the State of Tennessee, such importer, broker, manufacturer, or supplier of the alcoholic beverage must first have obtained and be issued a non-resident permit by the Commission. Further, before alcohol may be imported, shipped or transported into the State of Tennessee for distribution and/or sale within the boundaries of the State of Tennessee, such importer, broker, manufacturer, or supplier of the alcoholic beverage must have received from the Tennessee Department of Revenue a brand approval letter. However, only after the receipt of a non-resident seller permit issued by the Commission may that importer, broker, manufacturer, or supplier, attempt to register their brands with the Tennessee Department of Revenue.
- (2) Each non-resident seller permit shall be valid for one calendar year, and shall expire on December 31 of that year. Failure to timely and properly renew the non-resident seller permit shall be deemed a violation of the rule, and may result in the prohibition of the importation and/or distribution of each brand of alcohol registered by the non-resident seller permittee.
- (3) Should the non-resident seller change ownership, the new owner must make application for a non-resident seller's permit as referenced in provision (1) above before importing, shipping or transporting any alcoholic beverages into the State of Tennessee for distribution and/or sale within the State.

Authority: T.C.A. §§57-1-201, 57-1-209.

Chapter 0100-06-.09 Prohibition on Discrimination is a proposed rule:

0100-06-.09 Prohibition on Discrimination.

- (1) No wholesaler, holding a license issued pursuant to 57-3-203, shall discriminate, directly or indirectly, in price, in discounts on quantity of merchandise sold, between one retailer and another retailer purchasing wine or alcoholic beverage bearing the same brand or trade name and of like age and quality.
- (2) The restrictions imposed in Section 1, above, shall not prevent a wholesaler from offering wine or alcoholic beverages to a licensee holding a license issued pursuant to 57-4-101, while not offering such wine or alcoholic beverages to any licensee holding a license issued pursuant to 57-4-203, pursuant to a bona fide marketing plan.
- (3) Notwithstanding the prohibitions of Section 1, above, a wholesaler may change its pricing on any wine or alcoholic beverage to meet competition, respond to bona fide market conditions, or provide a one-time, introductory offer to a retailer to introduce or promote a new product not previously purchased by such retailer.
- (4) Nothing herein shall restrict the ability of a wholesaler to provide a discount to a retailer for quantity purchases or special combination offers so long as such discount is available on similar terms to other retailers.

Authority: T.C.A. §§57-1-201, 57-1-209.

Chapter 0100-07-.01 Applications for Winery Licenses is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

CHAPTER 0100-07 PRODUCTION, SALE AND TRANSPORT OF WINE
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0100-07-.01 Applications for Winery Licenses.

- (1) Application – An application for such a license shall be made on forms provided for such purpose by the Commission. In addition to completing and filing such forms, an applicant shall provide the Commission with the following information:
 - (a) Proof of a right to possession in the proposed premises.
 - (b) If the applicant is not a sole proprietor, evidence of the legal form in which the business is to be operated.
 - (c) Corporate Charter – if corporation.
 - (d) Approval of appropriate authorities in the jurisdiction where the winery is to be located of the use and occupancy of the building(s).

- (e) Completed questionnaires from each owner, partner or officer.
- (f) Approval of the Tennessee Department of Agriculture.

The application and accompanying documents shall be filed with the Tennessee Alcoholic Beverage Commission.

- (2) The license issued hereunder shall apply to only one winery premise defined hereafter.
- (3) No person with any interest in a winery license shall have any kind of interest (financial, fixtures, furnishings, stock ownership, loans, gifts, securing loans) or participate in the profits either directly or indirectly, in any wholesale or retail liquor establishment or any entity possessing a liquor-by-the-drink permit.
- (4) Transfer. A winery licensee may transfer locations only with the specific approval of the Commission. Such permission shall be sought by filing an application for the new premises along with the information required by Rule 0100-4-.01 (a), (d), (e) and (f).

Authority: T.C.A. §§57-1-209 and 57-3-207. Administrative History: Original rule filed October 31, 1983; effective November 30, 1983.

Chapter 0100-07-.02 Production of Wine by Winery Licensees is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-07-.02 Production of Wine by Winery Licensees.

- (1) The holder of a winery license may produce and bottle wine as defined by T.C.A. §57-3-101(16).
- (2) Samples of each type of wine produced shall be maintained at the winery premises for a one year period after bottling.
- (3) For the purposes of the ABC rules, "winery premises" shall mean the location at which fermentation and bottling takes place. It does not include the site where fruits, berries or vegetables are being grown for use in such winery.
- (4) Records shall be kept for a period of three calendar years which demonstrate the source of all agricultural products used in the production of wine by a winery licensee.
- (5) All Tennessee licensed wineries must file with the Commission any and all contracts and/or other documentation an intention to purchase of grapes with Tennessee grape growers by the date set forth in Tennessee statutes.

Authority: T.C.A. §§57—1—209 and 57—3—207. Administrative History: Original rule filed October 31, 1983; effective November 30, 1983.

Chapter 0100-07-.03 Sales of Wine by Wineries is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-07-.03 Sales of Wine by Wineries.

- (1) Wineries licensed hereunder may sell at retail only wine produced or finished on their own premises but not for consumption on the premises. Samples may be given on the premises except that no such sample shall exceed two ounces per variety for one person on the same day.
- (2) No such licensee shall sell at retail at his premises in excess of what is allowed by statute. The right to sell such amounts is not transferable.
- (3) Winery licensees are subject to the restrictions contained in Alcoholic Beverage Commission

Rules 0100—3—.02 (Advertising Of Wine In Newspapers, Magazines Or Similar Publications), 0100—3—.03 (Advertising Of Distilled Spirits And Wine By Direct Mail), 0100—3—.04 (Advertising Of Distilled Spirits And Wine On Radio And Television) and 0100—3—.20 (Responsibility And Penalties For Violations).

- (4) Other than permitted retail sales or samplings on the licensed premises, no winery licensee shall sell or otherwise convey any tax-paid wine to any person, firm or corporation in Tennessee except to a Tennessee licensed wholesaler or in conjunction with a non-profit organization authorized by the Commission to conduct a wine festival as provided at T.C.A. §57-3-207. This provision shall not prohibit the transfer of wine in bulk from one Tennessee winery to another.
- (5) No licensee shall sell, furnish, give or cause to be sold, furnished or given, any wine to any person under the age of minority as defined by T.C.A. §57—4—203(b).
- (6) Licensees hereunder not shall sell or give away wine between the hours of 12:00 midnight and 8:00 a.m.
- (7) Wineries licensed under provisions of T.C.A. §57—3—207 are permitted to advertise on billboards and outside signs with locations not restricted to those counties which have legalized the sale of alcoholic beverages under provisions of T.C.A. §57—3—106. Said billboards and outside signs are subject to the following restrictions:
 - (a) Information appearing on billboards and outside signs shall be limited to the name of the winery, directions to the winery premises, and products and services offered as authorized by T.C.A. §57—3—207.
 - (b) No such billboard or outside sign shall contain statements prohibited by 0100—3—.02 (4).
 - (c) Local Control. Billboards and outside signs approved herein are subject to reasonable rules and regulations duly adopted by proper governing bodies of the county and city wherein located.
 - (d) Prior Approval. Billboards and outside signs conforming with the foregoing provisions need not have prior approval of the Commission.
- (8) Wineries may provide samples of their product on their licensed premises subject to the provisions of T.C.A. §57-3-207 et seq. For the purposes of these rules, "premises" shall mean the bonded area, as identified by the 2007 federal TTB requirements, the tasting room, the sales room, and all other rooms inside the structure that are accessed by the public from the bonded area, tasting room or sales room. Premises of the winery shall not include rooms inside the structure that are not accessed by the general public from the bonded area, tasting room or sales room. Further, premises shall not include porches and decks that are accessible from outside the structure.

Authority: T.C.A. §57—1—209 and 57—3—207. Administrative History: Original rule files October 31, 1983; effective November 30, 1983. Amendment filed February 6, 1987; effective March 23, 1987.

Chapter 0100-07-.04 Transportation of Wine Produced by Licensed Wineries is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-07-.04 Transportation of Wine Produced By Licensed Wineries.

- (1) Finished wine produced by a licensed winery may be transported from the winery in any of the following ways:
 - (a) Pursuant to a sale to a consumer as set out in rule 0100—4—.03,
 - (b) By common carrier,

- (c) By the licensed winery after compliance with T.C.A. §57—3—403,
or
- (d) By a licensed wholesaler

Authority: T.C.A. §§57—1—209 and 57—3—207. Administrative History: Original rule filed October 31, 1983; effective November 30, 1983

Chapter 0100-07-.05 Sale of Other Wine Related Items is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100-07-.05 Sale of Other Wine Related Items.

- (1) Tennessee licensed wineries are authorized to sell the following wine related items:
 - (a) Cork removers, decanters and funnels used in decanting;
 - (b) Wine glasses;
 - (c) Ice buckets;
 - (d) Pouring aids;
 - (e) Coasters, bottle stoppers.
 - (f) Promotional souvenir items imprinted with the winery's name (e.g. t-shirts);
 - (g) Wine literature;
 - (h) Gift-related items—including, but not limited to, cookbooks using wine; dishes/serving items with grape or wine theme, cruets for oil and vinegar, dipping bowls, bread bowls/trays, fruit bowls/trays, cheese trays/serving knives, aprons/kitchen towels/hot pads/napkins with grape or wine theme, wine racks, wine bottle carriers/bags, foil or fabric decorative wine bottle "sacks".

Authority: T.C.A. §§57—1—209 and 57—3—207. Administrative History: Original rule filed October 31, 1983; effective November 30, 1983.

Chapter 0100-07-.06 Applications for Winery Licenses is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100—07—.06 Statutes Applicable To Winery Licensees.

- (1) In addition to the regulations contained herein, licensed wineries are governed by the terms of much of T.C.A., Title 57 Chapter 3. In order to clarify which sections within Chapter 3 govern the conduct And licensing of such wineries, the Alcoholic Beverage Commission hereby declares that licensed wineries are subject to the terms of the following sections and subsections of Title 57, Chapter 3, T.C.A.:
 - (a) §§57—3—101, 57—3—104, 57—3—105;
 - (b) §§57—3—201, 57—3—202 (e), 57—3—207, 57—3—210 (a), (d), (e), (j), 57—3—211, 57—3—212, 57—3—213 (a), (b), (c), 57—3—214, 57—3—215; and

(c) §§57—3—405 (b) and 57—3—409.

- (2) Refusal of Cooperation – Any licensee, his agent or employee who refuses to open or disclose his records to, or furnish information to, or who furnishes false and/or misleading information to an Agent 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.
- (3) 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, and federal statutes.
- (4) Display of License – Any person, partnership, corporation, or other legal entity holding a winery license issued under Chapter 3 of Title 57, shall prominently display and post, and keep displayed and posted, in the most conspicuous place in the licensed premises, the license so issued.

Authority: T.C.A. §§57—1—209 and 57—3—207. Administrative History: Administrative History: Original rule filed October 31, 1983; effective, 1999 (Revised) 4

Chapter 0100-08-.01 Purpose is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

RULES OF THE TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

CHAPTER 0100-8 RULES FOR PROFESSIONAL ALCOHOL SERVER TRAINING

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0100-8-.01 Purpose and Scope. The primary legislative purpose is to prevent intoxication-related deaths, injuries, and other damages through responsible alcohol serving practices and awareness.

Authority: T.C.A. §§57—1—209; 57—3—104(c)(4); 57—3—212(c); 57—3—710; 57—3—705(5); 57—4—201.
Administrative History: Original rule filed January 31, 1997; effective April 16, 1997.

Chapter 0100-08-.02 Definitions is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100—08—.02 Definitions.

- (1) Certified Training Program. An alcohol awareness program which has met all requirements and has been approved by the Commission.
- (2) Commission. Unless noted otherwise, all reference to the commission shall be to the Tennessee Alcoholic Beverage Commission.
- (3) In-House Training Program. An alcohol awareness training program which is presented exclusively to educate employees of a single business entity or multiple locations/franchise under a common ownership interest.
- (4) Law Enforcement Program. An alcohol awareness program which is sponsored and taught by local law enforcement personnel in the performance of their regular duties. Any person may attend such programs.
- (5) Public Training Program. An alcohol awareness program which is presented to educate individuals regardless of employer affiliation. Such programs may be presented by either nonprofit or for profit entities. Any trainer within a public training program may choose to conduct the program only for his own employees.
- (6) Server. Server is an individual required to have a server permit.
- (7) Successful Completion of Program. To successfully complete a training program, an individual must have attended five (5) hours of classroom instruction, scored at least seventy percent (70%) on the written test (or higher if required by the certified program), and paid the appropriate fees.
- (8) Trainer. Individual designated by a certified training program, and approved and certified by the Commission to instruct an alcohol awareness program.

- (9) Visibly Intoxicated. An impairment of an individual's mental or physical faculties as a result of drug and/or alcohol consumption accompanied by a perceptible act, series of acts, or by the appearance of an individual which clearly demonstrates such impairment.

Authority: T.C.A. §§57—1—209; 57—3—104(c)(4); 57—3—212(c); 57—3—710(5); 57—4—201. Administrative History: Original rule filed January 31, 1997; effective April 16, 1997.

Chapter 0100-08-.03 Application for Server Permits is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100—08—03 Application for Server Permits.

- (1) Every person seeking a server permit from the Commission authorizing that person to sell or serve alcoholic beverages for consumption on the premises must make written application to the Commission for a sever permit on forms prescribed by the Commission. A twenty dollar non-refundable fee shall accompany each 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 application must be accurate and is submitted under oath. Failure to submit accurate information is grounds for suspension or revocation of such server permit.
1. (3) Every application for a server's permit shall include a certificate from a Commission certified organization or entity, demonstrating that the applicant has successfully completed a certified course on alcohol awareness within one 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 certified by the Commission. To ensure the program is certified, the applicant may look for the following:
1. Conspicuous posting of Commission certification license; and
 2. All Certified Training Programs shall make the following statement on the cover sheet of its printed training materials: "This program has been certified by the Tennessee Alcoholic Beverage Commission as currently satisfying the requirements of the Alcohol Server Responsibility and Training Act of 1995."
1. (4) If an individual can produce evidence (i.e. certificate) that he or she has successfully completed a Commission certified program within one year from the date of application in another state, then the Commission shall recognize such training. However, such individual shall still be required to pay the requisite ten dollar (\$10.00) fee.

Authority: T.C.A. §§57—1—209; 57—3—104(c)(4); 57—3—212(c); 57—3—710; 57—3—705(5); 57—4—201. Administrative History: Original rule filed January 31, 1997; effective April 16, 1997.

Chapter 0100-08-.04 Certification of Training Program is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

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 character and/or certificate of authority is required.
 2. If the entity is a partnership, a copy of the certificate filed with the Tennessee Secretary of State's Office (if a limited partnership), copy of partnership agreement, or other document evidencing formation of such partnership is required.
 3. A listing of all officers' names and corresponding titles for the applicant.
 - (b) Complete address of each proposed location for such training at least seven (7) days prior to the training session.
 - (c) A complete description of the curriculum to be utilized in server training. To be certified a program must offer a curriculum which, at a minimum, contains the following items:
 1. The effect of alcohol on the human body focusing upon these elements:
 - i. A complete review of blood alcohol content (BAC);
 - ii. Absorption rates and factors affecting the absorption of alcohol;
 - iii. The behavioral effects of alcohol: i.e., decrease in reaction and decision making capability;
 - iv. Interaction and combined effects of mixing alcohol with legal and/or illegal drugs; and
 - v. Identification of possible problem drinkers.
 2. Identifying situations in which server intervention is appropriate.
 3. Handling situations and people in a non-confrontational manner. Communications and support from co-workers is necessary.
 4. Suggested responses by servers to situations involving the service of intoxicated and/or underage persons.
 5. A review of current Tennessee laws, rules, and regulations promulgated by the Commission relating to the sale and service of alcoholic beverages and the Alcohol Server Responsibility and Training Act.
 6. A review of appropriate identification including acceptable driver's licenses, military identification, passports, and other identification cards.
 - (d) Training Program Format.
 1. Complete training program must be at least five (5) hours of classroom instruction, excluding breaks for attendees. Such training program must take place in a publicly accessible location. Training programs may not be conducted in private homes.

2. The training program must provide printed training materials to attendees. Once a program has been certified by the Commission, the following statement shall be placed in bold type on the cover sheet of such written materials or manuals: "This program has approved by the Tennessee Alcoholic Beverage Commission as currently satisfying the requirements contemplated by the Alcohol Server Responsibility and Training Act of 1995."
 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 advise all attendees that if they are not at least 18 years of age, and/or have been convicted of any felony within four 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, then they do not meet the qualifications for a server permit. The certified trainer shall refund any fee previously received by any attendee who does not continue with the class after hearing such restrictions
 5. Upon completion of the presentation, the program must adequately test the comprehension and understanding of the attendees. A passing score of at least seventy (70%) percent will be required from each person attending the training before a certificate shall be issued-unless the certified program requires a higher score.
 6. Alcoholic beverages may not be consumed by the instructor nor any attendee during the training program.
- (e) All Certified Training Programs shall issue to any attendee who has successfully completed the program, a certificate which includes the following information:
1. Name of prospective server;
 2. Name of entity providing the training; and
 3. Date on which the server-trainee successfully completed the program.
- (f) All Certified Training Programs shall permit access to Commission representatives. Failure to permit access to a Commission representative will result in the program licensee being required to show cause to the Commission why its certification should not be revoked.
- (g) Each trainer shall submit a Trainer's Questionnaire to the Commission and must satisfy the requirements stated therein prior to the actual instruction of individuals.
- (h) Each program applicant shall submit to the Commission a copy of all training materials (including video or audio materials used for their program).
- (i) Within twenty-one (21) calendar days of the training date, the certified program instructor must provide to the Commission a list of all servers who have successfully completed the program - along with a fee of fifteen dollars (\$15.00) for each individual.
- (3) Each applicant or program licensee seeking to have an alcohol training program certified or renewed by the Commission shall submit a non-refundable fee along with the completed application according to the following schedule:
- (a) In House Training Program - \$300.00;

- (b) Public Training Program - \$700.00; or
 - (c) Law Enforcement Program - \$300.00.
- (4) Each instructor conducting alcohol awareness training classes must submit a one hundred and fifty dollar (\$150.00) certification fee to the Commission, along with a completed questionnaire.
- (5) Renewal of Program Certification.
- (a) Program certification shall be valid for a period of one year from the date of issue.
 - (b) To prevent interruption of certification, the licensee must fulfill the following requirements to expiration date:
 - 1. Provide the Commission a completed renewal application for certification to conduct a server training course - which includes any amended or updated materials; and
 - 2. Appropriate renewal fee.
- (6) Renewal of Instructor Certification.
- (a) Instructor certification shall be valid for a period of one year from the date of issue.
 - (b) To prevent a lapse in certification, the instructor must fulfill the following requirements prior to the expiration date:
 - 1. Provide the Commission an updated renewal application for certification; and
 - 2. If the instructor is not a program designated instructor, then the instructor must submit a one hundred dollar (\$100.00) renewal fee to the Commission.
- (7) Neither program nor instructor certifications are transferable. When a transfer of ownership is planned, that new entity must first make application for certification to the Commission pursuant to the rules and regulations. The new business entity may not begin training until certified by the Commission.

Authority: T.C.A. §§57—1—209; 57—3—104(c)(4); 57—3—212(c); 57—3—710; 57—3—705(5); 57—4—201.
 Administrative History: Original rule filed January 31, 1997; effective April 16, 1997.

Chapter 0100-08-.05 Miscellaneous Provisions is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100—08—05 Miscellaneous Provisions.

- (1) Server Applicants with Special Needs. Persons with special needs (for example, an inability to read and/or write in English, hearing impairment, etc.) must contact the program licensee at least one week in advance of the training date to request specific assistance in completing that program. Notwithstanding any other provision of these rules, the program licensee and the Commission shall endeavor to provide a reasonable accommodation when requested on a case by case basis in compliance with state and federal law.
- (2)
 - (a) A score of at least seventy percent (70%) is required to satisfy the written examination upon the completion of the training which will entitle the server to the certificate. However, if a certified program requires a higher test score to successfully complete their program, then the server must meet that program's test requirement.
 - (b) Any attendee failing to attain this passing score should contact the program licensee to schedule a second examination within thirty (30) days.
 - (c) If the second examination is not scheduled with the certified program after failure of the

initial exam within the thirty (30) days, then the attendee will be required to attend a second training in its entirety to obtain the certificate.

- (3) Commission Training Program. To further implement the policy and standards of the T.C.A. §57-3-701 et seq, the Commission may conduct its own program for servers. The cost to each server in attendance will be \$40. While attendance at a Certified Training Program for alcohol awareness is required for any server to obtain a server permit, it is not necessary that such server attend the Commission program. The Commission will conduct such training upon a finding by the Commission that it is necessary for the Commission to conduct the training because of the lack of substantial, active, and decreasing number of certified server trainers.
- (4) Server Permit to be Available for Review. On-premise consumption licensees shall have on their premises and available for review at least a copy of the server permit issued for each server.
- (5) Refusal of Cooperation. Any certified training program or certified trainer, his agent, or employee who refuses to open or disclose his records to, or 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) Upon written notification from a certified program that a certified trainer is prohibited from conducting its course, then that trainer shall immediately cease conducting such classes. The Commission will not accept any classes conducted by that trainer under that program until such time as the trainer is re-instated by the certified program.
- (7) Certified trainers shall not represent or advertise to servers or any member of the general public that server permits will be issued by the Commission within a specific length of time unless authorized to do so by the Commission

Authority: T.C.A. §§57—1—209; 57—3—104(c)(4); 57—3—710; 57—3—705(5); 57—4—201. Administrative History: Original filed January 31, 1997; effective April 16, 1997.

Chapter 0100-08-.06 Fines is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended, the rule shall read:

0100—08—06 Fines.

- (1) In any case where the Commission is given the power to suspend or revoke any license or issued pursuant to Title 57, Tennessee Code Annotated, the Commission may, in the alternative to suspension or revocation, impose a fine as set out hereafter.
- (2) Fines may be used to informally remedy a matter by written consent of all parties to the matter.
- (3) Any violation of the Rules and Regulations promulgated to implement and maintain the Alcohol Server Responsibility and Training Act of 1995 may result in the imposition of a fine, suspension, or revocation of any certification, licensee, or permit issued by the Commission.
- (4) Providing false or misleading information in any required document, application, and/or advertisement may result in the denial of that application, or the suspension or revocation of a program's certification.
- (5) Reimbursement for checks returned to the Commission for insufficient funds must be made within ten (10) days of notification. If such reimbursement is not made within ten (10) days, then the license or server permit will be subject to disciplinary action including revocation.

Authority: T.C.A. §§57—1—209; 57—3—104(c)(4); 57—3—212(c); 57—3—710; 57—3—705(5); 57—4—201. Administrative History: Original rule filed January 31, 1997; effective April 16, 1997.

Proposed Rules

0100-09

Responsible Vendor Rules

0100-09-.01 Definitions is a proposed rule to read as follows:

RULES OF THE TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

CHAPTER 0100-9 RESPONSIBLE VENDOR PROGRAM

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0100-09-.01 Definitions

- (1) Certified Clerk. A certified clerk is a certified responsible vendor employee who has successfully completed a certified training course and, if appropriate, has received required annual training as set forth in the rules.
- (2) Clerk. A clerk is a certified responsible vendor employee who works in a capacity to sell, provide, distribute, and/or otherwise dispense beer of alcoholic content of not more than five percent (5%) by weight and whose duties include the opportunity to sell, provide, distribute and/or otherwise dispense such products. Clerks also include those certified responsible vendor employees who monitor self-scan or customer-scan check-out areas.
- (3) Commission. The Commission shall mean the Tennessee Alcoholic Beverage Commission.
- (4) Hire Date. The applicable hire date for a clerk is when that employee's duties and responsibilities include the opportunity to sell, provide, distribute and/or otherwise dispense beer of alcoholic content of not more than five percent (5%) by weight.
- (5) in-house Program. An in-house program is a training program administered by a vendor for the vendor's employees.
- (6) Public Program. A public program is a training program administered to any individual by an entity other than a vendor. A public training program is also a training program administered by a vendor to both its own employees as well as other individuals.
- (7) Training date. The training date is the date on which a clerk successfully completes a vendor training program for a particular vendor.
- (8) Valid Identification. Valid identification means government issued identification that includes photograph and that has not expired. Such identification includes drivers licenses, military identification, passports and permanent resident cards.

Authority: T.C.A. §57-5-605(b). Administrative History: Original rule filed.

0100-09-.02 Application/Certification Process is a proposed rule to read as follows:

0100—09—.02 Application/Certification Process

- (1) Application for Certification of a Responsible Vendor Training Program. Any entity or individual seeking to have a responsible vendor 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 identity of the applicant seeking to have the program certified, including the address, names of all individuals responsible for vendor training, and the source of the curriculum utilized by the applicant.
1. If the applicant is a corporation or LLC, a copy of the corporate charter, articles of organization, and/or certificate of authority must be submitted.
 2. If the applicant is a partnership, a copy of the certificate filed with the Tennessee Secretary of State's Office (if a limited partnership), or other document evidencing formation of such partnership is required.
- (b) Each program applicant shall submit to the Commission a copy of all training materials (including video or audio materials used for their program). A true and exact copy of the curriculum, including tests, to be utilized in the responsible vendor training program must also be submitted. Prior to any modifications to the training materials, such proposed modifications shall be submitted to the Commission for approval. To be certified, a responsible vendor program must offer a curriculum which, at a minimum, contains the following items:
1. The effect of alcohol on the human body focusing on these elements:
 - i. The behavioral effects of alcohol: i.e., decrease in reaction and decision making capability;
 - ii. Interaction and combined effects of mixing alcohol with legal and/or illegal drugs; and
 - iii. Identification of possible intoxicated customers.
 2. Identifying situations in which clerk intervention is appropriate.
 3. Handling situations and people in a non-confrontational manner and identifying when support from co-workers is necessary.
 4. Suggested responses by clerks to situations involving intoxicated and/or underage persons.
 5. A review of current Tennessee laws, rules, and regulations promulgated by the Commission relating to the sale beer and/or malt beverages and the Responsible Vendor Act.
 6. A review of appropriate identification including acceptable driver's licenses, military identification, passports, and other government issued photo identification cards; and
 7. A review of how to identify fake and/or altered identifications as described above.
 8. Advising attendees that local ordinances may exist affecting the sale of alcoholic and malt beverages.
- (c) If the responsible vendor training program conducts in-person training, then the program shall submit a TABC questionnaire for each trainer conducting their class to the Commission. Such completed questionnaire must be received by the Commission prior to that trainer conducting classes.

- (d) Any other information requested by the Commission; and
 - (e) Appropriate certification fee.
2. If the training program is conducted through the use of the Internet or Intranet, then in addition to the items required above, the training program must provide verification acceptable to the Commission that the identity of the users may be authenticated.
 3. Renewal of Responsible Vendor Training Program Certification.
 - (a) Responsible Vendor Training Program Certification shall be valid for a period of one year from the date of issue.
 - (b) To prevent interruption of certification, the responsible vendor training program must fulfill the following requirements prior to expiration date:
 1. Submit to the Commission a completed renewal application along with any amended or updated materials;
 2. List of all current trainers;
 3. Appropriate renewal fee.
 4. Application for Certification of a Responsible Vendor. Any entity or individual seeking to become a certified responsible vendor shall complete and submit a written application on forms prescribed by the Commission. The application shall disclose the following information:
 - (a) The identity of the applicant seeking to achieve responsible vendor status, including the address, phone number, and any other information required by the Commission.
 1. If the applicant is a corporation or LLC, a copy of the corporate charter and/or certificate of authority must be submitted.
 2. If the applicant is a partnership, a copy of the certificate filed with the Tennessee Secretary of State's Office (if a limited partnership), or other document evidencing formation of such partnership is required.
 - (b) Names and identifying information of all clerks employed—such information shall be submitted on forms prescribed by the Commission;
 - (c) Name of beer board issuing beer permit to applicant, beer board address, and beer permit number;
 - (d) Any other information requested by the Commission;
 - (e) Identification of training program used; and
 - (f) Appropriate certification fees.
 5. Application for Renewal of Certification of Responsible Vendor.
 - (a) Program certification shall be valid for a period of one year from the date of issue.
 - (b) To prevent interruption of certification, the responsible vendor must fulfill the following requirements prior to expiration date:
 1. Submit to the Commission a completed renewal application along with any amended or updated materials; and
 2. Each responsible vendor shall submit prior to the expiration

of the certification a renewal application; a current list of all clerks and their hire dates (such shall be submitted on forms prescribed by the Commission); the date that the certified clerks received their annual training; and the appropriate certification fee.

6. Neither program nor responsible vendor certifications are transferable. Before a transfer of ownership can occur, that new entity must first make application for certification to the Commission pursuant to the rules and regulations. The new business entity may not begin training and the vendor will not be certified by the Commission until an application for certification is approved. Once the location is certified as a responsible vendor, then the responsible vendor has 61 days to train its clerks.

Authority: Authority: T.C.A. §57-5-605(b). Administrative History: Original rule filed.

0100-09-.03 Responsible Vendor Training Program Format is a proposed rule to read as follows:

0100—09—.03 Responsible Vendor Training Program Format.

1. Complete training program must be at least (2) hours of instruction, excluding breaks for attendees. Such training program must take place in a publicly accessible location, but may take place on the certified responsible vendor's premises. Training programs may not be conducted in private homes.
2. The training program must provide either printed materials to attendees or make training materials available online for review after completion of the training. Once a program has been certified by the Commission, the following statement shall be placed in bold type on the cover sheet of such written materials or manuals: "This program has approved by the Tennessee Alcoholic Beverage Commission as currently satisfying the requirements contemplated by the Tennessee Responsible Vendor Act of 2006".
3. (a) At the beginning of each training program, attendees shall be advised that they must meet the following qualifications to be a certified clerk eligible to participate in the responsible vendor program:
 - i. Be at least 18 years of age;
 - ii. Must not have been criminally convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages within the past ten (10) years; and
 - iii. Must not have been convicted of any crime involving moral turpitude within the past ten (10) years.(b) A responsible vendor is not required to perform criminal background checks on employees or clerks; however, the responsible vendor should inquire on the application as to any convictions the employee or clerk has had for the past ten years.
4. Testing.
 - (a) Upon completion of the training, the program must adequately test the comprehension and understanding of the attendees. Testing should be sufficiently randomized and conducted in such a manner as to prohibit prior knowledge of the answers by users. A passing score of at least seventy (70%) percent will be required from each person attending the training before a certificate may be issued-unless the certified vendor program requires a higher score.

- (b) Any attendee failing to attain this passing score may contact the certified program licensee to schedule a second examination within thirty (30) days. A second examination shall be provided to the attendee by the responsible vendor program without additional charge.
 - (c) If the second examination is not scheduled and taken within this thirty day period, then the attendee shall be required to attend a second training program in its entirety and pass the test before being eligible to obtain the certificate. Nothing herein shall act to extend the original sixty-one (61) day grace period from the date of hire as a clerk.
 - (d) Within twenty-one (21) calendar days of the training date, the certified program must provide to the Commission a list of all clerks who have successfully completed the program along with the vendor for which each clerk completed the training.
 - (e) If the certified program and responsible vendor are the same entity (ie, if the responsible vendor has an in-house certified program), then a single notification to the Commission is sufficient.
5. Alcoholic beverages may not be consumed by the instructor or any attendee during the training program.
 6. All training must be conducted in a professional manner: materials and comments may not be offensive in nature.
 7. (a) All Certified Responsible Vendor Training Programs shall issue a certificate of completion for any clerk who has successfully completed the training. The original certificate of completion shall be forwarded to the appropriate responsible vendor, and the clerk successfully completing the training shall receive a copy. Each certificate of completion shall include the following information:
 1. Name and date of birth for clerk;
 2. Name of certified program providing the training;
 3. Date on which the clerk successfully completed the program; and
 4. Name and complete address of responsible vendor receiving the certificate of completion.
 - (b) Any certified program or responsible vendor offering or submitting a fraudulent, fake and/or altered certificate of completion to a TABC representative or to the Commission shall subject their certification to immediate disciplinary action—including revocation.
 8. All Certified Training Programs shall permit access to Commission representatives. Failure to permit access to a Commission representative will result in the program being required to show cause to the Commission why its certification should not be revoked.
 9. A successful completion by a clerk of a responsible vendor training conducted by a certified training program within 61 days prior to the responsible vendor submitting its application to the Commission shall be valid. However, such training is valid only for one designated responsible vendor location.

Authority: Authority: T.C.A. §57-5-605(b). Administrative History: Original rule filed.

0100-09-.04 Miscellaneous Provisions is a proposed rule to read as follows:

0100—09—.04 Miscellaneous Provisions.

- (1) Clerk Applicants with Special Needs. Persons with special needs (for example, an inability to read and/or write in English, hearing impairment, etc.) must contact the certified program at least one week in advance of the training date to request specific assistance in completing that program. Notwithstanding any other provision of these rules, the certified program and the Commission shall endeavor to provide a reasonable accommodation when requested on a case by case basis in compliance with state and federal law.
- (2)
 - (a) Within ten (10) calendar days of the training date, the responsible vendor training program must submit to the responsible vendor a list of all clerks who successfully completed the training program and received a certificate of completion. Responsible training vendor programs shall maintain records of those successfully completing the training program for a period of at least three years to be available for the Commission to review.
 - (b)
 - (i) If a responsible vendor owns and operates several locations (operating under the same business name and corporate name) and is using the same responsible vendor program for each location, then clerks and/or employees attending a responsible vendor program may—upon the initial training course—designate the various locations within the same responsible vendor’s operation. The successful completion of the training course will be sufficient for training requirements at each designated location. This option does not apply to individuals working at responsible vendor locations owned by different entities. The responsible vendor training program will issue a certificate to the clerk/employee for each location designated at the time of the class.
 - (ii) For the purposes of certification costs, employees described in the above paragraph will be counted as an employee for each location.
 - (iii) For clerks desiring to add new responsible vendor locations under the same ownership after the initial designation, then new training must occur for each location.
- (3)
 - (a) Within twenty-one (21) calendar days of the training date, the responsible vendor must submit to the Commission a list of all clerks who have successfully completed the training program and received a certificate of completion. Such list shall on be submitted on forms prescribed by the Commission.
 - (b) If the certified program and responsible vendor are the same entity (ie, if the responsible vendor has an in-house certified program), then a single notification to the Commission is sufficient
- (4) Commission Training Program. To further implement the policy and standards of the Tennessee Responsible Vendor Act of 2006, the Commission may conduct its own training program for clerks. The cost to each clerk in attendance for this training program will be \$25.00, with a CPI inflation adjustment every three years beginning in 2010. While attendance at a responsible vendor program for alcohol awareness is required for any clerk working at a responsible vendor location, it is not necessary that such clerk attend the Commission program.
- (5) Each responsible vendor shall maintain and have available for review by Commission representatives’ employment and training records for all clerks. Such documentation shall include, but is not limited to, the following information for each clerk:
 - a. Name, address, and social security number;
 - b. Date of hire;
 - c. Date of training by certified responsible vendor program;
 - d. Date of required annual training related to updated information, policies and procedures.
- (6) Loss of Clerk Certification.
 - (a) A certified clerk shall lose their certification under the following circumstances:

- (1) If the beer board determines that the clerk sold alcoholic beverages to a minor. The clerk shall lose their certification for a period of one year beginning on the date of the beer board's determination.
- (2) If the clerk receives a criminal conviction of a charge involving the sale of alcoholic beverages to a minor. The clerk shall lose their certification beginning on the date of the conviction, and is further subject to the provisions of T.C.A. §57-5-301(a)(1).
- (3) Certified clerks must annually attend a meeting regarding updated statutory information as required by T.C.A. § 57-5-601 et seq. This annual meeting shall be held for all clerks within the last quarter of each calendar year. Within twenty-one days after the annual training, the responsible vendor shall notify the Commission in writing if the certified clerk has not attended the annual meeting regarding updated statutory information as required by T.C.A. §57-5-601 et seq. Upon such notification by the responsible vendor to the Commission, the certification for identified clerk shall immediately become invalid. Such clerk shall not work in a capacity to sell beer directly to consumers for off-premise consumption until the clerk has received the required updated training.
- (4) If the clerk has not attended at least one annual meeting by the time set forth in these rules and received updated information disseminated by the responsible vendor.
- (b) If a clerk loses their certification but continues to work as a clerk and subsequently, sells beer to an under-aged individual, then the responsible vendor shall not be considered a responsible vendor for the purposes of disciplinary action taken by a beer board.
- (7) **Name Badge.** Each certified clerk is required to wear a name badge issued by the responsible vendor. Such name badge shall contain the clerk's name, and must be clearly visible to the general public.
- (8) **Grace Period.**
 - (a) Clerks have sixty-one (61) days from their date of hire as a clerk to successfully complete responsible vendor training. During this 61 day grace period, if a sale to a minor takes place the Responsible Vendor is treated as having responsible vendor status. Any criminal action against the clerk is not affected. If clerks have not received the appropriate training within 61 days of their date of hire, then the responsible vendor temporarily loses its status as a responsible vendor immediately at the conclusion of the 61 day period. However, if the situation is corrected within thirty days, then upon payment of a civil penalty to the Commission, the status of "responsible vendor" may be reinstated. If training does not occur to remedy the situation within thirty days, then the responsible vendor status is permanent, and a new application must be submitted and training must re-occur.
 - (b) In scenario above, should a beer permittee be subject to disciplinary action by a local beer board for a violation involving the sale of alcoholic beverages to a minor, the Commission will, upon request, advise the beer board that the permittee is not a responsible vendor because all employees have not received adequate training in a timely manner.
 - (c) If a clerk who is not eligible to participate in the responsible vendor program (ie, if the clerk is under the age of eighteen) sells alcohol to a minor, then the responsible vendor loses its status as a responsible vendor and is subject to the discretion of the local beer board as it relates to disciplinary action against the permit.
 - (d) Upon request, the Commission will issue an affidavit, signed by appropriate

personnel, to certify the status of a clerk or responsible vendor. This affidavit will be sufficient in lieu of in-person testimony by a Commission representative before a local beer board.

- (9) Refusal of Cooperation. Any certified clerk, responsible vendor program, responsible vendor, his agent, or employee, who refuses to open or disclose his records to, or furnish information to, or who furnishes false and/or misleading information to an agent or representative of the Commission upon any matter directly and/or indirectly relating to the responsible vendor program, certification, employees, etc, shall subject the certification and participation in the responsible vendor program to suspension and/or revocation.
- (10) Beer Boards and Local Law Enforcement. Communication between city and/or county beer boards, local law enforcement and the Commission is vital for the success of the Responsible Vendor program.
 - (a) When a vendor appears before a city or county beer board for an administrative charge of the sale of alcohol to a minor, the Commission will either:
 - (i) Verify the vendor and/or clerk who sold the alcohol to a minor are certified and are eligible for mitigation in disciplinary action according to the statute; or
 - (ii) Verify such vendor and/or clerk have not been certified, and are not eligible for mitigation in disciplinary actions by the regulating beer board.
 - (b) Local beer boards should notify the Commission when disciplinary actions involving the sale of alcoholic beverages to a minor have been taken against an off-premise beer permittee within 15 days of such action.
 - (c) If a beer permittee represents to a city or county beer board that they are a responsible vendor but are not, then the city or county beer board should notify the Commission of such misrepresentation. Such beer permittee shall be ineligible to participate in the responsible vendor program for a period of three years from the date of misrepresentation.
 - (d) Local law enforcement should notify the Commission when an employee of an off-premise beer permittee has been criminally convicted of a charge involving the sale of alcoholic beverages to a minor.
- (11) Notice of training sessions. The Commission must be notified seven (7) days in advance of any training if the training will be conducted by an individual(s) at a location where clerks will be present. The notice must include the name of the training program, the instructor, the complete address of the training site, and the time and location of the training.
- (12) To obtain the benefits associated with being a certified responsible vendor, the beer permittee must actually be certified by the Commission as a responsible vendor at the time of the offense. Any application for certification as a responsible vendor submitted to the Commission with charges/offenses pending before the local beer board will not be reviewed until such charges/offenses are concluded: the approval or denial of the responsible vendor application will be made once the Commission has received notification of the result of the pending charges/offenses.
- (13) Once the Commission receives notification of a second offense sale of alcohol to a minor within a twelve month period, then the Commission shall revoke the responsible vendor's certification as a responsible vendor for a period of three years. Subsequent sales of alcohol to minors by the beer permittee does not receive protection under the responsible vendor training provisions.

Authority: Authority: T.C.A. §57-5-605(b). Administrative History: Original rule filed.

0100-09-.05 Fines is a proposed rule to read as follows:

0100—09—.05 Fines.

- (1) In any case where the Commission is given the power to suspend or revoke any license or issued pursuant to Title 57, Tennessee Code Annotated, the Commission may, in the alternative to suspension or revocation, impose a fine as set out hereafter.
- (2) Fines may be used to informally remedy a matter by written consent of all parties to the matter.
- (3) Any violation of the Rules and Regulations promulgated to implement and maintain the Responsible Vendor Act of 2006 may result in the imposition of a fine, suspension, or revocation of any certification, license, or permit issued by the Commission.
- (4) Providing false or misleading information in any required document, application, and/or investigation may result in the denial of that application, or the suspension or revocation of a program's or vendor's certification.
- (5) Fines may be assessed for the following violations:
 - a. Against a Responsible Vendor:
 - i. Misrepresentation of status as a Responsible Vendor;
 - ii. Willful failure to comply with TCA's and TABC Rules and Regulations;
 - iii. Failure to have Clerk certified within 61 days of hire date;
 - iv. Failure to verify eligibility of clerk for Certification prior to hiring with the Commission;
 - v. Failure to maintain original certification of completion for clerk at Responsible Vendor location;
 - vi. Failure to notify Commission within 21 days of training for certified clerk;
 - vii. Failure to provide or have clerk display Name badge while on duty;
 - viii. Failure to provide instructions for its employee's as approved by the Commission;
 - ix. Failure to have certified clerk meet annual meeting requirements;
 - x. Failure of Responsible Vendor to disseminate updated information prescribed by the Commission and the Responsible Vendor Policy and Procedures related thereto;
 - xi. Failure to notify Commission of clerk failure to attend annual meeting following original certification;
 - xii. Failure to maintain records of certified clerk required annual meeting;
 - xiii. Failure to disseminate information related to changes in State Law or Commission Rules and Regulations to certified clerks as required by the Commission;
 - ivx. Failure to maintain employment records and all responsible training records of all clerks;
 - xv. Failure to cooperate by not providing information requested by the Commission ;
 - xvi. Failure to notify Commission of change in training program;
 - xvii. Allowing a decertified clerk to continue to operate in a capacity to sell beer directly to consumer;
 - xviii. Failure to have Responsible Vendor certificate posted;

- ix. Failure to Renew Responsible Vendor Certification in a timely manner.
- b. Against a Training Program:
 - i. Failure to meet mandatory minimum class time;
 - ii. Not a TABC certified training program for Responsible Vendor Training;
 - iii. Failure to adequately test the comprehension and understanding of the attendees of the Responsible Vendor Training of off premise sale of beer;
 - iv. Failure to cover the required material;
 - v. Failure to timely renew certification.

Authority: Authority: T.C.A. §57-5-605(b). Administrative History: Original rule filed.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 2-24-08
 Signature: [Signature]
 Name of Officer: Shari Danielle Ellis
 Title of Officer: Executive Director

Subscribed and sworn to before me on: February 24, 2009
 Notary Public Signature: [Signature]
 My commission expires on: _____

Department of State Use Only

Filed with the Department of State on: 2/24/09



[Signature]
 Tre Hargett
 Secretary of State

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