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Sequence Number: 03-01-15
 Notice ID(s): 2301-2304
 File Date: 3-2-15

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 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:	Joshua Stepp
Address:	Davy Crocket Tower, 500 James Robertson Parkway, 3 rd floor, Nashville TN 37243
Phone:	615-741-8916
Email:	Joshua.Stepp@tn.gov

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:	Joshua Stepp
Address:	Davy Crocket Tower, 500 James Robertson Parkway, 3 rd floor, Nashville TN 37243
Phone:	615-741-8916
Email:	Joshua.Stepp@tn.gov

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

Address 1:	Davy Crocket Tower, 500 James Robertson Parkway, 3 rd floor		
Address 2:			
City:	Nashville		
Zip:	37243		
Hearing Date :	04/20/2015		
Hearing Time:	1:30	<input checked="" type="checkbox"/> CST/CDT	
		<input type="checkbox"/> EST/EDT	

Additional Hearing Information:

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Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0100-03	Local Option Liquor Rules
Rule Number	Rule Title

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

Chapter Number	Chapter Title
0100-06	Intra-Industry Conduct and Regulations
Rule Number	Rule Title
0100-06-.07	Retail Employee Permits

Chapter Number	Chapter Title
0100-07	PRODUCTION, SALE AND TRANSPORT OF WINE
Rule Number	Rule Title
0100-07-.01	APPLICATIONS FOR WINERY AND FARM WINE PRODUCER LICENSES
100-07-.02	PRODUCTION OF WINE BY WINERY AND FARM WINE PRODUCER LICENSEES
100-07-.03	SALES OF WINE BY WINERIES AND FARM WINE PRODUCERS
100-07-.04	SATELLITE FACILITIES
100-07-.05	RESTAURANTS
100-07-.06	SELF DISTRIBUTION
100-07-.07	TRANSPORTATION OF WINE PRODUCED BY LICENSED WINERIES AND BY FARM WINE PRODUCERS
100-07-.08	SALE OF OTHER WINE RELATED ITEMS
100-07-.09	STATUTES APPLICABLE TO WINERY LICENSEES

Chapter Number	Chapter Title
0100-08	Rules for Professional Alcohol Server Training
Rule Number	Rule Title
0100-08-.03	Application for Server Permits

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Rule 100-03-.13 Conduct of Business – Wholesaler and Retailer, is amended by adding the following language as a new paragraph (15):

- (15) Any government-issued document that has expired shall not be deemed to be “valid” for purposes of T.C.A. § 57-3-406(d), and as such, a retailer may not sell alcoholic beverages to a person who has not provided an unexpired government-issued document that meets the requirements of T.C.A. § 57-3-406(d).

Authority: T.C.A. §§ 57-3-104(c)(9), 57-3-202(h), and 57-3-406(d). **Administrative History:**

Rule 0100-06-.07 is amended by deleting the language “T.C.A. § 57-3-203(c)” wherever it shall appear and by substituting instead the language “T.C.A. § 57-3-204(c)”.

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

Chapter 0100-07 Production, Sale and Transportation of Wine, is amended by deleting the chapter in its entirety and by substituting instead the following language:

**RULES
OF
ALCOHOLIC BEVERAGE COMMISSION

CHAPTER 0100-07
PRODUCTION, SALE AND TRANSPORT OF WINE

TABLE OF CONTENTS**

0100-07-.01	Applications for Winery Licenses	0100-07-.08	Sale of Other Wine Related Items
0100-07-.02	Production of Wine by Winery	0100-07-.09	Statutes Applicable to Winery Licensees
0100-07-.03	Sale of Wine by Wineries		
0100-07-.04	Satellites		
0100-07-.05	Restaurants		
0100-07-.06	Self Distribution		
0100-07-.07	Transportation of Wine Produced By Licensed Wineries		

0100-07-.01 APPLICATIONS FOR WINERY AND FARM WINE PRODUCER LICENSES.

- (1) Application – An application for 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 licensed premises.
 - (b) If the applicant is not a sole proprietor, evidence of the legal form in which the business is to be operated and a certificate of existence from the Tennessee Secretary of State.
 - (c) If formed as a Corporation, LLC or LP, a copy of the Charter and certificate of existence.
 - (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, member, principal, manager or officer.

proval 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 as defined hereafter.
- (3) No person with any interest in a winery or farm wine producer license shall have any kind of interest (financial, fixtures, furnishings, stock ownership, loans, gifts, securing loans, leases) or participate in the profits either directly or indirectly, in any wholesale or retail alcoholic beverage establishment or any entity possessing a liquor-by-the-drink permit, other than a restaurant or limited service restaurant as authorized pursuant to T.C.A. § 57-3-207(s)(1).
- (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 0100-07-.01 (a), (d), (e) and (f).

Authority: T.C.A. §§57-1-209 and 57-3-207. **Administrative History:**

0100-07-.02 PRODUCTION OF WINE BY WINERY AND FARM WINE PRODUCER LICENSEES

- (1) The holder of a winery license may produce and bottle wine as defined by T.C.A. § 57-3-101(24).
- (2) The holder of a farm wine producer's license may cause to be produced wine, provided said wine contains a minimum of ninety-five percent (95%) of the product of vineyards, fruit orchards or fruit gardens grown and harvested at the farm as the wine being sold by the farm wine producer, as set out in T.C.A. § 57-3-207(o)(1)(A),(B) & (C) et seq.
- (3) Samples of each type of wine produced shall be maintained at the winery or the farm wine producer's premises for a one year period after bottling.
- (4) Except as otherwise specified, "premises" or "licensed premises" shall mean all contiguous property owned or leased by the winery or by the farm wine producer, except for the bonded areas.
- (5) 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 licensee.

Authority: T.C.A. §§57-1-209 and 57-3-207. **Administrative History:**

0100-07-.03 SALES OF WINE BY WINERIES AND FARM WINE PRODUCERS.

- (1) Wineries licensed hereunder in this state may sell on their licensed premises at retail only wine manufactured on their own premises. Farm wine producers licensed hereunder in this state may sell on their licensed premises at retail only wine produced from the grapes and/or fruits of their vineyard, orchard or fruit garden. Wine and wine samples sold for consumption on the premises shall be subject to the tax provided in T.C.A. § 57-4-301(c). Samples may be given or sold on the premises except that no such sample shall exceed two ounces per variety for one person on the same day.
- (2) Wineries and farm wine producers in this state may sell no more than five (5) cases or sixty (60) liters of bottled wine to any single retail customer in one (1) day.
- (3) Winery and farm wine producer licensees are subject to the restrictions contained in Alcoholic Beverage Commission Rules 0100-03-.02 (Advertising Of Wine In Newspapers, Magazines Or Similar Publications), 0100-03-.03 (Advertising Of Distilled Spirits And Wine By Direct Mail), 0100-03-.04 (Advertising Of Distilled Spirits And Wine On Radio And Television) and 0100-03-.20

esponsibility And Penalties For Violations).

- (4) Other than permitted sales or samplings on the licensed premises, and other than pursuant to a self-distribution permit, 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 nor the transfer of wine to farm wine producers.
- (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 shall not sell or give away wine between the hours of 12:00 midnight and 8:00 a.m.
- (7) Wineries and farm wine producers 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 0100-03-.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 to the foregoing provisions need not have prior approval of the Commission and prior Commission approval does not sanction any violation of the Tennessee Code, TABC Rules or valid county or city ordinance.

Authority: T.C.A. §§57-1-209 and 57-3-207. **Administrative History:**

0100-07-.04 SATELLITE FACILITIES

- (1) A winery or a farm wine producer licensee may have licensed not more than two (2) satellite facility locations. A winery may sell wine manufactured at the winery at its licensed satellite locations. Farm wine producers may sell wine produced from the grapes and/or fruits of their vineyard, orchard or fruit garden at its licensed satellite locations. Samples may be given or sold on the licensed premises at the licensed satellite facility except that no such sample shall exceed two ounces per variety for one person on the same day. Wine and wine samples sold for consumption on the licensed satellite premises shall be subject to the tax provided in T.C.A. § 57-4-301(c).
- (2) Satellite facilities are required to obtain permits from the Commission. Satellite facilities may only be located in jurisdictions where it is lawful to manufacture intoxicating liquors.
- (3) Wine sold at satellite facilities must be obtained from a wholesaler. Wholesalers may allow wineries and farm wine producers to deliver the wine to the satellite locations. Wholesalers permitting direct shipment shall include the amounts delivered in its inventory, report depletions for purposes to tax collection, and be responsible for the payment of taxes for depletions. Wineries and farm wine producers electing to exercising this delivery method to their respective satellite facilities locations shall advise the Commission of their election to do so and shall advise and receive confirmation from their wholesaler of each delivery, the quantity of delivery and such other information required by the wholesalers for the filing of inventory, reports, taxes etc. with the Tennessee Department of Revenue.

- (4) Satellite facilities may sell items authorized to be sold at wineries.

0100-07-.05 RESTAURANTS. A winery licensee or a farm wine licensee may also qualify for and, if qualified, be licensed as a restaurant or limited service restaurant ("restaurant"), if owned by the same person or entity holding the winery or farm wine producer license, and may locate the restaurant either contiguous or non-contiguous to the premises of the winery or farm winery. Such restaurants may serve wine manufactured on the premises of the winery or from the grapes and/or fruits of their vineyard, orchard or fruit garden of the farm wine producer for consumption either on or off the premises of such restaurants. The premises of such a restaurant must be separate and distinct from the premises of the winery or farm winery with an appropriate physical separation between said separate and distinct premises.

Authority: T.C.A. §§57-1-209 and 57-3-207. **Administrative History:**

0100-07-.06 SELF DISTRIBUTION

- (1) Wineries that produce 50,000 gallons or less and do not have a contract with a wholesaler, may obtain a self-distribution license from the Commission. A winery that holds a self-distribution license shall immediately surrender the license if its output during a calendar year exceeds 50,000 gallons or if it contracts with a wholesaler for distribution.
- (2) A winery with a self-distribution permit may distribute up to 3000 cases of wine produced at the winery per calendar year to entities licensed pursuant to Title 57, Chapter 4, Part 1, Tennessee Code Annotated, and located within 100 miles of the licensed winery's manufacturing premises. The winery is responsible for all taxes and records which are imposed upon a wholesaler pursuant to T.C.A. §57-3-203 for wine sold pursuant to a self-distribution permit.

Authority: T.C.A. §§57-1-209 and 57-3-207. **Administrative History:**

0100-07-.07 TRANSPORTATION OF WINE PRODUCED BY LICENSED WINERIES AND BY FARM WINE PRODUCERS.

- (1) Wine manufactured by a licensed winery or wine produced from the grapes and/or fruits of a farm wine producers' vineyard, orchard or fruit garden may be transported from the winery or farm wine producer in any of the following ways:
- (a) Pursuant to a sale to a consumer,
 - (b) By common carrier,
 - (c) By the licensed winery or farm wine producer after compliance with T.C.A. §57-03-403,
 - (d) By a licensed wholesaler,
 - (e) By a winery pursuant to a self-distribution permit.

Authority: T.C.A. §§57-1-209 and 57-3-207. **Administrative History:**

0100-07-.08 SALE OF OTHER WINE RELATED ITEMS.

- (1) Tennessee licensed wineries, farm wineries, and licensed satellite facilities operated by a Tennessee licensed winery or farm winery, 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”.
- (i) For consumption on the premises, food, including prepared food and/or unprepared snack food, that compliments the serving, sampling, or consumption of wine.

Authority: T.C.A. §§57-1-209 and 57-3-207. **Administrative History:**

0100-07-.09 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); 57-3-211; 57-3-212; 57-3-213 (a), (b), (c); 57-3-214; 57-3-215; 57-3-221; and
 - (c) § 57-3-409.
- (2) Refusal of Cooperation – Any licensee, agent or employee who refuses to open or disclose the 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 the 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.

Rule 100-08-.03(4) Application for Server Permits, is amended by deleting the paragraph in its entirety and by substituting instead the following language:

- (4) If an individual can produce evidence (i.e. a Certificate of Completion) that he or she has successfully completed a server training program, within one (1) year from the date of application, from another state that has been certified by the state in which the program was taught and approved by the State of Tennessee, the Commission shall recognize such training. However, such individual shall still be required to pay the requisite fifteen dollar (\$15.00) fee.

Authority: T.C.A. §§57-1-209; 57-3-104(c)(4); 57-3-212(c); 57-3-710; 57-3-705(5); 57-4-201.
Administrative History:

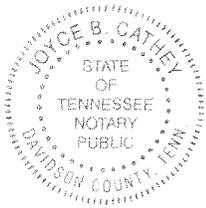
I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 03/02/15

Signature: E. Keith Bell

Name of Officer: E. Keith Bell

Title of Officer: Director



Subscribed and sworn to before me on: 3/2/15

Notary Public Signature: Joyce B. Cathey

My commission expires on: 7/6/15

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Filed with the Department of State on: 3-2-15

Tre Hargett
Secretary of State

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