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Sequence Number: 12-16-15
Rule ID(s): 6079
File Date: 12/18/15
Effective Date: 3/17/16

Rulemaking Hearing Rule(s) Filing Form

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

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

| | |
|---|--|
| Agency/Board/Commission: | Tennessee Alcoholic Beverage Commission |
| Division: | |
| Contact Person/Disc Acquisition Contact: | E. Keith Bell |
| Address: | Davy Crockett Tower; 500 James Robertson Parkway, 3rd Floor; Nashville, TN |
| Zip: | 37243 |
| Phone: | 615.741.1602 |
| Email: | Keith.Bell@tn.gov |

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

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

| Chapter Number | Chapter Title |
|----------------|---------------|
| Rule Number | Rule Title |
| | |
| | |
| | |

(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 0100-08-.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); 57-3-710; 57-3-705; **Administrative History:**

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

| Board Member | Aye | No | Abstain | Absent | Signature (if required) |
|---------------|-----|----|---------|--------|-------------------------|
| Mary McDaniel | ✓ | | | | <i>Mary McDaniel</i> |
| John Jones | ✓ | | | | <i>John A Jones</i> |
| Bryan Kaegi | ✓ | | | | <i>Bryan Kaegi</i> |

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Alcoholic Beverage Commission (board/commission/ other authority) on 11/17/2015 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 03/02/2015

Rulemaking Hearing(s) Conducted on: (add more dates). 04/20/2015

Date: 11-17-15

Signature: *E. Keith Bell*

Name of Officer: E. Keith Bell

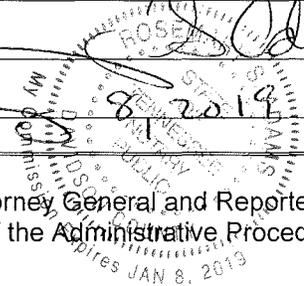
Title of Officer: TABC Executive Director

Subscribed and sworn to before me on: November 17, 2015

Notary Public Signature: *Rose Adams*

My commission expires on: January 8, 2019

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

Herbert H. Slatery III
 Herbert H. Slatery III

Attorney General and Reporter

Dec. 1, 2015
 Date

Department of State Use Only

Filed with the Department of State on: 12/18/15

Effective on: 3/17/16

Tre Hargett
 Tre Hargett
 Secretary of State

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no public comments on these rules.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

Exemptions from requirements of T.C.A. §4-5-401, et seq.: T.C.A. §4-5-404 states that §4-5-401, et seq. "shall not apply to rules that are adopted on an emergency basis under part 2 of this chapter, that are federally mandated, or that substantially codify existing state or federal law."

Economic Impact Statement for Proposed Rule

1. The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule:

Any small business that operates server training programs in other states but have not been certified by that state. To the knowledge of the TABC, only one small business in Tennessee would be directly affected by this amendment.

2. The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:

The projected administrative costs of small businesses with complying with the proposed rule would vary depending on such administrative costs associated with becoming certified in the state in which the small business server training program holding classes.

3. A statement of the probable effect on impacted small businesses and consumers:

The proposed rule would require small business server training programs that are holding classes in states outside of Tennessee to be certified by the state in which the class is being held in order for a server taking such class to be eligible for a server permit in Tennessee.

4. A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business:

The licensure requirements of the proposed rule are necessary to ensure that applicants for a server permit have attended and passed a certified training program that can be monitored and investigated by a state agency, and there are no less burdensome, intrusive, or costly alternative methods to ensure that such requirements are met.

5. A comparison of the proposed rule with any federal or state counterparts:

This proposed rule is comparable to, and not significantly more or less burdensome than, other similar requirements of other state agencies.

6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule:

An exemption of small businesses would create a disparate and unfair impact on the persons and entities licensed by the commission and would negatively impact the duties and responsibilities of the commission.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule is not anticipated to have an impact on local governments.

Additional Information Required by Joint Government Operations Committee

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

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

The proposed rule would require server training programs that are holding classes in states outside of Tennessee to be certified by the state in which the class is being held in order for a server taking such class to be eligible for a server permit in Tennessee. The rule also clarifies that the fee for a server who takes an out-of-state class and applies for a Tennessee server permit is \$15.00.

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

Not applicable.

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

All persons or entities that operate server training programs in other states for students intending to become servers in Tennessee but have not been certified by the state in which the class is held, as well as the students taking such class who intend to become servers in Tennessee. The commission has not received any input, either for or against the proposed rules, from any affected person or entity.

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

None.

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

There would be no fiscal impact.

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

E. Keith Bell, Director of The Alcoholic Beverage Commission and Joshua Stepp, Staff Attorney for The Alcoholic Beverage Commission.

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

E. Keith Bell, Director of The Alcoholic Beverage Commission and Joshua Stepp, Staff Attorney for The Alcoholic Beverage Commission

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

E. Keith Bell
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500 James Robertson Parkway
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E. Keith Bell is the Disc Acquisition Contact (contact information directly above)

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

No such request received to date.

AMENDMENTS TO CHAPTER 0100-08-.03, APPLICATIONS FOR SERVER PERMITS,

'REDLINE' DEPICTION OF RULES AS AMENDED, PER TCA 4-5-226(i)

0100-08-.03 APPLICATION FOR SERVER PERMITS

- (4) If an individual can produce evidence (i.e. ~~certificate~~ a Certificate of Completion) that he or she has successfully completed a ~~Commission-certified~~ server training program, within one (1) year from the date of application ~~in, from another state then 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 ~~ten~~ fifteen dollar (~~\$40~~15.00) fee.

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