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 Rule ID(s): 6080  
 File Date: 12/18/15  
 Effective Date: 8/17/16

# 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).*

<b>Agency/Board/Commission:</b>	Tennessee Alcoholic Beverage Commission
<b>Division:</b>	
<b>Contact Person/Disc Acquisition Contact:</b>	E. Keith Bell
<b>Address:</b>	Davy Crockett Tower; 500 James Robertson Parkway, 3rd Floor; Nashville, TN
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**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
0100-07	Production, Sale and Transport of Wine
Rule Number	Rule Title
0100-07-.01	Applications For Winery and Farm Wine Producer License
0100-07-.02	Production Of Wine By Winery And Farm Wine Producer Licensees
0100-07-.03	Sales Of Wine By Wineries And Farm Wine Producers
0100-07-.04	Satellite Facilities
0100-07-.05	Restaurants
0100-07-.06	Self-Distribution
0100-07-.07	Transportation Of Wine Produced By Licensed Wineries And By Farm Wine Producers
0100-07-.08	Sale Of Other Wine Related Items
0100-07-.09	Statutes Applicable To Winery Licensees

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>)

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**

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**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.
  - (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 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; 57-3-104(c)(4); 57-3-207. **Administrative History:**  
SS-7039 (November 2014)

## **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; 57-3-104(c)(4); 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 produced 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 sold for consumption on the premises shall be subject to the tax provided in T.C.A. § 57-4-301(c); provided that wine sold at retail in sealed containers for consumption on the premises but not in the bonded areas and samples of wine sold for consumption on the premises shall not be subject to said tax pursuant to T.C.A. § 57-3-207(t)(2). 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 (Responsibility 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; 57-3-104(c)(4); 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.
- (5) Up to three wineries, each with a total annual wine production of fifty thousand gallons or less, farm wineries, or any combination thereof may combine businesses for the operation of a single satellite facility, provided that such satellite facility shall count against the limit specified in paragraph (1) for each winery or farm winery participating in such satellite facility. Any violation of any rule or statute by a satellite facility shall be deemed to be a violation by any winery or farm winery that participates in the satellite facility.

**Authority:** T.C.A. §§57-1-209; 57-3-104(c)(4);57-3-207. **Administrative History:**

**0100-07-.05 RESTAURANTS.**

- (1) 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; 57-3-104(c)(4); 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 for distribution rights of the winery's wines in a county that is located in whole or in part within 100 miles of the winery 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; 57-3-104(c)(4); 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; 57-3-104(c)(4); 57-3-207. **Administrative History:**

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

- (1) In addition to those items authorized by T.C.A. § 57-3-207(h)(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; 57-3-104(c)(4);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 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; 57-3-104(c)(4); 57-3-207. **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 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

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 PUBLICATIONS

Date: 11-17-15

Signature: *E. Keith Bell*

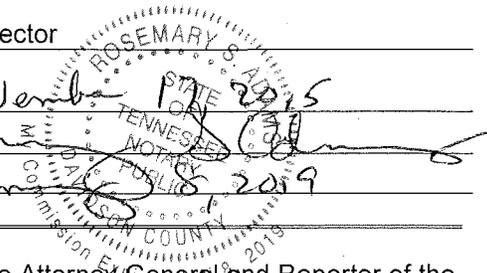
Name of Officer: E. Keith Bell

Title of Officer: TABC Executive Director

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

Notary Public Signature: *[Signature]*

My commission expires on: January 18, 2019



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.

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 is licensed as, or is seeking or intends to seek licensure as, a winery or farm winery. There are roughly 53 wineries and 11 farm wineries currently licensed in the state.

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 reporting, recordkeeping, and administrative costs associated with this rule is expected to be minimal as the only increase in such costs caused by the proposed rule would be due to the proposed requirement that an applicant for a winery or farm winery license submit a certificate of existence issued by the Tennessee Secretary of State, if applicable.

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

The proposed rule would bring additional clarity to impacted small business regarding the rules and laws of wineries and farm wineries. The proposed rule also expands the items that a winery may sell to include food, for consumption on the premises, that compliments the serving, sampling, or consumption of wine.

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 proposed rule is necessary to clarify current law and to update the rules to be in compliance with current law, and there are no less burdensome, intrusive, or costly alternative methods to accomplish this. In addition, the proposed rule also would expand the items that a winery may sell to include food, for consumption on the premises, that compliments the serving, sampling, or consumption of wine, and this change is beneficial, not burdensome, to small businesses.

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

This proposed rule is offered largely to update the existing rules to be in compliance with current law.

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 other licensees of the commission, would negatively impact the duties and responsibilities of the commission, and in some aspects would be detrimental to small businesses.

## **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 largely update the existing rules to be compliant with current state law regarding wineries and farm wineries and to clarify current law. The proposed rule would also expand the items that a winery may sell to include food, for consumption on the premises, that compliments the serving, sampling, or consumption of wine.

- (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;

In 2014, Public Chapters 817 and 1015 were passed by the General Assembly and signed by the Governor and revise T.C.A. 57-3-207 regarding wineries and farm wineries. An update of existing rules is necessary for the rules to conform with these Public Acts.

- (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 are licensed in this state as, or is seeking or intends to seek licensure as, a winery or farm winery. The proposed rule was drafted with the input and support of the Tennessee Farm Wineries Association (TFWA). The commission has not received any input, either for or against the proposed rules, from any other 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  
Director  
The Alcoholic Beverage Commission  
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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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(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

No such request received to date.

**RULES  
OF  
ALCOHOLIC BEVERAGE COMMISSION**

**CHAPTER 0100-07  
PRODUCTION, SALE AND TRANSPORT OF WINE**

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**0100-07-.01 —APPLICATIONS FOR WINERY AND FARM WINE PRODUCER 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) ~~(a)~~—Proof of a right to possession in the proposed licensed premises.

(b) ~~(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)~~—Corporate Charter—if corporation.

~~(c)~~ ~~(d)~~—If formed as a Corporation, LLC or LP, a copy of the Charter and certificate of existence.

~~(e)~~~~(d)~~ Approval of appropriate authorities in the jurisdiction where the winery is to be located of the use and occupancy of the building(s).

~~(d)~~~~(e)~~ ~~(e)~~—Completed questionnaires from each owner, partner, member, principal, manager or officer.

~~(e)~~~~(f)~~ ~~(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 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 liquor/alcoholic beverage establishment or any entity possessing a liquor-by-the-drink permit-

(Rule 0100-07-.02, continued)

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 0100-0407-.01 (a), (d), (e) and (f).

**Authority:** ~~T.C.A. §§57-1-209 and; 57-3-104(c)(4); 57-3-207.~~ **Administrative History:** Original rule filed October 31, 1983; effective November 30, 1983. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

**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(16)-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.

~~(3) For the purposes of the ABC rules, "winery premises" shall mean the locations at which fermentation and bottling takes place and locations where wine is sold. It does not include the site where fruits, berries or vegetables are being grown for use in such winery.~~

~~(4)~~ (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 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; 57-3-104(c)(4); 57-3-207.~~ **Administrative History:** ~~Original rule filed October 31, 1983; effective November 30, 1983. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.~~

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

(Rule 0100-07-.02, continued)

- (1) ~~(1)~~ — Wineries licensed hereunder in this state may sell on their licensed premises at retail only wine produced or finished on their own premises but not. 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 sold for consumption on the premises, unless offered as a sample, shall be subject to the tax provided in T.C.A. § 57-4-301(c); provided that wine sold at retail in sealed containers for consumption on the premises but not in the bonded areas and samples of wine sold for consumption on the premises shall not be subject to said tax pursuant to T.C.A. § 57-3-207(t)(2). 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 in this state 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" and farm wine producers in this state shall mean the bonded areas, as identified by the 2007 federal TTB requirements, the tasting rooms, the sales rooms, and all other rooms inside the structures that are accessed by the public from the bonded areas, tasting rooms or sales rooms. Bonded areas, tasting rooms or sales rooms may be located within multiple structures under one winery license. Premises of the winery in this state shall not include rooms inside the structures that are not accessed by the general public from the bonded areas, tasting rooms or sales rooms. Further, premises in this state shall not include porches and decks that are accessible from outside the structures or other outside grounds.~~ may sell no more than five (5) cases or sixty (60) liters of bottled wine to any single retail customer in one (1) 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) ~~(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 (Responsibility And Penalties For Violations).
- (4) ~~(4)~~ — Other than permitted retail 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) ~~(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) ~~(6)~~ — Licensees hereunder ~~not~~ shall not sell or give away wine between the hours of 12:00 midnight and 8:00 a.m.

(Rule 0100-07-.02, continued)

(7) ~~(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) ~~(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) ~~(b)~~ No such billboard or outside sign shall contain statements prohibited by 0100-03-.02 (4).

(c) ~~(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) ~~(d)~~ Prior Approval. Billboards and outside signs conforming with 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.

~~(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. Amendment repealing and replacing the rule was filed on March 10, 2010; effective June 8, 2010.*

~~0100-07-.04~~ Authority: T.C.A. §§57-1-209; 57-3-104(c)(4); 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.

**(Rule 0100-07-.02, continued)**

- (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.
- (5) Up to three wineries, each with a total annual wine production of fifty thousand gallons or less, farm wineries, or any combination thereof may combine businesses for the operation of a single satellite facility, provided that such satellite facility shall count against the limit specified in paragraph (1) for each winery or farm winery participating in such satellite facility. Any violation of any rule or statute by a satellite facility shall be deemed to be a violation by any winery or farm winery that participates in the satellite facility.

**Authority:** T.C.A. §§57-1-209; 57-3-104(c)(4);57-3-207. **Administrative History:**

**0100-07-.05 RESTAURANTS.**

- (1) 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; 57-3-104(c)(4); 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 for distribution rights of the winery's wines in a county that is located in whole or in part within 100 miles of the winery 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; 57-3-104(c)(4);57-3-207. **Administrative History:**

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

(Rule 0100-07-.02, continued)

- (1) ~~(1)~~ Finished wine produced 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) ~~(a)~~ Pursuant to a sale to a consumer as set out in rule 0100-04-.03,
  - (b) ~~(b)~~ By common carrier,
  - (c) ~~(c)~~ By the licensed winery or farm wine producer after compliance with T.C.A. §57-03-403, or
  - (d) ~~(d)~~ By a licensed wholesaler,
  - (e) By a winery pursuant to a self-distribution permit.

**Authority:** ~~T.C.A. §§57-1-209 and 57-3-104(c)(4); 57-3-207. Administrative History:~~ Original rule filed October 31, 1983; effective November 30, 1983. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

**0100-07-.05 ~~08~~ SALE OF OTHER WINE RELATED ITEMS.**

- (1) In addition to those items authorized by T.C.A. § 57-3-207(h)(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) ~~(b)~~ Wine glasses;
  - (c) ~~(c)~~ Ice buckets;
  - (d) ~~(d)~~ Pouring aids;
  - (e) ~~(e)~~ Coasters, bottle stoppers;
  - (f) ~~(f)~~ Promotional souvenir items imprinted with the winery's name (e.g. t-shirts);
  - (g) ~~(g)~~ Wine literature;
  - (h) ~~(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".

(Rule 0100-07-.02, continued)

- (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; 57-3-104(c)(4); 57-3-207. Administrative History:~~ Original rule filed October 31, 1983; effective November 30, 1983. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

**0100-07-.06—09 STATUTES APPLICABLE TO WINERY LICENSEES.**

- (1) ~~(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) ~~(a)~~—§§ 57-3-101, 57-3-104, 57-3-105;
  - (b) ~~(b)~~—§§ 57-3-201; 57-3-202 (e); 57-3-207; 57-3-210 (a), (d), (e), (f); 57-3-211; 57-3-212; ~~57-3-213 (a), (b), (c);~~ 57-3-214; 57-3-215; ~~57-3-221;~~ and
  - (c) ~~(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~~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 ~~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; 57-3-104(c)(4); 57-3-207. Administrative History:~~

~~Original rule filed October 31, 1983; effective November 30, 1983. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.~~