

**RULES
OF
TENNESSEE ALCOHOLIC BEVERAGE COMMISSION**

**CHAPTER 0100-03
LOCAL OPTION LIQUOR RULES**

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0100-03-.01 ADVERTISING OF ALCOHOLIC BEVERAGES GENERALLY.

- (1) Statements Prohibited in Advertisements of Alcoholic Beverages.
 - (a) Restrictions. An advertisement shall not contain:
 - 1. Any statement that is materially false or misleading.
 - 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 alcoholic beverages 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 alcoholic beverages has curative or

(Rule 0100-03-.01, continued)

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 alcoholic beverages 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:
 - 1. 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 if including such statement, design, devices, or pictorial representation is likely to falsely lead the consumer to believe that the product has been endorsed, made, used by, produced for, under the supervision of, or in accordance with the specifications of the government or armed forces; or
 - 2. Any statement, device, design, or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia, if including such flag, emblem, seal, coat of arms, crest, insignia, or decoration is likely to falsely lead the consumer to believe that the product has been endorsed, made, used by, produced for, 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 and Permittees.
 - (a) Advertising by any licensee or permittee shall be allowed on the internet, or any other computer-accessed communication; however, such advertisement shall be subject to Rule 0100-03-.01 and Rule 0100-03-.03.
 - (b) Any licensee or permittee under Title 57 of Tennessee Code Annotated may develop e-mail or other computer-access communication mailing lists, and may respond by electronic mail or other computerized communication (including, but not limited to, mobile devices and electronic communications via social media) to any party making inquiry by providing information regarding alcoholic beverages or any other products or services which may be sold or provided in accordance with laws, rules, and regulations of the State of Tennessee.
 - (c) Manufacturers, importers, non-resident sellers, non-manufacturer non-resident sellers, wholesalers, or any representative thereof, may place posts or messages on social media to identify to consumers the retail locations where the industry member's product may be purchased at retail in the manner specified in Rule 0100-06-.03(4).
 - (d) Licensees and permittees engaged in internet advertising shall not directly or indirectly falsely identify themselves in any advertising or in domain addresses.

Authority: T.C.A. §§ 57-1-203, 57-3-104, 57-4-201, and 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. Repeal and new rules filed March 10, 2010; effective

(Rule 0100-03-.01, continued)

June 8, 2010. Repeal and new rules filed January 25, 2019; to have become effective April 25, 2019. However, the Government Operations Committee filed a 60-day stay of the effective date of the rules; new effective date June 24, 2019.

0100-03-.02 RESERVED.

Authority: T.C.A. § 57-1-209. **Administrative History:** Original rule certified June 7, 1974. Amendment by Public Chapter 261, effective July 1, 1983. Repeal and new rules filed March 10, 2010; effective June 8, 2010. Repeal and new rules filed January 25, 2019; to have become effective April 25, 2019. However, the Government Operations Committee filed a 60-day stay of the effective date of the rules; new effective date June 24, 2019.

0100-03-.03 ADVERTISING OF ALCOHOLIC BEVERAGES AND WINE BY DIRECT COMMUNICATIONS.

- (1) Brands. Manufacturers, importers, non-resident sellers, non-manufacturer non-resident sellers, and Tennessee licensed wholesalers of or any representative thereof whose brands have been approved for distribution in Tennessee may advertise brands directly to consumers by mail and/or e-mail, internet, or any other computer-accessed communication (including, but not limited to, mobile devices and communications via social media); provided, however, measures are taken to prevent such communications from targeting individuals under the age of twenty-one (21).
- (2) Restrictions. Direct communications advertising must conform substantially, where applicable, with the provisions of Rule 0100-03-.01 and in addition must not contain the name, address, or telephone number of any Tennessee-licensed wholesaler, retail food store, or retailer, other than the individual wholesaler, retail food store, or retailer that is directly responsible for sending the direct communication, and this extends to the return address on the envelope.
- (3) Retailer Advertising. Subject to the restrictions of paragraphs (2) and (4) of this rule, a retailer licensed under T.C.A. § 57-3-204 may advertise any and all services and products the retailer is authorized to sell or provide under Title 57 of Tennessee Code Annotated or any rules and regulations adopted by the Commission in accordance therewith.
- (4) Restrictions on Direct Communications.
 - (a) A retail package store or retail food store may send a communication directly to a consumer unless a consumer has made a request to the licensee to not receive such communication in writing or via e-mail.
 - (b) No manufacturers, importers, non-resident sellers, non-manufacturer non-resident sellers, and Tennessee licensed wholesalers of alcoholic beverages may subsidize, contribute, or otherwise compensate a retailer, wholesaler, or retail food store for such any direct communication advertising or otherwise assist, directly or indirectly, with the cost or preparation of any direct communication advertisement.
 - (c) A retailer shall not be deemed to be in violation of this section unless it can be established that a consumer has made a request to be removed from the mailing, e-mail list, or other direct communication and such consumer continued to receive such communications after fourteen (14) days following such a request.
 - (d) For any direct communications, measures must be taken to prevent such communications from targeting individuals under the age of twenty-one (21). Any direct communications must afford the consumer the ability to opt out of the communications.

(Rule 0100-03-.03, continued)

- (e) Each violation of this rule may result in suspension or revocation of a license or a fine not to exceed the statutory maximum.

Authority: T.C.A. §§ 57-1-209, 57-3-104, 57-3-104(c)(4), and 57-4-201. **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. Repeal and new rules filed March 10, 2010; effective June 8, 2010. Repeal and new rules filed January 25, 2019; to have become effective April 25, 2019. However, the Government Operations Committee filed a 60-day stay of the effective date of the rules; new effective date June 24, 2019.

0100-03-.04 RESERVED.

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. Repeal and new rules filed March 10, 2010; effective June 8, 2010. Repeal and new rules filed January 25, 2019; to have become effective April 25, 2019. However, the Government Operations Committee filed a 60-day stay of the effective date of the rules; new effective date June 24, 2019.

0100-03-.05 ADVERTISING ALCOHOLIC BEVERAGES 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 off-premise or on-premise retail 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 Rule 0100-03-.01(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, non-resident seller, non-manufacturer non-resident seller, 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 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 are permitted.
 - (e) No manufacturer, importer, non-resident seller, non-manufacturer non-resident seller, 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. A billboard or other structure for which a retail licensee is paid a rental or offered any inducement may not be used for advertising alcoholic beverages.

(Rule 0100-03-.05, continued)

- (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. §§ 57-111, 57-1-209, 57-3-104, 57-3-106, 57-4-201, and 57-818. **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. Repeal and new rules filed March 10, 2010; effective June 8, 2010. Repeal and new rules filed January 25, 2019; to have become effective April 25, 2019. However, the Government Operations Committee filed a 60-day stay of the effective date of the rules; new effective date June 24, 2019.

0100-03-.06 ADVERTISING MATERIALS WITHIN RETAIL PREMISES.

- (1) Who May Supply and Install. Subject to the provisions of Rule 0100-06-.03, manufacturers, importers, non-resident sellers, and non-manufacturer non-resident sellers, or any representative thereof may give, rent, loan or sell to Tennessee licensed wholesalers, but to no other person, signs, posters, placards, decorations, employee clothing, devices, statuettes or geographic displays – printed, painted or electric – for point-of-sale brand advertising, provided such items include branding or advertising of products or brands directly controlled by the manufacturers, importers, non-resident sellers, non-manufacturer non-resident sellers, providing such items. Wholesalers 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 paragraph (1) of this Rule must conform to Rule 0100-03-.01(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 twenty (20) square foot area, per manufacturer, importer, non-resident seller, non-manufacturer non-resident seller, wholesaler, or representative thereof.
 - (b) Except as permitted by the provisions of Rule 0100-06-.03, no manufacturer, importer, non-resident seller, non-manufacturer non-resident seller, 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 Rule 0100-06-.01, *et seq.*
 - (c) No manufacturer, importer, non-resident seller, non-manufacturer non-resident seller, 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.

(Rule 0100-03-.06, continued)

Authority: T.C.A. §§ 57-1-209, 57-3-104, 57-4-201, and 57-818. **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. Repeal and new rules filed March 10, 2010; effective June 8, 2010. Repeal and new rules filed January 25, 2019; to have become effective April 25, 2019. However, the Government Operations Committee filed a 60-day stay of the effective date of the rules; new effective date June 24, 2019.

0100-03-.07 AUTHORIZED PRODUCTS AND SERVICES BY RETAILERS.

- (1) A retail licensee is permitted to advertise or sell at retail items related to or incidental to the use, consumption, dispensing, or storage of alcoholic beverages, together with merchandise and supplies related to special events or parties.
- (2) The list of items a retail licensee may sell, contained in T.C.A. § 57-3-404(e)(4), is illustrative in nature and non-exclusive. The Commission shall have the right to specifically enumerate additional items it deems to be within the intent of the statute.
- (3) A retail licensee may conduct demonstrations at any time of nonalcoholic products, both within the licensed premises and at locations outside of the licensed premises, without any restrictions and is not subject to any advertising restrictions of such demonstrations or other events occurring upon its premises or away from its premises, except as expressly set forth in Rules 0100-03-.01 through 0100-03-.08.

Authority: T.C.A. §§ 57-1-201, 57-1-209, 57-3-104, 57-3-202, 57-3-404, and 57-818. **Administrative History:** Original rule certified June 7, 1974. Amendment filed September 9, 1983; effective October 11, 1983. Repeal and new rules filed March 10, 2010; effective June 8, 2010. Repeal and new rules filed January 25, 2019; to have become effective April 25, 2019. However, the Government Operations Committee filed a 60-day stay of the effective date of the rules; new effective date June 24, 2019.

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. §§ 57-1-209, 57-3-104, 57-4-201, and 57-818. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rules filed March 10, 2010; effective June 8, 2010. Repeal and new rules filed January 25, 2019; to have become effective April 25, 2019. However, the Government Operations Committee filed a 60-day stay of the effective date of the rules; new effective date June 24, 2019.

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.

(Rule 0100-03-.09, continued)

- (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 (1) municipality in the same county.
- (4) Restriction on License After Surrender or Revocation.
- (a) No 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.
 - (c) The Commission may treat a surrender of a license as a revocation under the restrictions contained in this paragraph.
- (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 ninety (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 license issued by the Commission are not required to obtain permits.
- (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

(Rule 0100-03-.09, continued)

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 have 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.

Authority: T.C.A. §§ 57-1-201, 57-1-209, 57-3-104, 57-3-104(c)(4), 57-3-203, 57-3-204, 57-3-208, 57-3-208(e), and 57-4-201. **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. Repeal and new rule filed March 10, 2010; effective June 8, 2010. Repeal and new rules filed January 25, 2019; to have become effective April 25, 2019. However, the Government Operations Committee filed a 60-day stay of the effective date of the rules; new effective date June 24, 2019.

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, 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 statute or Chapter 0100-06 of these Rules.
- (b) All trucks and other motor vehicles owned or leased and operated by any Tennessee licensed wholesaler, 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 four (4) inches in height, the address of such licensee shall appear in letters of not less than two and one half (2 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)

(Rule 0100-03-.10, continued)

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, to a retail food store or any employee of the retail food store at the retail food store'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 Retail Package Stores.**

Where alcoholic beverages are desired to be transported for consumer educational seminars authorized by Rule 0100-03-.11(5), such transportation may be conducted by the wholesaler or retailer in accordance with the following provisions of this subparagraph:

- (a) The wholesaler or retailer shall transport alcoholic beverages directly to the location of the consumer educational seminar no more than twenty-four (24) hours prior to the time reported to the Commission for the start of the consumer educational seminar.
 - (b) All unsealed or otherwise opened containers of alcoholic beverages not consumed during the registered time of a consumer educational 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 educational seminar, to an on-premises consumption licensee, or to any other person.
 - (c) The wholesaler or retailer shall transport any unopened containers directly back to the licensed retail location within twenty-four (24) hours of the conclusion of the consumer educational 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.
 - (d) 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 educational 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 educational seminar approved by the Commission.
- (6) **Metric Net Contents.**

(Rule 0100-03-.10, continued)

- (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 27 CFR § 4.72.

Authority: T.C.A. §§ 57-132, 57-136, 57-151, 57-1-201, 57-1-209, 57-3-104, 57-3-203, 57-3-218, 57-3-301, 57-3-303, 57-3-307, 57-3-110, 57-3-402, 57-3-403, 57-818, 67-101, and 67-1-102. **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. Repeal and new rules filed March 10, 2010; effective June 8, 2010. Repeal and new rules filed January 25, 2019; to have become effective April 25, 2019. However, the Government Operations Committee filed a 60-day stay of the effective date of the rules; new effective date June 24, 2019. Amendments filed June 26, 2019; effective September 24, 2019.

0100-03-.11 SOLICITATION OF BUSINESS, SERVICES RESTRICTED.

- (1) Manufacturers and Importers Limited to Wholesale Solicitation.
 - (a) No manufacturer, importer, non-resident seller, non-manufacturer non-resident seller, or any representative thereof shall solicit orders in any manner for alcoholic beverages from anyone in the state except those holding wholesale licenses. The marketing, advertising, or promoting, or the encouraging of the public to purchase the manufacturer's, non-resident seller's, or non-manufacturer non-resident seller's product, does not constitute soliciting an order and does not require a permit.
 - (b) No manufacturer, importer, non-resident seller, non-manufacturer non-resident seller, or any 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 Rules 0100-03-.06 and 0100-06-.03.
 - (c) No manufacturer, importer, non-resident seller, non-manufacturer non-resident seller, or any 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 anything of value whether on or away from the retail premises except as specifically authorized under Rules 0100-03-.06 and 0100-06-.03.
 - (d) A manufacturer, importer, non-resident seller, non-manufacturer non-resident seller, or representative thereof may enter the premises of a retail licensee for the purpose of promoting the products manufactured, imported, or represented by the manufacturer, importer, non-resident seller, non-manufacturer non-resident seller, or representative, surveying or examining the retail and marketing operations of such on-premise or off-premise retail licensee or examining the advertising displays within the premises of such on-premise or off-premise retail licensee. Such manufacturer, importer, non-resident seller, non-manufacturer non-resident seller, or representative may also provide, orally or in writing, information related to such products to any licensee or employee of such licensee on the on-premise or off-premise retail licensee's premises as well as customers of the retail package store licensee in relation to tastings held under T.C.A. § 57-3-404(h)(2).

(Rule 0100-03-.11, continued)

- (e) A manufacturer, importer, non-resident seller, non-manufacturer non-resident seller, or representative thereof may, with the consent of the retail package store, “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 but is limited to “pulling forward” inventory already in the showroom and no restocking may occur from any area off the showroom floor. 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. No services of this kind may be provided to any retail food store licensee on or off their premises.

(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 0100-06 to the licensed premises.
 - 2. Arranging stock delivered by his company in retail package stores.
 - 3. Setting up advertising signs or displays at retail package stores as set forth in Rules 0100-03-.05 and 0100-03-.06.
 - 4. Assisting in the conduct of any retailer sponsored consumer educational seminar held in accordance with Rule 0100-03-.11(5).
 - 5. Providing the services to retail food store licensees authorized by Chapter 443 of the Public Acts of 2017.
- (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 0100-06.
- (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.

(Rule 0100-03-.11, continued)

- (3) Complimentary Alcohol from Retailers. No retail package store licensee or his employee shall give any consumer any complimentary alcohol except as provided in T.C.A. § 57-3-404 or this rule.
- (4) Tax Laws Unaffected. No provision of this rule 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) Retail Package Store Sponsored Consumer Educational Seminars. A retail package store 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 educational 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 educational 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 educational 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 educational seminar;
 2. The sponsors of such consumer educational seminar and any supplier or wholesaler involved, either directly or indirectly, with such consumer educational seminar;
 3. Whether any fee or cost is assessed to the attendees in order to attend the consumer educational seminar, and if so, the amount of such fee; and
 4. Any other relevant information as may be required by the Commission.
 - (c) Written or electronic notifications must be submitted to the Commission not less than two (2) calendar days prior to the date of the consumer educational seminar. Proof of such written notification shall be available for inspection at the event.
 - (d) No manufacturer, non-resident seller, or non-manufacturer non-resident seller may directly supply any product to a retailer for use at a consumer educational 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 educational 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 educational 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 educational 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 0100-03-.14(1) and 0100-03-.10(5).

(Rule 0100-03-.11, continued)

- (e) Any consumer educational seminar conducted under this rule shall be conducted in accordance with the hour limitations set forth at T.C.A. § 57-4-203(d)(1).
- (f) A manufacturer, non-resident seller, non-manufacturer non-resident seller, retailer, wholesaler, or representative thereof whose products are to be tasted 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 to inform the consumers of the consumer educational seminar. A retail location of a consumer educational seminar included in an industry member advertisement shall be relatively inconspicuous in relation to the advertisement as a whole.
- (g) A manufacturer, non-resident seller, non-manufacturer non-resident seller, wholesaler, or representative thereof whose products are to be tasted may furnish consumer advertising specialties permitted under the rules directly to consumers, or to a retailer for distribution to consumers, at the consumer educational seminar.
- (h) A consumer educational seminar conducted under this rule 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 the consumer educational seminar may solicit orders from consumers at the seminars, provided that final sales of wines and alcoholic beverages must be completed within the licensed premises of the retail package store or delivered pursuant to Rule 100-03-.10(5)(a).
- (i) Individuals holding any permit issued by the Commission or certified clerks employed by retail package stores may serve or dispense alcoholic beverages. Nothing in this paragraph authorizes an on-premise consumption licensee to purchase and resell alcoholic beverages from any entity other than a licensed wholesaler. 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 educational seminar.
- (j) If a consumer educational 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 educational 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. §§ 57-1-209, 57-3-104, 57-3-202, 57-3-203, 57-3-210, 57-3-404, 57-3-405, 57-3-604, 57-3-815, and 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. Repeal and new rules filed March 10, 2010; effective June 8, 2010. Repeal and new rules filed

(Rule 0100-03-.11, continued)

January 25, 2019; to have become effective April 25, 2019. However, the Government Operations Committee filed a 60-day stay of the effective date of the rules; new effective date June 24, 2019.

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 as provided by T.C.A. § 57-3-404(e)(4)(E) or § 57-4-108, not in original retail containers.
- (2) Standards of Fill for Wine.

All wine bottled in, sold in, and shipped into this state shall be in containers 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 Rule 0100-03-.10(6).

- (3) Distilled Spirits May Be Imported In Bulk

Tennessee-licensed manufacturers may import distilled spirits in bulk for the purpose of manufacturing, rectifying, or blending, except that distilled spirits imported in bulk from outside of the State of Tennessee shall not be used in the manufacturing, rectifying, or blending of Tennessee whiskeys as defined in T.C.A. § 57-2-106. Such bulk shipments shall only be permitted in compliance with the rules and requirements of the Tobacco Tax and Trade Bureau ("TTB") and T.C.A. § 57-3-202(f).

- (4) Standards of Fill for Distilled Spirits

All distilled spirits bottled in, sold in, and shipped into this state shall be in containers specified in the Standards of Fill for Distilled Spirits prescribed by the TTB for shipments of distilled spirits; and, said Federal Regulations relating to Standards of Fill for Distilled Spirits are hereby adopted and incorporated by reference herein. See Rule 0100-03-.10(6).

Authority: T.C.A. §§ 57-1-201, 57-1-209, 57-3-104, 57-3-202, 57-3-203, 57-3-207, 57-3-218, 57-3-303, 57-3-307, 57-3-404, 57-4-201, 57-4-108, 57-818, and 67-1-102. **Administrative History:** Original rule certified June 7, 1974; Repeal filed March 31, 1982; effective July 1, 1982. Repeal and new rules filed March 10, 2010; effective June 8, 2010. Repeal and new rules filed January 25, 2019; to have become effective April 25, 2019. However, the Government Operations Committee filed a 60-day stay of the effective date of the rules; new effective date June 24, 2019.

0100-03-.13 CONDUCT OF BUSINESS - WHOLESALER AND RETAILER.

- (1) All Licensees Must Keep Records Available Three (3) Years. Each licensee shall keep, for at least three (3) 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. For the purposes of this paragraph, electronic records are sufficient if they are readily available and easily accessible.
- (2) 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

(Rule 0100-03-.13, continued)

managing partner or corporation officer in active control and management of the business shall be designated to the Commission.

- (3) 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.
- (4) 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.
- (5) No Wholesaler May Store for Retailer. No wholesaler shall store alcoholic beverages for a retail dealer without written approval of the Commission.
- (6) No Retailer May Store for Another Retailer. No retailer shall store alcoholic beverages belonging to another retail licensee.
- (7) A retailer shall not sell alcoholic beverages to an individual whom the retailer should reasonably believe is reselling such alcoholic beverages not permitted by law.
- (8) Contests Involving Alcoholic Beverages Prohibited. No manufacturer, wholesaler, non-resident seller, non-manufacturer non-resident seller, 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 not a licensee.
 - (d) Notwithstanding the foregoing, a manufacturer, wholesaler, non-resident seller, non-manufacturer non-resident seller, or retailer may sponsor or conduct a contest in which alcoholic beverages are offered as prizes, premiums, or rewards for their own employees.
- (9) Gift Certificates. Tennessee-licensed retailers may sell gift certificates or gift cards to consumers. No gift card shall be honored, accepted, or sold to anyone visibly intoxicated. No gift card shall be honored or accepted from anyone under the age of twenty-one (21) for the purchase of alcoholic beverages or beer. Such practices will be deemed to be a violation.
- (10) 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.
- (11) Open Access to Licensed Premises Without Warrant. Immediate access, without a warrant, to all parts of a licensed premise shall at all times be accorded agents or representatives of the Tennessee Alcoholic Beverage Commission.
- (12) 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.

(Rule 0100-03-.13, continued)

- (13) Notwithstanding 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, 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.
- (14) A retail package store may sell or deliver alcoholic beverages or supply, deliver, and install products authorized to be sold by the retailer pursuant to T.C.A. § 57-3-406(j).
- (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. §§ 57-109(g), (1) and (3), 57-132, 57-136, 57-1-201, 57-1-209, 57-3-104, 57-3-104(c)(4), 57-3-202, 57-3-203, 57-3-404, 57-3-406, 57-3-406(d), 57-4-108, 57-818(2), and 67-101. **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. Repeal and new rules filed March 10, 2010; effective June 8, 2010. Amendment filed December 18, 2015; effective March 17, 2016. Repeal and new rules filed January 25, 2019; to have become effective April 25, 2019. However, the Government Operations Committee filed a 60-day stay of the effective date of the rules; new effective date June 24, 2019.

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 manners 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 Rule 0100-03-.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 Rule 0100-03-.13(1).
 - (c) Broken and deteriorated merchandise (method of handling set forth in Rule 0100-03-.14(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 0100-06.
 - (b) Novelty containers, commonly known as Christmas decanters, must be accepted back upon request in exchange for similar quantity of alcoholic beverages of the same brand and proof in conventional containers by the wholesaler from the retailer and by the

(Rule 0100-03-.14, continued)

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 (5th) 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 unsaleable. The agent will certify all three (3) copies of the list and forward one (1) copy to the Commission. The wholesaler shall mail another copy to the Miscellaneous Tax Division of the Department of Revenue and retain the third (3rd) 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 Rule 0100-03-.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 permits issued pursuant to T.C.A. § 57-4-101(g).

Authority: T.C.A. §§ 57-1-209, 57-3-104, 57-3-104(c)(4), 57-3-203, 57-3-303, 57-3-307, 57-3-404, 67-1-102, and Chapter 707, Public Acts of 1974, § 1. **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. Repeal and new rules filed March 10, 2010; effective June 8, 2010. Repeal and new rules filed January 25, 2019; to have become effective April 25, 2019. However, the Government Operations Committee filed a 60-day stay of the effective date of the rules; new effective date June 24, 2019.

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 one (1) 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

(Rule 0100-03-.15, continued)

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) 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 (7) 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.
- (4) Notwithstanding paragraph (3) of this rule, a retail package store may conduct tastings pursuant to T.C.A. § 57-3-404(h).
- (5) 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 (1) 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 employee of the licensee and shall not be an employee 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. §§ 57-132, 57-136, 57-1-209, 57-3-104, 57-3-204, 57-3-212, 57-3-221, 57-3-404, 57-818, 67-101, and Chapter 707, Public Acts of 1974, § 1. **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. Repeal and new rules filed March 10, 2010; effective June 8, 2010. Repeal and new rules filed January 25, 2019; to have become effective April 25, 2019. However, the Government Operations Committee filed a 60-day stay of the effective date of the rules; new effective date June 24, 2019.

0100-03-.16 DUAL INTERESTS PROHIBITED.

- (1) Manufacturer, Importer, Non-Resident Seller, and Non-manufacturer Non-Resident Seller.
 - (a) No manufacturer or representative of the same shall have any kind of direct or indirect interest in any wholesaler or any retail on-premise or off-premise establishment in Tennessee. A prohibited interest includes the possessing of any financial or other interest in the establishment, providing or having interest in any fixtures or furnishings,

(Rule 0100-03-.16, continued)

stock ownership, loans, gifts, the securing of loans, the guaranteeing of any loan payment, or participating in the profits.

- (b) No importer, non-resident seller, non-manufacturer non-resident seller, or representative of the same shall have any kind of direct or indirect interest in any retail on-premise or off-premise establishment in Tennessee. A prohibited interest includes the possessing of any financial or other interest in the establishment, providing or having interest in any fixtures or furnishings, stock ownership, loans, gifts, the securing of loans, the guaranteeing of any loan payment, or participating in the profits.
 - (c) An importer, non-resident seller, non-manufacturer non-resident seller, or representative of the same may have a direct or indirect interest in a wholesaler.
 - (d) "Indirect interest" as used in this Rule means any kind of interest in the wholesaler, retail on-premise, or retail off-premise establishment by way of stock ownership, loan, partner's interest, or control, including the use of a brand name, trademark, or sponsorship of the, manufacturer wholesaler, importer, non-resident seller, non-manufacturer non-resident seller, or representative of the same.
 - (e) "Direct or indirect interest" between 1) a manufacturer, importer, non-resident seller, non-manufacturer non-resident seller, or representative of the same and 2) an on-premise establishment does not include:
 - 1. An interest held by a spouse or child over the age of twenty-one (21) as separate and distinct property; provided, that there is no commingling of assets or sharing of control in such arrangement;
 - 2. An interest of a person or entity having less than a five percent (5%) ownership interest in a manufacturer, importer, non-resident seller, non-manufacturer non-resident seller, or on-premise establishment; or
 - 3. An interest held in an irrevocable trust by an independent trustee
- (2) Wholesaler and Retailer.

No wholesaler, and no partner, member, or person owning stock in a corporation licensed as a wholesaler, and no employee of same, shall have any interest in any business licensed as an on-premise or off-premise retailer, and no retailer and no retailer's employee, shall have any such interest in any wholesale establishment. A prohibited interest includes the possessing of any financial or other interest in the establishment, providing or having interest in any fixtures or furnishings, stock ownership, loans, gifts, the securing of loans, the guaranteeing of any loan payment, or participating in the profits.

Authority: T.C.A. §§ 57-1-209; 57-3-104; 57-3-210; 57-3-604; 57-4-201; 57-818; Chapter 968, Public Acts of 2012; and Chapter 371, Public Acts of 2017. **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. Repeal and new rules filed March 10, 2010; effective June 8, 2010. Repeal and new rules filed January 25, 2019; to have become effective April 25, 2019. However, the Government Operations Committee filed a 60-day stay of the effective date of the rules; new effective date June 24, 2019.

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 businesses and are at all times directly responsible for any act or conduct of

(Rule 0100-03-.17, continued)

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, whether the licensee be present at any such time or not. 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 liable 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 Rule 0100-05-.07.
- (3) Avoidance of Tax Liability. Any manufacturer, importer, 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 T.C.A. §§ 57-3-302, 57-3-303, 57-4-301, and 57-6-201, or who shall violate, in any manner aid or abet, participate in any scheme to violate the local option law, or fail or neglect to comply with any regulations here in, 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 by the Commission in its discretion.

Authority: T.C.A. §§ 57-1-201 57-1-209, 57-3-104, 57-3-302, 57-3-303, 57-4-201, and 57-818.
Administrative History: Original rule certified June 7, 1974. Repeal filed September 9, 1983; effective October 11, 1983. Repeal and new rules filed March 10, 2010; effective June 8, 2010. Repeal and new rules filed January 25, 2019; to have become effective April 25, 2019. However, the Government Operations Committee filed a 60-day stay of the effective date of the rules; new effective date June 24, 2019.

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 (90th) 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 (1) 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.

(Rule 0100-03-.18, continued)

- (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 Rule 0100-03-.09(9).
 - (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, 57-3-104(c)(4), 57-3-212, 57-4-201, 57-4-201(a)(2), and 57-818. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rules filed March 10, 2010; effective June 8, 2010. Repeal and new rules filed January 25, 2019; to have become effective April 25, 2019. However, the Government Operations Committee filed a 60-day stay of the effective date of the rules; new effective date June 24, 2019.

0100-03-.19 MANUFACTURER REPRESENTATIVE PERMITS.

- (1) A manufacturer representative permit issued pursuant to T.C.A. § 57-3-202(d) is only required for owners, officers, employees, or representatives soliciting orders from licensed wholesalers in Tennessee and shall not be required of owners, officers, employees, or representatives that are marketing and promoting the product to the general public or to situations described in T.C.A. § 57-3-202(k)(3). In addition, a manufacturer representative permit is not required for individuals who work at a manufacturer's or importer's premises unless they also perform such other tasks that require such a permit.
- (2) A manufacturer representative permit issued pursuant to T.C.A. § 57-3-202(d) shall be issued exclusively to the individual applying for such permit and shall not reference any manufacturer, rectifier, or importer. Such permit belongs to the individual holding such permit and not to any manufacturer, rectifier, or importer.

Authority: T.C.A. §§ 57-3-104, 57-3-202, and 57-818. **Administrative History:** Original rule certified June 7, 1974. Repeal filed March 29, 1982; effective July 1, 1982. Repeal filed March 10, 2010; effective June 8, 2010. Repeal and new rules filed January 25, 2019; to have become effective April 25, 2019. However, the Government Operations Committee filed a 60-day stay of the effective date of the rules; new effective date June 24, 2019.

0100-03-.20 DONATIONS TO NONPROFIT ORGANIZATIONS.

- (1) Any licensee shall be permitted to make withdrawals from inventory for donations to any organization that has been recognized as exempt from federal taxes under § 501(c) of the

(Rule 0100-03-.20, continued)

Internal Revenue Code (26 U.S.C. § 501(c)) and that will serve or sell the donated products at a special occasion licensed event. A donation may occur before a qualified entity receives a special occasion license from the Commission.

- (2) Donations made pursuant to this rule may be delivered by the licensee to the recipient organization or may be picked up by the recipient organization at the licensee's premises.
- (3) Licensee's making donations under this rule shall maintain adequate records of the donation, including the amount donated, the FEIN of the recipient organization, and a copy of the letter from the IRS granting exempt status to such recipient organization received by the licensee from recipient organization. Upon request, licensees shall present documentation to the Commission of such withdrawals.
- (4) Licensees making donations under this rule are responsible for paying all required state and federal taxes for the donated product. Failure to do so could lead to suspension, revocation, or a fine not to exceed the statutory maximum.

Authority: T.C.A. §§ 57-131, 57-132, 57-1-209, 57-3-104, 57-3-303, 57-4-201, 57-701 through 57-707, 57-818, and Chapter 147, Public Acts of 2017. **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. Repeal filed March 10, 2010; effective May 8, 2010. Repeal and new rules filed January 25, 2019; to have become effective April 25, 2019. However, the Government Operations Committee filed a 60-day stay of the effective date of the rules; new effective date June 24, 2019.

0100-03-.21 NONCONTIGUOUS PREMISES OF MANUFACTURERS.

- (1) A manufacturer licensed under T.C.A § 57-3-202 shall be permitted to have a noncontiguous area for storage of spirits as long as such noncontiguous premises have been authorized by the United States Alcohol and Tobacco Tax and Trade Bureau ("TTB").
- (2) No application or application fee is required to establish this noncontiguous premises with the Commission and only the basic details of the location and a floor plan of such noncontiguous premises are required in addition to a copy of proof of TTB approval.
- (3) Manufacturers shall notify the Commission within thirty (30) days after commencing use of this noncontiguous premises, or sooner if preferred by the manufacturer.

Authority: T.C.A. §§ 57-1-209, 57-2-104, 57-3-104, 57-3-104(c)(4), 57-3-202, 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. Repeal filed March 10, 2010; effective June 8, 2010. Repeal and new rules filed January 25, 2019; to have become effective April 25, 2019. However, the Government Operations Committee filed a 60-day stay of the effective date of the rules; new effective date June 24, 2019.

0100-03-.22 PRIVATE EVENTS.

A license or permit is not required for an event where alcoholic beverages are served if:

- (1) The event is private and includes a bona fide guest list restricting access to invited guests only;
- (2) The hosts or bona fide guests of the event are providing all of the alcoholic beverages;
- (3) All alcoholic beverages are served without charge;

(Rule 0100-03-.22, continued)

- (4) There is no admission cost for the event, including ticket price, required donation, or door charge; and
- (5) There is no commercial purpose related to the sale, marketing, or promotion of alcoholic beverages for the private party or event.

Authority: T.C.A. §§ 57-3-104, 57-4-101, 57-4-201, and Chapter 147, Public Acts of 2017.

Administrative History: Original rules filed January 25, 2019; to have become effective April 25, 2019. However, the Government Operations Committee filed a 60-day stay of the effective date of the rules; new effective date June 24, 2019.

0100-03-.23 RECTIFYING.

- (1) The definition of “rectifier” in T.C.A § 57-3-101 includes anyone who blends alcoholic beverages with other ingredients or alcoholic beverages as long as such operations are permitted under and operated in compliance with the rules and regulations of the Alcohol and Tobacco Tax and Trade Bureau.
- (2) An applicant for license under T.C.A § 57-3-202 shall not be required to designate whether they are a distiller, a rectifier, or both.

Authority: T.C.A. §§ 57-3-101, 57-3-104, 57-3-202, and 57-3-207. **Administrative History:** Original rules filed January 25, 2019; to have become effective April 25, 2019. However, the Government Operations Committee filed a 60-day stay of the effective date of the rules; new effective date June 24, 2019.