

**RULES  
OF  
THE ALCOHOLIC BEVERAGE COMMISSION**

**CHAPTER 0100-06  
INTRA-INDUSTRY CONDUCT AND REGULATIONS**

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**0100-06-.01 DEFINITIONS.**

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

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

**Authority:** T.C.A. §§ 57-1-201, 57-1-209, and 57-3-104. **Administrative History:** Original rule filed September 9, 1983; effective October 11, 1983. Amendment repealing and replacing the rule was 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.

#### **0100-06-.02 GENERAL PROHIBITIONS.**

- (1) Except as provided in Rule 0100-03-.16, industry members are prohibited from acquiring or holding any interest, directly or indirectly, in any license (state, county, or municipal) with respect to the premises of a retailer.
- (2) Except as provided in Rule 0100-03-.16, industry members are prohibited from acquiring any interest, directly or indirectly, in real or personal property owned, occupied, or used by a retailer in the conduct of the business.
- (3) Subject to the exceptions listed herein, industry members, or any representative thereof, are prohibited from furnishing, giving, renting, lending, or selling to the retailer, and the retailer is prohibited from accepting any equipment, fixtures, signs, supplies, money, services, or other thing of value. The furnishing of free warehousing by delaying delivery of distilled spirits, wine, or alcoholic beverages or by storing such for a retailer by an industry member is prohibited.
- (4) Industry members, or any representative thereof, are prohibited from paying or crediting the retailer, and the retailer is prohibited from accepting any advertising, display, or distribution service, whether or not the advertising, display or distribution service received is commensurate with the amount paid by the retailer.
- (5) An industry member or any representative thereof is prohibited from requiring a trade buyer to take and dispose of any quota of distilled spirits, wine, or malt beverages.
- (6) A requirement that a retailer purchase one product in order to purchase another is prohibited. This includes combination sales if one (1) or more products may be purchased only in combination with other products and not individually. However, an industry member is not prohibited from selling at a special combination price, two (2) or more kinds of brands of products to a retailer, provided that:
  - (a) The retailer has the option of purchasing either product at the usual price; and
  - (b) The retailer is not required to purchase any product he or she does not want.
- (7) No retailer shall obtain alcoholic beverages from any source not designated to sell that brand under the brand registration statute, T.C.A. § 57-3-301.
- (8) No manufacturer, importer, non-resident seller, non-manufacturing non-resident seller or any representative thereof – e.g. third party marketing entities – shall solicit orders in any manner for alcoholic beverages from anyone in this state except those holding wholesale licenses. The marketing, advertising, or promoting, or the encouraging of the public to purchase the

(Rule 0100-06-.02, continued)

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.

- (9) It is unlawful for one (1) industry member to sell, offer for sale, or contract to sell to any trade buyer, or for any such trade buyer to purchase, or contract to purchase any products:
- (a) On consignment; or
  - (b) Under conditional sale; or
  - (c) With the privilege of return; or
  - (d) On any basis other than a bona fide sale; or
  - (e) If any part of the sale involves, directly or indirectly, the acquisition by such person of other products from the trade buyer or the agreement to acquire other products from the trade buyer. Transactions involving the bona fide return of products for ordinary and usual commercial reasons arising after the product has been sold are not prohibited.
- (10) (a) Tied Sales Prohibited. A sale in which any part of the sale involves, directly or indirectly, the acquisition by the industry members from the trade buyer, or the agreement, as a condition to present or future sales, to accept other products from the trade buyer is prohibited.
- (b) Exchange. The exchange of one product for another is prohibited as a sales transaction conditioned on the acquisition of other products. However, the exchange of a product for equal quantities (case for case) of the same type and brand of product, in containers of another size is not considered an acquisition of "other" products and is not prohibited if there was no direct or implied privilege of return extended when the product was originally sold. Industry members may make price adjustments on products eligible for exchange under this paragraph.
  - (c) Exclusion. An industry member, or any representative thereof – e.g. third party marketing entities – shall not require, nor may a retailer request, offer, and/or accept an exclusive arrangement wherein the retailer agrees, in exchange for money, services, or any other thing of value from the industry member, to offer for sale the industry member's product to the exclusion of other related products.

**Authority:** T.C.A. §§ 57-1-201, 57-1-209, 57-3-104, 57-3-202, 57-3-210, 57-3-405, 57-3-604, 57-4-201, and Chapter 371, Public Acts of 2017. **Administrative History:** Original rule filed September 9, 1983; effective October 11, 1983. Amendment repealing and replacing the rule was 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.

### 0100-06-.03 EXCEPTIONS TO GENERAL PROHIBITIONS.

- (1) General. An industry member or any representative thereof – e.g. third party marketing entities may furnish a retailer equipment and supplies, signs, posters, place cards, decorations, devices, statuettes, or geographic displays (printed, painted, or electric) for point-of-sale advertising, and services or other things of value in accordance with the exceptions provided in this part and may install or set up such materials in the windows or elsewhere in the interior of a retail establishment. The cost limitations imposed in this rule will be deemed adjusted upon any modification in a similar rule made by the Trade and Taxation Bureau of the United States Department of the Treasury.

(Rule 0100-06-.03, continued)

(2) Product Displays.

(a) General. An industry member may furnish, give, rent, loan, or sell product displays to a retailer, subject to the limitations prescribed in subparagraph (b) of this paragraph.

(b) Conditions and Limitations.

1. The total value of all product displays furnished by an industry member under subparagraph (a) of this paragraph may not exceed three hundred dollars (\$300) or current federal limits per brand in use at any one time in any one retail establishment. The value of a product display is the actual cost to the industry member who initially purchased it. Transportation and installation costs are excluded for the purposes of this calculation.
2. Industry members may not pool or combine their dollar limitations in order to provide a retailer a product display valued in excess of three hundred dollars (\$300) or current federal limits per brand.
3. Product displays shall bear conspicuous and substantial advertising matter about the product or the industry member which is permanently inscribed or securely affixed.
4. The furnishing, giving, renting, loaning, or selling of such product displays may be conditioned upon the purchase of the products advertised on those displays in a quantity necessary to initially stock such display.

(3) Interior Signs.

(a) General. An industry member or any representative thereof – e.g. third party – marketing entities, may furnish, give, rent, loan, or sell to a retailer inside signs which bear advertising matter. Inside signs include such things as posters, placards, designs, mechanical devices, and window decorations.

(b) Conditions and limitations. Industry members or any representative thereof – e.g. third party marketing entities – may furnish inside signs to retailers under the following limitations:

1. The inside sign shall have no secondary value and be of value to the retailer only as advertising.
2. The inside sign shall be used only in the windows or other interior portions of the retail establishment.
3. The industry member may not directly or indirectly pay or credit the retailer for displaying the inside sign or for any expense incidental to its operation.

(4) Advertising Service. An industry member or any representative thereof – e.g. third party marketing entities – may list in its advertisement the names and addresses of all retailers selling the alcoholic beverage product(s) of the industry member within the geographic area targeted by the advertisement, provided that:

(a) The advertisement does not also contain the retail price of the product;

(b) The listing is the only reference to the retailers in the advertisement and is relatively inconspicuous in relation to the advertisement as a whole; and

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- (c) The advertisement does not refer only to one retailer or only to retail premises controlled directly or indirectly by the same licensed entity and refers to all retailers selling the alcoholic beverage product(s) of the industry member within the geographic area targeted by the advertisement.
- (5) Outside Signs.
- (a) General. Subject to local ordinances, an industry member or any representative thereof – e.g. third party marketing entities – may furnish, give, rent, loan, or sell to a retailer outside signs (electrical, mechanical, inflatable, or otherwise) which bear advertising matter.
  - (b) Conditions and limitations. Industry members, or any representative thereof – e.g. third party marketing entities – may furnish outside signs to retailers under the following limitations:
    - 1. The sign must bear conspicuous and substantial advertising matter about the product or the industry member that is permanently inscribed or securely affixed.
    - 2. The cost of the signs may not exceed four hundred dollars (\$400) per brand, which includes installation costs.
    - 3. The outside sign must be located on the wall or roof of a building adjacent to or occupied by the retailer, or in a retailer's parking lot.
    - 4. The name and address of the retailer may appear on the outside sign.
    - 5. The industry member, or any representative thereof – e.g. third party marketing entities – may not directly or indirectly pay or credit the retailer for displaying the sign or for any expense incidental to its operation.
- (6) Routine Business Entertainment. Nothing in this chapter shall prohibit an industry member or any representative thereof – e.g. third party marketing entities – from providing a retail licensee or its employee routine business entertainment which is defined as follows:
- (a) Meals or beverages;
  - (b) Concerts, theatre, and arts entertainment;
  - (c) Sports participation and entertainment;
  - (d) Entertainment at charitable events;
  - (e) Private parties;
  - (f) Transportation and lodging costs associated with any of the forgoing listed under these subparagraphs (a)-(e).
- (7) Limitations on Routine Business Entertainment. For the purposes of this section:
- (a) Routine business entertainment shall be provided only if such is provided without a corresponding obligation on the part of the retail licensee or on-premise consumption licensee to purchase alcoholic beverages or to provide any other benefit to such industry member or to exclude from sale the products of any other industry member.

(Rule 0100-06-.03, continued)

- (b) There is no maximum dollar amount for providing routine business entertainment designated under subparagraphs (b), (c), or (d) of paragraph (6) of this rule, provided however that transportation pursuant to subparagraph (f) of paragraph (6) or lodging to or for an event under subparagraphs (b), (c), or (d) of paragraph (6) is subject to the three hundred dollar (\$300) limit of subparagraph (c) below.
  - (c) Routine business entertainment expenses under subparagraphs (a), (e), or (f) of paragraph (6) shall not exceed a fair market value of three hundred dollars (\$300) per twenty-four (24) hour period for an employee of any retail or on-premise consumption licensee including a self-employed sole proprietor or, if the licensee is a partnership, any partner or employee thereof, or if the licensee is a corporation, any corporate officer, director or shareholder, or the guest of such, or to any third party partnership, LLC, or corporation associated directly or indirectly with the retail or on-premise consumption licensee designed to circumvent the intent of this provision. Further, routine business entertainment expenses as stated above may not exceed six (6) employees/per day from the same licensee.
  - (d) No person enumerated in subparagraph (c) of paragraph (7) above may be entertained by a wholesaler more than four (4) times per calendar year. The wholesaler shall maintain documentation of all expenditures under this section containing sufficient information to fully document the expenditure.
  - (e) Routine business entertainment permitted under paragraph (6) above must occur either within the state of Tennessee or, if outside the state of Tennessee, within one hundred (100) miles of the premises of the retail licensee receiving the routine business entertainment.
- (8) Retailer Advertising Specialties – Point-of-Sale.
- (a) General. An industry member or any representative thereof – e.g. third party marketing entities – may furnish, give, rent, loan, or sell point-of-sale advertising materials to a retailer if such items bear advertising matter and are primarily valuable to the retailer as point-of-sale advertising to attract consumer attention to the products of the industry member who furnished them. Such items include, but are not limited to: posters, placards, designs, inside signs (electric, mechanical, or otherwise), window decorations, trays, coasters, mats, menu cards, meal checks, paper napkins, napkin holders, foam scrapers, back bar mats, placemats, bar utensil caddies, other bar utensils, and items (such as strainers, citrus pressers, and stir rods), tap standards, shakers, stir sticks, ice molds and ice trays, cups, glassware, pitchers, carafes, and similar containers made of other materials, thermometers, clocks, lamps, calendars, alcoholic beverage lists or menus, lighted displays, display mirrors, chalkboards, bulletin boards, dart board backgrounds, table tents, menu and table tent holders, case cards, candles and holders, check and credit card holders, empty flash and jump drives, umbrellas, and apparel (such as shirts, hats, caps, and visors).
  - (b) Consumer Advertising Specialties. An industry member or any representative thereof – e.g. third party marketing entities – may furnish, give, rent, loan, or sell to a retailer, advertising specialties that are designed to be carried away by consumers, including, without limitation, trading stamps, pouring racks, non-alcoholic mixers, ash trays, bottle or can openers, cork screws, shopping bags, matches, candles and holders, printed recipes (including drink recipes), pamphlets, cards, leaflets, brochures, blotters, post cards, pencils, cups, mugs, glassware, pens, plates, knives, bar utensil caddies, shakers, pitchers, other bar utensils and items (such as strainers, citrus presses and stir rods), apparel (such as shirts, hats, caps, and visors), pins, buttons, key chains, check and credit card holders, empty flash and jump drives, and other branded items of nominal value.

(Rule 0100-06-.03, continued)

(c) Conditions and Limitations.

1. All point-of-sale advertising materials and consumer advertising specialties must bear conspicuous and substantial advertising matter about the product or the industry member which is permanently inscribed or securely affixed. The name and address of the retailer may appear on the point-of-sale advertising materials and on the consumer advertising specialties.
  2. The industry member or any representative thereof – e.g., third party marketing entities – may not directly or indirectly pay or credit the retailer for using or distributing these materials or for any expense incidental thereto.
- (9) Wine Lists or Menus. An industry member may furnish, give, rent, loan, or sell alcoholic beverage lists or menus to retailers whether in hard copy, electronic (digital or analogue), or online formats. Nothing in this paragraph (9) authorizes an industry member to provide a retailer with electronic hardware, including iPads, tablets, laptops, or other electronic devices used as menus.
- (10) Samples. An industry member may furnish or give a sample of branded distilled spirits, wine, or alcoholic beverages to a retailer (including, without limitation, any of their managers, salespersons, or bartenders) for the purposes of enhancing sales of its products at retail. For each retail establishment, the industry member may give not more than 1.75 liters of any brand of distilled spirits or wine per sampling. If a particular product is not available in a size within the quantity limitations of this section, an industry member may furnish to a retailer the next largest size. An industry member may only provide such a sampling of a specific brand once every three months. An industry member who furnishes a container for sampling or tasting purposes must conspicuously mark the container as “not for resale.”
- (11) Combination Packaging.
- An industry member or trade buyer (other than a retailer which sells for consumption on the premises or a retail food store) may package, distribute, and sell wine or alcoholic beverages in combination with other related items, other alcoholic beverages, or beer.
- (12) Educational Seminars.
- An industry member may give or sponsor educational seminars for employees of retailers either at the industry member’s premises or at the retail establishment. Examples would be seminars dealing with use of a retailer’s equipment, training seminars for employees of retailers, or tours of an industry member’s plant premises. This section does not authorize an industry member to pay a retailer’s expense in conjunction with an educational seminar. This paragraph (12) does not preclude providing nominal hospitality during the event.
- (13) Stocking, Rotating, Pricing, and Other Services.
- (a) A wholesaler, wholesale salesman, or permitted representative thereof may, at a retail package store, with the consent of the retailer, stock, rotate, and affix the price to distilled spirits, wine, or other alcoholic beverages that they sell, provided products purchased from other wholesalers are not altered or disturbed. Such wholesaler may also set up a point-of-sale display, product display, logoed and promotional items (including point-of sale advertising materials and consumer advertising specialties), rearrange or reset that portion of a retail package store as is necessary for the display or placement of its product. In providing the services herein, a wholesaler, wholesale salesman or permitted representative thereof may enter the private or non-public areas of the retail package store.

(Rule 0100-06-.03, continued)

- (b) A wholesaler, a manufacturer, importer, non-resident seller, non-manufacturer non-resident seller, or any representative thereof – e.g. third party marketing entities – may provide recommended shelf plans or shelf schematics for alcoholic beverages, provided that such industry members may not provide anything of value, and retailers may not accept anything of value, in exchange for complying or otherwise using any recommended shelf plan or schematic.
  - (c) Notwithstanding the restrictions contained herein, a manufacturer, importer, non-resident seller, non-manufacturer non-resident seller, or representative thereof – e.g. third party marketing entities – must deliver point-of-sale advertising materials intended for retail use to a wholesaler’s warehouse, and a manufacturer, importer, non-resident seller, non-manufacturer non-resident seller, or representative thereof – e.g. third party marketing entities – may provide and set up such point-of-sale advertising materials at a retail package store establishment only in consultation and by mutual agreement with the wholesaler from which such point of sale or logoed materials were obtained as to the intended use and recipient(s) thereof. In providing the services herein, a manufacturer, importer, non-resident seller, non-manufacturer non-resident seller or representative thereof – e.g. third party marketing entities – may enter the private or non-public areas of the retail package store. As used in this paragraph, “point-of-sale advertising materials” include point-of-sale displays and refer to the advertising items described under paragraph (1) of Rule 0100-03-.06 and paragraph (8) of this Rule. “Point of sale advertising materials” do not include product displays (i.e. wine racks, bins, barrels, casks, shelving, and the like from which distilled spirits, wine, and beverages are held, shelved, displayed and sold).
  - (d) Nothing in this paragraph (13) shall be construed to authorize any services or conduct that is otherwise prohibited for retail food stores in T.C.A. § 57-3-815.
- (14) Consumer Promotions – Direct Offerings. A manufacturer, supplier, importer, non-resident seller, non-manufacturer non-resident seller, distiller, winery, or any representative thereof – e.g. third party marketing entities –, may offer coupons for refunds and contest prizes, premium offers, and sweepstakes to consumers only on the following basis:
- (a) A refund coupon may be distributed to a consumer only as an element of the industry member’s advertising or marketing program through newspapers or magazines, combination packaging, the internet, any other social media platform, neck hangers (on or in caps, cap liners, corks, containers, labels, cartons, cases, or other materials which comes with a purchased alcohol beverage), other point-of-sale advertising (e.g., tear pads that are part of shelf talkers, and case cards), flyers, and by direct mail. Retailers for on-premise consumption may not participate in such programs.
  - (b) Contest prizes, premium offers, sweepstakes, and like items may be offered by industry members or any representative thereof – e.g. third party marketing entities – directly to consumers at point-of-sale, via neck hangers (on or in caps, cap liners, corks, containers, labels, cartons, cases, or other materials which come with a purchased alcohol beverage) and other point-of-sale advertising (e.g., tear pads that are part of shelf talkers and case cards), through newspapers or magazines, and through the internet, mobile/other electronic communication devices and communications via social media, flyers, and by direct mail in conjunction with combination packaging. Retailers for on-premise consumption may participate in such programs.
  - (c) Officers, employees, and representatives of wholesalers and retailers are excluded from participation. Nothing of value may be supplied to a trade buyer by an industry member or any representative thereof – e.g. third party marketing entities – to induce

(Rule 0100-06-.03, continued)

or reward participation in any practice allowed hereunder. Industry members or any representative thereof – e.g. third party marketing entities – are prohibited from requiring any retailer to participate in any practice allowed hereunder nor shall a particular retailer or group of retailers be specified by an industry member or any representative thereof – e.g. third party marketing entities – for participation in any practice allowed hereunder.

- (d) Notwithstanding subparagraph (c), an industry member or any representative thereof – e.g. third party marketing entities – may award prizes to a retail employee as part of a nationwide or statewide contest, such as a bartender’s contest or drink recipe contest, conducted by the industry member or such representative, in accordance with applicable contest rules; provided, that the entry or award is not based upon retail sales of the sponsor’s product and the industry member has received advance written approval of the contest by the TABC. Such contest shall be open to all retail licensees of the same type – e.g., “on-premise or off-premise” consumption licensees, or both.
  - (e) No coupon shall be permitted for a refund by a retailer at the point-of-sale (“cents-off” coupons). Refund coupons may be utilized by a manufacturer, supplier, importer, non-resident seller, non-manufacturer non-resident seller, distiller, winery, or any representative thereof – e.g. third party marketing entities –, that are redeemable by a consumer’s mailing or transmitting directly to such manufacturer, supplier, importer, non-resident seller, non-manufacturer non-resident seller, distiller, winery, or an authorized redemption agent.
  - (f) No coupon may be redeemed by, or refund sent to any person who is under the age set by law to purchase, possess, and consume alcoholic beverages in Tennessee. No contest or sweepstakes prize shall be awarded to any person who is under the age set by law to purchase, possess, and consume alcoholic beverages in Tennessee. No premium offer shall be sent to any person who is under the age set by law to purchase, possess, and consume alcoholic beverages in Tennessee.
- (15) Equipment and Supplies. An industry member may sell equipment or supplies to a retailer.
- (a) Equipment or supplies may be sold at a price not less than the cost to the industry member who initially purchased them and the price must be collected within ten (10) days of the date of sale or rent.
  - (b) An industry member may install dispensing accessories at the retailer’s establishment as long as the retailer pays the cost of initial installation.
  - (c) An industry member may furnish, give, or sell coil cleaning services to a retailer.
- (16) Withdrawals for Special Occasion Licensees.
- (a) A licensee may deplete inventories for purposes of contributing to any qualified entity that has applied or will apply for a special occasion license issued by the Commission and may transport such inventories directly to the qualified entity. The donating licensee shall retain records of all such withdrawals showing the amount of inventory withdrawn, the purpose of withdrawal, and the employee responsible for such withdrawal in accordance with Rule 0100-03-.14(1).
  - (b) In addition to product withdrawals for special occasion licensees, an industry member may further provide such items as promotional items, equipment, fixtures, posters, supplies, sponsorships, etc. to special occasion licensees without being subject to the limitations and restrictions found in Rules 0100-06-.02 and 0100-06-.03. However, any such physical promotional items provided to the special occasion licensee for an event

(Rule 0100-06-.03, continued)

must be returned to the industry member at the conclusion of the event and may not be given to or left for the use of a Tennessee-licensed retailer.

- (c) Further, notwithstanding Rule 0100-06-.03(8), industry members may give branded or non-branded advertising specialty items that are designed to be carried away by consumers and that are of nominal value directly to the consumer and/or attendee at a special occasion licensed event. At the conclusion of the event, any remaining branded advertising items must be returned to the industry member.
- (17) Retail and Industry Association Activities. An industry member may participate in the following retailer and industry association activities:
- (a) Displaying its products at a convention or trade show;
  - (b) Renting display booth space if the rental fee is the same as paid by all exhibitors at the event;
  - (c) Providing its own hospitality, which is independent from association sponsored activities;
  - (d) Purchasing tickets to functions and paying registration fees if the payments or fees are the same paid by all attendees, participants, or exhibitors at the event; and
  - (e) Making payments for advertisements, programs, or brochures issued by retail associations at a convention or trade show if the total payments made by the member and its representatives do not exceed three hundred dollars (\$300) per year.

**Authority:** T.C.A. §§ 57-1-201, 57-1-209, 57-3-104, 57-3-202, 57-3-404, 57-4-201, and Chapter 147, Public Acts of 2017. **Administrative History:** Original rule filed September 9, 1983; effective October 11, 1983. Amendment filed October 19, 1984; effective November 18, 1984. Amendment filed July 18, 1989; effective September 1, 1989. Amendment filed February 8, 1994; effective April 24, 1994. 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.

#### **0100-06-.04 LIMITATION ON CREDIT SALES.**

- (1) No alcoholic beverage shall be sold by any wholesaler nor shall any retailer purchase any alcoholic beverages except for cash or on terms requiring payment by the purchaser within ten (10) days.
- (2) Each and every delivery of merchandise by a wholesaler to a retailer must be accompanied by an invoice of sale bearing the actual date of the delivery. A wholesaler must keep and maintain a current and accurate accounts receivable ledger as a part of his records.
- (3)
  - (a) The ten-day period begins from delivery and receipt by the retail licensee. The ten-day period cannot include any day that the wholesaler is not open to make deliveries, receive payment, or receive mail.
  - (b) Any suspension of deliveries is a credit decision to be made by a wholesaler and a retail licensee.
- (4)
  - (a) Wholesalers must deposit all checks for payment of retail accounts no later than the first banking day following actual receipt of said check.

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- (b) An account paid for by check within the ten-day (10) credit period but which is dishonored for any reason after the ten-day (10) credit period has elapsed is delinquent.
  - (c) A wholesaler shall not accept and a licensee shall not offer a postdated check.
- (5) Payment by Electronic Funds Transfer (“EFT”).
- (a) Electronic Funds Transfer shall mean any transfer of funds other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, direct deposits or withdrawals of funds, and transfers initiated by telephone.
  - (b) To facilitate payment between wholesale licensees and the retail on-premise and off-premise consumption licensees, Electronic Funds Transfers are an approved method of payment; however, participation by the retail on-premise and off-premise consumption licensees shall be voluntary. The wholesaler shall initiate the Electronic Fund Transfer transmittal. Payment is considered to be made when the funds are deposited in the wholesale licensee’s account.
  - (c) The provisions of paragraph (5) are not intended to otherwise affect or amend paragraphs (1)-(4).

**Authority:** T.C.A. §§ 57-1-201, 57-1-209, 57-3-104, 57-3-202, 57-3-404, and 57-3-815. **Administrative History:** Original rule filed September 9, 1983; effective October 11, 1983. Amendment filed August 15, 1997; effective December 29, 1997. 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.

#### **0100-06-.05 DUAL PERMITS PROHIBITED.**

- (1) No person shall be issued more than one (1) of the following permits:
  - (a) Manufacturer or importer representative permit;
  - (b) Wholesale salesman or representative permit;
  - (c) Wholesale employee’s permit;
  - (d) Off-premises retail employee’s permit;
  - (e) On-premises retail employee’s permit; or
  - (f) Manager’s permit.
- (2) Notwithstanding the provisions of Rule 0100-06-.05(1) above, any individual may be issued an off-premise retail employee permit, an on-premise server permit, and a manager’s permit, or any combination thereof, if that individual has completed and submitted the appropriate applications. Further, that person must qualify for and meet all the requirements to obtain each permit.

(Rule 0100-06-.05, continued)

- (3) In all cases, the industry member is responsible for the actions of their employees and/or representatives only when such employee and/or representative is acting within the scope of their employment of such industry member, but not within the scope of employment of another industry member.

**Authority:** T.C.A. §§ 57-1-201, 57-1-209, 57-3-104, 57-3-104(c)(4), 57-3-710, and 57-4-202. **Administrative History:** Original rule filed September 9, 1983; effective October 11, 1983. Amendment filed August 15, 1997; effective December 29, 1997. Repeal and new rule filed March 10, 2010; effective June 8, 2010. Amendments filed July 7, 2016; effective October 5, 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.

#### **0100-06-.06 WHOLESALE SALES AND EMPLOYEE PERMITS.**

- (1) Any permit issued by the Commission pursuant to T.C.A. § 57-3-203(d) or (e) shall be valid for a period of five (5) years from its date of issuance.
- (2) Any person seeking a permit authorized pursuant to T.C.A. § 57-3-203(d) or (e) shall submit an application in writing to the Commission on forms approved by the Commission.
- (3) No application for permit issued pursuant to T.C.A. § 57-3-203(d) or (e) shall be considered unless the application is accompanied by a processing fee of twenty dollars (\$20).

**Authority:** T.C.A. §§ 57-1-201, 57-1-209, 57-3-203, 57-3-709, and 57-3-710. **Administrative History:** Original 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.

#### **0100-06-.07 RETAIL EMPLOYEE PERMITS.**

After the conclusion of business on June 30, 2016, no permit issued pursuant to T.C.A. § 57-3-204(c) shall be issued by the Commission. Any permit issued by such time shall remain in effect and be valid for five (5) years after the permit's issuance, and any employee of a retail package store who has a valid permit under T.C.A. § 57-3-204(c) on July 1, 2016, shall not be required to be a certified clerk pursuant to T.C.A. § 57-3-818 until that permit expires.

**Authority:** T.C.A. §§ 57-1-201, 57-1-209, 57-3-104, 57-3-104(c)(4), 57-3-204, 57-3-204(c), 57-3-709, and 57-3-710. **Administrative History:** Original rule filed March 10, 2010; effective June 8, 2010. Amendment filed December 18, 2015; effective March 17, 2016. Amendments filed July 7, 2016; effective October 5, 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.

#### **0100-06-.08 NON-RESIDENT SELLER PERMITS.**

- (1) Anyone desiring to import, ship, or transport alcoholic beverages into the State of Tennessee for distribution and/or sale within the State of Tennessee must make application to the Commission for a non-resident seller's permit. Such application shall include the name of the entity applying for the permit, and the true ownership thereof. Before alcohol may be imported, shipped, or transported into the State of Tennessee for distribution and/or sale within the boundaries of the State of Tennessee, such importer, broker, manufacturer, or supplier of the alcoholic beverage must first have obtained and be issued a non-resident permit by the Commission. Further, before alcohol may be imported, shipped, or transported into the State of Tennessee for distribution and/or sale within the boundaries of the State of Tennessee, such importer, broker, manufacturer, or supplier of the alcoholic beverage must have received from the Tennessee Department of Revenue a brand approval letter.

(Rule 0100-06-.08, continued)

However, only after the receipt of a non-resident seller permit issued by the Commission may that importer, broker, manufacturer, or supplier, attempt to register their brands with the Tennessee Department of Revenue.

- (2) Each non-resident seller permit shall be valid for one (1) calendar year, and shall expire on December 31 of that year. Failure to timely and properly renew the non-resident seller permit shall be deemed a violation of the rule, and may result in the prohibition of the importation and/or distribution of each brand of alcohol registered by the non-resident seller permittee.
- (3) Should the non-resident seller change ownership, the new owner must make application for a non-resident seller's permit as referenced in paragraph (1) above before importing, shipping, or transporting any alcoholic beverages into the State of Tennessee for distribution and/or sale within the state.

**Authority:** T.C.A. §§ 57-1-201, 57-1-209, 57-3-104, 57-3-202, 57-3-602, and 57-3-605. **Administrative History:** Original 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.

#### **0100-06-.09 PROHIBITION ON DISCRIMINATION.**

- (1) No wholesaler, holding a license issued pursuant to T.C.A. § 57-3-203, shall discriminate, directly or indirectly, in price, in discounts on quantity of merchandise sold, between one retailer and another retailer purchasing wine or alcoholic beverages bearing the same brand or trade name and of like age and quality.
- (2) The restrictions imposed in paragraph (1), above, shall not prevent a wholesaler from offering wine or alcoholic beverages to a licensee holding a license issued pursuant to T.C.A. § 57-4-101, while not offering such wine or alcoholic beverages to any licensee holding a license issued pursuant to T.C.A. § 57-3-204 or 57-3-803 pursuant to a bona fide marketing plan.
- (3) Notwithstanding the prohibitions of paragraph (1), above, a wholesaler may change its pricing on any wine or alcoholic beverage to meet competition, respond to bona fide market conditions, or provide a one-time, introductory offer to a retailer to introduce or promote a new product not previously purchased by such retailer.
- (4) Nothing herein shall restrict the ability of a wholesaler to provide a discount to a retailer for quantity purchases or special combination offers so long as such discount is available on similar terms to other retailers.

**Authority:** T.C.A. §§ 57-1-201, 57-1-209, 57-3-104, 57-3-202, and 57-4-201. **Administrative History:** Original 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.