

**Department of State  
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower  
Nashville, TN 37243  
Phone: 615-741-2650  
Email: [publications.information@tn.gov](mailto:publications.information@tn.gov)

**For Department of State Use Only**

Sequence Number: 11-14-17  
Rule ID(s): 66648  
File Date: 11/21/17  
Effective Date: 2/19/18

# Rulemaking Hearing Rule(s) Filing Form

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

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

<b>Agency/Board/Commission:</b>	Tennessee Alcoholic Beverage Commission
<b>Division:</b>	
<b>Contact Person:</b>	Clay Byrd, Executive Director
<b>Address:</b>	500 James Robertson Pkwy, 3 <sup>rd</sup> Floor, Nashville, TN
<b>Zip:</b>	37243
<b>Phone:</b>	615-741-7620
<b>Email:</b>	<a href="mailto:Clay.Byrd@tn.gov">Clay.Byrd@tn.gov</a>

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0100-13	Rules for Manager Permits
Rule Number	Rule Title
0100-13-.01	Manager Permits
0100-13-.02	Obtaining a Manager Permit

(Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to [http://sos.tn.gov/sites/default/files/forms/Rulemaking\\_Guidelines\\_August2014.pdf](http://sos.tn.gov/sites/default/files/forms/Rulemaking_Guidelines_August2014.pdf))

## RULES OF THE TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

### CHAPTER 0100-13 RULES FOR MANAGER PERMITS

#### TABLE OF CONTENTS

0100-13-.01 Manager Permits

0100-13-.02 Obtaining a Manager Permit

0100-13-.01 Manager Permits

- (1) A manager permit shall be required of any individual operating, supervising, or managing a retail package store licensed pursuant to T.C.A. § 57-3-204 and any individual (e.g. a designated manager) in actual control of the wine operation at a retail food store licensed pursuant to T.C.A. § 57-3-801 et seq.
- (2) Notwithstanding the provisions of 0100-06-.05(1) above, any individual may be issued both an off-premise retail employee permit and an on-premise server permit 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.
- (3) An individual licensed as a sole proprietorship pursuant to T.C.A. §§ 57-3-204 or 57-3-801 et seq., shall be authorized to engage in the activities outlined herein without the requirement of a manager permit.
- (4) A manager permit may be suspended or revoked by the Commission for any violation of Title 57 of the Tennessee Code or the rules and regulations of the Commission committed by the holder of the manager permit or by any person operating under the supervision of the holder of the manager permit. A manager permit may also be suspended or revoked if the permittee no longer meets the requirements for the issuance of the manager permit pursuant to T.C.A. § 57-3-221.

Authority: T.C.A. §§ 57-1-209, 57-3-104, 57-3-221, and 57-3-812. Administrative History:

0100-13-.02 Obtaining a Manager Permit

- (1) Any individual seeking a manager permit shall complete the application form established by the Commission, along with a completed declaration of citizenship (Form AB-0116) and any other information that the Tennessee Alcoholic Beverage Commission may request.
- (2) Any applicant for a manager permit shall pay the permit fee to the Commission prior to being issued the permit. This permit fee is \$50.00 pursuant to T.C.A. § 57-3-221(c).
- (3) Any individual who either has a manager permit or is seeking a manager permit shall annually attend:
  - (a) Either a responsible beer vendor training program pursuant to Chapter 0100-08 or a responsible wine vendor training program pursuant to Chapter 0100-12; and
  - (b) A one (1) hour course taught by the Commission or by an entity authorized by the Commission, at such place and time as may be specified by the Commission. Such one (1) hour course may cover any material deemed appropriate by the Commission and may include, but not necessarily be limited to, a review of

recent changes in the law, a review of certain statutes, rules, and regulations as decided upon by the Commission, and an opportunity for a question and answer session.

- (4) Any individual applying for a manager permit shall attend, and provide proof of attendance to, the training program and the training course required by paragraph (3) of this rule prior to the issuance of a manager permit to such individual. Any such training shall be valid for only one (1) year, and any such training attended more than one (1) year from the date of application for a manager permit shall not be sufficient to satisfy the requirements of this rule.

Authority: T.C.A. §§ 57-3-104 and 57-3-221.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Bryan Kaegi	✓				<i>Bryan Kaegi</i>
Richard Skiles	✓				<i>Richard Skiles</i>
John A. Jones	✓				<i>John A. Jones</i>

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Alcoholic Beverage Commission (board/commission/ other authority) on 05/23/2017 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 01/17/17

Rulemaking Hearing(s) Conducted on: (add more dates). 03/14/2017

Date: 5.23.17

Signature: *[Handwritten Signature]*

Name of Officer: Clay Byrd

Title of Officer: Executive Director, TABC



Subscribed and sworn to before me on: May 23, 2017

Notary Public Signature: *[Handwritten Signature]*

My commission expires on: 7-6-2020

Agency/Board/Commission: \_\_\_\_\_

Rule Chapter Number(s): \_\_\_\_\_

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

*[Handwritten Signature]*  
 Herbert H. Slatery III  
 Attorney General and Reporter

11/8/2017 Date

**Department of State Use Only**

Filed with the Department of State on: 11/21/17

Effective on: 2/19/18

Tre Hargett  
Tre Hargett  
Secretary of State

RECEIVED  
2017 NOV 21 AM 8:44  
SECRETARY OF STATE  
FILIPICATIONS

## **Public Hearing Comments**

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

There were no public comments on these particular rule amendments.

## **Regulatory Flexibility Addendum**

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

(Insert statement here)

These rules would benefit small businesses by reducing the manager permit fee and the training requirement for managers at retail food stores and retail package stores. Small business owners expressed concerns to the ABC that this manager permit fee and the training requirements represented an excessive business burden imposed on the industry.

As a result, we evaluated the rules and determined that the manager permit fee was set at the statutory maximum at the very beginning of the implementation of WIGS. We also determined the annual training requirement to be excessive in comparison to other permit training requirements.

These rules reduce the fee to be more consistent with other permit fees at the ABC, instead of 4 times higher than other permit fees. Moreover, these rules reduce the training requirement in a way that will require business owners to spend less time in training, rather than running their business on an annual basis. The ABC believes the same quality training may be accomplished in half the time.

An exact number of such small businesses affected is impossible to estimate at this time, but is expected to be substantial and significant. There are no less burdensome, intrusive, or costly method for effectuating such purpose and requirements. There are no state or federal counterparts for which this rule can be effectively compared to. The exemption of small businesses from this rule would be detrimental to the small businesses of this state and would be contrary to statute.

### **Impact on Local Governments**

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

(Insert statement here)

These rules will not impact local government.

**Additional Information Required by Joint Government Operations Committee**

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

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

This rule clarifies who must obtain a manager permit for a retail package store and a retail food store pursuant to the passage of the "wine in grocery store" legislation. The rule also reduces the manager permit fee from \$200 to \$50. Finally, the rule reduces the annual training requirement for managers from 2 hours to 1 hour.

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

Tenn. Code Ann. Sections 57-3-816 and 57-3-221 require a manager permit for any individual in actual control of the alcohol, wine or beer operations of a retailer.

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

Retail food store owners and employees, retail package store owners and employees, and trainers would most likely be impacted by this rule. Because these rules reduce a fee and reduce the length of the training, these stakeholders would likely urge adoption of the rule.

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

N/A

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

Based on the proposed fee reduction for 5-year manager permits, the TABC expects to see a decrease in current services revenue of \$413,250 in FY22.

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

Clay Byrd, Executive Director; Zack Blair, Assistant Director

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

Clay Byrd, Executive Director

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

Clay Byrd, Executive Director, 500 James Robertson Parkway, 3rd floor, Nashville, TN, 37243; 615-741-7620  
Clay.Byrd@tn.gov

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

A vast majority of the statutory provisions governing the WIGs legislation took effect on July 1, 2016. This effective date prompted an industry meeting/public forum for stakeholder comment on July 7th 2016, in which

industry members expressed concerns over ambiguities imbedded within the comprehensive framework of the new law. Through communication and collaboration, the TABC published guidance to settle the industry's concerns in an expeditious manner. (see links below), and These rules represent the promulgation of that guidance. <http://www.tn.gov/abc/topic/frequently-asked-questions>

# RULES OF THE TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

## CHAPTER 0100-13 RULES FOR MANAGER PERMITS

### TABLE OF CONTENTS

#### 0100-13-.01 Manager Permits

#### 0100-13-.02 Obtaining a Manager Permit

#### 0100-13-.01 Manager Permits

- (1) A manager permit shall be required of any individual operating, supervising, or managing a retail package store licensed pursuant to T.C.A. § 57-3-204 and any individual (e.g. a designated manager) in actual control of the wine operation at a retail food store licensed pursuant to T.C.A. § 57-3-801 et seq.
- (2) Notwithstanding the provisions of 0100-06-.05(1) above, any individual may be issued both an off-premise retail employee permit and an on-premise server permit 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.
- (3) An individual licensed as a sole proprietorship pursuant to T.C.A. §§ 57-3-204 or 57-3-801 et seq., shall be authorized to engage in the activities outlined herein without the requirement of a manager permit.
- (4) A manager permit may be suspended or revoked by the Commission for any violation of Title 57 of the Tennessee Code or the rules and regulations of the Commission committed by the holder of the manager permit or by any person operating under the supervision of the holder of the manager permit. A manager permit may also be suspended or revoked if the permittee no longer meets the requirements for the issuance of the manager permit pursuant to T.C.A. § 57-3-221.

Authority: T.C.A. §§ 57-1-209, 57-3-104, 57-3-221, and 57-3-812. Administrative History:

#### 0100-13-.02 Obtaining a Manager Permit

- (1) Any individual seeking a manager permit shall complete the application form established by the Commission, along with a completed declaration of citizenship (Form AB-0116) and any other information that the Tennessee Alcoholic Beverage Commission may request.
- (2) Any applicant for a manager permit shall pay the permit fee to the Commission prior to being issued the permit. This permit fee is \$50.00 pursuant to T.C.A. § 57-3-221(c).
- (3) Any individual who either has a manager permit or is seeking a manager permit shall annually attend:
  - (a) Either a responsible beer vendor training program pursuant to Chapter 0100-08 or a responsible wine vendor training program pursuant to Chapter 0100-12; and
  - (b) A one (1) hour course taught by the Commission or by an entity authorized by the Commission, at such place and time as may be specified by the Commission. Such one (1) hour course may cover any material deemed appropriate by the Commission and may include, but not necessarily be limited to, a review of recent changes in the law, a review of certain statutes, rules, and regulations as decided upon by the Commission, and an opportunity for a question and answer session.
- (4) Any individual applying for a manager permit shall attend, and provide proof of attendance to, the training program and the training course required by paragraph (3) of this rule prior to the issuance of a manager permit to such individual. Any such training shall be valid for only one (1) year, and any such training attended more than one (1) year from the date of application for a manager permit shall not be sufficient to satisfy the requirements of this rule.

Authority: T.C.A. §§ 57-3-104 and 57-3-221.