

**RULES
OF
TENNESSEE ALCOHOLIC BEVERAGE COMMISSION**

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

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0100-03-.01 ADVERTISING OF DISTILLED SPIRITS IN NEWSPAPERS, MAGAZINES, OR SIMILAR PUBLICATIONS.

- (1) Statements Prohibited in Advertisements of Distilled Spirits in Newspapers, Magazines, or Other Publications.
 - (a) Restrictions. An advertisement shall not contain:
 1. Any statement that is false or misleading in any material particular.
 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 distilled spirits 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 distilled spirits 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 distilled spirits 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 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; nor shall any advertisement contain any statement, device, design, or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia, likely to falsely lead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or 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.**
 - (a) Advertising by a person or other legal entity licensed as a wholesaler or retailer shall be allowed on the Internet, or any other computer-accessed communication; however, such advertisement shall be subject to TABC Rules 0100-03-.01 and 0100-03-.02.
 - (b) Wholesalers and retailers may develop electronic mail or other computer-access communication mailing lists, and may respond by electronic mail or other computerized communication to any party making inquiry by providing information regarding an alcoholic beverage. No retailer shall authorize or send any unsolicited electronic mail to a consumer.
 - (c) Licensees engaged in Internet advertising may not directly or indirectly falsely identify itself in any advertising or in domain addresses. Further, such licensee must submit to the Commission the exact "web site" or domain address it intends to use prior to beginning the advertising.

Authority: T.C.A. Section 57-818 and 57-1-203. **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. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-03-.02 ADVERTISING OF WINE IN NEWSPAPERS, MAGAZINES OR SIMILAR PUBLICATIONS.

- (1) **Prohibited Statements.**
 - (a) **Restrictions.** An advertisement shall not contain:
 - 1. Any statement that is false or misleading in any material particular.
 - 2. Any statement that is disparaging of a competitor's products.

(Rule 0100-03-.02, continued)

3. Any statement, design, device, or representation which is obscene or indecent.
 4. Any statement, design, device, or representation of or relating to analyses, 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 regulations 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 brand or lot of wine 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 any wine has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.
 - (d) **Place or Origin.** No advertisement shall represent that the wine was manufactured in, or imported from, a place or country other than that of the actual origin, or was produced or processed by one who was not in fact and actual producer or processor.
 - (e) **Flags, Seals, Coats of Arms, Crests, and other Insignia.**-No advertisement shall contain any statement, design, device, 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; nor shall any advertisement contain any statement, device design, or pictorial representation of or concerning any flag, seal, coat of arms, crests, or other insignia, likely to falsely lead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, code of arms, crest or insignia is associated.
- (2) **Prior Approval.** Advertisements conforming to the foregoing provisions need not have prior approval by the Commission before publication.

Authority: T.C.A. §57-1-209. **Administrative History:** Original rule certified June 7, 1974. Amendment by Public Chapter 261, effective July 1, 1983. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-03-.03 ADVERTISING OF DISTILLED SPIRITS AND WINE BY DIRECT MAIL.

- (1) **Brands Only.** Manufacturers, importers and Tennessee licensed wholesalers of distilled spirits and wines whose brands have been approved for distribution in Tennessee and Tennessee-licensed wholesalers may advertise brands only by direct mail and/or email.

(Rule 0100-03-.03, continued)

- (2) Restrictions. Direct mail advertising must conform substantially, where applicable, with the provisions of 0100-03-.01 or 0100-03-.02 and in addition must not contain the name, address or telephone number of any Tennessee-licensed wholesaler or retailer, and this extends to return address on envelope. The prohibition of 0100-03-.07(1) is also applicable.
- (3) Retailer Advertising. Subject to the restrictions of subsection (4) of this rule, a retailer licensed under T.C.A. §57-3-204 may advertise consumer education seminars, distilled spirits, wines and alcoholic beverages by direct mail to consumers in the form of a newsletter, catalogue or similar communications.
- (4) Restrictions on Direct Mail.
 - (a) A retailer may mail or email a newsletter, catalogue or similar communication only to a consumer who has requested to receive such communication in writing or via email.
 - (b) The written request or email of a consumer must be maintained in hard copy, scanned, or electronic format by the retailer to whom it is addressed and is valid until such written notification is received by the retailer from the consumer requesting withdrawal of his/her name from the direct mail listing.
 - (c) Each written request by a consumer must state the retailer to whom it is addressed and must include the date upon which it is signed by the consumer.
 - (d) No industry member may subsidize, contribute or otherwise compensate a retailer for such direct mailing advertising.
 - (e) A retailer shall not be deemed to be in violation of this section unless it can be established that a consumer has made at least one requests to be removed from the mailing or e-mail list and such consumer continued to receive mailings or e-mail communications after thirty days following the second such request.

Authority: T.C.A. §57-1-209 and 57-3-104(c)(4). **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. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-03-.04 ADVERTISING OF DISTILLED SPIRITS AND WINE ON RADIO OR TELEVISION BY MANUFACTURERS, IMPORTERS AND WHOLESALERS.

- (1) Radio or Television Advertising. Manufacturers and importers of distilled spirits and wine and Tennessee licensed wholesalers and retailers may advertise via the radio or television.
- (2) Restrictions. Such advertisements must comply with the provisions of 0100-03-.01(1) and 0100-03-.02(1).
- (3) Wine Permitted But Restricted.
 - (a) Such advertisements must comply with the provisions of 0100-03-.02(1).
 - (b) Such advertisements must not give the name, address or telephone number of a Tennessee licensed wholesaler or retailer.

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.

(Rule 0100-03-.04, continued)

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

0100-03-.05 ADVERTISING DISTILLED SPIRITS AND WINE 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 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 0100-03-.01(1) and 0100-03-02(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 or 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 only 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 shall not extend more than 18 inches beyond the body of the sign and no other painting of the exterior shall be furnished the retail licensee.
 - (e) No manufacturer, importer, 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. No billboard or other structure for which a retail licensee is paid a rental of offered any inducement may be used as a billboard for advertising alcoholic beverages.
- (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. §57-1-209 to implement T.C.A. §§57-3-106 and 57-1-209, and 57-818 to implement T.C.A. §§57-111 and 57-1-209. **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 repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

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

- (1) Who May Supply and Install. Subject to the provisions of 0100-06-03 of these regulations, manufacturers and importers may give, rent, loan or sell to Tennessee licensed wholesalers, but to no other person, signs, posters, placards, decorations, devices, statuettes or geographic displays-printed, painted or electric-for point-of-sale brand advertising. Wholesalers may give, rent, loan or sell same to Tennessee licensed retailers, but to no other

(Rule 0100-03-.06, continued)

person, and 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 this Rule 0100-03-.06(1) must conform to Rule 0100-03-.01(1) and Rule 0100-03-.02(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 20-square-foot area, per wholesaler.
 - (b) Except as permitted by the provisions of 0100-06-.03, no manufacturer, importer, 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 0100-06-.01, *et seq.*
 - (c) No manufacturer, importer, 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.
 - (d) No manufacturer, importer, wholesaler or representative thereof, shall directly or indirectly through an agent pay, credit, otherwise offer any inducement whatsoever to the retailer for displaying such materials as authorized herein for any expenses incidental thereto.

Authority: T.C.A. §§57-818 and 57-1-209. **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. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-03-.07 ADVERTISING NOVELTIES AND SPECIALTIES.

- (1) Off-premise retailers licensed under T.C.A. § 57-3-204 may distribute to consumers only alcoholic beverages and those types of items specifically authorized under chapter 0100-06 of these regulations.

Authority: T.C.A. §§57-818, 57-1-201 and 57-1-209. **Administrative History:** Original rule certified June 7, 1974. Amendment filed September 9, 1983; effective October 11, 1983. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

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. §57-818 and 57-1-209. **Administrative History:** Original rule certified June 7, 1974. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

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.
 - (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 municipality in the same county.
- (4) Restriction on License After Revocation.
 - (a) No wholesale or retail 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

(Rule 0100-03-.09, continued)

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.
- (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 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 wholesale or retail license are not required to obtain permits, and no such persons shall hold any permit issued by the Alcoholic Beverage Commission.
- (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 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 has 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.
- (10) **Public Notice.** The Commission shall require each applicant for a new retail liquor license, pursuant to Chapter 3 of Title 57 of the Tennessee Code Annotated, to place a notice in a newspaper of general circulation in the area proposed to be served concerning the applicant's intent to seek a license from the Commission. The notice shall contain such information as is prescribed in Section (11) below and shall appear for at least three (3) consecutive issues immediately preceding the date that the applicant applies to the city or county for a certificate of compliance. The application shall be accompanied by a copy of the public notice and the sworn statement of the applicant that the notice was published in.
- (11) **Format of Notice.**
- (a) Anyone applying for a Tennessee retail liquor license shall place the following notice in a newspaper of general circulation:

RETAIL LIQUOR LICENSE NOTICE

Take notice that _____ has

(Rule 0100-03-.09, continued)

(Name and address of applicant)
 applied to _____ for a certificate of compliance
 (City or County)
 and has or will apply to the Tennessee Alcoholic Beverage Commission at Nashville for a
 retail liquor license for a store to be named
 _____ and to be located at
 (Name of Store)
 _____ and owned by
 (Address of Store)

 (List whether individual, partnership, or corporation. List individual owners except if
 corporation, list officers and manager.)
 All persons wishing to be heard on the certificate of compliance may personally or through
 counsel appear or submit their views in writing at

 (Name of City or Government to issue certificate and address)
 on _____ at _____. The Tennessee Alcoholic Beverage
 (Date) (Time)

Commission will consider the application at a later date to be set by the Tennessee Alcoholic
 Beverage Commission in Nashville, Tennessee. Interested persons may personally or
 through counsel submit their views in writing by the hearing date to be scheduled by the
 TABC. (Rule 0100-03-.09, continued) Anyone with questions concerning this application or
 the laws relating to it may call or write the Alcoholic Beverage Commission at

 (Address) (Phone)

- (b) The title of the notice shall be all capital letters and at least 10 point size. The text of
 the notice shall be at least eight point size type, and the size of the entire notice shall
 be not less than two columns by two inches of newspaper space. Such newspaper
 notice shall be published prior to the issuance of the Certificate of Compliance.

Authority: T.C.A. §§57-1-209, 57-3-104(c)(4) and 57-3-208(e). **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. Amendment repealing and
 replacing the rule filed March 10, 2010; effective June 8, 2010.

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, Tennessee Code Annotated 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 Chapter 0100-06 of these
 Regulations.

(Rule 0100-03-.10, continued)

- (b) All trucks and other motor vehicles owned, or leased and operated by any Tennessee licensee, 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 4 inches in height, the address of such licensee shall appear in letters of not less than 2 ½ inches in height and the license number shall appear in letters not less than 1 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) 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, 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 Retailers.
- (a) The sales of all alcoholic beverages by a retailer shall be made within the licensed premises; provided, that deliveries of alcoholic beverages sold within the premises may be made by the retailer only to a vehicle of the purchaser parked on the lot or lots upon which said licensed premises are situated or at the curb immediately adjacent to the lot or lots upon which said licensed premises are situated, and not elsewhere.
 - (b) Where alcoholic beverages are desired to be transported for consumer education 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 section:
 - 1. The wholesaler or retailer shall transport alcoholic beverages directly to the location of the consumer education seminar no more than 24 hours prior to the time reported to the Commission for the start of the consumer education seminar.
 - 2. All unsealed or otherwise opened containers of alcoholic beverages not consumed during the registered time of a consumer education 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

(Rule 0100-03-.10, continued)

employee training purposes. No sealed or unsealed containers of alcoholic beverages shall be given, sold or otherwise transferred to persons attending a consumer education seminar, to an on-premises consumption licensee, or to any other person.

3. The wholesaler or retailer shall transport any unopened containers directly back to the licensed retail location within 24 hours of the conclusion of the consumer education 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.
4. 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 education 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 education seminar approved by the Commission.

(6) Metric Net Contents.

- (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 CFR § 4.72.

Authority: T.C.A. §§57-132, 57-136, 57-151, 57-818, 57-1-201, 57-1-209, 57-3-104, 57-3-301, 57-3-303, 57-3-307, 57-3-110, 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. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

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

(1) Manufacturers and Importers Limited to Wholesale Solicitation.

- (a) No manufacturer, importer or representative thereof shall solicit orders in any manner for alcoholic beverages from anyone in the State except those holding wholesale licenses.
- (b) No manufacturer, importer or 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 Rule 0100-06-.03. No manufacturer, importer or representative shall enter the premises of any retailer except in the main salesroom of said establishment.

(Rule 0100-03-.11, continued)

- (c) No manufacturer, importer or 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 whether on or away from the retail premises—except as specifically authorized under Rule 0100-06-.03.
 - (d) Notwithstanding the restrictions contained herein, a manufacturer, importer, or representative thereof may enter the public and non-storage related areas of a retail licensee for the purpose of promoting the products manufactured, imported or represented by manufacturer, importer, or representative, surveying or examining the retail and marketing operations of such retail licensee or examining the advertising displays within the premises of such retail licensee. Such manufacturer, importer, or representative may also provide, orally or in writing, information related to such products to any licensee or employee of such licensee on the retail licensee's premises.
 - (e) Notwithstanding the restrictions contained herein, a manufacturer, importer, or representative thereof may, with the consent the retailer, “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. 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.
- (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 of these regulations to the licensed premises.
 - 2. Arranging stock delivered by his company in retail establishments;
 - 3. Setting up advertising signs or displays as set forth in 0100-03-.05 and 0100-03-.06.
 - 4. Assisting in the conduct of any retailer sponsored consumer education seminar held in accordance with 0100-03-.11(5).
 - (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 of these rules.
 - (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

(Rule 0100-03-.11, continued)

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.
- (3) Retailer Shall Not Solicit at Residence or Place of Business of Consumer.
- (a) No retail licensee or his employee shall solicit orders for alcoholic beverages by any method directed at the residence or place of business of a consumer any place in this State, other than as permitted by 0100-03-.03 or 0100-03-.04.
 - (b) No retail licensee or his employee shall give any consumer anything of value whatsoever except as provided in 0100-03-.07(2), and then only within the licensed premises or as may be permitted in Rule 0100-03-.11(5). Nothing herein shall prohibit a retail licensee from making withdrawals from inventory for donations to any organization that has been recognized as exempt from federal taxes under § 501(c) of the Internal Revenue Code (26 U.S.C. § 501(c)). Upon request, retailers shall present documentation to the Commission agent or representative of such withdrawals.
- (4) Tax Laws Unaffected. No provision of this section 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) Retailer Sponsored Tastings. A retailer 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 education 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 education 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 education 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 education seminar;
 - 2. The sponsors of such consumer education seminar and any supplier or wholesaler involved, either directly or indirectly, with such consumer education seminar;
 - 3. Whether any fee or cost is assessed to the attendees in order to attend the consumer education seminar, and if so, the amount of such fee; and

(Rule 0100-03-.11, continued)

4. Any other relevant information as may be required by the Commission.
 - (c) Written notifications must be submitted to the Commission not less than four (4) calendar days prior to the date of the consumer education seminar. Proof of such written notification shall be available for inspection at the event. Upon approval, the Commission will issue a letter of permission to the retailer which will be valid for no longer than one 24-hour period, subject to the hours set forth in T.C.A. § 57-4-203(d)(1). Such letter of permission must be available for inspection at the event.
 - (d) Failure to comply with the sub-paragraphs (b) and (c) above may result in a violation of this section.
 - (e) No manufacturer or non-resident seller may directly supply any product to a retailer for use at a consumer education 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 education 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 education 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 education 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-.15(1)(a) and 0100-03-.10(6).
 - (f) Any consumer education seminar conducted under this section shall be conducted in accordance with the hour limitations set forth at T.C.A. § 57-4-203(d)(1).
 - (g) A retailer 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 in inform the consumers of the consumer education seminar.
 - (h) A consumer education seminar conducted under this section 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 a consumer education seminar and solicit orders from consumers at the tasting, providing that final sales of wines and alcoholic beverages must be completed within the licensed premises of the retailer.
 - (i) On-premise consumption licensee employees shall not serve, sell, or otherwise dispense any alcoholic beverages not owned outright by such licensee. Any retailer employee and/or representative serving, selling, or otherwise dispensing alcoholic beverages at a consumer education seminar must first obtain a server's permit and such permit must be available for inspection while the consumer education seminar is being conducted. 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 education seminar.
 - (j) If a consumer education 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 education seminar unless such person has received a written invitation, addressed to the invitee.

(Rule 0100-03-.11, continued)

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. §57-818 and 57-1-209. **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. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

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 wine, not in original retail containers.

- (2) Wine May Be Imported In Bulk.

Tennessee licensed wineries and wholesalers may import wine in bulk for the purpose of bottling only. When wine is imported hereunder, it shall be stored on the licensed premises only, in containers approved by the Commission which shall have the right in its discretion to seal such containers and require them to be opened only after notice to the Commission and with its consent.

- (3) Standards of Fill.

All wine bottled in, sold in and shipped into this state shall be in container 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).

Authority: T.C.A. §57-818, 57-3-104, 57-1-209, 67-1-102, 57-3-303, 57-3-307 and 57-1-201. **Administrative History:** Original rule certified June 7, 1974; Repeal filed March 31, 1982; effective July 1, 1982. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

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

- (1) Retail Licensees to Sell Nothing Except Alcoholic Beverages. No retailer or employee thereof shall store, sell or offer for sale on his licensed premises any article or commodity whatsoever except alcoholic beverages or otherwise provided by statute. However, a wholesaler may store, sell or offer for sale those items specifically authorized under T.C.A. §57-3-404 and Chapter 0100-06 of these regulations, and a retailer may store, display and distribute those items authorized under Chapter 0100-06 of these regulations.
- (2) All Licensees Must Keep Records Available Three Years. Each licensee shall keep, for at least three 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

(Rule 0100-03-.13, continued)

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.

- (3) **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 managing partner or corporation officer in active control and management of the business shall be designated to the Commission.
- (4) **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.
- (5) **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.
- (6) **No Wholesaler May Store for Retailer.** No wholesaler shall store alcoholic beverages for a retail dealer without written approval of the Commission.
- (7) **No Retailer May Store for Another Retailer.** No retailer shall store alcoholic beverages belonging to another retail licensee.
- (8) **"Lugs" Prohibited-Pre-Sacking Restricted.**
 - (a) No bottles of alcoholic beverages shall be removed from the delivery case and wrapped into packages for the purposes of resale commonly known as "lugs" on the premises of a licensed wholesaler or retailer, except a packaged "less than case" order delivered by a wholesaler to a retailer will not be construed as a "lug" if accompanied by an invoice. Retailers shall not sell alcoholic beverages to or pre-package alcoholic beverages for bootleggers.
 - (b) Any such "lug" found on the premises of a retailer or wholesaler shall be prima facie evidence of a violation of this regulation.
 - (c) No licensed retailer shall have on hand, in stock or stored in his possession, any alcoholic beverages that have been pre-sacked prior to the actual receipt by such retailer of a specific order therefore. However, notwithstanding the provisions of this paragraph, nothing shall preclude a retailer from pre-sacking an order for personal consumption after being requested to do so by a consumer.
- (9) **Contests Involving Alcoholic Beverages Prohibited.** No manufacturer, wholesaler, 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.

(Rule 0100-03-.13, continued)

- (d) Notwithstanding the foregoing, a manufacturer, wholesaler, or retailer may sponsor or conduct a contest in which alcoholic beverages are offered as prizes, premiums or rewards for their own employees.
- (10) Gift Certificates. Tennessee licensed retailers may sell gift certificates or gift cards to consumers. However, no gift certificate shall be honored, accepted, or sold to anyone under the age of twenty-one or to anyone visibly intoxicated. If a gift certificate is honored, accepted, or sold to anyone under the age of twenty-one or to anyone visibly intoxicated, then such practice will be deemed to be the equivalent of selling alcohol to a minor or selling alcohol to a person visibly intoxicated.
- (11) 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.
- (12) Open Access to Licensed Premises Without Warrant. Immediate access, without a warrant, to all parts of a licensed premise shall at all time be accorded agents or representatives of the Tennessee Alcoholic Beverage.
- (13) 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.
- (14) 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:
 - (a) 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; and
 - (b) The sale and delivery of any such tentative order shall occur on the license premises in a face-to-face purchase.

Authority: T.C.A. §§57-109(g), (1) and (3), 57-818(2), 67-101, 57-132, §57-136, 57-1-201, 57-1-209 and 57-3-104(c)(4). **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. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

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 manner 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 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

(Rule 0100-03-.14, continued)

responsible for such withdrawal. These records shall be retained in accordance with 0100-03-.13(2).

- (c) Broken and deteriorated merchandise (method of handling set forth in 0100-03-.15(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-.6
 - (b) Novelty containers, commonly known as Christmas decanters, must be accepted back upon request in exchange for similar quantity of alcoholic beverage of the same brand and proof in conventional containers by the wholesaler from the retailer and by the 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 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 unsalable. The agent will certify all three copies of the list and forward one copy to the Commission. The wholesaler shall mail another copy to the Miscellaneous Tax Division of the Department of Revenue and retain the third 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 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.

(Rule 0100-03-.14, continued)

- (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 permit issued pursuant to T.C.A. § 57-4-101(g).

Authority: T.C.A. §§57-1-209, 57-3-104(c)(4), 67-1-102, 57-3-303, 57-3-307, and § 1 of Chapter 707 of the Public Acts of 1974. **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. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

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 (1) one 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 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) No Commodity Except Alcoholic Beverages May Be Stored. No part of a licensed premises occupied by a liquor store shall be used as a storeroom for any commodity having no relation to the sale of alcoholic beverages.
- (4) Services Restricted. No retailer within or on his licensed premises shall offer by sign or otherwise to perform any service whatsoever for a consumer except the sale of alcoholic beverages.
- (5) 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 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.
- (6) 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 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 employees of the licensee and shall not be employees 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,

(Rule 0100-03-.15, continued)

- (b) Employ or discharge the employees of the retail establishment,
- (c) Approve advertising, marketing programs of the licensee.

Authority: (1) and (3) - T.C.A. §57-818; (2) - §67-101, §57-132 §57-136 and §57-1-209 and §1 of Chapter 707 of the Public Acts of 1974. **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. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-03-.16 DUAL INTERESTS PROHIBITED.

- (1) Manufacturer and Importer.

No manufacturer or importer, or representative of the same, shall have any kind of interest financial, fixtures, furnishings, stock ownership, loans, gifts, securing loans, guaranteeing payment of any loan, lease of property or participate in the profits, either directly or indirectly, in any wholesaler or any retail on-premise or off-premise liquor establishment in Tennessee.

- (2) Wholesaler or Retailer.

No wholesaler, and no partner, member or person owning stock in a corporation licensed as a wholesaler, and not employee of same, shall have any interest as set forth above in any business licensed as a retailer, and no retailer and no retailer's employee, shall have any such interest in any wholesale establishment.

Authority: T.C.A. §57-818 and 57-1-209. **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. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

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 business and are at all time directly responsible for any act or conduct of 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 or the rules and regulations of the Commission, whether the licensee be present at any such time or not. This section is defined to mean that 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 proceeded against 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 0100-05-.07.
- (3) Avoidance of Tax Liability. Any manufacturer, importers, 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, T.C.A., or who shall violate or in any manner aid or

(Rule 0100-03-.17, continued)

abet or participate in any scheme to violate the local option law, or fails or neglects to comply with any regulations here in before set out, 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, as the Commission in its discretion

Authority: T.C.A. §§57-818, 57-1-201 and 57-1-209 to implement T.C.A. §§ 57-3-302 and 57-3-303.

Administrative History: Original rule certified June 7, 1974. Repeal filed September 9, 1983; effective October 11, 1983. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

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 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 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.
 - (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.

(Rule 0100-03-.17, continued)

- (f) The application for a transfer of a retail liquor license shall follow the procedural requirements prescribed for applications for new licenses contained in regulations 0100-03-.09(9) and 0100-03-.09(10).

- (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. §57-818, 57-1-209, 57-3-104(c)(4) and 57-4-201(a)(2). **Administrative History:** Original rule certified June 7, 1974. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-03-.19 REPEALED.

Authority: T.C.A. §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.

0100-03-.20 REPEALED.

Authority: T.C.A. Section 57-818 to implement T.C.A. Section 57-131, 57-132, 57-701 through 57-707 and 57-1-209. **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.

0100-03-.21 REPEALED.

Authority: T.C.A. §§57-1-209, 57-3-104(c)(4) 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.