

January 5, 2002

Mr. Steve Jones, City Manager
City of Clinton
100 Bowling Street
Clinton, Tennessee 37716

Re: Alcoholic Beverage/On Premise Consumption

Dear Mr. Jones

The City of Clinton has asked MTAS to provide information and technical assistance in developing ordinances for on premise consumption of alcoholic beverages as permitted by state law and approved by referendum.

While I recognize that the recent election for adoption of on premise consumption was close and some opponents may seek ways to challenge the results, the law does not generally permit another election within a twenty-four (24) month period.

State law provides that the State Alcoholic Beverage Commission (ABC) shall administer and enforce laws and regulations relating to on premise sale of alcoholic beverages. The ABC will issue the license and conduct hearings relating to license violations. They are authorized to develop and administer rules and regulations related to the sale of alcoholic beverages. The City's Beer Board will not regulate the provisions and requirements of the license. The Beer Board may, however, upon the suspension of a beer permit, suspend a liquor license for a like period subject to an appeal to the ABC by the license holder.

Alcoholic beverages may not be sold to persons under the age of twenty-one (21) and may not be sold by persons under the age of eighteen (18). Persons selling or serving alcoholic beverages must have a permit from the ABC. Alcoholic beverages may not be sold between the hours of 3:00 a.m. and 8:00 a.m. during Monday through Saturday and may not be sold on Sundays between the hours of 3:00 a.m. and 12:00 noon. Beer sale hours must coincide with the hours of sale for alcoholic beverages as regulated by the ABC regardless of any ordinance to the contrary.

The City of Clinton is authorized under Tennessee Code Annotated, 57-4-301, to levy a privilege tax on private clubs, restaurants, and other establishments that sell alcoholic beverages for on premise consumption. (see attached list of permit fees). This levy is collected by the City.

A gross receipts tax of fifteen (15) percent is levied by the State of Tennessee on all alcoholic beverages sold for consumption on the premises. This fee is collected by the State Department of Revenue on a monthly basis and is distributed as follows:

- (I) Fifty percent (50%) for education. (State)
- (II) Fifty percent (50%) to the local political jurisdiction.

The local amount is further allocated with fifty percent (50%) to education and fifty percent (50%) to the City General Fund.

This distribution provides that seventy-five percent (75%) of the on premise consumption gross receipts tax goes to education.

In addition to the privilege tax and gross receipts tax your City may impose by ordinance an inspection fee upon licensed retailers of alcoholic beverages. The fee shall not exceed eight percent (8%) of the wholesale price of alcoholic beverages supplied by a wholesaler unless your County has a population above 60,000. The inspection fee shall be collected by the wholesaler from the retailer following notice given the wholesaler by your City that an inspection fee has been imposed by ordinance upon the retailer located in your City. The inspection fee shall be collected by the wholesaler at the time of the sale or at the time the retailer makes payment for the delivery of the alcoholic beverage. Each wholesaler making sale to retailers located within your City shall furnish your City a monthly report, which report shall contain a list of alcoholic beverages sold to each retailer located in your City, the wholesale price of the alcoholic beverages sold to each retailer, the amount of tax due, and such other information as may be required by the City. The report, along with the tax amount, shall be furnished to the City not later than the twentieth (20th) of the month following which the sales were made. The wholesaler may deduct five percent (5%) of the fee due your City. Your City will have the authority to audit the records to determine the accuracy of such reports.

While you may not elect to audit annually, you may benefit from an initial audit to insure that the inspection fee procedure is accurate. You may chose to charge less than a eight percent (8%) inspection fee, but it is generally difficult to increase fees at a later date. You may want to incorporate into your ordinance a requirement for retailers to identify wholesalers.

I look forward to our meeting on the eighteenth of January. Please call me if you have questions or comments about this information.

Sincerely

Ron Darden
Municipal Management Consultant