



Dear City Official,

You requested an opinion on the following:

If the City receives a certificate of compliance application that is otherwise satisfactory in all regards, must the City grant a liquor license up to 10 such licenses?

Tennessee Code Annotated § 57-3-104 establishes the powers of the Tennessee Alcoholic Beverage Commission (hereinafter "TABC"). The relevant part of the statute, Tennessee Code Annotated § 57-3-104(c)(1) reads:

(c) The commission shall have and exercise the following functions, duties and powers:

(1) Issue all licenses in respect to, or for the manufacture, importation, bottling, keeping, giving away, furnishing, possession, transportation, sale, and delivery of alcoholic beverages, and to revoke any license whatsoever, the issuance of which is authorized by this chapter.

This language provides that the TABC has the sole authority to issue liquor licenses. Additionally, Tennessee Code Annotated § 57-3-204 reads:

Any person, firm, or corporation desiring to sell alcoholic spirituous beverages, including beer and malt beverages, to patrons or customers, in sealed packages only, and not for consumption on the premises except for conducting tastings pursuant to § 57-3-404(h)(2), shall make application to the commission for a retailer's license, which application shall be in writing and verified, on forms herein authorized to be prescribed and furnished; and the commission may, subject to the restrictions of this chapter, issue such retailer's license.

However, the relevant language in Tennessee Code Annotated § 57-3-208 reads:

a) As a condition precedent to the issuance of a license under § 57-3-204, every applicant for a license under that section shall submit with the application to the commission a certificate signed by the county mayor or chair of the county commission in which the licensed premises are to be located if outside the corporate limits of a municipality or, if within a municipality, from the mayor or a majority of the commission, city council, or legislative body of the municipality, by whatsoever name designated, or if the municipality has no mayor, from the highest executive of the municipality.

(b)(1) The certificate must state:

(A) That the applicant or applicants who are to be in actual charge of the business have not been convicted of a felony within a ten-year period immediately preceding the date of application and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten-year period immediately preceding the date of the application;

(B) That the applicant or applicants have secured a location for the business which complies with all restrictions of any local law, ordinance, or resolution, duly adopted by the local jurisdiction, as to the location of the business;

(C) That the applicant or applicants have complied with any local law, ordinance or resolution duly adopted by the local authorities regulating the number of retail licenses to be issued within the jurisdiction;

(D) Deleted by 2018 Pub. Acts, c. 783, § 14, eff. July 1, 2021.

(E) The certificate remains valid unless there is a change of ownership or location. If either of these events occurs, a new certificate must be obtained prior to renewal.

So, while the TABC issues the licenses for retail package stores, before a license is granted, the applicant must provide the TABC a certificate of compliance signed by either the mayor or a majority of the municipal governing body. The certificate of compliance is required to address only those items enumerated in the statute cited above. I have not found any language in the Tennessee Code that allows a municipality to consider other factors when determining whether to issue a certificate of compliance.

With regard to the provision in the City's municipal code that is relative to the question asked, Title 8, Chapter 1, Section 8-107 of the code reads, "No more than one license may be issued for each 5,000 in population that has been determined by a certified census count." According to the data provided by the U.S. Census Bureau from the 2020 census, your city has a population of over 50,000 residents. I also understand that there are four licensed retail package stores in the City and there are no pending requests for a certificate of compliance. Because of the current population of the City, the language in the municipal code limits the number of retail package store licenses that can be issued by the TABC to 10.

In my opinion, because there is no language in the Tennessee Code that authorizes a municipality to deny a request for a certificate of compliance when all of the criteria set out in Tennessee Code Annotated § 57-3-208(b)(1) is met, the City will not have the authority to deny such a request until the limit included in Title 8, Chapter 1, Section 8-107 of the City's municipal code is met.

Please feel free to call or email with any questions.

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