

November 10, 2014

Town of Woodbury Tennessee  
Mayor Harold J. Patrick  
101 West Water Street  
Woodbury, Tennessee 37190

VIA ELECTRONIC MAIL

Dear Mayor Patrick:

You have asked how the successful referendum to authorize liquor by the drink will affect the hours when beer may be sold for on-premises consumption in an establishment holding both a Woodbury beer permit and Tennessee ABC liquor by the drink license.

Please be advised that T. C. A. § 57-5-113 provides as follows:

**§ 57-5-113. Sale of beer; hours**

Any establishment that is permitted to sell liquor or wine for on-premises consumption pursuant to chapter 4 of this title shall be allowed to sell beer at any time the establishment is legally authorized to sell liquor or wine; provided, that the establishment has lawfully obtained a beer permit from the appropriate jurisdiction.

Accordingly, a Tennessee ABC liquor by the drink licensee holding a Woodbury on-premises beer permit is allowed to sell beer at any time that it is legally authorized to sell liquor and wine, irrespective of the hours of sale set forth in your beer ordinance.

You will be interested in knowing that Tenn. Comp. R. & Regs. 0100-01-.03(2) sets for the hours for the consumption as follows:

(2) Consumption on Licensed Premises. No licensee shall permit alcoholic or malt beverages to be consumed on the licensed premises between the hours of 3 a.m. and 8 a.m. on Monday through Saturday or between the hours of 3 a.m. and 10 a.m. on Sunday unless the local jurisdiction has opted out of the expanded hours. If such is the case, then the consumption and/or sale of alcoholic beverages may begin at 12 noon on Sunday.

So the hours that wine, liquor and beer may be sold and consumed on the licensed premises are:

- Monday – Saturday from 8:00 a.m. to 3:00 a.m.
- Sunday from 10:00 a.m. to 3:00 a.m.

Please be aware that pursuant to the regulation cited above, the town may opt out of the expanded Sunday hours to allow the consumption and sale of wine, alcohol, and beer to commence at 12:00 Noon instead of 10:00 a.m.

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With the passage of the liquor by the drink referendum, the city will likely want to adopt an ordinance to enact a privilege tax as set forth in T.C.A. § 57-4-301 (enclosed). Several examples of ordinances are enclosed to guide you in drafting one for Woodbury:

- Alcoa – Title 8, Chapter 4
- Clinton – Title 8, Chapter 1
- Kingston – Title 8, Chapter 1
- White House – Title 8, Chapter 1

MTAS Legal Consultant Elisha Hodge was consulted in formulating this response.

Please let us know if you have further questions or require further assistance regarding this matter.

Very truly yours,



Jeffrey J. Broughton  
Municipal Management Consultant

Cc: Elisha Hodge

West's Tennessee Code Annotated
Title 57. Intoxicating Liquors (Refs & Annos)
Chapter 4. Consumption of Alcoholic Beverages on Premises (Refs & Annos)
Part 3. Taxes and Fees

T. C. A. § 57-4-301

§ 57-4-301. Privilege taxes; exceptions; legislative intent

Effective: May 13, 2014

[Currentness](#)

(a) It is hereby declared the legislative intent that every person is exercising a taxable privilege who engages in the business of selling at retail in this state alcoholic beverages for consumption on the premises.

(b)(1) Each applicant for an on-premises consumption license shall pay to the commission a one-time, nonrefundable fee in the amount of three hundred dollars (\$300) when the application is submitted for review. Further, once a license is approved, for the exercise of such privilege, the following taxes are levied to be earmarked for and allocated to the commission for the purpose of the administration and enforcement of the duties, powers, and functions of the commission, and are to be paid annually, as follows:

		Effective	
		July 2003	July 2004
(A)	Private club	\$ 300	\$ 500
(B)	Convention center	\$ 500	\$1000
(C)	Premier type tourist resort	\$1500	\$2000
(D)	Historic performing arts center	\$ 300	\$ 150
(E)	Urban park center	\$ 500	\$ 150
(F)	Commercial passenger boat company	\$ 750	\$1250
(G)	Historic mansion house site/Historic inn	\$ 300	\$ 150
(H)	Historic interpretive center	\$ 300	\$ 150

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(I)	Community theater	\$ 300	\$ 150
(J)	Zoological institution	\$ 300	\$ 150
(K)	Museum	\$ 300	\$ 150
(L)	Establishment in a terminal building of a commercial air carrier airport	\$1000	\$1500
(M)	Commercial airline travel club	\$ 500	\$1000
(N)	Public aquarium	\$ 300	\$ 150
(O)	Motor speedway	\$1000	\$2000
(P)	Sports facility	\$1000	\$2000
(Q)	Theater	\$ 300	\$ 150

Further, for the exercise of such privilege, the following taxes are hereby levied to be earmarked for and allocated to the commission for the purpose of administration and enforcement of the duties, powers, and functions of the commission, and are to be paid in accordance with the following schedule:

(R) Restaurant, according to seating capacity, on licensed premises:

(i) 40--74 seats \$ 650

(ii) 75--125 seats \$ 750

(iii) 126--175 seats \$ 925

(iv) 176--225 seats	\$ 975
(v) 226--275 seats	\$1100
(vi) 276 seats and more	\$1200

Wine-only restaurant, according to seating capacity on licensed premises:

	July 2003	July 2004	July 2005	July 2006
(vii) 40--125 seats	\$ 120	\$ 170	\$ 220	\$ 270
(viii) 126--175 seats	\$ 150	\$ 200	\$ 250	\$ 300
(ix) 176--225 seats	\$ 160	\$ 210	\$ 260	\$ 310
(x) 226--275 seats	\$ 180	\$ 230	\$ 280	\$ 330
(xi) 276 seats and more	\$ 200	\$ 250	\$ 300	\$ 350

(S) Caterers:

July 2003	July 2004	July 2005	July 2006
\$ 500	\$ 550	\$ 575	\$ 625

(T) Hotels, according to room capacity, on licensed premises:

July 2003	July 2004	July 2005	July 2006
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	(i) 0--99 rooms	\$1000	\$1000	\$1000	\$1000
	(ii) 100--399 rooms	\$1000	\$1000	\$1200	\$1250
	(iii) 400 rooms and over	\$1000	\$1200	\$1400	\$1500
(U)	Retirement center				\$ 150
(V)	Civic arts center				\$ 150
(W)	Limited service restaurant, based on the gross sales of prepared food:				
	(i) At least 30% of gross sales				\$2,000
	(ii) At least 20% but not more than 30% of gross sales				\$3,000
	(iii) At least 15% but not more than 20% of gross sales				\$4,000
	(iv) 0% but not more than 15% of gross sales				\$5,000

(2) Each county or municipality within which such privilege is exercised is authorized to levy and collect the privilege tax separately. However, such privilege tax collected by the county or municipality will remain at the 2003 level and any monetary increase of the privilege tax in fiscal years beginning July 1, 2004, and thereafter, as provided in this subsection (b) will be solely used for the purpose of the administration and enforcement of the duties, powers, and functions of the Tennessee alcoholic beverage commission; provided, however, that in any county where metropolitan government prevails, the urban service district shall constitute the municipality and the general service district shall constitute the county insofar as this chapter is concerned.

(3) Notwithstanding subdivision (b)(1)(E) to the contrary, “urban park centers” under [§ 57-4-102\(38\)\(G\)-\(K\)](#) shall pay an annual privilege tax of four thousand dollars (\$4,000) to be earmarked for and allocated to the commission for the purpose of administration and enforcement of the duties, powers, and functions of the commission.

(c) In addition to the privilege taxes levied in subdivision (b)(1), there is further levied a tax equal to the rate of fifteen percent (15%) of the sales price of all alcoholic beverages sold for consumption on the premises, the tax to be computed on the gross sales of alcoholic beverages for consumption on the premises for the purpose of remitting the tax due the state, and to include each and every retail thereof.

(d) Commercial airlines, paddlewheel steamboat companies and passenger trains shall, in lieu of taxes levied under subsections (b) and (c), pay annually to the state, for state purposes, a license fee of twelve hundred fifty dollars (\$1250). Commercial airlines, paddlewheel steamboat companies and passenger trains which have paid the annual license fee under this section may bring into and store in this state alcoholic beverages on which the Tennessee alcoholic beverage taxes levied under § 57-3-302, have not been paid, but must comply with subdivisions (d)(1) and (2):

(1) Commercial airlines, paddlewheel steamboat companies and passenger trains that bring into, or possess in this state alcoholic beverages on which taxes levied by this state have not been paid are liable for such taxes on the alcoholic beverages;

(2) The liability of commercial airlines, paddlewheel steamboat companies and passenger trains for taxes levied under § 57-3-302, is determined by multiplying the:

(A) Quantity of each type of alcoholic beverage purchased within the operating system of each commercial airline, paddlewheel steamboat company or passenger train by the ratio of its revenue passenger miles in Tennessee to the total revenue passenger miles within its system; and

(B) Respective results obtained under subdivision (d)(2)(A), by the applicable tax rate for each type under § 57-3-302, and the rules and regulations promulgated pursuant thereto;

(3) Monthly reports of the liability, determined under subdivision (d)(2), shall be submitted to the department of revenue on forms designated by the commissioner, on or before the last day of each month following the month during which any tax liability arises under this subsection (d). A commercial airline, paddlewheel steamboat company or passenger train that fails to file the report required, or to pay the tax payable under this section in a timely manner as defined by rules and regulations promulgated by the department, is liable for interest and penalties as provided by law; and

(4) This subsection (d) does not apply to commercial airline travel clubs.

(e) No tax authorized or imposed by this section shall be levied or assessed from any charitable, nonprofit, or political organization selling alcoholic beverages at retail pursuant to a special occasion license.

(f) A restaurant, hotel, or caterer licensed under this chapter may obtain a catering license upon the payment of an additional privilege tax in accordance with subdivision (b)(1)(S), for state purposes, to be paid annually.

(g) A special historic district authorized to serve wine under § 57-4-101 shall pay an annual privilege tax of one hundred dollars (\$100) for the privilege of serving wine within such district.

### Credits

1967 Pub.Acts, c. 211, § 3; 1972 Pub.Acts, c. 682, § 5; 1972 Pub.Acts, c. 756, § 6; 1979 Pub.Acts, c. 284, § 1; 1979 Pub.Acts, c. 401, § 5; 1980 Pub.Acts, c. 898, § 3; 1981 Pub.Acts, c. 404, § 5; 1981 Pub.Acts, c. 475, § 5; 1983 Pub.Acts, c. 52, § 6; 1983 Pub.Acts, c. 300, § 5; 1983 Pub.Acts, c. 469, § 8; 1984 Pub.Acts, c. 975, § 8; 1986 Pub.Acts, c. 899, § 9; 1987 Pub.Acts, c. 444, §§ 10, 11; 1991 Pub.Acts, c. 219, § 2; 1992 Pub.Acts, c. 674, § 8; 1998 Pub.Acts, c. 795, § 4, eff. April 23, 1998; 2001 Pub.Acts, c. 64, § 3, eff. April 11, 2001; 2001 Pub.Acts, c. 74, § 5, eff. April 11, 2001; 2001 Pub.Acts, c. 84, § 3, eff. April 11, 2001; 2004 Pub.Acts, c. 544, § 3, eff. April 22, 2004; 2004 Pub.Acts, c. 876, §§ 7 to 10, eff. July 1, 2004;

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§ 3, eff. July 1, 2005; 2009 Pub.Acts, c. 168, § 1, eff. May 7, 2009; 2010 Pub.Acts, c. 647, § 3, eff. March 22, 2010; 2010 Pub.Acts, c. 1133, § 4, eff. June 30, 2010; 2012 Pub.Acts, c. 790, §§ 3, 4, eff. April 23, 2012; 2013 Pub.Acts, c. 371, § 2, eff. May 6, 2013; 2014 Pub.Acts, c. 915, § 1, eff. May 13, 2014.

Notes of Decisions (13)

T. C. A. § 57-4-301, TN ST § 57-4-301  
Current through end of the 2014 Second Reg. Sess.

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