

SENATE BILL 837

By Ketron

AN ACT to amend Tennessee Code Annotated, Title 2 and
Title 57, relative to alcoholic beverages.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 57, Chapter 3, is amended by adding
the following sections as a new part thereto:

57-3-801.

(a)

(1) This part shall be effective in any jurisdiction that authorizes the sale
of wine in retail food stores in a referendum in the manner prescribed by § 57-3-
106; provided, however, that a jurisdiction must have held and passed a
referendum authorizing retail package stores or held and passed a referendum
authorizing the sale of alcoholic beverages for consumption on the premises prior
to holding a referendum authorized under this part 8.

(2)

(A) Except as provided in subdivision (a)(2)(B), if the county
election commission receives the necessary petition requesting the
referendum not less than forty-five (45) days before the date on which an
election is scheduled to be held, except for referenda scheduled to be
held with the regular November general election which shall be held
pursuant to § 2-3-204, the county election commission shall include the
referendum question contained in subsection (b) on the ballot.

(B) In counties having a population of not less than eight hundred
twenty-five thousand (825,000) nor more than eight hundred thirty

thousand (830,000), according to the 1990 federal census or any subsequent federal census, if the county election commission receives the necessary petition requesting the referendum not less than thirty (30) days before the date on which an election is scheduled to be held, the county election commission shall include the referendum question contained in subsection (b) on the ballot.

(b) At any such election, the only question submitted to the voters shall be in the following form:

For legal sale of wine at retail food stores in _____
(here insert name of political subdivision).

Against legal sale of wine at retail food stores in _____
(here insert name of political subdivision).

57-3-802.

For purposes of this part, "retail food store" means an establishment where food and food products, alone or in combination with grocery items typically found in grocery or convenience stores, are offered to the consumer and intended primarily for off-premises consumption. "Retail food store" does not include:

- (1) Roadside markets that offer only fresh foods and vegetables;
- (2) Food and beverage vending machines; or
- (3) Establishments selling only tobacco, beer or gasoline.

57-3-803.

(a) Notwithstanding any other law to the contrary, an additional class of licenses allowing the sale of wine at retail food stores is created. These licenses shall be known as "wine at retail food store licenses" and shall be issued by the alcoholic beverage commission; provided, that licenses shall only be issued to a retail food store located in a county or municipality that has authorized the sale of wine at retail food stores by local option election pursuant to § 57-3-801.

(b)

(1) Any person, firm or corporation desiring to sell wine to patrons or customers, in sealed packages only, and not for consumption on the premises shall make application to the commission for a wine at retail food store 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 part 8, issue such retailer's license. If the premises with respect to which the license is sought is owned by a person, firm or corporation not the applicant, the application shall include the name and address of the owner. If the ownership of the premises should change after a license is granted, the licensee shall, within ten (10) days after becoming aware of such change in ownership, notify the commission in writing of the name and address of the new owner.

(2)

(A) Any individual applicant applying for a wine at retail food store license must be twenty-one (21) years of age or older and must not have been convicted of a felony subject to § 57-3-210(c).

(B) The commission may issue a wine at retail food store license to a corporation, limited liability company or partnership doing business in this state.

(c) Any wine sold by the holder of a wine at retail food store license shall not exceed an alcoholic content of eighteen percent (18%) by volume.

57-3-804.

Each applicant for a wine at retail food store license shall pay to the commission a one-time, nonrefundable fee in the amount of four hundred dollars (\$400) when the application is submitted for review. A wine at retail food store license under this section

shall not be issued until the applicant shall have paid to the commission the annual license fee of one thousand one hundred dollars (\$1,100).

57-3-805.

The premises of a wine at retail food store license may be located in a municipality or the unincorporated areas of a county; provided, that such county or municipality has passed a referendum pursuant to § 57-3-801.

57-3-806.

(a) As a condition precedent to the issuance of a license under § 57-3-803, every applicant for a license under that section shall submit with the application to the commission a certificate signed by the county executive 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) The certificate must state:

(1) 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; and further, that in the official's opinion the applicant will not violate any of the provisions of this chapter; and

(2) That the applicant or applicants have secured a location for the business which complies with all zoning laws adopted by the local jurisdiction, as to the location of the business.

(c) Municipalities and counties are not authorized to limit the number of wine at retail food store licenses issued within their jurisdictions.

(d) An applicant may seek review of the denial of a certificate by instituting an action in the chancery court having jurisdiction over the municipality or county within sixty (60) days of the denial.

(e) A failure on the part of the issuing authority to grant or deny the certificate within sixty (60) days of the written application for such shall be deemed a granting of the certificate.

(f) The requirement imposed by this section to submit a certificate shall not be applicable to any applicant if:

(1) The authority of the county or municipality charged with the responsibility to issue the certificate required herein shall have failed to grant or deny the certificate within sixty (60) days after written application for such certificate is filed; or

(2) The applicant submits a final order of a court holding that the denial of the required certificate was unreasonable, as established by subsection (d).

57-3-807.

Laws applicable to the issuance, renewal, suspension, and termination of retailer's licenses issued pursuant to part 2 of this chapter and the regulation of and operation by such license holders shall apply in the same manner to wine at food store licenses and license holders unless this part 8 expressly states otherwise.

57-3-808.

(a) A wine at retail food store license holder engaging in the business regulated under this part 8, or any employee thereof, shall not make or permit to be made any sales to minors or persons visibly intoxicated. Prior to making a sale of wine for off-premise consumption, the adult consumer must present to the license holder or any employee of the license holder a valid, government-issued document, such as a driver's license or other form of identification deemed acceptable to the license holder that includes the photograph and birth date of the adult consumer attempting to make a wine purchase. Persons exempt under state law from the requirement of having a photo identification shall present identification that is acceptable to the license holder. The license holder or employee shall make a determination from the information presented whether the purchaser is an adult. In addition to the prohibition of making a sale to a minor, no sale of wine for off-premises consumption shall be made to a person who does not present such a document or other form of identification to the license holder or any employee of the license holder; however, it is an exception to any criminal punishment or adverse administrative action, including license suspension or revocation, as provided for a violation of this section if the sale was made to a person who is or reasonably appears to be over fifty (50) years of age and who failed to present an acceptable form of identification.

(b) A violation of subsection (a) is a Class A misdemeanor.

57-3-809.

(a) Section 57-3-404(e) and (f) shall not apply to licenses issued pursuant to this part 8.

(b) A retail food store licensed to sell wine under this part 8 shall not be limited to operating one (1) licensed retail food store business in this state.

57-3-810.

(a) A retail food store licensed to sell wine under this part 8 shall not sell, or give away, wine between the hours of three o'clock a.m. (3:00 a.m.) and eight o'clock a.m. (8:00 a.m.) on weekdays, or between the hours of three o'clock a.m. (3:00 a.m.) and twelve o'clock (12:00) noon on Sundays.

(b) The commission is authorized to extend the hours of sale to coincide with any extended hours that apply to liquor-by-the-drink. The governing body of any municipality or county which has approved the sale of wine in retail food stores in a referendum may, at any time, opt out of any extension of hours adopted under this section by passage of a resolution. Further, any municipality or county that has opted out may, at a later date, opt in by passage of a resolution.

57-3-811.

(a) The commission shall create a responsible vendor training program for wine at retail food store licensees and retailers licensed pursuant to § 57-3-204 similar to the responsible vendor training program established in chapter 5, part 6 of this title.

(b) Except as provided in subsection (d), each wine at retail food store licensee and retailer licensed in this state shall participate in the responsible vendor training program created under this section as a condition to having and maintaining such license.

(c) Each wine at retail food store licensee and retailer shall pay an annual fee based on the number of certified clerks existing at the time the licensee applies to the commission for certification under the responsible vendor training program. The fee shall be as follows:

- (1) 0-15 certified clerks--\$150;
- (2) 16-30 certified clerks--\$200;
- (3) 31-45 certified clerks--\$250;

- (4) 46-60 certified clerks--\$300;
- (5) 61-100 certified clerks--\$350;
- (6) 101-150 certified clerks--\$400;
- (7) 151-200 certified clerks--\$450; and
- (8) \$50 for each additional 50 certified clerks over 200.

(d) The commission shall not require any licensee to participate or pay fees for both the responsible vendor training program created in this section and the program established in chapter 5, part 6 of this title. Participation in either program shall be deemed sufficient compliance.

SECTION 2. Tennessee Code Annotated, Section 57-3-404(b), is amended by deleting the language “a licensed retailer,” and by substituting instead “a licensed retailer or retail food store licensed to sell wine pursuant to part 8 of this chapter”.

SECTION 3. Tennessee Code Annotated, Section 57-3-304(b), is amended by deleting the language “a licensed retailer,” and by substituting instead “a licensed retailer or retail food store licensed to sell wine pursuant to part 8 of this chapter”.

SECTION 4. Tennessee Code Annotated, Title 57, Chapter 1, Part 1, is amended by adding the following language as a new, appropriately designated section:

57-1-1___. As used in §§ 57-1-110, 57-3-406(b), (c), (d), (f) and (g), and 57-4-302, “licensed retailer” or “retailer” shall be construed to include and apply to retail food stores which have been issued a wine at food store license.

SECTION 5. Tennessee Code Annotated, Section 57-3-201, is amended by adding the following as a new subdivision thereto:

- (9) Wine at retail food store license

SECTION 6. Tennessee Code Annotated, Section 57-3-501(a)(1), is amended by deleting the language "located within such municipality" substituting instead the language "or upon wine at retail food store licensees located within such municipality".

SECTION 7. Tennessee Code Annotated, Section 57-3-406, is amended by deleting subsection (d) and substituting instead the following:

(d)

(1) A retailer or any employee thereof shall not make or permit to be made any sales to minors. Prior to making a sale of alcoholic beverages for off-premise consumption, the adult consumer must present to the retailer or any employee of the retailer a valid, government-issued document, such as a driver's license or other form of identification deemed acceptable to the retailer that includes the photograph and birth date of the adult consumer attempting to make an alcoholic beverage purchase. Persons exempt under state law from the requirement of having a photo identification shall present identification that is acceptable to the retailer. The retailer or employee shall make a determination from the information presented whether the purchaser is an adult. In addition to the prohibition of making a sale to a minor, no sale of alcoholic beverages for off-premises consumption shall be made to a person who does not present such a document or other form of identification to the license holder or any employee of the license holder; however, it is an exception to any criminal punishment or adverse administrative action, including license suspension or revocation, as provided for a violation of this section if the sale was made to a person who is or reasonably appears to be over fifty (50) years of age and who failed to present an acceptable form of identification.

(2) A violation of subdivision (d)(1) is a Class A misdemeanor.

SECTION 8. This act shall take effect January 1, 2014, the public welfare requiring it.