



July 22, 2024

Distilleries

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Distilleries

Reference Number: CTAS-2117

Distilleries for the manufacture of intoxicating liquors can be permitted in counties in two ways: (1) by voter referendum; or (2) without a voter referendum, if either of the following circumstances exist:

- (A) Both retail package sales and consumption of alcoholic beverages on the premises have been approved through voter referendum of the voters in any jurisdiction(s) located within the county; or
- (B) The county is included in the Tennessee River resort district and retail package sales have been approved through voter referendum of the voters in any jurisdiction(s) located within the county.

Distilleries By Referendum

Tenn. Code Ann. § 57-2-103 generally governs the manufacture of intoxicating liquors in Tennessee. Under that statute, the manufacture of intoxicating liquors is permitted in any county where the majority of voters have, by referendum, approved a resolution permitting it within the county. Tenn. Code Ann. § 57-2-103(a) - (c)

Tenn. Code Ann. § 57-2-103(a) - (c) sets forth the procedure that is followed to determine whether such a referendum may be presented to the voters. If 10% of the qualified voters in a county sign a petition to present the question whether the manufacture of liquor will be permitted within a county, the county commission must call an election on the question. Tenn. Code Ann. § 57-2-103(a) - (b). If a majority of the votes are cast in favor of the question, then the manufacture of liquor is permitted within that county. Tenn. Code Ann. § 57-2-103(c).

Distilleries Without Referendum

However, another procedure is set forth in Tenn. Code Ann. § 57-2-103(d). Notwithstanding subsections (a) - (c), it is lawful to manufacture intoxicating liquors or intoxicating drinks, or both, within the boundaries of:

- (A) A municipality if both retail package sales and consumption of alcoholic beverages on the premises have been approved through referendum of voters within such municipality;
- (B) The unincorporated areas of a county, or a municipality which has a population of less than one thousand (1,000) persons in such county, if any jurisdiction located within such county has approved retail package sales through referendum of voters and any jurisdiction located within such county has approved consumption of alcoholic beverages on the premises through referendum of voters or if the county is included in the Tennessee River resort district as defined in § 57-4-102 and retail package sales have been approved through referendum by the voters in any jurisdiction within such county;
- (C) Any municipality authorized under § 57-4-102(26) to allow facilities or establishments in such municipality to sell alcoholic beverages or wine for on premises consumption;
- (D) Any county or municipality where it was lawful to have manufacturing of intoxicating liquors or intoxicating drinks, or both under this subsection (d) as it read prior to July 1, 2013; or
- (E) Any county that has at least three (3) establishments, located in such county or in any municipality in such county, licensed under § 57-4-102(26) to sell alcoholic beverages for on-premises consumption if such county was included in this subsection (d) as it read prior to July 1, 2013.

Tenn. Code Ann. § 57-2-103(d)(1)(A) - (E).

Resolution to Prohibit Distilleries

Notwithstanding subdivision (d)(1), the county legislative body of any such county may adopt a resolution to remove the unincorporated areas of the county from the application of subsection (d) subject to certain restrictions. The county mayor must notify the Alcoholic Beverage Commission if such action is taken and approved by the county legislative body. Tenn. Code Ann. § 57-2-103(d)(2)(A).

This action may be taken by the county legislative body pursuant to subdivision (d)(2)(A) until a written notification is filed with the county mayor by any person as an official notice that the person intends to pursue all lawful avenues to manufacture intoxicating liquors or intoxicating drinks, or both, within the unincorporated areas of the county. Once the notice is filed, no action may be taken by the county legislative body unless such interest is withdrawn or the person's application to manufacture such intoxicating liquors or intoxicating drinks, or both, is denied by the state or federal government. Tenn. Code Ann. § 57-2-103(d)(2)(B). NOTE: Pursuant to Public Chapter 445, a written notification as described

above may not be filed with the county mayor until at least 45 days after July 1, 2013.

If a county adopts a resolution pursuant to subdivision (d)(2)(A), the county may at a later date adopt a resolution reversing such action. The county mayor must notify the Alcoholic Beverage Commission if such action is taken and approved. Tenn. Code Ann. § 57-2-103(d)(2)(c).

Sample Distilleries Resolution

Reference Number: CTAS-2119

SAMPLE

RESOLUTION TO REMOVE THE UNINCORPORATED AREAS OF THE COUNTY FROM THE APPLICATION OF T.C.A. § 57-2-103(d).

WHEREAS, *Tennessee Code Annotated*, Section 57-2-103(d)(2)(A), authorizes the County Legislative Body to adopt a resolution to remove the unincorporated areas of the county from the application of T.C.A. § 57-2-103(d), relative to manufacturing of alcoholic beverages; and

WHEREAS, it is in the best interests of the citizens of this county that such action be taken;

NOW THEREFORE BE IT RESOLVED by a vote of the _____ County Legislative Body meeting in _____ session at _____, Tennessee on this the ____ day of _____, 20____, that:

SECTION 1. By action of the County Legislative Body, the unincorporated areas of the _____ County, in accordance with T.C.A. § 57-2-103(d)(2)(A), are hereby removed from the application of T.C.A. § 57-2-103(d).

SECTION 2. The County Mayor shall notify the Alcoholic Beverage Commission that this action has been taken and approved.

SECTION 3. The resolution shall take effect upon passage, the public welfare requiring it.

Adopted this _____ day of _____, 20_____.

APPROVED:

County Mayor

ATTEST:

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