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The County Beer Board

Dear Reader:

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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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The County Beer Board

Reference Number: CTAS-338

The county legislative body may, but is not required to, appoint a committee (known as the "beer board") to administer the laws relating to the sale of beer in the county. If the county legislative body does not appoint a beer board, the county legislative body acts as the beer board. The beer board is authorized to act on behalf of the county in all matters relative to the administration of the beer laws. However, the county legislative body retains the sole authority to adopt distance rules or to extend hours for the sale of beer. T.C.A. § 57-5-105. A county beer board has the same discretionary power in the issuance and revocation of beer permits as the county legislative body which appoints it. Attorney General Opinion 82-325 (6/24/82). Sample resolution establishing a beer board.

Board Membership

Reference Number: CTAS-339

The statutes do not establish who will serve on the beer board, how many members the board will have, a term of office for board members or whether the members of the board will be compensated for their time. If the county legislative body chooses to establish a county beer board, there should be a resolution of the county legislative body setting out specific information concerning the appointment procedure, qualifications of members, term of office, compensation and other necessary guidelines for the board. A county beer board serves at the will and pleasure of the county legislative body which appointed it; therefore, the county legislative body has the power to discharge the board and replace its members. Attorney General Opinion 82-325 (6/24/82). While there is no prohibition against a member of a county beer board obtaining or holding a license to sell beer, the Attorney General has opined that it is "undesirable" for a beer board member to obtain a beer permit as it presents an appearance of impropriety. Attorney General Opinion 84-209 (6/27/84).

Board Authority

Reference Number: CTAS-340

Once appointed, the county beer board may exercise the same discretion as the county legislative body to grant, deny, suspend or revoke permits to sell beer, and to impose civil penalties, within the limits of the authority granted by the statutes (and any distance rules or extended hours of operation which may have been established by resolution of the county legislative body). In discussing the exercise of such discretion, the courts make no distinction between the county legislative body and the county beer board. State *ex rel. Simmons v. Latimer*, 186 Tenn. 577, 212 S.W.2d 386 (1948). However, the beer board is not authorized to establish distance rules or to extend the hours for the sale of beer; this authority may be exercised only by resolution of the county legislative body. T.C.A. § 57-5-105.

The county legislative body is authorized to impose training or certification restrictions or requirements on employees of beer permit holders. Only the county legislative body, and not the beer board, is authorized to impose these requirements. These requirements cannot be applied to any employee who holds a valid server permit issued by the ABC under Title 57, Chapter 3, Part 7 (the Alcohol Server Responsibility and Training Act of 1995). T.C.A. § 57-5-105(j). Once these requirements have been established by resolution of the county legislative body, the beer board has the authority to administer the provisions of the resolution within the limits of the authority granted by the resolution. However, counties have no authority to impose a tax or fee on servers or sellers of beer, for training or for any other purpose, except as expressly provided by state law. Attorney General Opinions U96-009 (2/8/96) and 97-077 (5/21/97).

A county beer board has the authority to conduct investigations of beer permit holders. In an unpublished opinion of the Tennessee Court of Appeals, the court found that a beer board was empowered to employ an undercover investigator after the county sheriff had refused to conduct an investigation concerning illegal sales of beer to minors. *Jackson v. Franklin County Beer Board*, 1993 WL 46524 (Tenn. Ct. App. 1993). Relying on this opinion, the Attorney General also opined that the beer board may hire a private investigatory firm to conduct undercover investigations concerning the sale of beer to minors, and that minors may be used in these investigations. Attorney General Opinion 01-062 (4/20/01).

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