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Hours of Operation

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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Reference Number: CTAS-355

The general law provisions regarding the hours of operation for businesses selling beer are found in T.C.A. § 57-5-301. This statute prohibits the sale of beer during the following hours:

1. No beer or like beverage shall be sold between the hours of twelve o'clock (12:00) midnight and six o'clock a.m. (6:00 a.m.), Monday through Saturday;
2. No beer or like beverage shall be sold between the hours of twelve o'clock (12:00) midnight on Saturday and eleven fifty-nine o'clock p.m. (11:59 p.m.) on Sunday (Sunday night).
3. No such beverage shall be consumed, or opened for consumption, on or about any licensed premises, in either bottle, glass, or other container, after twelve fifteen o'clock a.m. (12:15 a.m.).

However, county legislative bodies are authorized to extend the hours for the sale of beer in their counties by resolution. T.C.A. § 57-5-301(b)(1). (Sample resolution to extend hours). The county legislative body has no authority to shorten the hours for the sale of beer. Attorney General Opinion 86-202 (12/19/86). The power to extend the hours for the sale of beer must be exercised by resolution of the county legislative body, and cannot be delegated to the beer board. See Attorney General Opinion 82-325 (also cited 82-186) (6/24/82).

Regardless of the hours established for the sale of beer, any establishment that has a permit from the ABC to sell liquor or wine for on-premises consumption under Title 57, Chapter 4, is allowed to sell beer at any time the establishment is legally authorized to sell liquor or wine, provided that the establishment has obtained a beer permit. T.C.A. § 57-5-113.

The hours for the sale of beer in "clubs" as defined in T.C.A. § 57-4-102 must conform to the hours for sale of liquor by the drink as provided in T.C.A. § 57-4-203(d) and cannot be changed by resolution of the county legislative body. T.C.A. § 57-5-301(b)(1).

In counties that have adopted liquor by the drink by countywide referendum, county legislative bodies may fix the hours for the sale of beer within the county, but these hours have no effect on business establishments selling liquor by the drink. T.C.A. § 57-5-301(b)(4).

In counties that have not adopted liquor by the drink in a countywide referendum but where a municipality in the county has approved liquor by the drink in a referendum, the hours for sale of beer in the entire county are automatically altered to so that the hours for beer sales are the same as the hours established in T.C.A. § 57-4-203(d) for the sale of liquor by the drink, except in other municipalities within the county that have not approved liquor by the drink. T.C.A. § 57-5-301(b)(5) and Attorney General Opinions 86-202 (12/19/86), U94-50 (3/21/94), and 99-187 (9/22/99). If an incorporated municipality is partially located in more than one county, then the hours established by T.C.A. § 57-4-203(d) will apply to each of the counties. Attorney General Opinion 85-7 (1/7/85). The county legislative body is free to extend (but not decrease) the hours for the sale of beer. T.C.A. § 57-5-301(b)(5) and Attorney General Opinion U94-50 (3/21/94).

The hours for sale of liquor by the drink are established in T.C.A. § 57-4-203(d). These hours also apply to the sale of beer in "clubs" as defined in T.C.A. § 57-4-102, and in counties where a municipality has approved liquor by the drink. The hours established by T.C.A. § 57-4-203(d)(1) prohibit the sale of alcoholic beverages in most establishments as follows:

Hotels, clubs, zoological institutions, public aquariums, museums, motels, convention centers, restaurants, community theaters, historic interpretive centers, and urban park centers, licensed as provided herein to sell alcoholic beverages, and/or malt beverages, and/or wine may not sell, or give away, alcoholic beverages and/or malt beverages and/or 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.

The ABC is authorized to extend the hours of sale in jurisdictions which have approved liquor by the drink by referendum. T.C.A. § 57-4-203(d)(5). Under Rule 0100-1-.03(2), the ABC has extended the hours as follows:

- (2) Consumption on Licensed Premises. Except as provided for in 0100-01-.08 below [dealing with terminal buildings of a commercial air carrier], no licensee shall permit alcoholic or malt beverages to be consumed and/or sold 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.

Municipalities and metropolitan governments which have adopted liquor by the drink are authorized to opt out of the extended hours set by the ABC rule and go back to the hours established under the statute. T.C.A. § 57-4-203(d)(5). The hours for sale of beer in the county will be the same as the extended hours set by the ABC rule regardless of whether the city has opted out of those hours, unless the county legislative body by 2/3 vote sets the hours for Sunday beer sales in accordance with T.C.A. § 57-5-301(b)(1) to apply in the county. T.C.A. § 57-4-203(d)(5).

In any jurisdiction that has voted to accept Tennessee River Resort District status under T.C.A. § 67-6-103(a)(3)(F) and is considered a Tennessee River Resort District for purposes of Title 57, Chapter 4, Part 1, the hours for the sale of beer within the district cannot be less than the hours for the sale of liquor and wine for on-premises consumption. T.C.A. § 57-5-301(b)(5)(B).

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