

SENATE BILL 218

By Overbey

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

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

SECTION 1. Tennessee Code Annotated, Section 57-3-308, is amended by deleting the section in its entirety and by substituting instead the following language:

The taxes imposed on high alcohol content beer shall be as provided in § 57-5-201(a)(1).

SECTION 2. Tennessee Code Annotated, Section 57-3-302, is amended by adding the following language as a new subsection:

(c) This section shall not apply to the taxation of high alcohol content beer as defined in § 57-3-101.

SECTION 3. Tennessee Code Annotated, Section 57-2-103, is amended by deleting subdivision (d)(1) in its entirety and by substituting instead the following language:

(d)(1) Notwithstanding subsections (a)-(c), it shall be lawful to manufacture intoxicating liquors or intoxicating drinks, or both, within the boundaries of a municipality if both retail package sales and consumption of alcoholic beverages on the premises have been approved through voter referendum of voters within such municipality and in the unincorporated areas of any county if both retail package sales and consumption of alcoholic beverages on the premises have been approved through voter referendum of voters in any jurisdiction located within the county, 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 voter referendum of voters in any jurisdiction located within the county.

SECTION 4. Tennessee Code Annotated, Title 57, Chapter 3, Part 2, is amended by adding the following language as a new section:

57-3-221.

(a) Upon meeting the necessary federal, state, or local licensing requirements as recognized by this state or another state to brew beer or manufacture high alcohol content beer, any person, firm, or corporation which is in the business of brewing beer or manufacturing high alcohol content beer or both, may apply to the commission for a direct beer shipper's license under this section.

(b) A direct beer shipper, meeting the requirements of this section, shall be authorized to make sales and delivery of beer or high alcohol content beer or both, as defined in §§ 57-5-101 and 57-3-101, by common carrier to the citizens of this state or any other state over the age of twenty-one (21) who have purchased the beer or high alcohol content beer or both directly from the direct beer shipper, subject to the limitations and requirements imposed by this section.

(c) As a condition to the issuance of a direct beer shipper's license as authorized in this section, an applicant for the license must satisfy the following conditions:

(1) Pay to the commission a one-time nonrefundable fee in the amount of three hundred dollars (\$300) when the application is submitted for review. A direct beer shipper's license under this section shall not be issued until the applicant has paid to the commission the annual license fee of one hundred fifty dollars (\$150);

(2) Execute a consent to jurisdiction and venue of all actions brought before the commission, any state agency, or the courts of this state, such that any and all hearings, appeals and other matters relating to the license of the direct beer shipper shall be held in this state; and

(3) Acknowledge, in writing, that it will contract only with common carriers that agree that any delivery of beer or high alcohol content beer or both made in

this state or any other state shall be by face-to-face delivery and that deliveries will only be made to individuals who demonstrate that the individuals are over twenty-one (21) years of age and the individuals sign upon receipt of the beer or high alcohol content beer or both.

(d)

(1) The commissioner is authorized to promulgate rules and regulations to determine the amount of beer or high alcohol content beer or both, that a direct beer shipper may ship to any individual during any calendar month and in any calendar year. All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(2) Any shipment of beer or high alcohol content beer or both pursuant to this section shall be made only in containers that clearly indicate on the exterior of the container, visible to a person at least three feet (3') away, that the container "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY".

(e)

(1) A direct beer shipper shall be responsible for remitting all sales taxes due resulting from any sale made under this section. In addition to all sales taxes imposed upon such sale, a direct beer shipper shall remit the gallonage tax as imposed by § 57-3-302 on high alcohol content beer and the barrel tax imposed by § 57-5-201 for beer.

(2) The taxes levied on sales made by a direct beer shipper as authorized by this section shall become due and payable on the first day of each month following the month during which the sales occur, and shall become

delinquent if not paid on or before the twentieth day of each such following month. For the purpose of ascertaining the amount of tax due, it is the duty of any direct beer shipper licensed pursuant to this section to transmit to the commissioner of revenue appropriate returns on forms prescribed by the commissioner.

(3) Upon request of the commission or its designated agent, any direct beer shipper licensed pursuant to this section shall provide to the commission, under penalty of perjury, a list of any beer or high alcohol content beer or both shipped to an address within this state, including the addressee.

(4) The commission may enforce the requirements of this section by administrative action, may suspend or revoke a direct beer shipper's license and may accept an offer in compromise in lieu of suspension.

(5) A direct beer shipper that is found to have violated this title, in addition to any fine imposed by the commission, shall reimburse the commission for all costs incurred in connection with the investigation and administrative action, including the out-of-pocket costs and reasonable personnel costs.

(6) No direct beer shipper may avoid liability under this section by subcontracting with a third party to perform its obligations required pursuant to this section.

(f) The commission and the department of revenue are authorized to promulgate rules and regulations that may be necessary to implement this section, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(g)

(1) It is an offense for a person who does not possess a direct beer shipper's license to ship beer or high alcohol content beer or both to residents of this state or any other state.

(2) A violation of subdivision (g)(1) is a Class E felony, punishable by a fine only.

SECTION 5. Tennessee Code Annotated, Section 57-3-201, is amended by adding the following language as a new appropriately designated subdivision and by renumbering subsequent subdivisions accordingly:

() Direct beer shipper's license;

SECTION 6. Tennessee Code Annotated, Section 57-3-402(b), is amended by deleting the language "Except as provided in § 57-3-217" and by substituting instead the language "Except as provided in §§ 57-3-217 and 57-3-221".

SECTION 7. For purposes of rulemaking, this act shall take effect upon becoming a law, the public welfare requiring it; for all other purposes this act shall take effect July 1, 2013, the public welfare requiring it.