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Classification of Counties

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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Classification of Counties

Reference Number: CTAS-335

Tennessee counties are classified into two categories for the purpose of licensing, regulating and controlling the transportation, storage, sale, distribution, possession, receipt and manufacture of beer. Class A includes all counties which are not governed by metropolitan governments. Class B includes those counties which are governed by metropolitan governments (currently, only Davidson, Moore, and Trousdale counties). T.C.A. § 57-5-103(b).

Authority of Cities and Class B (Metropolitan Government) Counties

Reference Number: CTAS-336

Cities and Class B counties are authorized to pass ordinances governing the issuance and revocation or suspension of licenses for the storage, sale, manufacture and distribution of beer within their corporate limits, and within the general services district of Class B counties outside the limits of any smaller cities. Cities and Class B counties may impose restrictions in addition to those set out by statute, fix zones and territories, provide hours of operation and impose other rules and regulations to promote public health, morals and safety. Cities and Class B counties may authorize the sale of beer in hotel and motel rooms and in clubs and lodges. T.C.A. § 57-5-106. Cities and Class B counties have extensive authority to regulate the sale of beer, which includes the authority to limit the number and location of retail outlets. See, e.g., *State ex rel Amvets Post 27 v. Beer Board*, 717 S.W.2d 878 (Tenn. 1986). The powers of cities and Class B counties to regulate the sale of beer extends even to the extent of prohibition. *Ketner v. Clabo*, 225 S.W.2d 54 (Tenn. 1949). Cities and Class B counties may establish different distance requirements for the sale of beer in different, well-defined sections of their jurisdictions. Attorney General Opinion 02-092 (8/28/02).

Authority of Class A Counties

Reference Number: CTAS-337

Tennessee Code Annotated § 57-5-105 sets out the requirements an applicant must meet in order to obtain a beer permit from a Class A county. This statute also sets out the limited power of a Class A county to impose restrictions on the issuance of permits. The Tennessee Supreme Court has summarized the lack of authority of Class A counties to impose any additional conditions or restrictions as follows:

A county beer board must issue a license to anyone who meets the requirements laid out in this section, and they may not prescribe conditions for the issuance of a permit in addition to those set out in the statute. *Howard v. Willocks*, 525 S.W.2d 132 (Tenn. 1975).

Class A counties must look exclusively to the statutes and the case law explaining the statutes to determine the limits of their authority to regulate the issuance and revocation of permits to sell beer. Attorney General Opinion U91-51 (4/9/91). Class A counties have no authority to set any requirements in addition to those contained in the statutes. For example, the Attorney General has opined that a Class A county has no authority to prohibit the sale of cold beer at convenience stores and grocery stores. Attorney General Opinion 05-024 (3/14/05).

Class A counties are authorized to review applications for beer licenses and must grant any application which meets the statutory requirements. T.C.A. § 57-5-105(e). The statutes allow county legislative bodies to adopt resolutions establishing "distance rules" which prohibit the issuance of a permit for an establishment to sell beer within 2,000 feet of schools, churches or other places of public gathering, or prohibit the sale of beer within 300 feet of residential dwellings in accordance with the guidelines outlined in the statute. Class A counties also may refuse to issue a beer permit if the issuance would interfere with public health, safety, and morals. T.C.A. § 57-5-105(b)(1).

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