

The Tennessee Responsible Vendor Act of 2006

relative to the sale of beer for off-premises consumption

The Tennessee Responsible Vendor Act of 2006 went into effect July 1, 2007. It was enacted last year by the General Assembly as Public Chapter 864 to curb the sale of beer to minors. The provisions related to the Responsible Vendor Program are codified in T.C.A. § 57-5-601 *et seq.* The provisions concerning identification required for purchasing beer and penalties for sales of beer to minors are codified in other parts of Title 57, Chapter 5, of the Tennessee Code Annotated as noted below. The full text of this law is available on the Web site of the Tennessee Secretary of State: <http://tennessee.gov/sos/acts/104/pub/pc0864.pdf>.

- IDENTIFICATION REQUIRED FOR ALL OFF-PREMISES BEER SALES. Adults purchasing beer for off-premises consumption, regardless of age, must present a valid, government-issued form of identification that contains a photo (unless the person is exempt under state law from the requirement of having a photo ID) and the birth date of the consumer. Beer cannot be sold to anyone who does not present this ID. This requirement is separate from the Responsible Vendor Program; it applies to all vendors regardless of whether they have elected to become a “Responsible Vendor.” This provision is codified in T.C.A. § 57-5-301(a)(1), and is effective until July 1, 2008.
- RESPONSIBLE VENDOR CERTIFICATION PROGRAM. Under T.C.A. § 57-5-606, the Tennessee Alcoholic Beverage Commission (ABC) will certify a beer vendor as a “Responsible Vendor” upon compliance with the following:
 - All clerks who sell beer for off-premises consumption must successfully complete a responsible vendor training program and become certified within 61 days after being employed by the vendor, and the vendor must verify with the ABC prior to employing a clerk that the clerk is eligible for certification.
 - Each clerk must be issued a name badge with the clerk’s first and last name clearly visible, and must wear the badge at all times while on duty.
 - The vendor must provide employees with instruction approved by the ABC which includes the laws regarding the sale of beer for off-premises consumption, methods for recognizing and dealing with underage customers, and procedures for refusing to sell beer to underage customers and for dealing with intoxicated customers.
 - The vendor must require all certified clerks to attend at least one annual meeting at which the vendor disseminates updated information prescribed by the ABC.
 - The vendor must maintain employment and training records.

- RESPONSIBLE VENDOR SIGNAGE. Responsible Vendors are required to post signs on their premises informing customers of their policy against selling beer to underage persons. These signs must be at least 8½" x 11" and must contain the following language: "STATE LAW REQUIRES IDENTIFICATION FOR THE SALE OF BEER."

- ABC FEES. The ABC charges the following fees in connection with the administration of the Responsible Vendor program:

Annual fee for entities approved to conduct Responsible Vendor training	\$ 35
Annual fee for Responsible Vendors	
0 - 15 certified clerks	\$ 25
16 - 49 certified clerks	\$ 75
50 - 100 certified clerks	\$150
Over 100 certified clerks	\$250

- PROVISIONS AFFECTING BEER BOARDS. The following provisions of the new act relate to the operation of the beer board:
 - If the beer board finds that any off-premises beer permit holder made a sale to a minor, the beer board must report the name of the clerk who made the sale to the ABC within 15 days of finding that the sale occurred. The clerk's certification is invalidated and the clerk cannot reapply for one year from the date of the beer board's determination. The ABC will notify the Responsible Vendor of their certified clerks who have lost their certification within 15 days after notification by the beer board (and the Responsible Vendor cannot allow these clerks to sell beer). See T.C.A. § 57-5-607.
 - The beer board cannot suspend or revoke a Responsible Vendor's beer permit based on the sale of beer to a minor if the clerk who sold the beer was certified and attended annual meetings since the certification, or was within the 61-day period after employment. However, the ABC will revoke the Responsible Vendor's certification if the vendor knew or should have known about the violation, or participated in or committed the violation, and the beer board may then impose penalties as if the vendor had not been certified as a Responsible Vendor. Also, the ABC will revoke the vendor's Responsible Vendor certification for a period of three years if there are two violations within a 12-month period. See T.C.A. § 57-5-608.
 - Penalties that may be imposed on Responsible Vendors for violations involving the sale of beer to minors are lower than those for vendors who do not participate in the program. A Responsible Vendor's permit cannot be revoked or suspended for a clerk's illegal sale of beer to a minor as long as the Responsible Vendor and the clerk were in compliance with the act; a civil penalty not exceeding \$1,000 may be imposed instead. See T.C.A. § 57-5-108(a)(1)(A).
 - Vendors who are not in compliance with the responsible vendor program are subject to suspension or revocation of their beer permit for the sale of beer to minors. These non-complying vendors may be offered the alternative of paying a civil penalty not exceeding \$2,500 for each sale to a minor, or a penalty not exceeding \$1,000 for any other offense. See T.C.A. § 57-5-108(a)(1)(B).
 - Permanent revocation of beer permits can only be imposed when the permit holder has at least two violations within a 12-month period. Revocation of beer permits applies only to the permit holder and only at that location; penalties

cannot be applied to other beer permits held by the permittee at other locations. Revocation at one location should not be the sole disqualifying factor when considering issuance of beer permits at different locations. See T.C.A. § 57-5-108(a)(1).

- PROVISIONS AFFECTING LAW ENFORCEMENT. Criminal prosecutions for unlawful sales of beer for off-premises consumption to underage persons as a result of a sting operation using a person under the age of 21 cannot be commenced unless the person or law enforcement officer supervising the person used in the sting operation obtains the name of the permit holder and the employee of the permit holder from whom the beer was purchased or attempted to be purchased. The law enforcement officer is required to notify the permit holder in writing within 10 days of the sting that the action occurred, giving the name of the permit holder and the employee involved, and whether the person was successful in making the purchase.