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Tennessee Grocers & Convenience Store Association

## **"TENNESSEE RESPONSIBLE VENDOR ACT OF 2006"**

### **OVERVIEW:**

The Responsible Vendor Act goes into effect July 1, 2007.

The Tennessee Responsible Vendor Act of 2006 (SB3316 by Senator Joe Haynes/HB3210 by Representative Gary Moore), which passed the Tennessee General Assembly in 2006, is an innovative and strong step in the fight against underage drinking. The mandatory ID provision of this law is the first of its' kind in the country and establishes Tennessee as a national leader on the underage issue.

There are two major components to this law. First, it will be mandatory for anyone purchasing beer for off-premise consumption to present identification. Secondly, it establishes a voluntary "Responsible Vendor Program" which will be administered by the Tennessee Alcoholic Beverage Commission. Retailers choose to become a "Responsible Vendor" and are not required to do so. To become a "Responsible Vendor" a retailer will be required to have each of their clerks complete a server training course approved by the ABC. The law gives the ABC authority over the training requirements while local beer boards maintain their authority over all aspects of the beer permit process.

Civil penalties against Responsible Vendors for underage sales will differ from retailers that are not certified. Non-participating retailers face suspension, revocation or an increased fine of up to \$2,500 for each underage sale violation while Responsible Vendors face a fine up to \$1,000 for each underage sale violation. There are "bad actor" provisions in the law including removal from the Responsible Vendor Program if a retailer has two underage sale violations in any 12 month period.

The Responsible Vendor Act sends the clear message that Tennessee is serious about eliminating underage drinking. The mandatory ID provision, which makes Tennessee a national leader on this issue, along with the clerk training provisions, combine to

create a comprehensive approach to this important issue.

**SUMMARY:**

**Mandatory ID:** This is mandatory for all retailers selling beer even if they choose not to be a “Responsible Vendor” Prior to making a sale of beer for off-premise consumption, the consumer must present a valid identification. Valid identification means government issued identification that includes photograph and that has not expired. Such identification includes drivers licenses, military identification, passports and permanent resident cards.

**Required Sign:** Retailers must post signs that are at least 8-1/2" x 11" and contain the following language:

STATE LAW REQUIRES IDENTIFICATION FOR THE SALE OF BEER

**Sunset Provision:** The law is effective July 1, 2007. The mandatory carding provision will sunset or expire on July 1, 2008. Tennessee will be the first state in the country to require ID for off-premise beer purchase regardless of age, so there was no other law in the country to study or use as a model. Therefore, the sunset provision was included in case there was staunch public opposition to the mandatory carding. However, it's anticipated that the public will acclimate to the requirement quickly and the sunset provision will be removed during the 2008 legislative session thus making the mandatory carding requirement permanent law.

**Responsible Vendor Program:** This optional program will be administered by the Tennessee Alcoholic Beverage Commission. To qualify for Responsible Vendor Status, the retailer shall require every clerk to successfully complete a responsible vendor training program, approved by the ABC, within 61 days of commencing employment. Upon completion of the training the clerk will receive a certificate of completion which must be maintained by the retailer. Each clerk shall be issued a name badge by the responsible vendor employer which they must wear at all times they are on duty.

**Training Programs:** All Responsible Vendor Training Programs must be approved by the ABC. Responsible vendors may have their own in-house training programs certified by the ABC for an annual

fee of \$35.00, or send their employees to any training program certified by the commission.

**Training Criteria:** The instruction provided for clerks shall be approved by the ABC and include:

1. The effect of alcohol on the human body focusing on these elements:
  - The behavioral effects of alcohol:  
i.e., decrease in reaction and decision making capability;
  - Interaction and combined effects of mixing alcohol with legal and/or illegal drugs; and
  - Identification of possible intoxicated customers.
2. Identifying situations in which clerk intervention is appropriate.
3. Handling situations and people in a non-confrontational manner and identifying when support from co-workers is necessary.
4. Suggested responses by clerks to situations involving intoxicated and/or underage persons.
5. A review of current Tennessee laws, rules, and regulations promulgated by the Commission relating to the sale beer and/or malt beverages and the Responsible Vendor Act.
6. A review of appropriate identification including acceptable driver's licenses, military identification, passports, and other government issued photo identification cards; and
7. A review of how to identify fake and/or altered identifications as described above
8. Advising attendees that local ordinances may exist affecting the sale of alcoholic and malt beverages.

Additionally, all certified clerks will be required to attend at

least one annual meeting, at which the responsible vendor will disseminate updated information prescribed by the commission. This will consist of information set forth by the ABC on paper that can easily be distributed and read by the clerks.

**Penalty for certified clerks:** If the beer board determines that a certified clerk makes an underage sale, then the clerk's certified status will be revoked and they may not re-apply for a new certification for one year.

**Penalty for responsible vendor permit holder:** When a certified clerk at a responsible vendor location is cited for an underage sale violation, then the beer board may impose a fine up to \$1,000 on the permit holder. If a retailer has two violations in a 12 month period the commission will revoke their Responsible Vendor status, so for subsequent violations, the beer permit holder will be subject to suspension, revocation, or a fine up to \$2,500 by the local beer board.

**Penalty for non-participating vendor permit holder:** When a clerk at a non-responsible vendor location makes an underage sale, the local beer board may suspend, revoke, or fine the beer permit holder up to \$2,500 per offense.

**Responsible Vendor fees:** Each responsible vendor shall pay an annual fee that is based on the number of certified clerks per location or store. The fees are as follows:

0-15 certified clerks - \$25 per location

16-49 certified clerks - \$75 per location

50-100 certified clerks - \$150 per location

Over 100 certified clerks - \$250

**Law enforcement:** All stings must be conducted in accordance with guidelines set out in state law in order to be valid. Law enforcement has 10 days to give written notice to a beer permit holder after a sting has been conducted at that store. The notice must include the date and location of the action, the name of the permit holder and the clerk from when beer was purchased or attempted to be purchased.

**QUESTIONS & ANSWERS:**

**Are only responsible vendors required to have valid ID for purchase of beer for off-premise consumption?** - No, photo identification is required for all off-premise beer sales regardless of vendor participation in the program.

**Does this law take away law enforcement's ability to conduct underage stings?** - No, law enforcement can still sting as often as they deem necessary, but they must give the retailer written notice within 10 days after conducting a sting.

**Does the mandatory ID section sunset?** - Yes, the mandatory ID goes into effect July 1, 2007 and sunsets on July 1, 2008. However, if the mandatory carding is successful, then we expect that the sunset will be removed during the 2008 legislative session.

**Does this take away authority from local beer boards?** - No, local beer boards still have authority over the beer permit process. State law has always set the guidelines for the civil penalty against a beer permit holder in the event of an underage sale; this bill does change those guidelines. First, a responsible vendor cannot be suspended or revoked unless they have had at least 2 underage violations in a 12 month period. Secondly, this law increases the fine that can be assessed on a non-responsible vendor from \$1,500 to \$2,500. A beer board may still suspend, revoke or fine up to \$2,500 any non-responsible vendor in the case of an underage sale.

**Does the ABC take any authority away from the local beer boards?** - No, the Tennessee Alcoholic Beverage Commission has authority only over the newly created Responsible Vendor Program. The commission has nothing to do with the issuance, suspension, or revocation of beer permits. The commission is primarily in charge of the training program and keeping track of responsible vendors and certified clerks.

**When does the bill go into effect?** The law takes effect upon becoming law for the purpose of promulgating rules and regulations by the ABC in order to implement the program. The practical effective date is July 1, 2007 for the provisions of the law. This delayed effective date leaves time to properly establish the responsible vendor program and to educate retailers and the public

regarding the mandatory ID requirement for off-premise beer sales.

**What happens to a certified clerk that is caught making an underage sale?** Their certification is revoked by the ABC for one year which precludes them from working for another responsible vendor during that time. Additionally, they are still subject to the criminal charge of sale to a minor if law enforcement decides to press charges. Sale to a minor is a Class "A" misdemeanor.

**FINAL NOTE:**

The Tennessee Alcoholic Beverage Commission will complete the rule making process and those rules will detail what is involved with establishing the training program and communication with the local beer boards.

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