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Alcohol Carryout Sales Guidance Information Related to Recent Legislation

[Public Chapter 451](#) extends the ability granted during the pandemic for some businesses to make carryout sales of alcohol for an additional two years. The guidelines under the new legislation vary from prior Executive Orders and businesses are encouraged to carefully review the changes and contact the ABC with any questions.

Restaurants and bars that sell alcohol typically hold state licenses that authorize them to sell alcohol for "on-premises consumption" and generally may not allow their customers to leave their premises with alcoholic beverages. Effective immediately and continuing until July 1, 2023, certain on-premises license holders may make limited carryout sales of alcoholic beverages, which would otherwise be considered a sale of alcohol for "off-premises consumption" and not allowed under their license.

Eligible license types. Only three specific ABC on-premises license types may make carryout sales under this legislation – restaurant license holders, limited-service restaurant license holders, and wine-only restaurant license holders. No other on-premises license holder may make carryout sales such as clubs, hotels, or caterers.

Eligible geographic areas. The sale of alcohol in Tennessee is generally only allowed in areas that have held referenda authorizing its sale. Carryout sales of alcohol by restaurants, limited-service, and wine-only restaurants may only be made in areas that have passed referenda allowing the sale of alcohol for both on-premises (often referred to as liquor-by-the-drink) and off-premises consumption (such as retail package stores).

Prepared Food must accompany carryout sales. Prepared food means any food prepared for consumption on the business's premises by using any cooking or food preparation technique. This does not include food or food ingredients that the business has not cooked or prepared in some way on its premises. For more information about prepared food see <https://www.tn.gov/content/dam/tn/revenue/documents/notices/sales/sales17-21.pdf>.

Secured containers. Carryout beverages must be packaged in a bottle or can with a secure cap or in a container that is secured by tape which secures the lid, covers any openings in the lid, and which would show that it has been opened. Many products have become commercially available during the pandemic for this purpose and are often described as tamper-evident.

One Single Serving of Alcohol or One Single Bottle of Wine Only Per Order. Carryout purchases of alcoholic beverages may not consist of more than, a single serving of alcoholic beverages, not to exceed sixteen fluid ounces (16 fl. oz.) or one bottle of wine per order. No bottles of spirits may be sold. For example, a pitcher containing more than sixteen fluid ounces (16 fl. oz.) of margaritas may not be sold in a carryout order.

Warning Signs Must Be Posted. A business selling carryout alcoholic beverages shall post a conspicuous sign containing the following language: "A driver shall not consume alcoholic beverages or beer while operating a motor vehicle in this state."

Server Permits Required. Anyone who sells, provides, dispenses, furnishes, or causes carryout alcohol to be sold must have a valid TABC server permit.

ID must be checked. An employee of a licensee who is providing carryout alcoholic beverages shall inspect a valid, government-issued photo identification card that is acceptable to the licensee and that contains the photograph and birthdate of the purchaser confirming that the purchaser is at least twenty-one (21) years of age.

LBD Tax must be collected. A licensee shall collect the liquor by the drink tax imposed on alcoholic beverages under § 57-4-301(c)(1) for all sales of alcoholic beverages made under this legislation in accordance with § 57-4-301(c)(2).

Sales only during typical business hours. Sales of alcoholic beverages and beer made under this legislation must be in accordance with the hours for the sale of alcoholic beverages under § 57-4-203(d) or beer under § 57-5-301(b), as applicable.

No delivery. Carryout sales of alcohol pursuant to this legislation may only be made at the licensee's place of business.

Notify the ABC. Businesses wishing to offer carryout sales of alcoholic beverages are requested to notify the Commission by emailing the Commission at Sean.J.Atkins@tn.gov. The email should include in the subject line "notification of carryout sales," and list the business's name, address, and ABC license number.

FAQS RELATED TO CARRYOUT ALCOHOL SALES

Q: During what times may offer alcoholic beverages for carryout?

A: During the typical business hours designated by law for your business.

Q: If I run out of alcohol, can I buy alcohol from package stores?

A: No. You may only purchase alcoholic beverages from a licensed wholesaler.

Q: If I am a hotel, caterer, or another type of LBD other than a restaurant, am I covered by this legislation, and may I sell alcohol for off-premises consumption?

A: No. This legislation only applies to establishments licensed as restaurants, wine-only restaurants, and limited-service restaurants.

Q: Does an employee who will be selling alcohol for carryout need a server permit?

A: Yes. Any person employed by a licensee who sells, provides, dispenses, furnishes, or causes carryout alcohol to be sold must have a valid TABC server permit.

Q: Can I sell bottles of spirits?

A: No, bottles of wine and beer may be sold, and individual servings containing wine, beer, or spirits may be sold, but you may not sell bottles of spirits.

Q: Can I sell pitchers, half-gallons, or gallons of mixed drinks?

A: No, bottles of wine may be sold, and individual servings containing wine or spirits may be sold. Multi-serving containers are prohibited. Other than wine bottles, no container may exceed sixteen fluid ounces (16 fl. oz.) of alcoholic beverages.

Q: How many drinks may be sold per purchase?

A: Only one bottle of wine or one single serving of other alcoholic beverages not to exceed 16 ounces or beer as authorized by the local beer board may be served per purchase. Each purchase containing beverage alcohol must be accompanied by the sale of prepared food in the same order. Multiple orders placed by one person at the same time at the same business will be considered as one purchase for this purpose. For example, a business may not sell an individual six drinks for carryout at the same time by separating the purchase across six transactions.

Q: What type of lid is required for single servings of alcoholic beverages?

A: The beverage must be packaged in a bottle or can with a secure cap or in a container that is secured by tape which secures the lid, covers any openings in the lid, and which would show that it has been opened. Most commercially available tamper-evident adhesive tape will suffice if it meets these requirements.

Q: Must I sell food with every order containing alcohol?

A: Yes. Alcohol may not be sold as a stand-alone item. Food must be purchased at the same time in the same order.

Q: Must we check identification cards to verify age?

A: Yes, you must check identification for carryout orders.

Q: Must we physically touch identification cards to verify age?

A: No, any reasonable visual inspection will suffice.

Q: Do I need an additional license, permit, or permission to offer carryout sales?

A: No. Restaurants, limited-service restaurants, and wine-only restaurants may offer carryout sales without additional permission. However, you are asked to notify the TABC before making any such sales by emailing the Commission at Sean.J.Atkins@tn.gov. The email should include in the subject line "notification of carryout sales," and list the business's name, address, and ABC license number.

Q: What should the open container warning sign say that is required to be posted under this law?

A: The warning must include this language: "A driver shall not consume alcoholic beverages or beer while operating a motor vehicle in this state."

Q: May a licensed restaurant or bar allow alcoholic beverages to be purchased for consumption near their establishment while a customer is waiting to pick up a food order?

A: No. Licensed restaurants and bars are allowed by this legislation to sell alcoholic beverages for off-premises consumption but only within specific guidelines and requirements which do not include this activity. The law requires that such sales must be accompanied by the sale of prepared food in the same order. This requires that alcoholic beverages be provided to the customer contemporaneously with food. Therefore, a restaurant could not sell or provide an alcoholic beverage to a customer significantly before the sale and provision of food to the customer. Also, a customer who consumes alcoholic beverages in such areas may violate local open container laws.

Q: When I dine in a restaurant, may I take a drink to go with me?

A: If an alcoholic beverage was part of your dine-in order for on-premises consumption, then you may not take that beverage away from the restaurant for off-premises consumption.

Q: May a restaurant in the Tennessee River District offer carryout alcohol?

A: No, unless the restaurant meets all the statutory requirements including being located in an area in which the voters have approved referenda for the sale of alcohol for both on-premises and off-premises consumption.