

HOUSE BILL 27

By Swann

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 5; Title 6; Title 7; Title 29; Title 57 and Title
67, relative to alcoholic beverages.

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

SECTION 1. Tennessee Code Annotated, Section 57-4-301, is amended by adding the following language as new subsections:

(c) The commission shall verify compliance with subdivision (b)(1)(W)(iii) in consultation with the department of revenue and in compliance with § 67-1-1702; provided, that the tax records of limited service restaurants remain confidential. The commission shall have access to the tax revenue records of limited service restaurants for the limited purpose of verifying compliance with subdivision (b)(1)(W)(iii). The commission is authorized to promulgate rules and regulations to effectuate the purposes of this subsection. All such rules and regulations shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

(d) The commission shall verify compliance with § 57-4-102 (29)(A) in consultation with the department of revenue and in compliance with § 67-1-1702; provided, that the tax records of limited service restaurants remain confidential. The commission shall have access to the tax revenue records of restaurants for the limited purpose of verifying compliance with subdivision (b)(1)(W)(iii). The commission is authorized to promulgate rules and regulations to effectuate the purposes of this subsection. All such rules and regulations shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

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

57-4-3__.

(a) If the commission has reason to believe that a restaurant or a limited service restaurant fails to meet the licensing requirements provided in §§ 57-4-102 or 57-4-301, then the commission shall hold a hearing to determine if the licensee's monthly average sale of prepared food meets the thresholds described in subsections (b) or (c), and shall notify within forty-eight (48) hours the establishment and the municipality where the establishment is located of the time and date of such hearing.

(b) If the commission finds that the revenue from the monthly average sales of prepared food for three (3) consecutive months is less than fifteen percent (15%) of gross sales at a limited service restaurant or if it finds that the monthly average sales of prepared food in the last fiscal year is less than fifteen percent (15%) of gross sales, then the commission shall have the authority to suspend or revoke the license or take action pursuant to § 57-1-201(b) and shall notify the establishment and the municipality where the establishment is located of the action taken.

(c) If the commission finds that the revenue from the monthly average sales of prepared food for three (3) consecutive months is less than fifty percent (50%) of gross sales at a restaurant or if it finds that the monthly average sales of prepared food in the last fiscal year is less than fifty percent (50%) of gross sales, then the commission shall have the authority to suspend or revoke the license or take action pursuant to §§ 57-1-201(b) or 57-4-201(b)(3) and shall notify the establishment and the municipality where the establishment is located of the action taken.

(d) The licensee may appeal such action taken in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 3. Tennessee Code Annotated, Title 57, Chapter 1, Part 2, is amended by adding the following language as a new, appropriately designated Section:

(a)

(1) When the alcoholic beverage commission suspends or revokes a license to sell alcoholic beverages on the premises at any establishment for any violation or violations as defined in this chapter, the commission shall notify within forty-eight (48) hours the local or municipal beer board responsible for controlling the sale of beer or malt beverages within such county by certified mail, return receipt requested, of the action taken by the commission. Such notice shall include the record of evidence and the determination made by the alcohol beverage commission in suspending or revoking the license of the establishment.

(2) Upon receipt of such notice, the local or municipal beer board shall temporarily suspend the beer permit of the establishment and shall:

(A) Schedule a hearing for the next regularly scheduled meeting of the beer board to be held at least fourteen (14) days following the date the beer board receives the certified letter to provide an opportunity for the permit holder to appear and show cause why the permit to sell beer on the premises should not be suspended or revoked for violations of this chapter based on actions taken by the alcoholic beverage commission; and

(B) Notify the individual or business entity, which is listed as the permit holder at the same location where the alcoholic beverage license had been suspended or revoked, of the date and time of the hearing.

(3) If the beer board finds that a sufficient violation or violations of this chapter have occurred at such location, then the beer board shall suspend or revoke the permit to the same extent and at least for the same period of time as the alcoholic beverage commission has suspended or revoked the license of the establishment.

(4) If the permit holder fails to appear or decides to surrender the permit to the beer board in lieu of appearing at the hearing, the permit shall be suspended or revoked by the beer board and, no permit to sell beer or malt beverages on the premises shall be issued by the beer board to any person for the location where the alcoholic beverage commission had suspended or revoked the license for the period of time included in the decision of the alcoholic beverage commission.

(5) The decision of the beer board is final, and any party aggrieved thereby may appeal the decision of the beer board in accordance with this chapter.

(b)

(1) When a local or municipal beer board responsible for controlling the sale of beer or malt beverages finds violations, as defined in this chapter, in the sale of beer or malt beverages consumed on-premises of an establishment located within the local or municipal beer board's jurisdiction that result in the beer board suspending the operation of or revoking the permit of the establishment where the violation occurred, the beer board shall notify within forty-eight (48) hours the executive director of the alcoholic beverage commission by certified mail, return receipt requested, of the action taken by the beer board. Such notice shall include the record of evidence and the determination made by the beer board in suspending or revoking the permit.

(2) Upon receipt of such notice, the executive director of the alcoholic beverage commission shall take the actions required with respect to violations as defined in chapter 4 of this title related to the license for the sale of alcoholic

beverages for consumption on the premises at the location where the violation of this chapter occurred.

(3) The suspension or revocation decision of the beer board made pursuant to subsection (b) is final, and any party aggrieved thereby may appeal the decision of the beer board in accordance with the appeal procedures of this chapter.

(c) This section shall not apply in any county included in §§ 57-4-202(d) and 57-5-108(p) until July 1, 2014.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.