

S T A T E O F T E N N E S S E E

OFFICE OF THE
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Opinion No. 02-033

Hours for Beer Sales in Unincorporated Areas of a County

QUESTION

At what times may beer be sold in the unincorporated areas of counties in which two municipalities have approved liquor by the drink?

OPINION

In counties that have not approved liquor by the drink by means of a county-wide referendum, but contain at least one municipality that has approved liquor by the drink by municipal referendum, the hours for the sale of beer in areas of the county outside of incorporated municipalities, and within those municipalities that allow liquor by the drink, will be those set by the Alcoholic Beverage Commission for the sale of liquor by the drink. However, the governing body of a county or incorporated municipality may extend the hours for beer sales beyond these times in their respective jurisdictions.

ANALYSIS

This Office assumes that the question refers to counties that have not approved liquor by the drink through county-wide referendums, but do contain at least one municipality that has approved liquor by the drink through its own referendum. This Office recently issued Op. Tenn. Atty. Gen. No. 02-023 (February 27, 2002), which also addresses the hours for beer sales in such counties. A copy of this opinion is attached for your convenience.

In counties that have not approved liquor by the drink by means of a county-wide referendum, but contain at least one or more municipalities that have approved liquor by the drink, the hours for the sale of beer in areas of the county outside of incorporated municipalities, and within those municipalities that have adopted liquor by the drink, will be those set by the Alcoholic Beverage Commission for the sale of liquor by the drink. This is clear from the plain language of Tenn. Code Ann.

§ 57-5-301(b)(5):

In any county in which an incorporated municipality has authorized the sale of liquor by the drink, as provided for in chapter 4 of this title, the hours for the sale of beer as defined in § 57-6-102(1), in that part of the county outside of incorporated municipalities and in all of its municipalities which have authorized the sale of liquor by the drink, shall be the same as the hours authorized by the rules and regulations promulgated by the alcoholic beverage commission for establishments selling liquor by the drink; provided, however, that the county legislative body of any such county and the governing body of each municipality within the county which has authorized the sale of liquor by the drink shall have the authority to extend the hours for the sale of beer as defined in § 57-6-102(1), within the territorial jurisdiction of each governing body. This subdivision shall not apply to counties and municipalities that have legalized the sale of liquor by the drink by a county-wide referendum.

Currently, the hours for the sale of liquor by the drink as promulgated by the ABC are contained in Rule 0100-1-.03(2): “No licensee shall permit alcoholic or malt beverages to be consumed on the licensed premises between the hours of 3 a.m. and 8 a.m. on Monday through Saturday or between the hours of 3 a.m. and 10 a.m. on Sunday.” Thus, beer may be sold in the unincorporated areas of the county as well as the incorporated municipalities that have approved liquor by the drink, at any time except between 3 a.m. and 8 a.m. Monday through Saturday and between 3 a.m. and 10 a.m. on Sunday. However, as stated in Tenn. Code Ann. 57-5-301(b)(5), these time periods can be expanded by a county legislative body or the governing body of a municipality.

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