

HOUSE BILL 102

By Carr J

AN ACT to amend Tennessee Code Annotated, Title 57,
Chapter 3, Part 2 and Title 57, Chapter 2, Part 1,
relative to manufacturing of alcoholic beverages.

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

SECTION 1. Tennessee Code Annotated, Section 57-2-103, is amended by deleting subsection (d) and substituting instead the following:

(d)

(1) Notwithstanding subsections (a)-(c), it shall be lawful to manufacture intoxicating liquors or intoxicating drinks, or both, within the boundaries of:

(A) A municipality if both retail package sales and consumption of alcoholic beverages on the premises have been approved through referendum of voters within such municipality; or

(B) The unincorporated areas of a county if any jurisdiction located within such county has approved retail package sales through referendum of voters and any jurisdiction located within such county has approved consumption of alcoholic beverages on the premises through referendum of voters or if the county is included in the Tennessee River resort district as defined in § 57-4-102 and retail package sales have been approved through referendum by the voters in any jurisdiction within such county.

(2)

(A) Notwithstanding subdivision (d)(1), the county legislative body of any such county may adopt a resolution to remove the unincorporated areas of the county from the application of this subsection (d) subject to the restrictions in

subdivision (d)(2)(B). The county mayor shall notify the alcoholic beverage commission if such action is taken and approved.

(B) Such action may be taken by the county legislative body pursuant to subdivision (d)(2)(A) until a written notification is filed with the county mayor by any person as an official notice that the person intends to pursue all lawful avenues to manufacture intoxicating liquors or intoxicating drinks, or both, within the unincorporated areas of the county. Once the notice is filed, no action may be taken by the county legislative body unless such interest is withdrawn or the person's application to manufacture such intoxicating liquors or intoxicating drinks, or both, is denied by the state or federal government.

(C) If a county adopts a resolution pursuant to subdivision (d)(2)(A), the county may at a later date adopt a resolution reversing such action. The county mayor shall notify the alcoholic beverage commission if such action is taken and approved.

(3)

(A) Notwithstanding subdivision (d)(1), the legislative body of any municipality may adopt a resolution to remove the municipality from the application of this subsection (d) subject to the restrictions in subdivision (d)(3)(B). The legislative body of the municipality shall notify the alcoholic beverage commission if such action is taken and approved.

(B) Such action may be taken by the legislative body of the municipality pursuant to subdivision (d)(3)(A) until a written notification is filed with the legislative body of the municipality by any person as an official notice that the person intends to pursue all lawful avenues to manufacture intoxicating liquors or intoxicating drinks, or both, within the boundaries of the municipality. Once the notice is filed, no action may be taken by the legislative body of the municipality unless such interest is withdrawn or the person's application to manufacture such

intoxicating liquors or intoxicating drinks, or both, is denied by the state or federal government.

(C) If a municipality adopts a resolution pursuant to subdivision (d)(3)(A), the municipality may at a later date adopt a resolution reversing such action. The legislative body of the municipality shall notify the alcoholic beverage commission if such action is taken and approved.

(4) If a manufacturer that has been issued a license pursuant to this subsection (d) also obtains a special retail license in accordance with § 57-3-204(f)(1) and the manufacturer is located in a jurisdiction that pursuant to § 57-5-105 has established a distance requirement that restricts the storage, sale or manufacture of beer from places of public gatherings or in a municipality or Class B county that pursuant to § 57-5-106 has adopted proper ordinances governing the storage, sale, manufacture and/or distribution of beer within its jurisdictional boundary, then any distance requirement related to a building used for religious purposes in effect in that jurisdiction shall apply to the building used for the retail sale of the manufacturer's alcoholic beverages or products containing alcohol. The measurement shall be a building-to-building measurement.

SECTION 2. Tennessee Code Annotated, Section 57-2-103, is amended by deleting subsection (f) and substituting instead the following:

(f)

(1) Notwithstanding subsections (a)-(c), it shall be lawful to manufacture high alcohol content beer as defined in § 57-3-101(a) within the boundaries of:

(A) A municipality if both retail package sales and consumption of alcoholic beverages on the premises have been approved through voter referendum of voters within such municipality; or

(B) The unincorporated areas of a county if any jurisdiction located within such county has approved retail package sales through referendum of voters and any jurisdiction located within such county has approved consumption of alcoholic beverages on the premises through referendum of voters or if the county is included in the Tennessee River resort district as defined in § 57-4-102 and retail package sales have been approved through voter referendum in any jurisdiction within the county.

(2) Any manufacturer authorized pursuant to subdivision (f)(1) must also hold a brewer's notice approved by the United States department of the treasury, alcohol and tobacco tax and trade bureau, or any successor federal beer manufacturing permit granted by a federal bureau having jurisdiction over the manufacture of beer.

(3) In all jurisdictions not meeting the requirements of subdivision (f)(1), it shall be lawful to manufacture high alcohol content beer as defined in § 57-3-101(a) within the boundaries of a municipality or in the unincorporated area of such county upon such jurisdiction meeting the requirements of subsections (a)-(c), and if the manufacturer also holds a brewer's notice approved by the United States department of the treasury, alcohol and tobacco tax and trade bureau, or any successor federal beer manufacturing permit granted by a federal bureau having jurisdiction over the manufacture of beer.

(4) Notwithstanding any other law to the contrary, it shall be lawful for any manufacturer of high alcohol content beer authorized to manufacture such beverages pursuant to subdivision (f)(1) to also brew beer as this term is defined in § 57-5-101(b) on the same premises of the manufacturer of high alcohol content beer, upon meeting necessary federal, state and local license requirements.

(5) The general assembly hereby ratifies any action which may have been taken by the alcoholic beverage commission in issuing a license to a manufacturer of high alcohol content beer prior to June 10, 2011.

(g) The general assembly hereby ratifies any action which may have been taken by the alcoholic beverage commission in issuing a license to a manufacturer of intoxicating liquors or intoxicating drinks, or both prior to the effective date of this Act.

SECTION 3. Tennessee Code Annotated, Section 57-3-204(f), is amended by adding the following as a new subdivision thereto:

(8) Any retail license issued pursuant to this subsection (f) is not subject to the limitation of number of retail licenses issued by a municipality or county pursuant to § 57-3-208(c) and is not subject to any distance requirement between retail licensees set by a municipality or county.

SECTION 4. Tennessee Code Annotated, Section 57-3-204(f), is further amended by deleting subdivision (3) in its entirety and by substituting instead the following language:

(3) A special retail license obtained by a manufacturer that has been issued a license under this subsection (f) to sell at retail products that are manufactured on the manufacturer's premises pursuant to this subsection (f) may be located only on the licensed premises of the manufacturer and may be located on such premises whether or not such premises is located in a jurisdiction which has authorized retail sale of alcoholic beverages pursuant to § 57-3-106.

SECTION 5. Tennessee Code Annotated, Section 57-3-204(f), is further amended by deleting subdivision (1) and substituting instead the following:

(1) A manufacturer licensed under § 57-3-202, or under chapter 2 of this title, is authorized to obtain a special retail license under this section for the retail sale of alcoholic beverages or products containing alcohol subject to the further restrictions of

this subsection (f). This license shall not be considered a separate license from the manufacturing license, but the manufacturer shall be required to pay the fee set out in subdivision (b)(1).

SECTION 6. Tennessee Code Annotated, Section 57-3-204, is amended by deleting subsection (h).

SECTION 7. Tennessee Code Annotated, Section 57-3-201, is amended by adding the following as a new subdivision thereto:

(9) Special retail license for a manufacturer holding a license pursuant to subdivision (1);

SECTION 8. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 9. This act shall take effect upon becoming a law, the public welfare requiring it.