

BACKGROUND

The Tennessee Alcoholic Beverage Commission (TABC) is a state agency that regulates the sale of wine and liquor.

Historically, liquor sales have been restricted to “on-premises” sales, which meant sales were restricted to within the four walls of the liquor store. TABC has long held that drive-thru windows and liquor store parking lots were outside the four walls. Therefore, the sale of alcohol through a drive-thru window or in a parking lot were not permitted under law.

However, in 2014, the General Assembly enacted the “Wine in Grocery Stores” legislation (Public Chapter 554). This legislation included a provision that allowed liquor stores to deliver alcohol to special events and catered functions outside the four walls of the liquor store.

Regrettably, TABC has interpreted this grant of authority broadly to permit package stores to sale alcohol “off-premises.” With this new, expansive interpretation, TABC has chosen to extend authority to not only allow for the delivery of alcohol to special events and catered functions, but to also permit the sale and delivery of alcohol through a drive-thru window or parking lot.

PROBLEM

Municipalities establish, regulate and enforce the sale of beer in the state. Some municipalities currently prohibit beer sales through drive-thru windows and have relied on the long-held TABC position prohibiting the sale of alcohol through drive-thru windows to ensure consistency and protect local preferences. However, the new TABC interpretation is at odds with existing community standards and desires. As municipalities may not regulate package stores or the sale of alcohol, cities and their residents are powerless to protect their standards and preferences.

REMEDY

The law should be modified to ensure the protection of local preference. Legislation should be introduced to provide a city the discretionary authority to enact an ordinance prohibiting the sale of alcohol from a drive-thru window at any package store located within its corporate limits.