



**HOUSE BILL 2272**

By Crawford

AN ACT to amend Tennessee Code Annotated, Title 57,  
relative to liability of celebrities who endorse an  
alcoholic beverage licensee.

WHEREAS, the General Assembly finds that a celebrity endorsement of an alcoholic beverage brand or a business that sells alcoholic beverages for on-premise consumption does not constitute ownership of the brand or business, and that a celebrity should not be liable for damages from the sale of celebrity-endorsed alcoholic beverages of an endorsed brand or by an endorsed business that the celebrity does not own; now, therefore,

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

SECTION 1. Tennessee Code Annotated, Title 57, Chapter 10, is amended by adding the following as a new section:

(a) As used in this section:

(1) "Alcoholic beverage brand" means a brand, as defined in § 57-3-301, that is manufactured by or for an establishment licensed or permitted under § 57-3-202, § 57-3-207, or § 57-3-602;

(2) "Celebrity" means a prominent individual widely recognized by the public in this state, including, but not limited to, musicians and other entertainers, film and television actors, authors, athletes, and other individuals that have attained widespread public attention in this state, and who meets the requirements of subsection (b);

(3) "Celebrity endorsement agreement" means an NIL agreement in which a celebrity licenses use of the celebrity's intellectual property for use by an alcoholic beverage brand or an on-premise establishment;

(4) "Intellectual property" means any trademark, trade name, service mark, copyright, or other proprietary right recognized under state or federal law;

(5) "NIL agreement" means an agreement for the use of an individual's commercial exploitation rights, publicity rights, or other intellectual property rights in the individual's name, image, voice, signature, photo, likeness, and any other identifiable attribute of the individual. An NIL may include personal promotional activities;

(6) "On-premise establishment" means a retailer licensed pursuant to § 57-4-101; and

(7) "Personal promotional activities":

(A) Means a celebrity's sponsorship, advertising, endorsement, marketing, or other promotion of an alcoholic beverage brand or an on-premise establishment, pursuant to a celebrity endorsement agreement, including, but not limited to, personal appearances, social media posts, performances, or events; and

(B) Includes a celebrity's agent acting on behalf of the celebrity and other indirect efforts pursuant to a celebrity endorsement agreement.

(b) A celebrity may enter into a celebrity endorsement agreement if the celebrity:

(1) Is at least twenty-one (21) years of age;

(2) Is a citizen of the United States;

(3) Is not a member or employee of the commission;

(4) Does not hold a public office and is not a public employee, other than uncompensated appointees to municipal boards and commissions where the boards or commissions on which such appointees serve have no duty to vote for, overlook, or in any manner superintend the sale of alcoholic beverages;

(5) Has not been convicted within the ten-year period preceding entering the celebrity endorsement agreement of any offense under this title, or of any similar law of any other state or of the United States, prohibiting or regulating the sale, possession, transportation, storing, manufacturing, or otherwise handling alcoholic beverages or beer, or who has, during such period, been engaged in business alone or with others, in violation of any of such laws or rules promulgated pursuant to such laws;

(6) Has not been convicted of a felony involving moral turpitude within the ten-year period preceding entering the celebrity endorsement agreement;  
and

(7) Has never had a license related to the manufacture, sale, or distribution of any form of alcoholic beverages or beer revoked for cause.

(c) A celebrity endorsement agreement, including compensation received by a celebrity under a celebrity endorsement agreement and any personal promotional activities pursuant to a celebrity endorsement agreement, does not constitute a direct or indirect ownership interest in the alcoholic beverage brand or on-premise establishment under this title and does not constitute property as the term is used in a rule of the commission, if:

(1) The celebrity does not have any ownership interest in the entity that is a party to the celebrity endorsement agreement; and

(2) The celebrity is not directly involved in the operations, management, or control of the entity that is the party to the celebrity endorsement agreement.

(d) The following does not constitute involvement in the operations, management, or control of the alcoholic beverage brand or on-premise establishment:

(A) The right to approve use of intellectual property, marketing, brand manufacturing methods, brand taste profiles, and other brand criteria, food, and beverage menus, décor, and other trade dress; or

(B) Personal promotional activities or occasional performances by the celebrity at the on-premise establishment or on behalf of the on-premise establishment or alcoholic beverage brand.

(e) The commission may require a questionnaire and valid government identification from a celebrity that receives five percent (5%) or more of the proceeds from the sale of alcoholic beverages under a celebrity endorsement agreement to establish that the celebrity meets the criteria in subsection (b). Any questionnaire, government identification form, celebrity endorsement agreement, or related document provided by a celebrity pursuant to this subsection (e) constitutes proprietary information and is not a public record pursuant to § 10-7-504(a)(24).

(f)

(1) Except as provided in subdivision (f)(2), a celebrity who is a party to a celebrity endorsement agreement with an on-premise establishment or alcoholic beverage brand is not liable for an injury, death, damage, loss, or claim based in whole or in part on the action or inaction of the alcoholic beverage brand or on-premise establishment, or a franchisee, or agent, contractor, or employee of such on-premise establishment or alcoholic beverage brand.

(2) Subdivision (f)(1) does not apply if the celebrity:

(A) Personally sold, supervised, directed, or was otherwise involved in the sale of the alcoholic beverage or beer, or the proximate cause of the injury or death;

(B) Has an ownership interest in the on-premise establishment or alcoholic beverage brand; or

(C) Is directly involved in the operation, management, or control of the on-premise establishment or alcoholic beverage brand.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.

Amendment No. 1 to HB2272

Farmer  
Signature of Sponsor

**AMEND Senate Bill No. 2163\***

**House Bill No. 2272**

by deleting all language after the caption and substituting:

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

SECTION 1. Tennessee Code Annotated, Section 57-4-110, is amended by deleting the section and substituting:

(a) Notwithstanding another law or rule to the contrary, a manufacturer licensed under § 57-3-202, a winery licensed under § 57-3-207, or a non-resident seller or a non-manufacturer, non-resident seller licensed under § 57-3-605, including, but not limited to, a person with a direct or indirect interest in any of the foregoing, may have a direct or indirect interest in an establishment licensed pursuant to this part; provided, that the person's interest under chapter 3 of this title or the person's interest under this part is held in an irrevocable trust by an independent trustee.

(b) A person whose interest in a brand or business is held in an irrevocable trust by an independent trustee shall not participate in the management or operation of the brand or business for which the interest was placed in the irrevocable trust.

(c)

(1) A person whose interest is held in an irrevocable trust by an independent trustee may enter into a licensing agreement through the trust for the use of the person's name, image, or likeness, and such person may participate in advertising or promotional activities for the brand or business held in the trust through the use of the person's individual name, image, or likeness, including, but not limited to, personal appearances, active promotion, and new

content capture if the advertising or promotional activities are limited to the promotion of the brand or licensed retail establishment and such advertising or promotional activities do not constitute a violation of existing federal law.

(2) Any such licensing agreement may provide for compensation payable to the trust that is based on one (1) or more of the following:

(A) A fixed fee; or

(B) A percentage of sales or profits that does not exceed ten percent (10%).

(3) Any licensing agreement or related document provided to the commission pursuant to this subsection (c) constitutes proprietary information pursuant to § 10-7-504(a)(24).

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.