

**STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL**

July 3, 2024

Opinion No. 24-010

Members of the Alcoholic Beverage Commission—Conflict of Interest

Question 1

Is a biological half-sibling of a person a “family member” under Tenn. Code Ann. § 57-1-108?

Opinion 1

Yes.

Question 2

If so, does that status as a “family member” under Tenn. Code Ann. § 57-1-108 change if one of the half-siblings is adopted by different parents than the other sibling?

Opinion 2

Likely not.

ANALYSIS

Members of the Alcoholic Beverage Commission (ABC), as well as employees of the commission, are governed by a set of conflict-of-interest provisions:

No person shall be eligible to be appointed as a member of the commission, and no person shall be employed in any capacity by the commission, if such person shall have any interest, financial or otherwise, either direct or indirect, in any distillery, wholesale dealer or retail dealer licensed as such in this state. No family member, including spouse, child or children, father or mother, niece or nephew by blood or marriage, son-in-law or daughter-in-law, shall be employed by any distillery, wholesale dealer or retail dealer, nor shall any family member hold or have issued to them any alcoholic beverage license in this state.

No such person shall have interest of any kind in any building, fixtures, or in the premises occupied by any person, firm or corporation licensed under this chapter.

No such person shall own any stock, nor shall have any interest of any kind, direct or indirect, pecuniary or otherwise, by a loan, mortgage, gift, seeking a loan, or

guaranteeing the payment of any loan, in any distillery, wholesale dealer or retail dealer licensed under this chapter.

Tenn. Code Ann. § 57-1-108(a)-(c).

These provisions prohibit ABC commissioners and employees from having any interest—financial or non-financial, direct or indirect—in a distillery, wholesale dealer or retail dealer. And they extend that prohibition to the “family members” of ABC commissioners and employees. *See* Tenn. Code Ann. § 57-1-108(a). That restriction ensures that no commission member or employee will be tempted to act for purposes other than in the public interest. *See* Tenn. Att’y Gen. Op. 94-062 (Apr. 20, 1994); Tenn. Att’y Gen. Op. 85-198 (June 19, 1985); 63 Am.Jur.2d *Public Officers and Employees* § 237 (2024).

To determine whether a biological half-sibling is a “family member” under Tenn. Code Ann. § 57-1-108, we must “examine the language of the statute, its subject matter, the object and reach of the statute, the wrong or evil which it seeks to remedy or prevent, and the purpose sought to be accomplished in its enactment.” *Coffee Cnty. Bd. of Educ. v. City of Tullahoma*, 574 S.W.3d 832, 839 (Tenn. 2019). In that inquiry, “[t]he text of the statute is of primary importance.” *Id.* We “assum[e] . . . that the legislature intended what it wrote and meant what it said.” *Worley v. Weigels, Inc.*, 919 S.W.2d 589, 593 (Tenn. 1996).

Here, the text of Tenn. Code Ann. § 57-1-108(a) provides helpful guidance. It states that the term “family member” “includ[es]” a person’s “spouse, child or children, father or mother, niece or nephew by blood or marriage, son-in-law or daughter-in-law.” Tenn. Code Ann. § 57-1-108(a). *Id.* The Tennessee Supreme Court has explained when the term “‘including’ is used . . . in conjunction with a list of items, it serves as a term of enlargement not one of restriction.” *Lovlace v. Copley*, 418 S.W.3d 1, 18 (Tenn. 2013). That is, “[w]hen a statutory definition states that it ‘includes’ specific items,” the Tennessee Supreme Court has held “that the enumerated items are illustrative, not exclusive.” *Id.* (quotations omitted). Accordingly, the persons listed as “family members” in Tenn. Code Ann. § 57-1-108(a) are illustrative of those persons who are subject to the conflict-of-interest provisions in the statute. *See id.* Other persons who “are similar to those enumerated in the statute” should also be classified as family members. *Gragg v. Gragg*, 12 S.W.3d 412, 415 (Tenn. 2000).

A biological half-sibling “may fairly be included” among the non-exclusive list of persons identified as “family members” in Tenn. Code Ann. § 57-1-108. *See State v. Marshall*, 319 S.W.3d 558, 561 (Tenn. 2010). While the statute does not specifically enumerate a “sibling” as a “family member,” it lists a “niece” or “nephew” as such. A person who has a niece or nephew has that relationship, of course, through that person’s sibling. It follows that a sibling of an ABC commissioner or employee would be a “family member” covered by the statute because a sibling would be more closely related to the ABC commissioner or employee than a niece or nephew. *See State v. Netto*, 486 S.W.2d 725, 728 (Tenn. 1972) (citation omitted) (“Questions involving statutory construction ‘. . . must be answered in light of reason, having in mind the object of the statute, and the mischief it aims at.’”).

The difference between a “full-sibling” and a “half-sibling” changes nothing. For one, other areas of Tennessee law suggest that there is no familial difference between full and half-

siblings. *See e.g.*, Tenn. Code Ann. § 31-2-107 (“Relatives of the half blood inherit the same share they would inherit if they were of the whole blood.”). For two, it would make no sense to define “family member” to cover those who have no biological relationship to a person—e.g., “son-in-law,” “daughter-in-law,” “niece and nephew . . . by marriage,” Tenn. Code Ann. § 57-1-108(a)—yet exclude a person who biologically shares a parent, *see Netto*, 486 S.W.2d at 728. For three, the inclusion of a biological half-sibling as a “family member” furthers the purpose of the “broad prohibitions” within § 57-1-108 that are “clearly intended” to prevent any potential conflicts of interest. Tenn. Op. Att’y Gen. No. 94-062 (Apr. 20, 1994); *Coffee Cnty.*, 574 S.W.3d at 839. Thus, in the Office’s opinion, half-siblings likely qualify as “family members” under Tenn. Code Ann. § 57-1-108.

This same reasoning applies when a half-sibling is adopted by different parents. Section 57-1-108(a) specifically references relations “by blood”—making clear that legal relations between family members are not dispositive. Under the plain text, a person’s “nephew *by blood*” qualifies as a family member, even if the “nephew by blood[’s]” parent (the half-sibling) was adopted by different parents. Tenn. Code Ann. § 57-1-108(a). It cannot be that a “nephew by blood” qualifies as a family member but his parent—the half-sibling “by blood”—does not. *Id.* Moreover, nothing about a half-sibling’s adoption eliminates the conflict-of-interest concerns presented by the biological relationship. The bottom line: A court would likely treat a half-sibling as a “family member” under Tenn. Code Ann. § 57-1-108 whether the half-sibling was adopted by different parents or not.

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