

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 155
PROPOSED COMMITTEE SUBSTITUTE S155-PCS15208-SAF-29

Short Title: Economic & Job Growth for NC Distilleries.

(Public)

Sponsors:

Referred to:

March 2, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND ALCOHOLIC BEVERAGE CONTROL PERMITS, TO ALLOW
3 RESTAURANTS TO SELL ALCOHOLIC BEVERAGES BEFORE NOON ON
4 SUNDAYS, SUBJECT TO LOCAL GOVERNMENT APPROVAL, AND TO
5 AUTHORIZE REBATES ON ALCOHOLIC BEVERAGES.

6 The General Assembly of North Carolina enacts:

7
8 **DISTILLERY PERMIT AMENDMENTS**

9 **SECTION 1.(a)** G.S. 18B-1105 reads as rewritten:

10 **"§ 18B-1105. Authorization of distillery permit.**

11 (a) Authorized Acts. – The holder of a distillery permit may do any of the following:

12 (1) Manufacture, purchase, import, possess and transport ingredients and
13 equipment used in the distillation of spirituous liquor.

14 (2) Sell, deliver and ship spirituous liquor in closed containers at wholesale to
15 exporters and local boards within the State, ~~and, subject to the laws of other~~
16 ~~jurisdictions, at wholesale or retail to private or public agencies or~~
17 ~~establishments of other states or nations.~~ State.

18 (2a) Sell spirituous liquor in closed containers at wholesale or retail, subject to
19 the laws of other jurisdictions, for delivery outside the State.

20 (3) Transport into or out of the distillery the maximum amount of liquor allowed
21 under federal law, if the transportation is related to the distilling process.

22 (4) Sell spirituous liquor distilled at the distillery in closed containers to visitors
23 who tour the distillery for consumption off the premises. Sales under this
24 subdivision are allowed only in a county where the establishment of a county
25 or municipal ABC store has been approved pursuant to G.S. 18B-602(g) and
26 are subject to the time and day restrictions in G.S. 18B-802. Spirituous
27 liquor sold under this subdivision shall (i) be listed as a code item for sale in
28 the State, (ii) be sold at the price set by the Commission for the code item
29 pursuant to G.S. 18B-804(b), and (iii) have affixed to its bottle a sticker that
30 bears the words "North Carolina Distillery Tour Commemorative Spirit" in
31 addition to any other labeling requirements set by law. Consumers
32 purchasing spirituous liquor under this subdivision are limited to purchasing,
33 and the selling distillery is limited to selling to each consumer, no more than
34 ~~one bottle~~ five bottles of spirituous liquor per 12 month period. The distillery
35 shall use a commonly adopted standard point of sale system to maintain
36 searchable electronic records captured at the point of sale, to include the



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1 purchaser's name, drivers license number, and date of birth for at least 12
2 months from the date of purchase. The Commission shall adopt rules
3 regulating the retail sale of spirituous liquor under this subdivision.

4 (5) Conduct consumer tastings in accordance with G.S. 18B-1114.7.

5 (b) Distilleries for Fuel Alcohol. – Any person in possession of a Federal Operating
6 Permit pursuant to Title 27, Code of Federal Regulations, Part 19 (April 1, 2010 Edition), shall
7 obtain a fuel alcohol permit before manufacturing any alcohol. The permit shall entitle the
8 permittee to perform only those acts allowed by the Federal Operating Permit, and all
9 conditions of the Federal Operating Permit shall apply to the State permit."

10 **SECTION 1.(b)** G.S. 18B-804 is amended by adding a new subsection to read:

11 "**§ 18B-804. Alcoholic beverage pricing.**

12 (a) Uniform Price of Spirituous Liquor. – The retail price of spirituous liquor sold in
13 ABC stores and permitted distilleries shall be uniform throughout the State, unless otherwise
14 provided by the ABC law.

15 (b) Sale Price of Spirituous Liquor. – The sale of spirituous liquor, including antique
16 spirituous liquor, sold at the uniform State price shall consist of the following components:

17 (1) The distiller's or the antique spirituous liquor seller's price.

18 (2) The freight and bailment charges of the State warehouse as determined by
19 the Commission.

20 (3) A markup for local boards as determined by the Commission.

21 (4) The tax levied under G.S. 105-113.80(c), which shall be levied on the sum
22 of subdivisions (1), (2), and (3).

23 (5) An additional markup for local boards equal to three and one-half percent (3
24 1/2%) of the sum of subdivisions (1), (2), and (3).

25 (6) A bottle charge of one cent (1¢) on each bottle containing 50 milliliters or
26 less and five cents (5¢) on each bottle containing more than 50 milliliters.

27 (6a) The bailment surcharge.

28 (6b) An additional bottle charge for local boards of one cent (1¢) on each bottle
29 containing 50 milliliters or less and five cents (5¢) on each bottle containing
30 more than 50 milliliters.

31 (7) A rounding adjustment, the formula of which may be determined by the
32 Commission, so that the sale price will be divisible by five.

33 (8) If the spirituous liquor is sold to a mixed beverage permittee for resale in
34 mixed beverages, a charge of twenty dollars (\$20.00) on each four liters and
35 a proportional sum on lesser quantities.

36 (9) If the spirituous liquor is sold to a guest room cabinet permittee for resale, a
37 charge of twenty dollars (\$20.00) on each four liters and a proportional sum
38 on lesser quantities.

39 (b1) Price of Spirituous Liquor Sold at Distillery. – When the holder of a distillery
40 permit sells spirituous liquor distilled at the distillery pursuant to G.S. 18B-1105(a)(4), the
41 retail price of the spirituous liquor shall be the uniform State price set by subsection (a) of this
42 section. However, the holder of the distillery permit shall not be required to remit the
43 components of the price set forth by subdivisions (2), (3), (5), (6), (6a), (6b), and (7) of
44 subsection (b) of this section.

45 (b2) Price of Spirituous Liquor Sold for Delivery Outside the State. – When the holder of
46 a distillery permit sells spirituous liquor for delivery outside the State pursuant to
47 G.S. 18B-1105(a)(2a), the retail price of the spirituous liquor shall be the distiller's price.

48 (c) Sale Price of Fortified Wine. – The sale price of fortified wine shall include the tax
49 levied by G.S. 105-113.80(b), as well as State and local sales taxes.

50 (d) Repealed by Session Laws 1985, c. 59, s. 2."

51 **SECTION 1.(c)** G.S. 18B-800 reads as rewritten:

1 **"§ 18B-800. Sale of alcoholic beverages in ABC stores.**

2 (a) Spirituous Liquor. – Except as provided in ~~Article 10~~ Articles 10 and 11 of this
3 Chapter, spirituous liquor may be sold only in ABC stores operated by local boards.

4"

5 **SECTION 1.(d)** The Alcoholic Beverage Control Commission shall adopt
6 temporary rules to amend its rules consistent with this section.

7 **SECTION 1.(e)** This section becomes effective July 1, 2017.

8
9 **CREATE SPIRITUOUS LIQUOR SPECIAL EVENT PERMIT TO ALLOW**
10 **DISTILLERIES TO GIVE FREE TASTINGS**

11 **SECTION 2.(a)** G.S. 18B-301 reads as rewritten:

12 **"§ 18B-301. Possession and consumption of fortified wine and spirituous liquor.**

13 ...

14 (e) Incident to Sale. – It shall be lawful to possess fortified wine and spirituous liquor at
15 any place, such as an ABC store, where possession is a necessary incident to lawful sale.
16 Consumption at such a place shall be unlawful unless the establishment has a permit
17 authorizing consumption on the premises as well as sale.

18 (f) Unlawful Possession or Use. – As illustration, but not limitation, of the general
19 prohibition stated in G.S. 18B-102(a), it shall be unlawful for:

20 (1) Any person to consume fortified wine, spirituous liquor, or mixed beverages
21 or to offer such beverages to another ~~person~~ person at any of the following
22 places:

23 a. On the premises of an ABC ~~store, or store.~~

24 b. Upon any property used or occupied by a local ~~board, or board.~~

25 c. On any public road, street, highway, or ~~sidewalk~~ sidewalk, unless a
26 consumer tasting authorized by G.S. 18B-1114.7 is being conducted.

27"

28 **SECTION 2.(b)** G.S. 18B-902(d) is amended by adding new subdivisions to read:

29 "(d) Fees. – An application for an ABC permit shall be accompanied by payment of the
30 following application fee:

31 (1) On-premises malt beverage permit – \$400.00.

32 (2) Off-premises malt beverage permit – \$400.00.

33 (3) On-premises unfortified wine permit – \$400.00.

34 (4) Off-premises unfortified wine permit – \$400.00.

35 (5) On-premises fortified wine permit – \$400.00.

36 (6) Off-premises fortified wine permit – \$400.00.

37 (7) Brown-bagging permit – \$400.00, unless the application is for a restaurant
38 seating less than 50, in which case the fee shall be \$200.00.

39 (8) Special occasion permit – \$400.00.

40 (9) Limited special occasion permit – \$50.00.

41 (10) Mixed beverages permit – \$1,000.

42 (11) Culinary permit – \$200.00.

43 (12) Unfortified winery permit – \$300.00.

44 (13) Fortified winery permit – \$300.00.

45 (14) Limited winery permit – \$300.00.

46 (15) Brewery permit – \$300.00.

47 (16) Distillery permit – \$300.00.

48 (17) Fuel alcohol permit – \$100.00.

49 (18) Wine importer permit – \$300.00.

50 (19) Wine wholesaler permit – \$300.00.

51 (20) Malt beverage importer permit – \$300.00.

- 1 (21) Malt beverage wholesaler permit – \$300.00.
- 2 (22) Bottler permit – \$300.00.
- 3 (23) Salesman permit – \$100.00.
- 4 (24) Vendor representative permit – \$50.00.
- 5 (25) Nonresident malt beverage vendor permit – \$100.00.
- 6 (26) Nonresident wine vendor permit – \$100.00.
- 7 (27) Any special one-time permit under G.S. 18B-1002 – \$50.00.
- 8 (28) Winery special event permit – \$200.00.
- 9 (29) Mixed beverages catering permit – \$200.00.
- 10 (30) Guest room cabinet permit – \$1,000.
- 11 (31) Liquor importer/bottler permit – \$500.00.
- 12 (32) Cider and vinegar manufacturer permit – \$200.00.
- 13 (33) Brew on premises permit – \$400.00.
- 14 (34) Wine producer permit – \$300.00.
- 15 (35) Wine tasting permit – \$100.00.
- 16 (36) Repealed by Session Laws 2005-380, s. 1, effective September 8, 2005, and
- 17 applicable to wine shipper permit applications submitted on or after that
- 18 date.
- 19 (37) Wine shop permit – \$100.00.
- 20 (38) Winemaking on premises permit – \$400.00.
- 21 (39) Wine shipper packager permit – \$100.00.
- 22 (40) Malt beverage special event permit – \$200.00.
- 23 (41) Malt beverage tasting permit – \$100.00.
- 24 (42) Spirituous liquor tasting permit – \$100.00.
- 25 (43) Antique spirituous liquor permit – \$100.00.
- 26 (44) Spirituous liquor special event permit – \$200.00.
- 27 (45) Special auction permit – \$750.00."

28 **SECTION 2.(c)** Article 11 of Chapter 18B of the General Statutes is amended by
 29 adding a new section to read:

30 **"§ 18B-1114.7. Authorization of spirituous liquor special event permit.**

31 (a) Authorization. – The holder of a supplier representative permit, brokerage
 32 representative permit, or distillery permit issued under G.S. 18B-1105 may obtain a spirituous
 33 liquor special event permit allowing the permittee to give free tastings of its spirituous liquors
 34 at trade shows, conventions, shopping malls, street festivals, holiday festivals, agricultural
 35 festivals, balloon races, local fund-raisers, and other similar events approved by the
 36 Commission.

37 (b) Limitations. – Any consumer tasting is subject to the following limitations:

- 38 (1) The permit holder or the permit holder's authorized agent shall conduct the
 39 consumer tasting and the permit holder shall be solely responsible for any
 40 violations of this Chapter occurring in connection with the consumer tasting.
- 41 (2) The spirituous liquor shall be poured only by either (i) the permit holder
 42 conducting the consumer tasting or (ii) an employee or authorized agent of
 43 the permit holder conducting the consumer tasting who is at least 21 years of
 44 age.
- 45 (3) Each consumer shall be limited to one 0.25 ounce tasting sample of any
 46 product made available for sampling at the consumer tasting, and the total
 47 amount of the tasting samples offered to and consumed by each consumer
 48 shall not exceed 1.0 ounce of spirituous liquor in any calendar day.
- 49 (4) The permit holder shall not offer tasting samples to, or allow consumption of
 50 tasting samples by, any consumer who is visibly intoxicated.

- 1 (5) The permit holder shall not offer tasting samples to, or allow consumption of
 2 tasting samples by, any consumer under the legal age for consuming
 3 spirituous liquor. The person pouring the spirituous liquor shall be
 4 responsible for verifying the age of the consumer being served by checking
 5 the identification of the consumer.
- 6 (6) The permit holder shall not charge a consumer for any tasting sample.
- 7 (7) No venue shall allow more than three different permit holders to conduct a
 8 consumer tasting at any event. However, the local board may grant approval
 9 for additional permit holders to conduct consumer tastings at a specific
 10 event.
- 11 (8) A venue allowing tastings shall designate a tasting area within the venue that
 12 enables the permit holder to ensure that the consumer tasting is being
 13 conducted in compliance with this section. Consumers shall only be allowed
 14 to consume tasting samples within the designated tasting area.
- 15 (9) A consumer tasting shall not be allowed unless the venue is located in a
 16 jurisdiction that has approved the sale of mixed beverages.
- 17 (10) The permit holder conducting the event may provide point-of-sale
 18 advertising materials and advertising specialties to consumers at the
 19 consumer tasting.
- 20 (11) The permit holder shall provide written notice of the consumer tasting to the
 21 ABC Commission at least 48 hours before the consumer tasting. The notice
 22 shall include the date of the consumer tasting, the time of the consumer
 23 tasting, the venue at which the consumer tasting will be held, and the
 24 spirituous liquor that will be provided for tasting at the consumer tasting.
- 25 (12) The permit holder shall maintain for a period of at least one year a record of
 26 each consumer tasting conducted. The record shall include the date of the
 27 consumer tasting, the time of the consumer tasting, an identification of the
 28 venue at which the consumer tasting was held, an identification of the
 29 spirituous liquor that was provided for tasting at the consumer tasting, and
 30 the name of any person who poured spirituous liquor at the consumer
 31 tasting. The permit holder shall allow the ABC Commission to inspect those
 32 records at any time."

33
 34 **ALLOW SALE OF SPECIFIED ALCOHOLIC BEVERAGES AT AUCTION BY**
 35 **LICENSED AUCTIONEERS**

36 **SECTION 3.(a)** G.S. 18B-603(f) reads as rewritten:

37 **"§ 18B-603. Effect of alcoholic beverage elections on issuance of permits.**

38 ...

39 (f) Permits Not Dependent on Elections. – The Commission may issue the following
 40 kinds of permits without approval at an election:

- 41 (1) Special occasion ~~permits;~~permits.
- 42 (2) Limited special occasion ~~permits;~~permits.
- 43 (3) Brown-bagging permits for private clubs and congressionally chartered
 44 veterans ~~organizations;~~organizations.
- 45 (4) Culinary permits, except as restricted by ~~subdivision (d)(5);~~subdivision
 46 (d)(5).
- 47 (5) Special one-time permits issued under ~~G.S. 18B-1002;~~G.S. 18B-1002.
- 48 (6) All permits listed in ~~G.S. 18B-1100;~~G.S. 18B-1100.
- 49 (7) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for tourism
 50 ABC ~~establishments;~~establishments.

- 1 (8) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for tourism
2 ~~resorts;resorts.~~
3 (9) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for historic
4 ABC establishments.
5 (10) Special auction permits issued under G.S. 18B-1002.1."

6 **SECTION 3.(b)** G.S. 18B-1002(a)(4) reads as rewritten:

7 "(a) Kinds of Permits. – In addition to the other permits authorized by this Chapter, the
8 Commission may issue permits for the following activities:

9 ...

- 10 (4) A permit may be issued to a collector of ~~wine or wine~~, decorative decanters
11 of spirituous ~~liquor—liquor~~, or antique spirituous liquor authorizing that
12 person to bring into the State, transport, or possess as a collector, a greater
13 amount of those alcoholic beverages than is otherwise authorized by this
14 Chapter, or to sell those alcoholic beverages in a manner prescribed by the
15 Commission.

16"

17 **SECTION 3.(c)** Article 10 of Chapter 18B of the General Statutes is amended by
18 adding a new section to read:

19 "**§ 18B-1002.1. Special auction permit.**

20 (a) Permit Authorized. – A permit may be issued upon application to an auction firm or
21 auctioneer licensed by the North Carolina Auctioneers Commission pursuant to Chapter 85B of
22 the General Statutes to allow the licensed auction firm or auctioneer to sell at auction items
23 described in G.S. 18B-1002(a)(4). An auction held under this section may receive competing
24 bids that are in person or by telephone, fax, or online.

25 (b) Conditions of Permit. – A permit issued under this section shall be valid only for the
26 auction specified in the permit. Any sales under this permit shall be subject to the purchase
27 restrictions in G.S. 18B-303.

28 (c) Administrative Procedure. – Denial or revocation of a permit under this section shall
29 not entitle the applicant or permittee to a hearing under Chapter 150B of the General Statutes."

30 **SECTION 3.(d)** This section becomes effective October 1, 2017.

31
32 **ALLOW THE SALE OF ALCOHOLIC BEVERAGES BEFORE NOON ON SUNDAYS,**
33 **SUBJECT TO LOCAL GOVERNMENT APPROVAL**

34 **SECTION 4.(a)** G.S. 18B-1004(c) reads as rewritten:

35 "**§ 18B-1004. Hours for sale and consumption.**

36 ...

37 (c) Sunday Hours. – ~~It—~~Except as authorized pursuant to G.S. 153A-145.7 or
38 G.S. 160A-205.3, it shall be unlawful to sell or consume alcoholic beverages on any licensed
39 premises from the time at which sale or consumption must cease on Sunday morning until
40 12:00 Noon on that day."

41 **SECTION 4.(b)** Article 6 of Chapter 153A of the General Statutes is amended by
42 adding a new section to read:

43 "**§ 153A-145.7. Hours of certain alcohol sales.**

44 In accordance with G.S. 18B-1004(c), a county may adopt an ordinance allowing for the
45 sale of malt beverages, unfortified wine, fortified wine, and mixed beverages beginning at
46 10:00 A.M. on Sunday pursuant to the licensed premises' permit issued under G.S. 18B-1001."

47 **SECTION 4.(c)** Article 8 of Chapter 160A of the General Statutes is amended by
48 adding a new section to read:

49 "**§ 160A-205.3. Hours of certain alcohol sales.**

1 In accordance with G.S. 18B-1004(c), a city may adopt an ordinance allowing for the sale
2 of malt beverages, unfortified wine, fortified wine, and mixed beverages beginning at 10:00
3 A.M. on Sunday pursuant to the licensed premises' permit issued under G.S. 18B-1001."
4

5 **AUTHORIZE REBATES**

6 **SECTION 5.(a)** G.S. 75-40(b) reads as rewritten:

7 "(b) Rebate forms shall include the telephone number or e-mail address of the person,
8 firm, or corporation that is offering the ~~rebate~~-rebate, or that person, firm, or corporation's
9 designated agent. Rebate forms shall also include all of the following conspicuously printed on
10 the rebate form:

- 11 (1) The terms of the rebate.
- 12 (2) Requirements for a valid claim, including any additional information to be
13 submitted with the rebate form.
- 14 (3) The expiration date of the rebate offer, if applicable."

15 **SECTION 5.(b)** No later than December 31, 2017, the Alcoholic Beverage Control
16 Commission shall amend the Commission's rules, including, without limitation, the provisions
17 of 14B NCAC 15B .1013 and 14B NCAC 15B .1004, to permit all of the following:

- 18 (1) The offering, promotion, receipt, delivery, use, fulfillment, and redemption
19 of rebate offers by or among members of the alcoholic beverage industry,
20 retailers, producers, and manufacturers to consumers and retailers, or other
21 members of the alcoholic beverage industry, for (i) the purchase of alcoholic
22 beverages from persons authorized to sell alcoholic beverages in the State in
23 unopened containers for consumption off-premises and (ii) for the purchase
24 of alcoholic beverages from retail permittees, whether in unopened or
25 opened containers, for consumption on-premises.
- 26 (2) Cooperation by and among industry members, retailer, producers, and
27 manufacturers in the offering, promotion, receipt, delivery, use, fulfillment,
28 and redemption of such rebate offers, including compensation of any such
29 party in connection with promotion or other cooperation.
- 30 (3) Rebate offers to be issued, displayed, and promoted through any media,
31 including, without limitation, through direct mail, print advertisements,
32 broadcast media, or electronic means.
- 33 (4) On-premise promotion of rebate offers and delivery of any required notices
34 to consumers by a retail permittee at the point-of-sale of alcoholic beverages.
- 35 (5) Submission of rebate redemption requests through any media, including,
36 without limitation, through postal mail, electronic mail, or other electronic
37 means, such as Internet Web sites or software applications, including mobile
38 applications.
- 39 (6) Fulfillment of rebate redemption requests and payment of rebate funds
40 through electronic payment mechanisms or postal mail.

41 **SECTION 5.(c)** No later than December 31, 2017, the Alcoholic Beverage Control
42 Commission shall amend the Commission's rules to eliminate any rule or requirement that does
43 any of the following:

- 44 (1) Requires rebate offers to be made, promoted, received, delivered, used,
45 fulfilled, or redeemed (i) exclusively in paper form, (ii) only with respect to
46 unopened containers or only with respect to purchases of alcoholic
47 beverages for off-premise consumption, or (iii) only for alcoholic beverages
48 purchased from a local ABC store.
- 49 (2) Requires rebate offers be for purchase throughout the State.
- 50 (3) Restricts the value of a rebate offer to less than the full value of the purchase
51 price.

1 (4) Prohibits offers and advertisements of "2 for 1," "buy 1 get 1 free," "buy 1
2 get another for a ___ (nickel, penny, etc.)," and any other similar statement.

3 **SECTION 5.(d)** If the Commission fails to modify the Commission's rules in
4 compliance with subsections (b) and (c) of this section by December 31, 2017, the Commission
5 shall be precluded from enforcing any penalties against any person who, on or after that date, in
6 good faith, offers, promotes, receives, delivers, uses, fulfills, or redeems refund offers through
7 electronic means.

8
9 **EFFECTIVE DATE**

10 **SECTION 6.** Except as otherwise provided, this act is effective when it becomes
11 law.