

Article 2C.

Alcoholic Beverage License and Excise Taxes.

Part 1. General Provisions.

§ 105-113.68. Definitions; scope.

- (a) Definitions. – The following definitions apply in this Article:
- (1) ABC Commission. – The North Carolina Alcoholic Beverage Control Commission established under G.S. 18B-200.
 - (2) Repealed by Session Laws 2004-170, s. 6, effective August 2, 2004.
 - (3) ABC permit. – Defined in G.S. 18B-101.
 - (4) Alcoholic beverage. – Defined in G.S. 18B-101.
 - (4a) Antique spirituous liquor. – Defined in G.S. 18B-101.
 - (4b) Distillery permittee. – A distillery that holds a distillery permit issued by the ABC Commission under G.S. 18B-1105.
 - (5) Fortified wine. – Defined in G.S. 18B-101.
 - (6) License. – A certificate, issued pursuant to this Article by a city or county, that authorizes a person to engage in a phase of the alcoholic beverage industry.
 - (7) Malt beverage. – Defined in G.S. 18B-101.
 - (8) Person. – Defined in G.S. 105-228.90.
 - (9) Sale. – Defined in G.S. 18B-101.
 - (10) Secretary. – The Secretary of Revenue.
 - (11) Spirituous liquor or liquor. – Defined in G.S. 18B-101.
 - (12) Unfortified wine. – Defined in G.S. 18B-101.
 - (13) Wholesaler or importer. – When used with reference to wholesalers or importers of wine or malt beverages, the term includes resident wineries that sell their wines at retail and resident breweries that produce fewer than 25,000 barrels of malt beverages per year.
 - (14) Wine. – Unfortified and fortified wine.
 - (15) Wine shipper permittee. – A winery that holds a wine shipper permit issued by the ABC Commission under G.S. 18B-1001.1.

(b) Scope. – All alcoholic beverages shall be taxed as provided in this Article regardless whether they meet all criteria of these definitions. (1971, c. 872, s. 2; 1973, c. 476, s. 193; 1975, c. 411, s. 1; 1981, c. 747, s. 2; 1985, c. 114, s. 1; c. 596, s. 3; 1993, c. 354, s. 9; c. 415, s. 26; 1995, c. 466, s. 16; 1998-95, s. 14; 1998-98, s. 58; 2003-402, s. 8; 2004-135, s. 3; 2004-170, s. 6; 2005-277, s. 2; 2005-435, s. 25(b); 2015-98, ss. 1(g), 4(b).)

§ 105-113.69. License tax; effect of license.

The taxes imposed in Part 3 of this Article are license taxes on the privilege of engaging in the activity authorized by the license. Licenses issued under this Article authorize the licensee to engage in only those activities that are authorized by the corresponding ABC permit. The activities authorized by each retail ABC permit are described in Article 10 of Chapter 18B of the General Statutes and the activities authorized by each commercial ABC permit are described in Article 11 of that Chapter. (1949, c. 974, s. 6; 1951, c. 378, s. 4; 1963, c. 426, s. 12; 1971, c. 872, s. 2; 1981, c. 747, s. 3; 1985, c. 114, s. 1; 1998-95, s. 15.)

§ 105-113.70. Issuance, duration, transfer of license.

(a) Issuance, Qualifications. – Each person who receives an ABC permit shall obtain the corresponding local license, if any, under this Article. All local licenses are issued by the city or county where the establishment for which the license is sought is located. No documentation shall be required of the applicant except as provided in this section. Issuance of a local license is mandatory if the applicant holds the corresponding ABC permit and provides all of the following: (i) a copy of the most recently completed State application form for an ABC permit exclusive of any attachments, (ii) the ABC permit for visual inspection, and (iii) payment of the prescribed tax. No local license may be issued under this Article until the applicant has received from the ABC Commission the applicable permit for that activity, and no county license may be issued for an establishment located in a city in that county until the applicant has received from the city the applicable license for that activity.

(b) Duration. – All licenses issued under this section are annual licenses for the period from May 1 to April 30.

(c) Transfer. – A license may not be transferred from one person to another or from one location to another.

(d) License Exclusive. – A local government may not require a license for activities related to the manufacture or sale of alcoholic beverages other than the licenses stated in this Article. (1985, c. 114, s. 1; 1998-95, s. 16; 2017-87, s. 17.)

§ 105-113.71. Local government may refuse to issue license.

(a) Refusal to Issue. – Notwithstanding G.S. 105-113.70, the governing board of a city or county may refuse to issue a license if it finds that the applicant committed any act or permitted any activity in the preceding year that would be grounds for suspension or revocation of his permit under G.S. 18B-104. Before denying the license, the governing board shall give the applicant an opportunity to appear at a hearing before the board and to offer evidence. The applicant shall be given at least 10 days' notice of the hearing. At the conclusion of the hearing the board shall make written findings of fact based on the evidence at the hearing. The applicant may appeal the denial of a license to the superior court for that county, if notice of appeal is given within 10 days of the denial.

(b) Local Exceptions. – The governing bodies of the following counties and cities in their discretion may decline to issue on-premises unfortified wine licenses: the counties of Alamance, Alexander, Ashe, Avery, Chatham, Clay, Duplin, Granville, Greene, Haywood, Jackson, Macon, Madison, McDowell, Montgomery, Nash, Pender, Randolph, Robeson, Sampson, Transylvania, Vance, Watauga, Wilkes, Yadkin; any city within any of those counties; and the cities of Greensboro, Aulander, Pink Hill, and Zebulon. (1985, c. 114, s. 1.)

§ 105-113.72: Repealed by Session Laws 1998-95, s. 17.

§ 105-113.73. Misdemeanor.

Except as otherwise expressly provided, violation of a provision of this Article is a Class 1 misdemeanor. (1939, c. 158, s. 525; 1971, c. 872, s. 2; 1981, c. 747, s. 32; 1985, c. 114, s. 1; 1993, c. 539, s. 701; 1994, Ex. Sess., c. 24, s. 14(c); 2003-402, s. 9.)

Part 2. State Licenses.

§ 105-113.74: Repealed by Session Laws 1998-95, s. 18.

§ 105-113.75: Repealed by Session Laws 1998-95, s. 19.

§ 105-113.76: Repealed by Session Laws 1998-95, s. 20.

Part 3. Local Licenses.

§ 105-113.77. City beer and wine retail licenses.

(a) License and Tax. – A person holding any of the following retail ABC permits for an establishment located in a city shall obtain from the city a city license for that activity. The annual tax for each license is as stated.

ABC Permit	Tax for Corresponding License
On-premises malt beverage.....	\$15.00
Off-premises malt beverage.....	5.00
On-premises unfortified wine, on-premises fortified wine, or both.....	15.00
Off-premises unfortified wine, off-premises fortified wine, or both.....	10.00

(b) Tax on Additional License. – The tax stated in subsection (a) is the tax for the first license issued to a person. The tax for each additional license of the same type issued to that person for the same year is one hundred ten percent (110%) of the base license tax, that increase to apply progressively for each additional license. (1985, c. 114, s. 1.)

§ 105-113.78. County beer and wine retail licenses.

A person holding any of the following retail ABC permits for an establishment located in a county shall obtain from the county a county license for that activity. The annual tax for each license is as stated.

ABC Permit	Tax for Corresponding License
On-premises malt beverage.....	\$25.00
Off-premises malt beverage.....	5.00
On-premises unfortified wine, on-premises fortified wine, or both.....	25.00
Off-premises unfortified wine, off-premises fortified wine, or both.....	25.00

(1985, c. 114, s. 1.)

§ 105-113.79. City wholesaler license.

A city may require city malt beverage and wine wholesaler licenses for businesses located inside the city, but may not require a license for a business located outside the city, regardless whether that business sells or delivers malt beverages or wine inside the city. The city may charge an annual tax of not more than thirty-seven dollars and fifty cents (\$37.50) for a city malt beverage wholesaler or a city wine wholesaler license. (1985, c. 114, s. 1; 1998-95, s. 21.)

Part 4. Excise Taxes, Distribution of Tax Revenue.

§ 105-113.80. Excise taxes on beer, wine, and liquor.

(a) Beer. – An excise tax of sixty-one and seventy-one hundredths cents (61.71¢) per gallon is levied on the sale of malt beverages.

(b) Wine. – An excise tax of twenty-six and thirty-four hundredths cents (26.34¢) per liter is levied on the sale of unfortified wine, and an excise tax of twenty-nine and thirty-four hundredths cents (29.34¢) per liter is levied on the sale of fortified wine.

(c) Liquor. – An excise tax of thirty percent (30%) is levied on spirituous liquor and antique spirituous liquor sold in ABC stores and in permitted distilleries. Pursuant to G.S. 18B-804(b), the price of liquor on which this tax is computed is the distiller's or the antique spirituous liquor seller's price plus (i) the State ABC warehouse freight and bailment charges and (ii) a markup for local ABC boards. (1985, c. 114, s. 1; 1987, c. 832, s. 2; 1998-95, s. 22; 2001-424, s. 34.23(c), (d); 2009-451, s. 27A.4(a); 2015-98, ss. 1(f), 4(c).)

§ 105-113.81. Exemptions.

(a) Major Disaster. – Wholesalers and importers of malt beverages and wine are not required to remit excise taxes on malt beverages or wine rendered unsalable by a major disaster. To qualify for this exemption, the wholesaler or importer shall prove to the satisfaction of the Secretary that a major disaster occurred. A major disaster is the destruction, spoilage, or rendering unsalable of 50 or more cases, or the equivalent, of malt beverages or 25 or more cases, or the equivalent, of wine.

(b) Sales to Oceangoing Vessels. – Wholesalers and importers of malt beverages and wine are not required to remit excise taxes on malt beverages and wine sold and delivered for use on oceangoing vessels. An oceangoing vessel is a ship that plies the high seas in interstate or foreign commerce, in the transport of freight or passengers, or both, for hire exclusively. To qualify for this exemption the beverages shall be delivered to an officer or agent of the vessel for use on that vessel. Sales made to officers, agents, crewmen, or passengers for their personal use are not exempt.

(c) Sales to Armed Forces of the United States. – Wholesalers and importers of malt beverages and wine are not required to remit excise taxes on malt beverages and wine sold to the Armed Forces of the United States. The Secretary may require malt beverages and wine sold to the Armed Forces of the United States to be marked "For Military Use Only" to facilitate identification of those beverages.

(d) Out-of-State Sales. – Wholesalers and importers of malt beverages and wine are not required to remit excise taxes on malt beverages and wine shipped out of this State for resale outside the State.

(e) Tasting. – Resident breweries, wineries, and distilleries are not required to remit excise taxes on malt beverages, wine, or spirituous liquor given free of charge to customers, visitors, and employees on the manufacturer's licensed premises for consumption on those premises. (1963, c. 992, s. 1; 1967, c. 759, s. 24; 1971, c. 872, s. 2; 1975, c. 586, s. 3; 1985, c. 114, s. 1; 2011-183, s. 71; 2015-98, s. 4(d).)

§ 105-113.81A: Repealed by Session Laws 2009-451, s. 14.19(f), effective July 1, 2009.

§ 105-113.82. Distribution of part of beer and wine taxes.

(a) Amount. – The Secretary must distribute annually a percentage of the net amount of excise taxes collected on the sale of malt beverages and wine during the preceding 12-month period ending March 31 to the counties or cities in which the retail sale of these beverages is authorized in the entire county or city. The percentages to be distributed are as follows:

- (1) Of the tax on malt beverages levied under G.S. 105-113.80(a), twenty and forty-seven hundredths percent (20.47%).
- (2) Of the tax on unfortified wine levied under G.S. 105-113.80(b), forty-nine and forty-four hundredths percent (49.44%).
- (3) Of the tax on fortified wine levied under G.S. 105-113.80(b), eighteen percent (18%).

(a1) Method. – If malt beverages, unfortified wine, or fortified wine may be licensed to be sold at retail in both a county and a city located in the county, both the county and city receive a portion of the amount distributed, that portion to be determined on the basis of population. If one of these beverages may be licensed to be sold at retail in a city located in a county in which the sale of the beverage is otherwise prohibited, only the city receives a portion of the amount distributed, that portion to be determined on the basis of population. The amounts distributable under subsection (a) of this section must be computed separately.

(b) Repealed by Session Laws 2000, c. 173, s. 3, effective August 2, 2000.

(c) Exception. – Notwithstanding subsections (a) and (a1) of this section, in a county in which ABC stores have been established by petition, the revenue shall be distributed as though the entire county had approved the retail sale of a beverage whose retail sale is authorized in part of the county.

(d) Time. – The revenue shall be distributed to cities and counties within 60 days after March 31 of each year. The General Assembly finds that the revenue distributed under this section is local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of the North Carolina Constitution. Therefore, the Governor may not reduce or withhold the distribution.

(e) Population Estimates. – To determine the population of a city or county for purposes of the distribution required by this section, the Secretary shall use the most recent annual estimate of population certified by the State Budget Officer.

(f) City Defined. – As used in this section, the term "city" means a city as defined in G.S. 153A-1(1) or an urban service district defined by the governing body of a consolidated city-county.

(g) Use of Funds. – Funds distributed to a county or city under this section may be used for any public purpose.

(h) Disqualification. – No municipality may receive any funds under this section if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section, incorporated with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets is open to the public. The previous sentence becomes effective with respect to distribution of funds on or after July 1, 1999. (1985, c. 114, s. 1; 1987, c. 836, s. 2; 1989 (Reg. Sess., 1990), c. 813, s. 5; 1991, c. 689, s. 28(b); 1993, c. 321, s. 26(g); c. 485, s. 2; 1995, c. 17, s. 1; 1996, 2nd Ex. Sess., c. 18, s. 25.2(a); 1997-261, s. 109; 1999-458, s. 10; 2000-173, s. 3; 2002-120, s. 1; 2004-203, s. 5(d); 2005-435, s. 34(a); 2006-162, s. 1; 2007-527, s. 4; 2009-451, s. 27A.4(b); 2011-330, s. 7.)

Part 5. Administration.

§ 105-113.83. Payment of excise taxes.

(a) Liquor. – The excise tax on liquor levied under G.S. 105-113.80(c) is payable monthly by the local ABC board and by a distillery permittee to the Secretary. The tax shall be paid on or before the 15th day of the month following the month in which the tax was collected.

(b) Beer and Wine. – The excise taxes on malt beverages and wine levied under G.S. 105-113.80(a) and (b), respectively, are payable to the Secretary by the resident wholesaler or importer who first handles the beverages in this State. The excise taxes levied under G.S. 105-113.80(b) on wine shipped directly to consumers in this State pursuant to G.S. 18B-1001.1 must be paid by the wine shipper permittee. The taxes on malt beverages and wine are payable only once on the same beverages. Unless otherwise provided, the tax is due on or before the 15th day of the month following the month in which the beverage is first sold or otherwise disposed of in this State by the wholesaler, importer, or wine shipper permittee. When excise taxes are paid on wine or malt beverages, the wholesaler or importer must submit to the Secretary verified reports on forms provided by the Secretary detailing sales records for the month for which the taxes are paid. The report must indicate the amount of excise tax due, contain the information required by the Secretary, and indicate separately any transactions to which the excise tax does not apply. A wine shipper permittee shall submit verified reports once a year on forms provided by the Secretary detailing sales records for the year the taxes are paid. The verified report is due on or before the fifteenth day of the first month of the following calendar year.

(c) Railroad Sales. – Each person operating a railroad train in this State on which alcoholic beverages are sold must submit monthly reports of the amount of alcoholic beverages sold in this State and must remit the applicable excise tax due on the sale of these beverages when the report is submitted. The report is due on or before the 15th day of the month following the month in which the beverages are sold. The report must be made on a form prescribed by the Secretary. (1985, c. 114, s. 1; 1998-95, s. 23; 2003-402, s. 10; 2004-170, s. 7; 2005-435, s. 26; 2015-98, s. 4(e); 2016-5, s. 4.3.)

§ 105-113.83A. Registration and discontinuance requirements; penalties.

(a) Registration Required. – A person who holds a wine shipper permit issued under G.S. 18B-1001.1 or one or more of the following ABC permits issued under Article 11 of Chapter 18B of the General Statutes must register with the Secretary:

- (1) Unfortified winery.
- (2) Fortified winery.
- (3) Brewery.
- (4) Distillery.
- (5) Wine importer.
- (6) Wine wholesaler.
- (7) Malt beverages importer.
- (8) Malt beverages wholesaler.
- (9) Nonresident malt beverage vendor.
- (10) Nonresident wine vendor.
- (11) Wine Producer.

(b) Registration Form. – Registration must be in a form required by the Secretary and include all information requested. If a permittee fails to register, the Secretary must notify the ABC Commission of the violation.

(c) Discontinuance of Authorized Activities. – A permittee required to be registered, who changes ownership or stops engaging in the activities authorized by an issued ABC permit, must notify the Secretary in writing of the change. The permittee is responsible for maintaining a bond or irrevocable letter of credit as required by G.S. 105-113.86 and submitting all returns and the

payment of all taxes for which the permittee is liable under this Article while the issued ABC permit is active.

(d) Penalty. – The Secretary must notify the ABC Commission when a permittee required to register is not eligible to hold an ABC permit for failure to satisfy G.S. 18B-900(a)(8). Upon notification, the ABC Commission must impose any penalty permitted under G.S. 18B-104. (2018-5, s. 38.6(c).)

§ 105-113.84. Report of resident brewery, resident winery, nonresident vendor, or wine shipper permittee.

(a) A resident brewery, resident winery, and nonresident vendor must file a monthly report with the Secretary.

(b) A wine shipper permittee must file an annual report with the Secretary.

(c) The report required by this section must list the amount of beverages delivered to North Carolina wholesalers, importers, and purchasers under G.S. 18B-1001.1 during the period covered by the report. The report is due by the 15th day of the month following the period covered by the report. The report must be filed on a form approved by the Secretary and must contain the information required by the Secretary. (1985, c. 114, s. 1; 1998-95, s. 24; 2000-173, s. 4; 2003-402, s. 11; 2016-5, s. 4.12.)

§ 105-113.85. Discount.

Each wholesaler or importer who files a timely return and sends a timely payment may deduct from the amount payable a discount of two percent (2%). This discount covers losses due to spoilage and breakage, expenses incurred in preparing the records and reports required by this Article, and the expense of furnishing a bond. (1985, c. 114, s. 1; 2000-173, s. 5; 2001-414, s. 5; 2003-284, s. 45A.2(a); 2004-84, s. 2(d).)

§ 105-113.86. Bond or irrevocable letter of credit.

(a) Wholesalers and Importers. – A wholesaler or importer must file with the Secretary a bond in an amount of not less than five thousand dollars (\$5,000). The amount of the bond must be proportionate to the anticipated tax liability of the wholesaler or importer. The Secretary should periodically review the sufficiency of the bonds required under this section. The Secretary may increase the proportionate amount required, not to exceed fifty thousand dollars (\$50,000), if the bond furnished no longer covers the taxpayer's anticipated tax liability. The Secretary may decrease the proportionate amount required when the Secretary determines that a smaller bond amount will adequately protect the State from loss. The bond must be conditioned on compliance with this Article, payable to the State, in a form acceptable to the Secretary, and secured by a corporate surety.

(b) Nonresident Vendors. – The Secretary may require the holder of a nonresident vendor ABC permit to furnish a bond in an amount not to exceed two thousand dollars (\$2,000). The bond must be conditioned on compliance with this Article, payable to the State in a form acceptable to the Secretary, and secured by a corporate surety.

(c) Letter of Credit. – For purposes of this section, a wholesaler or importer or a nonresident vendor may substitute an irrevocable letter of credit for the secured bond required by this section. The letter of credit must be issued by a commercial bank acceptable to the Secretary and available to the State as a beneficiary. The letter of credit must be in a form acceptable to the

Secretary, conditioned upon compliance with this Article, and in the amounts stipulated in this section. (1985, c. 114, s. 1; 1987, c. 18; 1998-95, s. 25; 2014-3, s. 9.1(c); 2018-5, s. 38.6(d).)

§ 105-113.87. Refund for excise tax paid on sacramental wine.

(a) Refund Allowed. – A person who purchases wine for the purpose stated in G.S. 18B-103(8) may obtain a refund from the Secretary for the amount of the excise tax levied under this Article. The Secretary shall make refunds annually.

(b) Application. – An applicant for a refund authorized by this section shall file a written request with the Secretary for the refund due for the prior calendar year on or before April 15. The Secretary may by rule prescribe what information and records shall be supplied by the applicant to qualify for the refund. No refund may be made if the application is filed more than three years after the date it is due.

(c) Repealed by Session Laws 1998-212, s. 29A.14(e). (1985, c. 114, s. 1; 1998-212, s. 29A.14(e).)

§ 105-113.88. Record-keeping requirements.

A person who is required to file a report or return under this Article must keep a record of all documents used to determine information the person provides in a report or return. The records must be kept for three years from the due date of the report or return to which the records apply. (1939, c. 158, s. 520; 1945, c. 903, s. 1; 1971, c. 872, s. 2; 1973, c. 476, s. 193; 1981, c. 747, s. 28; 1985, c. 114, s. 1; 2000-173, s. 6.)

§ 105-113.89. Other applicable administrative provisions.

The administrative provisions of Article 9 of this Chapter apply to this Article. (1985, c. 114, s. 1; 1998-95, s. 26.)

§§ 105-113.90 through 105-113.91: Repealed by Session Laws 1985, c. 114, s. 1.

§ 105-113.92: Repealed by Session Laws 1981, c. 747, s. 25.

§ 105-113.93: Repealed by Session Laws 1985, c. 114, s. 1.

§ 105-113.94: Repealed by Session Laws 1975, c. 53, s. 3.

§§ 105-113.95 through 105-113.104: Repealed by Session Laws 1985, c. 114, s. 1.