

Article 3.

Sale, Possession, and Consumption.

§ 18B-300. Purchase, possession and consumption of malt beverages and unfortified wine.

(a) Generally. – Except as otherwise provided in this Chapter, the purchase, consumption, and possession of malt beverages and unfortified wine by individuals 21 years old and older for their own use is permitted without restriction.

(a1) Consumption on Premises During Time of Permit Revocation or Suspension. – It shall be unlawful to consume or for a permittee or his agent or employee to allow the consumption of malt beverages or unfortified wine on the premises of any business during the period of time that any on-premises permit issued to the business authorizing the sale and consumption of malt beverages or unfortified wine has been suspended or revoked by the Commission. The prohibition in this subsection does not apply to the premises upon which the business was located at the time the permit was suspended or revoked if the business ceases to operate in that location and the owner of the property is not the permittee, provided that the permittee is not engaged in any other business or other activity on the premises during the period of suspension or revocation.

(b) Consumption at Off-Premises Establishment. – It shall be unlawful to consume, or for a permittee to allow the consumption of, malt beverages or unfortified wine on any premises having only an off-premises permit for the kind of alcoholic beverage being consumed.

(c) Local Ordinance. – A city or county may by ordinance:

- (1) Regulate or prohibit the consumption of malt beverages and unfortified wine on the public streets in that city or county by persons who are not occupants of motor vehicles and on property owned, occupied, or controlled by that city or county;
- (2) Regulate or prohibit the possession of open containers of malt beverages and unfortified wine on public streets in that city or county by persons who are not occupants of motor vehicles and on property owned, occupied, or controlled by that city or county; and
- (3) Regulate or prohibit the possession of malt beverages and unfortified wine on public streets, alleys, or parking lots which are temporarily closed to regular traffic for special events.

For the purposes of this subsection, an open container means a container whose seal has been broken or a container other than the manufacturer's unopened original container. As provided by G.S. 18B-102(a), possession or consumption of alcoholic beverages is unlawful except as authorized by the ABC law. (1939, c. 158, s. 503; 1971, c. 872, s. 1; 1973, c. 1452, ss. 1-3; 1977, c. 176, ss. 2, 3; c. 693; 1979, c. 19, s. 2; c. 445, s. 4; c. 893, s. 11; 1981, c. 412, s. 2; 1983, c. 435, s. 32; 1985, c. 141, s. 1; 1995, c. 144, s. 1; c. 366, s. 2; 2001-79, s. 1; 2013-392, s. 1.)

§ 18B-300.1. Authorization and regulation of social districts.

(a) Policy. – The intent of this section is to regulate open containers of alcoholic beverages that customers of a permittee take from the permittee's licensed premises into another area where consumption of the alcoholic beverages is allowed. This section shall not in any way limit the consumption or possession of alcoholic beverages otherwise allowed under this Chapter.

(b) Definitions. – The following definitions apply in this section:

- (1) Customer. – A person who purchases an alcoholic beverage from a permittee that is in a social district.

- (2) Non-permittee business. – A business that is located in a social district and does not hold any ABC permit.
- (3) Permittee. – An establishment holding any of the following permits issued by the Commission:
 - a. An on-premises malt beverage permit issued pursuant to G.S. 18B-1001(1).
 - b. An on-premises unfortified wine permit issued pursuant to G.S. 18B-1001(3).
 - c. An on-premises fortified wine permit issued pursuant to G.S. 18B-1001(5).
 - d. A mixed beverages permit issued pursuant to G.S. 18B-1001(10).
 - e. A wine shop permit issued pursuant to G.S. 18B-1001(16).
 - f. A distillery permit issued pursuant to G.S. 18B-1100(5).
- (4) Social district. – A defined area in which a person may consume alcoholic beverages sold by a permittee. A social district may include both indoor and outdoor areas of businesses within or contiguous to the defined area during the days and hours set by the local government by ordinance pursuant to subsection (d) of this section. A social district may include privately owned property, including permittees and non-permittee businesses, and multi-tenant establishments, as defined in G.S. 18B-1001.5, and public streets, crosswalks, or parking areas whether or not the streets or parking areas are closed to vehicle traffic.

(c) Local Ordinances Authorized. – Pursuant to G.S. 153A-145.9, a county may adopt an ordinance designating one or more social districts in the parts of the county outside any city. Pursuant to G.S. 160A-205.4, a city may adopt an ordinance designating one or more social districts.

(d) Requirements for Designation. – A social district designated under this section shall meet all of the following requirements:

- (1) The social district shall be clearly defined with signs posted in a conspicuous location indicating which area is included in the social district, the days and hours during which alcoholic beverages may be consumed in the social district, the telephone number for the ALE Division and the local law enforcement agency with jurisdiction over the area comprising the social district, and a clear statement that an alcoholic beverage purchased from a permittee for consumption in a social district shall (i) only be consumed in the social district and (ii) be disposed of before the person in possession of the alcoholic beverage exits the social district. The hours set by a city or county during which customer-purchased alcoholic beverages may be consumed in a social district shall be in accordance with G.S. 18B-1004.
- (2) The city or county, or the city's or county's designee, shall establish or approve management and maintenance plans for the social district and post these plans, along with a rendering of the boundaries of the social district and days and hours during which alcoholic beverages may be consumed in the social district, on the website for the city or county. The city's or county's designee may include a private entity, including a property owner or property owner's association. Any plan established under this subdivision shall be approved by the governing body

of the city or county. The social district shall be maintained in a manner that protects the health and safety of the general public. The city or county may establish guidelines in the ordinance establishing the social district or in its management and maintenance plan to allow for suspension of regular days and hours of alcohol consumption in all or part of a social district during events requiring other permits pursuant to subsection (j) of this section.

- (3) Before allowing consumption of alcoholic beverages in a social district, the city or county shall submit to the Commission a detailed map of the social district with the boundaries of the social district clearly marked, and the days and hours during which alcoholic beverages may be consumed in the social district. The city or county shall only be required to submit a revised map to the Commission if the city or county amends the geographic footprint of a social district. A permittee may be included in the social district even if it chooses to exclude open containers of alcoholic beverages purchased from other permittees in the social district.
- (4) The city or county, or the city's or county's designee, shall develop or approve uniform signs indicating that a non-permittee business is included in the social district and allows alcoholic beverages on its premises when the social district is active and distribute the signs to non-permittee businesses that are included in the social district. The city's or county's designee may include a private entity, including a property owner or property owner's association. The signs may be in the form of a sticker, placard, or other format as deemed appropriate by the city or county. A participating non-permittee business shall display the uniform sign at all times during the times when the social district is active. A customer may not bring an alcoholic beverage into a non-permittee business that does not display the uniform sign. No non-permittee business shall be required to participate or be included in a social district or to allow customers to bring alcohol onto its premises.

(e) **Open Containers Sold by Permittees.** – A permittee located in a social district may sell open containers of alcoholic beverages and allow customers to exit its licensed premises to the social district in accordance with the following requirements:

- (1) The permittee shall only sell and serve alcoholic beverages on its licensed premises.
- (2) The permittee shall only sell an open container of an alcoholic beverage for consumption in the social district and off the premises of the permittee in a container that meets all of the following requirements:
 - a. The container clearly identifies the permittee from which the alcoholic beverage was purchased.
 - b. The container clearly displays a logo or some other mark that is unique to the social district in which it will be consumed.
 - c. The container is not comprised of glass.
 - d. The container displays, in no less than 12-point font, the statement, "Drink Responsibly – Be 21."
 - e. The container shall not hold more than 16 fluid ounces.

- (3) Nothing in this subsection shall be construed to authorize the sale and delivery of alcoholic beverage drinks in excess of the limitation set forth in G.S. 18B-1010.

(f) **Limitations on Open Containers.** – Except where otherwise allowed by local ordinance, the possession and consumption of an open container of an alcoholic beverage in a social district is subject to all of the following requirements:

- (1) A customer may only possess and consume open containers of alcoholic beverages that were purchased from a permittee located in the social district.
- (2) Customer-purchased open containers of alcoholic beverages in the social district shall only be in containers meeting the requirements set forth in subsection (e) of this section, except for open containers sold by a permittee for consumption on the permittee's premises.
- (3) A customer may only possess and consume open containers of alcoholic beverages in the social district during the days and hours set by the city or county in accordance with subsection (b) of this section, not to exceed the hours for consumption authorized pursuant to G.S. 18B-1004.
- (4) A customer shall not possess at one time open containers of alcoholic beverages in the social district in excess of the number of alcoholic beverages that may be sold and delivered by a retail permittee as set forth in G.S. 18B-1010.
- (5) A customer shall dispose of any open container of an alcoholic beverage purchased from a permittee in the customer's possession prior to exiting the social district unless the customer is reentering the licensed premises of the permittee where the customer purchased the alcoholic beverage.
- (6) Notwithstanding G.S. 18B-300 and G.S. 18B-301, a permittee or non-permittee business may allow a customer to possess and consume on the business's premises alcoholic beverages purchased from a permittee in the social district.

(g) **Limitations on Closed Containers.** – A person, including a customer who is in possession of an open container of an alcoholic beverage authorized under this section, may possess alcoholic beverages in closed containers in a social district to the extent allowed by law.

(h) **Responsibilities of Non-Permittee Businesses.** – A non-permittee business that is part of a social district and that allows customers to bring alcoholic beverages onto its premises shall not be responsible for enforcement of this Chapter. All non-permittee businesses that are part of a social district and that allow customers to bring alcoholic beverages onto their premises shall clearly post signage on any exits that do not open to the social district indicating that alcoholic beverages may not be taken past that point. During the days and hours when the social district is active, a non-permittee business that allows customers to bring alcoholic beverages onto its premises shall allow law enforcement officers access to the areas of the premises accessible by customers.

(i) **Multi-Tenant Establishments Located in a Social District.** – Permittees and non-permittee businesses in a multi-tenant establishment located within a social district may participate in the social district regardless of whether the multi-tenant establishment has a common area entertainment permit.

(j) **Interaction with Other Permits.** – The Commission shall issue permits for special events occurring partially or entirely within the boundaries of a social district as follows:

- (1) The Commission may issue special one-time permits pursuant to G.S. 18B-1002(a)(2) or (a)(5) for events occurring on premises located partially

or entirely within the boundaries of a social district. If the event is scheduled to occur during hours when alcoholic beverages may be consumed in the social district, the event permittee shall, in addition to obtaining such signed law enforcement notification as may be required under the Commission's rules, include in such notification a statement that the event is to occur in a social district during days and hours designated for consumption of alcoholic beverages.

- (2) A permittee holding a winery special event permit, malt beverage special event permit, or spirituous liquor special event permit pursuant to G.S. 18B-1114.1, 18B-1114.5, and 18B-1114.7, respectively, may sell and serve products at special events taking place in a social district.
- (3) A permittee holding a mixed beverages catering permit pursuant to G.S. 18B-1001(12) may serve spirituous liquor to guests at events taking place in a social district. (2022-49, s. 3(f).)

§ 18B-300.2. Interaction between contiguous social districts and common area entertainment permittees.

If the boundary of a social district directly borders a designated consumption area established by the owner or property owners' association of a multi-tenant establishment that holds a common area entertainment permit, the owner or property owners' association of the multi-tenant establishment and the local government that designated the social district may enter into a memorandum of understanding signed by both parties that allows open containers approved for possession and consumption in the designated consumption area to be possessed and consumed in the social district, and open containers approved for possession and consumption in the social district to be possessed and consumed in the designated consumption area during days and hours when both the social district and the designated consumption area are active. All requirements of G.S. 18B-300.1 and G.S. 18B-1001.5 shall apply when a customer takes an alcoholic beverage from a social district to a designated consumption area that is contiguous to or within the social district or from a designated consumption area to a social district that is contiguous to or overlapping with the designated consumption area. A customer may not take a container comprised of glass from a designated consumption area to a contiguous social district or the area of an overlapping social district that is outside the designated consumption area. The holder of the common area entertainment permit shall submit to the Commission a copy of the memorandum of understanding signed by both parties. Either party may terminate a memorandum of understanding by notifying the other party and the Commission in writing of the termination. (2022-49, s. 4.)

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

(a) Possession at Home. – It shall be lawful, without an ABC permit, for any person at least 21 years old to possess for lawful purposes any amount of fortified wine and spirituous liquor at his home or a temporary residence, such as a hotel room.

(b) Possession on Other Property. – It shall be lawful, without an ABC permit, for a person to possess for his personal use and the use of his guests not more than eight liters of fortified wine or spirituous liquor, or eight liters of the two combined, at the following places:

- (1) The residence of any other person with that person's consent;
- (2) Any other property not primarily used for commercial purposes and not open to the public at the time the alcoholic beverage is possessed, if the owner or

other person in charge of the property consents to that possession and consumption;

(3) An establishment with a brown-bagging permit as defined in G.S. 18B-1001(7).

(b1) Possession in a Social District or Common Area. – It shall be lawful, without an ABC permit, for a person to possess an open container of fortified wine or spirituous liquor in a social district or a designated consumption area under a common area entertainment permit in compliance with the provisions of G.S. 18B-300.1 or G.S. 18B-1001.5, respectively.

(c) Special Occasions. – It shall be lawful for a person to possess, without a permit and not for sale, any amount of fortified wine or spirituous liquor for a private party, private reception, or private special occasion, at the following places:

- (1) His home or a temporary residence, such as a hotel room;
- (2) Any other property not primarily used for commercial purposes, which is under his exclusive control and supervision, and which is not open to the public during the event;
- (3) The licensed premises of any business for which the Commission has issued a special occasions permit under G.S. 18B-1001(8), if he is the host of that private function and has the permission of the permittee.

(d) Consumption. – It shall be lawful for a person to consume fortified wine and spirituous liquor in any place where it is lawful for him to possess those alcoholic beverages under subsections (a) through (c).

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

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

- (1) Any person to consume fortified wine, spirituous liquor, or mixed beverages or to offer such beverages to another person at any of the following places:
 - a. Unless a consumer tasting authorized by G.S. 18B-1114.7 is being conducted, on the premises of an ABC store.
 - b. Upon any property used or occupied by a local board.
 - c. On any public road, street, highway, or sidewalk, unless a consumer tasting authorized by G.S. 18B-1114.7 is being conducted.
- (2) Any person to display publicly at an athletic contest fortified wine, spirituous liquor, or mixed beverages;
- (3) Any person to permit any fortified wine, spirituous liquor, or mixed beverages to be possessed or consumed upon any premises not authorized by this Chapter;
- (4) Any person to possess or consume any fortified wine, spirituous liquor, or mixed beverages upon any premises where such possession or consumption is not authorized by law, or where the person has been forbidden to possess or consume that beverage by the owner or other person in charge of the premises;
- (5) Any person to possess on any of the premises described in subsections (a) through (c) a greater amount of fortified wine or spirituous liquor than authorized by this Chapter;
- (6) Any permittee, other than a mixed beverage or culinary permittee, to possess spirituous liquor or mixed beverages on his licensed premises.

- (7) Any person to possess on his person or consume malt beverages or unfortified wine upon any property owned or leased by a local board of education and used by the local board of education for school purposes. Provided, however, the prohibition in G.S. 18B-102(a) and this subdivision shall not apply on property owned by a local board of education which was leased for 99 years or more to a nonprofit auditorium authority created prior to 1991 whose governing board is appointed by a city board of aldermen, a county board of commissioners, or a local school board. (1905, c. 498, ss. 6-8; Rev., ss. 3526, 3534; C.S., s. 3371; 1937, c. 49, ss. 12, 16, 22; c. 411; 1955, c. 999; 1967, c. 222, ss. 1, 8; c. 1256, s. 3; 1969, c. 1018; 1971, c. 872, s. 1; 1973, c. 1226; 1977, c. 176, s. 1; 1977, 2nd Sess., c. 1138, ss. 8-12, 18; 1979, c. 384, s. 3; c. 609, s. 2; c. 718; c. 893, s. 10; 1981, c. 412, s. 2; c. 747, s. 39; 1983, c. 917, s. 1; 1985, c. 566, s. 1; 1991, c. 459, s. 1; 1993, c. 508, s. 1; 1995, c. 372, s. 1; 2017-87, s. 2(a); 2019-182, s. 6(b); 2022-49, s. 1.)

§ 18B-302. Sale to or purchase by underage persons.

- (a) Sale. – It is unlawful for any person to do any of the following:
- (1) Sell malt beverages or unfortified wine to anyone less than 21 years old.
 - (2) Sell fortified wine, spirituous liquor, or mixed beverages to anyone less than 21 years old.
- (a1) Give. – It is unlawful for any person to do any of the following:
- (1) Give malt beverages or unfortified wine to anyone less than 21 years old.
 - (2) Give fortified wine, spirituous liquor, or mixed beverages to anyone less than 21 years old.
- (b) Purchase, Possession, or Consumption. – It is unlawful for a person less than 21 years old to do any of the following:
- (1) Purchase, attempt to purchase, or possess malt beverages or unfortified wine.
 - (2) Purchase, attempt to purchase, or possess fortified wine, spirituous liquor, or mixed beverages.
 - (3) Consume any alcoholic beverage.
- (c) Aider and Abettor. –
- (1) By Underage Person. – Any person who is under the lawful age to purchase and who aids or abets another in violation of subsection (a), (a1), or (b) of this section is guilty of a Class 2 misdemeanor.
 - (2) By Person over Lawful Age. – Any person who is over the lawful age to purchase and who aids or abets another in violation of subsection (a), (a1), or (b) of this section is guilty of a Class 1 misdemeanor.
- (d) Defense. – It is a defense to a violation of subsection (a) of this section if the seller does any of the following:
- (1) Shows that the purchaser produced a driver's license, a special identification card issued under G.S. 20-37.7 or issued by the state agency of any other state authorized to issue similar official state special identification cards for that state, a military identification card, or a passport, showing the purchaser's age to be at least the required age for purchase and bearing a physical description of the person named on the card reasonably describing the purchaser.

- (2) Produces evidence of other facts that reasonably indicated at the time of sale that the purchaser was at least the required age.
- (3) Shows that at the time of purchase, the purchaser utilized a biometric identification system that demonstrated (i) the purchaser's age to be at least the required age for the purchase and (ii) the purchaser had previously registered with the seller or seller's agent a drivers license, a special identification card issued under G.S. 20-37.7 or issued by the state agency of any other state authorized to issue similar official state special identification cards for that state, a military identification card, or a passport showing the purchaser's date of birth and bearing a physical description of the person named on the document.

(e) **Fraudulent Use of Identification.** – It is unlawful for any person to enter or attempt to enter a place where alcoholic beverages are sold or consumed, or to obtain or attempt to obtain alcoholic beverages, or to obtain or attempt to obtain permission to purchase alcoholic beverages, in violation of subsection (b) of this section, by using or attempting to use any of the following:

- (1) A fraudulent or altered drivers license.
- (2) A fraudulent or altered identification document other than a drivers license.
- (3) A drivers license issued to another person.
- (4) An identification document other than a drivers license issued to another person.
- (5) Any other form or means of identification that indicates or symbolizes that the person is not prohibited from purchasing or possessing alcoholic beverages under this section.

(f) **Allowing Use of Identification.** – It is unlawful for any person to permit the use of the person's drivers license or any other form of identification of any kind issued or given to the person by any other person who violates or attempts to violate subsection (b) of this section.

(g) **Conviction Report Sent to Division of Motor Vehicles.** – The court shall file a conviction report with the Division of Motor Vehicles indicating the name of the person convicted and any other information requested by the Division if the person is convicted of any of the following:

- (1) A violation of subsection (e) or (f) of this section.
- (2) A violation of subsection (c) of this section.
- (3) A violation of subsection (b) of this section, if the violation occurred while the person was purchasing or attempting to purchase an alcoholic beverage.
- (4) A violation of subsection (a1) of this section.

Upon receipt of a conviction report, the Division shall revoke the person's license as required by G.S. 20-17.3.

(h) **Handling in Course of Employment.** – Nothing in this section prohibits an underage person from selling, transporting, possessing, or dispensing alcoholic beverages in the course of employment, if the employment of the person for that purpose is lawful under applicable youth employment statutes and Commission rules.

(i) **Purchase, Possession, or Consumption by 19 or 20-Year Old.** – A violation of subdivision (b)(1) or (b)(3) of this section by a person who is 19 or 20 years old is a Class 3 misdemeanor.

(j) **Screening Test.** – Notwithstanding any other provisions of law, a law enforcement officer may require any person the officer has probable cause to believe is less than 21 years old

and has consumed alcohol to submit to an alcohol screening test using a device approved by the Department of Health and Human Services. The results of any screening device administered in accordance with the rules of the Department of Health and Human Services are admissible in any court or administrative proceeding. A refusal to submit to an alcohol screening test is admissible in any court or administrative proceeding.

(k) Exception. – Notwithstanding the provisions in this section, it is not unlawful for a person less than 21 years old to consume unfortified wine or fortified wine during participation in an exempted activity under G.S. 18B-103(4), (8), or (11). (1933, c. 216, s. 8; 1959, c. 745, s. 1; 1967, c. 222, s. 3; 1969, c. 998; 1971, c. 872, s. 1; 1973, c. 27; 1977, 2nd Sess., c. 1138, s. 2; 1979, c. 683, s. 2; 1981, c. 412, s. 2; c. 747, ss. 40, 41; 1983, c. 435, ss. 32, 35; c. 740, ss. 1, 2; Ex. Sess., c. 5; 1985, c. 141, ss. 2-3; 1993, c. 539, s. 311; 1994, Ex. Sess., c. 24, s. 14(c); 1999-406, s. 7; 2001-461, ss. 2, 3; 2001-487, s. 42(b); 2005-350, s. 6(a); 2006-253, s. 26; 2007-537, s. 1; 2015-264, s. 7; 2021-88, s. 4(a); 2021-150, s. 10.1(a).)

§ 18B-302.1. Penalties for certain offenses related to underage persons.

(a) A violation of G.S. 18B-302(a) or (a1) is a Class 1 misdemeanor. Notwithstanding the provisions of G.S. 15A-1340.23, if the court imposes a sentence that does not include an active punishment, the court must include among the conditions of probation a requirement that the person pay a fine of at least two hundred fifty dollars (\$250.00) as authorized by G.S. 15A-1343(b)(9) and a requirement that the person complete at least 25 hours of community service, as authorized by G.S. 15A-1343(b1)(6). If the person has a previous conviction of this offense in the four years immediately preceding the date of the current offense, and the court imposes a sentence that does not include an active punishment, the court must include among the conditions of probation a requirement that the person pay a fine of at least five hundred dollars (\$500.00) as authorized by G.S. 15A-1343(b)(9) and a requirement that the person complete at least 150 hours of community service, as authorized by G.S. 15A-1343(b1)(6).

(b) A violation of G.S. 18B-302(c)(2) is a Class 1 misdemeanor. Notwithstanding the provisions of G.S. 15A-1340.23, if the court imposes a sentence that does not include an active punishment, the court must include among the conditions of probation a requirement that the person pay a fine of at least five hundred dollars (\$500.00) as authorized by G.S. 15A-1343(b)(9) and a requirement that the person complete at least 25 hours of community service, as authorized by G.S. 15A-1343(b1)(6). If the person has a previous conviction of this offense in the four years immediately preceding the date of the current offense, and the court imposes a sentence that does not include an active punishment, the court must include among the conditions of probation a requirement that the person pay a fine of at least one thousand dollars (\$1,000) as authorized by G.S. 15A-1343(b)(9) and a requirement that the person complete at least 150 hours of community service, as authorized by G.S. 15A-1343(b1)(6).

(c) In addition to the punishments imposed under this section, the court may impose the provisions of G.S. 18B-202 and of G.S. 18B-503, 18B-504, and 18B-505. (1999-433, s. 1; 2007-537, s. 2.)

§ 18B-302.2. Medical treatment; limited immunity.

(a) Limited Immunity for Samaritan. – Notwithstanding any other provision of law, a person under the age of 21 shall not be prosecuted for a violation of G.S. 18B-302 for the possession or consumption of alcoholic beverages if all of the following requirements and conditions are met:

- (1) The person sought medical assistance for an individual experiencing an alcohol-related overdose by contacting the 911 system, a law enforcement officer, or emergency medical services personnel.
- (1a) The person acted in good faith when seeking medical assistance, upon a reasonable belief that he or she was the first to call for assistance.
- (2) The person provided his or her own name to the 911 system or to a law enforcement officer upon arrival.
- (3) Repealed by Session Laws 2015-94, s. 2, effective August 1, 2015, and applicable to offenses committed on or after that date.
- (4) The person did not seek the medical assistance during the course of the execution of an arrest warrant, search warrant, or other lawful search.
- (5) The evidence for prosecution of a violation of G.S. 18B-302 for the possession or consumption of alcoholic beverages was obtained as a result of the person seeking medical assistance for the alcohol-related overdose.

(b) **Limited Immunity for Overdose Victim.** – The immunity described in subsection (a) of this section shall extend to the person who needed medical assistance if the requirements in subdivisions (1), (1a), (4), and (5) of subsection (a) are satisfied.

(c) **Probation or Release.** – A person shall not be subject to arrest or revocation of pretrial release, probation, parole, or post-release if the arrest or revocation is based on an offense for which the person is immune from prosecution under subsection (a) or (b) of this section. The arrest of a person for an offense for which subsection (a) or (b) of this section may provide the person with immunity will not itself be deemed to be a commission of a new criminal offense in violation of a condition of the person's pretrial release, condition of probation, or condition of parole or post-release.

(d) **Civil Liability for Arrest or Charges.** – In addition to any other applicable immunity or limitation on civil liability, a law enforcement officer who, acting in good faith, arrests or charges a person who is thereafter determined to be entitled to immunity under this section shall not be subject to civil liability for the arrest or filing of charges. (2013-23, s. 3; 2015-94, s. 2.)

§ 18B-303. (Repealed) Amounts of alcoholic beverages that may be purchased. (1905, c. 498, ss. 6-8; Rev., ss. 3526, 3534; C.S., s. 3371; 1937, c. 49, ss. 12, 16, 22; c. 411; 1955, c. 999; 1967, c. 222, ss. 1, 8; c. 1256, s. 3; 1969, c. 1018; 1971, c. 872, s. 1; 1973, c. 1226; 1977, c. 176, s. 1; 1977, 2nd Sess., c. 1138, ss. 8-12, 18; 1979, c. 384, s. 3; c. 609, s. 2; c. 718; c. 893, s. 10; 1981, c. 412, s. 2; 1989, c. 553, s. 1; 1993, c. 508, s. 2; 2001-262, s. 5; 2006-253, s. 3.2; 2019-182, s. 23(a); repealed by 2022-44, s. 3(b), effective July 7, 2022.)

§ 18B-304. Sale and possession for sale.

(a) **Offense.** – It shall be unlawful for any person to sell any alcoholic beverage, or possess any alcoholic beverage for sale, without first obtaining the applicable ABC permit and revenue licenses.

(b) **Prima Facie Evidence.** – Possession of the following amounts of alcoholic beverages, without a permit authorizing that possession, shall be prima facie evidence that the possessor is possessing those alcoholic beverages for sale:

- (1) More than 80 liters of malt beverages, other than draft malt beverages in kegs;
- (2) More than eight liters of spirituous liquor; or

- (3) Any amount of nontaxpaid alcoholic beverages. (1913, c. 44, s. 2; 1915, c. 97, s. 8; 1923, c. 1, ss. 2, 6, 10; C.S., ss. 3379, 3411(b), (f), (j); 1937, c. 49, ss. 13, 15; 1945, c. 635; 1949, c. 1251, s. 2; 1951, c. 850; 1955, c. 560; 1957, c. 984; c. 1235, s. 1; 1963, c. 932; 1967, c. 222, ss. 4, 6; 1969, c. 789; 1971, c. 872, s. 1; 1975, c. 654, s. 4; 1977, c. 176, ss. 1-3; 1981, c. 412, s. 2; c. 747, s. 42; 1989, c. 553, s. 2; 1993, c. 508, s. 3.)

§ 18B-305. Other prohibited sales.

(a) Sale to Intoxicated Person. – It shall be unlawful for a permittee or his employee or for an ABC store employee to knowingly sell or give alcoholic beverages to any person who is intoxicated.

(b) Discretion for Seller. – Any person authorized to sell alcoholic beverages under this Chapter may, in his discretion, refuse to sell to anyone. It shall be unlawful for any person to knowingly buy alcoholic beverages for someone who has been refused the right to purchase under this subsection.

(c) Notwithstanding subsection (b) of this section, no permittee may refuse to sell alcoholic beverages to a person solely based on that person's race, religion, color, national origin, sex, or disability. (1937, c. 49, ss. 11, 15; c. 411; 1971, c. 872, s. 1; 1977, 2nd Sess., c. 1138, s. 5; 1981, c. 412, s. 2; 1999-462, s. 5.)

§ 18B-306. Making wines and malt beverages for private use.

(a) Authority. – An individual may make, possess, and transport wines and malt beverages for the individual's own use, the use of the individual's family and guests, or the use at organized affairs, exhibitions, or competitions. For purposes of this section, the term "organized affairs, exhibitions, or competitions" includes homemaker's contests, tastings, and judgments.

(b) Selling Prohibited. – Wines and malt beverages made pursuant to this section may not be sold or offered for sale.

(c) Kits. – Wine kits and malt beverage kits may be sold in this State.

(d) Permit. – No ABC permit is required to make wines or malt beverages pursuant to this section. (1971, c. 872, s. 1; 1973, c. 1218; 1981, c. 412, s. 2; c. 747, s. 43; 1985, c. 114, s. 6; 2017-87, s. 10.)

§ 18B-307. Manufacturing offenses.

(a) Offenses. – It shall be unlawful for any person, except as authorized by this Chapter, to:

- (1) Sell or possess equipment or ingredients intended for use in the manufacture of any alcoholic beverage, except equipment and ingredients provided under a Brew on Premises permit or a Winemaking on Premises permit; or
- (2) Knowingly allow real or personal property owned or possessed by him to be used by another person for the manufacture of any alcoholic beverage, except pursuant to a Brew on Premises permit or a Winemaking on Premises permit.

(b) Unlawful Manufacturing. – Except as provided in G.S. 18B-306, it shall be unlawful for any person to manufacture any alcoholic beverage, except at an establishment with a Brew on Premises permit or a Winemaking on Premises permit, without first obtaining the applicable ABC permit and revenue licenses.

(c) Second Offense of Manufacturing. – A second offense of unlawful manufacturing of alcoholic beverage shall be a Class I felony. (1905, c. 498, s. 2; Rev., s. 3533; 1923, c. 1, ss. 4, 6, 26; C.S., ss. 3407, 3411(d), (f), (z); 1937, c. 49, s. 13; 1945, c. 635; 1951, c. 850; 1955, c. 560; 1957, c. 984; c. 1235, s. 1; 1969, c. 789; 1971, c. 872, s. 1; 1979, c. 699, s. 1; 1981, c. 412, s. 2; c. 747, s. 44; 1997-467, s. 1; 2006-222, s. 2.2; 2006-227, s. 2.)

§ 18B-308: Repealed by Session Laws 2019-182, s. 14(a), effective September 1, 2019, and applicable to offenses committed on or after that date.

§ 18B-309. Alcoholic beverage sales in Urban Redevelopment Areas.

(a) A food business as defined in G.S. 18B-1000(3), a retail business as defined in G.S. 18B-1000(7), or an eating establishment as defined in G.S. 18B-1000(2) that holds an ABC permit under this Chapter and is located in a part of a city that has been designated as an Urban Redevelopment Area under Article 22 of Chapter 160A of the General Statutes shall not have alcoholic beverage sales in excess of fifty percent (50%) of the business's total annual sales. The city council, or its designee, shall file a certified copy of the official action and original documents, including a map or similar information, designating the area as an Urban Redevelopment Area. The Commission shall make this information available to any permittee who makes a request for this information to the Commission.

(b) Upon request of a city, the Commission shall investigate the total annual alcohol sales and total sales of a business as defined in this section. The Commission shall report the results of such an investigation to the city council, and the report shall contain only the percentage of annual alcohol sales in proportion to the business's total annual sales. A city may request an investigation of a particular business by the Commission only once in each calendar year. These audits may be conducted by the Commission only upon the request of the city council.

(c) Businesses covered by this section shall maintain full and accurate monthly records of their finances, separately indicating each of the following:

- (1) Amounts expended by the business for the purchase of alcoholic beverages and the quantity of alcoholic beverages purchased;
- (2) Amounts collected from the sale of alcoholic beverages sold; and
- (3) Amounts collected from the sale of food, nonalcoholic beverages, and all other items sold by the business.

Records of purchases of alcoholic beverages and sales of alcoholic beverages shall be filed separate and apart from all other records maintained on the premises, and all records related to alcoholic beverages, including original invoices, shall be maintained on the premises for three years and shall be open for inspection and audit pursuant to G.S. 18B-502. (1999-322, s. 1; 2001-515, s. 3(a).)

§§ 18B-310 through 18B-399. Reserved for future codification purposes.