

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1289

Short Title: Market Spirit Coolers Like Wine.

(Public)

Sponsors: Representatives Black, Fitch, and Lemmond.

Referred to: Judiciary I.

May 7, 1993

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE SALE OF SPIRIT COOLERS CONTAINING NO MORE THAN TEN PERCENT ALCOHOL AT GROCERY STORES AND OTHER RETAIL ESTABLISHMENTS LOCATED IN AREAS THAT HAVE APPROVED THE SALE OF UNFORTIFIED WINE AND TO MAKE SPIRIT COOLERS SUBJECT TO THE SAME MARKETING RESTRICTIONS AS UNFORTIFIED WINE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18B-101 reads as rewritten:

"§ 18B-101. Definitions.

As used in this Chapter, unless the context requires otherwise:

- (1) 'ABC law' or 'ABC laws' means any statute or statutes in this Chapter or in Article 2C of Chapter 105, and the rules issued by the Commission under the authority of this Chapter.
- (2) 'ABC permit' or 'permits' means any written or printed authorization issued by the Commission pursuant to the provisions of this Chapter, other than a purchase-transportation permit. Unless the context clearly requires otherwise, as in the provisions concerning applications for permits, 'ABC permit' or 'permit' means a presently valid permit.
- (3) 'ABC system' means a local board and all ABC stores operated by it, its law-enforcement branch, and all its employees.
- (4) 'Alcoholic beverage' means any beverage containing at least one-half of one percent (0.5%) alcohol by volume, including malt beverages,

- 1 unfortified wine, fortified wine, spirit coolers, spirituous liquor, and
2 mixed beverages.
- 3 (5) 'ALE Division' means the Alcohol Law Enforcement Division of the
4 Department of Crime Control and Public Safety.
- 5 (5a) 'Bailment surcharge' means the charge imposed on each case of liquor
6 shipped from a Commission warehouse as provided in G.S. 18B-208.
7 This bailment surcharge is in addition to the bailment charge imposed
8 by G.S. 18B-804(b)(2).
- 9 (6) 'Commission' means the North Carolina Alcoholic Beverage Control
10 Commission established under G.S. 18B-200.
- 11 (7) 'Fortified wine' means any wine made by fermentation from grapes,
12 fruits, berries, rice, or honey, to which nothing has been added other
13 than pure brandy made from the same type of grape, fruit, berry, rice,
14 or honey that is contained in the base wine, and which has an alcoholic
15 content of not more than twenty-four percent (24%) alcohol by
16 volume.
- 17 (8) 'Local board' means a city or county ABC board, or local board created
18 pursuant to the provisions of G.S. 18B-703. A local board is an
19 independent local political subdivision of the State. Nothing in this
20 Chapter shall be construed as constituting a local board the agency of a
21 city or county or of the Commission.
- 22 (9) 'Malt beverage' means beer, lager, malt liquor, ale, porter, and any
23 other brewed or fermented beverage containing at least one-half of one
24 percent (0.5%), and not more than six percent (6%), alcohol by
25 volume.
- 26 (10) 'Mixed beverage' means either of the following:
27 a. A drink composed in whole or in part of spirituous liquor and
28 served in a quantity less than the quantity contained in a closed
29 package.
30 b. A premixed cocktail served from a closed package containing
31 only one serving.
- 32 (11) 'Nontaxpaid alcoholic beverage' means any alcoholic beverage upon
33 which the taxes imposed by the United States, this State, or any other
34 territorial jurisdiction in which the alcoholic beverage was purchased
35 have not been paid.
- 36 (12) 'Person' means an individual, firm, partnership, association,
37 corporation, other organization or group, or other combination of
38 individuals acting as a unit.
- 39 (13) 'Sale' means any transfer, trade, exchange, or barter, in any manner or
40 by any means, for consideration.
- 41 (13a) 'Special ABC area' means an area in a city or county, either
42 unincorporated or incorporated, with less than 500 permanent residents
43 that:
44 (1) Borders on another state;

- 1 (2) Where ABC stores are permitted in one or more cities in the
 2 county;
- 3 (3) Where the on-premises or off-premises sale of unfortified wines
 4 and malt beverages by qualified persons and establishments,
 5 including persons and establishments qualified under G.S. 18B-
 6 603(c) or G.S. 18B-603(d), is permitted countywide or in two or
 7 more cities in the county; and such area
- 8 (a) Contains more than 500 acres and is made up of
 9 privately-owned land and land owned by an association
 10 or club having more than 200 members and created for
 11 municipal and recreational purposes;
- 12 (b) Which for three or more years has levied assessments or
 13 dues and provided municipal services; and
- 14 (c) Is incorporated as a municipality or has within such area
 15 a private association or club that has been determined or
 16 is treated by the Internal Revenue Service to be exempt
 17 from tax on member source or exempt function income.
- 18 (13b) 'Spirit cooler' means a beverage that contains distilled spirits or ethyl
 19 alcohol and has an alcoholic content of no more than ten percent
 20 (10%) alcohol by volume.
- 21 (14) 'Spirituous liquor' or 'liquor' means distilled spirits or ethyl alcohol,
 22 including spirits of wine, whiskey, rum, brandy, gin and all other
 23 distilled spirits and mixtures of cordials, liqueur, and premixed
 24 cocktails, that contain more than ten percent (10%) alcohol by volume
 25 and are in closed containers for beverage use regardless of their dilution.
 26 use.
- 27 (15) 'Unfortified wine' means wine that has an alcoholic content produced
 28 only by natural fermentation or by the addition of pure cane, beet, or
 29 dextrose sugar, and that has an alcoholic content of not more than
 30 seventeen percent (17%) alcohol by volume."
- 31 Sec. 2. G.S. 18B-106(a)(2) reads as rewritten:
- 32 "(2) Malt beverages, unfortified wine, ~~and fortified wine~~ wine, and spirit
 33 coolers may be sold and delivered by any wholesaler or retailer
 34 licensed in this State to an officer or agent of an oceangoing vessel.
 35 The Commission may require the officer or agent to obtain a permit
 36 before purchasing alcoholic beverages under this subdivision."
- 37 Sec. 3. G.S. 18B-107(a) reads as rewritten:
- 38 "(a) Purchase and Storage. – The Commission may issue permits authorizing air
 39 carriers offering regularly scheduled or chartered flights in foreign, interstate, or
 40 intrastate commerce to purchase malt beverages, unfortified wine, ~~and fortified wine~~
 41 wine, and spirit coolers from any wholesaler or retailer licensed in this State, and to
 42 transport those alcoholic beverages. The Commission may also authorize air carriers to
 43 store, at facilities approved by the Commission, alcoholic beverages to be sold or served
 44 pursuant to subsection (b)."

1 Sec. 4. G.S. 18B-109(b) reads as rewritten:

2 "(b) Armed Forces Installation. – No person shall have malt ~~beverages or~~
3 beverages, unfortified wine-wine, or spirit coolers shipped directly from a point outside
4 this State to an armed forces installation within this State if those alcoholic beverages
5 are for resale on the installation."

6 Sec. 5. G.S. 18B-206 reads as rewritten:

7 **"§ 18B-206. Standards for alcoholic beverages.**

8 (a) Authority to Set Standards. – The Commission may set standards and adopt
9 rules for ~~malt beverages, unfortified wine, fortified wine, and spirituous liquor~~ alcoholic
10 beverages to protect the public against beverages containing harmful or impure
11 substances, beverages containing an improper balance of substances as determined by
12 the Commission, spurious or imitation beverages, and beverages unfit for human
13 consumption. In setting standards and in issuing rules relating to them, the Commission
14 may follow federal guidelines for standards of identity, ~~labeling~~ labeling, and advertising
15 contained in Title 27 of the Code of Federal Regulations, or may adopt more restrictive
16 standards.

17 (b) Effective Date of Standards. – A person possessing alcoholic beverages
18 which do not meet a new standard set by the Commission shall have 60 days after the
19 effective date of the standard to sell or otherwise dispose of those alcoholic beverages.

20 (c) Testing. – The Commission may test ~~malt beverages, unfortified wine, fortified~~
21 ~~wine, and spirituous liquor~~ alcoholic beverages possessed or offered for sale in this State
22 to determine whether they meet the standards set by the Commission. If the
23 Commission chooses to test an alcoholic beverage, that test may be performed by the
24 Commission, the Commission may arrange for the State Chemist to perform the testing,
25 or the Commission may have the testing performed in some other manner. The
26 manufacturer of tested alcoholic beverages shall pay the costs of the test. In lieu of
27 testing an alcoholic beverage, the Commission may rely on testing by a federal agency
28 or an agency of another state or may accept test results from a federal agency, an agency
29 of another state, or the manufacturer of the alcoholic ~~beverage or his beverage or the~~
30 manufacturer's authorized agent. A manufacturer who submits test results shall also
31 submit a fee of ten dollars (\$10.00) for each test result to cover administrative costs."

32 Sec. 6. G.S. 18B-300 reads as rewritten:

33 **"§ 18B-300. Purchase, ~~possession~~ possession, and consumption of malt ~~beverages and~~
34 beverages, unfortified wine-wine, and spirit coolers.**

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

39 (b) ~~Consumption at Off-Premises Establishment Restrictions.~~ It shall be
40 unlawful to The following acts are unlawful:

41 (1) To consume, or for a permittee to allow the consumption of, malt
42 beverages or beverages, unfortified wine-wine, or spirit coolers on any
43 premises having only an off-premises permit for the kind of alcoholic
44 beverage being consumed.

1 (2) To possess or consume malt beverages, unfortified wine, or spirit
 2 coolers on property owned or leased by a local board of education and
 3 used by the local board of education for school purposes.

4 (c) Local Ordinance. – A city or county may by ordinance regulate the
 5 consumption of malt ~~beverages and beverages, unfortified wine wine,~~ and spirit coolers
 6 on property owned or occupied by that city or county."

7 Sec. 7. G.S. 18B-301(f)(7) is repealed.

8 Sec. 8. G.S. 18B-302 reads as rewritten:

9 **"§ 18B-302. Sale to or purchase by underage persons.**

10 (a) Sale. – It shall be unlawful for any person to:

11 (1) ~~Sell to sell or give malt alcoholic beverages or unfortified wine to~~
 12 anyone less than 21 years old; or

13 (2) ~~Sell or give fortified wine, spirituous liquor, or mixed beverages to~~
 14 anyone less than 21 years old.

15 (b) Purchase or Possession. – It shall be unlawful ~~for~~ for a person who is less
 16 than 21 years old to purchase, attempt to purchase, or possess any of the following:

17 (1) ~~A person less than 21 years old to purchase, to attempt to purchase, or~~
 18 ~~to possess malt beverages or~~ Malt beverages, unfortified wine, or
 19 wine, or spirit coolers.

20 (2) ~~A person less than 21 years old to purchase, to attempt to purchase, or~~
 21 ~~to possess fortified~~ Fortified wine, spirituous liquor, or mixed
 22 beverages.

23 (c) Aider and Abettor.

24 (1) By Underage Person. – Any person who is under the lawful age to
 25 purchase and who aids or abets another in violation of subsection (a)
 26 or (b) of this section shall be guilty of a misdemeanor punishable by a
 27 fine up to five hundred dollars (\$500.00) or imprisonment for not more
 28 than six months, or both, in the discretion of the court.

29 (2) By Person over Lawful Age. – Any person who is over the lawful age
 30 to purchase and who aids or abets another in violation of subsection (a)
 31 or (b) of this section shall be guilty of a misdemeanor punishable by a
 32 fine of up to two thousand dollars (\$2,000) or imprisonment for not
 33 more than two years, or both, in the discretion of the court.

34 (d) Defense. – It shall be a defense to a violation of subsection (a) of this section
 35 if the seller:

36 (1) Shows that the purchaser produced a driver's license, a special
 37 identification card issued under G.S. 20-37.7, a military identification
 38 card, or a passport, showing ~~his~~ the purchaser's age to be at least the
 39 required age for purchase and bearing a physical description of the
 40 person named on the card reasonably describing the purchaser; or

41 (2) Produces evidence of other facts that reasonably indicated at the time
 42 of sale that the purchaser was at least the required age.

1 (e) Fraudulent Use of Identification. – It shall be unlawful for any person to
2 obtain or attempt to obtain alcoholic beverages in violation of subsection (b) of this
3 section by using or attempting to use:

- 4 (1) A fraudulent or altered driver's license; or
- 5 (2) A fraudulent or altered identification document other than a driver's
6 license; or
- 7 (3) A driver's license issued to another person; or
- 8 (4) An identification document other than a driver's license issued to
9 another person.

10 (f) Allowing Use of Identification. – It shall be unlawful for any person to permit
11 the use of ~~his~~the person's driver's license or any other identification document of any
12 kind by any person who violates or attempts to violate subsection (b) of this section.

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

- 17 (1) A violation of subsection (e) or (f) of this section; or
- 18 (2) A violation of subdivision (c)(1) of this section; or
- 19 (3) A violation of subsection (b) of this section, if the violation occurred
20 while the person was purchasing or attempting to purchase an
21 alcoholic beverage.

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

24 (h) Handling in Course of Employment. – Nothing in this section shall be
25 construed to prohibit an underage person from selling, transporting, ~~possessing~~
26 possessing or dispensing alcoholic beverages in the course of employment, if the
27 employment of the person for that purpose is lawful under applicable youth employment
28 statutes and Commission rules.

29 (i) Purchase or Possession by 19 or 20-Year Old. – A violation of subdivision
30 (b)(1) of this section by a person who is 19 or 20 years old is an infraction and is
31 punishable by a fine of not more than twenty-five dollars (\$25.00). An infraction is an
32 unlawful act that is not a crime. The procedure for charging and trying an infraction is
33 the same as for a misdemeanor, but conviction of an infraction has no consequence
34 other than payment of a fine. A person convicted of an infraction may not be assessed
35 court costs."

36 Sec. 9. G.S. 18B-303(a) reads as rewritten:

37 "(a) Purchases Allowed. – Without a permit, a person may purchase at one time:

- 38 (1) Not more than 80 liters of malt beverages, other than draft malt
39 beverages in ~~kegs;~~kegs.
- 40 (2) Any amount of draft malt beverages in ~~kegs;~~kegs.
- 41 (3) Not more than 20 liters of unfortified ~~wine;~~wine.
- 42 (4) Not more than five liters of either fortified wine or spirituous liquor, or
43 five liters of the two combined.
- 44 (5) Not more than 20 liters of spirit coolers."

1 Sec. 10. G.S. 18B-400 reads as rewritten:

2 **"§ 18B-400. Amounts that may be transported.**

3 A person may transport at one time the same amount of alcoholic beverages ~~that he~~
4 the person is allowed to buy under G.S. 18B-303(a). Greater amounts of fortified wine,
5 unfortified ~~wine-wine, spirit coolers,~~ and spirituous liquor may be transported with a
6 purchase-transportation permit under G.S. 18B-403. The Commission may also
7 authorize a distillery representative, in the course of his business, to transport and
8 possess up to 10 gallons of spirituous liquor."

9 Sec. 11. G.S. 18B-401(a) reads as rewritten:

10 "(a) Opened Containers. – It shall be unlawful for a person to transport fortified
11 wine or spirituous liquor in the passenger area of a motor vehicle in other than the
12 manufacturer's unopened original container. It shall be unlawful for a person who is
13 driving a motor vehicle on a highway or public vehicular area to consume in the
14 passenger area of that vehicle any malt ~~beverage or beverage,~~ unfortified ~~wine-wine,~~ or
15 spirit cooler. Violation of this subsection shall constitute a misdemeanor punishable by
16 a fine of twenty-five dollars (\$25.00) to five hundred dollars (\$500.00), imprisonment
17 for not more than 30 days, or both."

18 Sec. 12. G.S. 18B-403 reads as rewritten:

19 **"§ 18B-403. Purchase-transportation permit.**

20 (a) Amounts. – With a purchase-transportation permit, a person may purchase
21 and transport an amount of alcoholic beverages greater than the amount specified in
22 G.S. 18B-303(a). A permit authorizes the holder to transport from the place of purchase
23 to the destination within North Carolina indicated on the permit at one time the
24 following amount of alcoholic beverages:

- 25 (1) A maximum of 100 liters of either unfortified ~~wine;~~ wine or spirit
26 coolers, or 100 liters of the two combined;
27 (2) A maximum of 40 liters of either fortified wine or spirituous liquor, or
28 40 liters of the two combined; or
29 (3) The amount of fortified wine or spirituous liquors specified on the
30 purchase-transportation permit for a mixed beverage permittee.

31 (b) Issuance of Permit. – A purchase-transportation permit may be issued by:

- 32 (1) The local board chairman;
33 (2) A member of the local board;
34 (3) The general manager or supervisor of the local board; or
35 (4) The manager or assistant manager of an ABC store, if he is authorized
36 to issue permits by the local board chairman.

37 (c) Disqualifications. – A purchase-transportation permit shall not be issued to a
38 person who:

- 39 (1) Is not sufficiently identified or known to the issuer;
40 (2) Is known or shown to be an alcoholic or bootlegger;
41 (3) Has been convicted within the previous three years of an offense
42 involving the sale, possession, or transportation of nontaxpaid
43 alcoholic beverages; or

1 (4) Has been convicted within the previous three years of an offense
2 involving the sale of alcoholic beverages without a permit.

3 (d) Form. – A purchase-transportation permit shall be issued on a printed form
4 adopted by the Commission. The Commission shall adopt rules specifying the content
5 of the permit form.

6 (e) Restrictions on Permit. – A purchase may be made only from the store named
7 on the permit. One copy of the permit shall be kept by the issuing person, one by the
8 purchaser, and one by the store from which the purchase is made. The purchaser shall
9 display his copy of the permit to any law-enforcement officer upon request. A permit
10 for the purchase and transportation of spirituous liquor may be issued only by an
11 authorized agent of the local board for the jurisdiction in which the purchase will be
12 made.

13 (f) Time. – A purchase-transportation permit is valid only until 9:30 P.M. on the
14 date of purchase, which date shall be stated on the permit.

15 (g) Special Occasion Purchase-Transportation Permit. – When a person holds a
16 special occasion for which a permit under G.S. 18B-1001(8) or (9) is required, the
17 purchase-transportation permit issued to ~~him~~ that person may provide for the storage at
18 and transportation to and from the site of the special occasion of ~~unfortified wine, fortified~~
19 ~~wine, fortified wine~~ and spirituous liquor for a period of no more than 48 hours before
20 and after the special occasion. The purchase-transportation permit authorizes that person
21 to transport only the amounts of those alcoholic beverages authorized by subsection (a).
22 The Commission may adopt rules to govern issuance of these extended purchase-
23 transportation permits."

24 Sec. 13. G.S. 18B-503(e) reads as rewritten:

25 "(e) Sale Procedure. – The sale of unfortified ~~wine or wine,~~ fortified ~~wine-wine, or~~
26 ~~spirit coolers~~ shall be by public auction unless ~~those wines they~~ would likely become
27 spoiled or lose value in the time required to arrange a public auction. If spoilage or loss
28 of value is likely, the judge ~~or hearing officer~~ ordering the sale may authorize sale at the
29 prevailing wholesale price, as determined by the Commission, to one or more persons
30 holding the appropriate retail wine permits in the county in which the ~~wine alcoholic~~
31 ~~beverage was seized, or if there are no such persons in the county in which the wine was~~
32 ~~seized.~~ seized or, if no one in that county has the appropriate permits, to one or more
33 persons in a neighboring county who have the appropriate permits. Spirituous liquor
34 may be sold only to the local ABC board serving the city or county in which the liquor
35 was seized, or, if there is no local board for that city or county, to the nearest local
36 board. The sale price shall be at least ten percent (10%) less than the price the local
37 board would pay for the same liquor bought through the State warehouse."

38 Sec. 14. G.S. 18B-800(b) reads as rewritten:

39 "(b) Fortified ~~Wine-Wine and Spirit Coolers.~~ – In addition to spirituous liquor,
40 ABC stores may sell fortified ~~wine-wine and spirit coolers.~~"

41 Sec. 15. G.S. 18B-1001 reads as rewritten:

42 "**§ 18B-1001. Kinds of ABC permits; places eligible.**

43 When the issuance of the permit is lawful in the jurisdiction in which the premises is
44 located, the Commission may issue the following kinds of permits:

- 1 (1) On-Premises Malt Beverage Permit. – An on-premises malt beverage
2 permit authorizes the retail sale of malt beverages for consumption on
3 the premises and the retail sale of malt beverages in the manufacturer's
4 original container for consumption off the premises. The permit may
5 be issued for any of the following:
6 a. Restaurants;
7 b. Hotels;
8 c. Eating establishments;
9 d. Food businesses;
10 e. Retail businesses;
11 f. Private clubs;
12 g. Convention centers;
13 h. Community theatres.
14 The permit may also be issued to certain breweries as authorized by
15 G.S. 18B-1104(7).
- 16 (2) Off-Premises Malt Beverage Permit. – An off-premises malt beverage
17 permit authorizes the retail sale of malt beverages in the
18 manufacturer's original container for consumption off the premises.
19 The permit may be issued for any of the following:
20 a. Restaurants;
21 b. Hotels;
22 c. Eating establishments;
23 d. Food businesses;
24 e. Retail businesses.
- 25 (3) On-Premises Unfortified Wine Permit. – An on-premises unfortified
26 wine permit authorizes the retail sale of unfortified wine for
27 consumption on the premises, either alone or mixed with other
28 beverages, the retail sale of spirit coolers for consumption on the
29 premises, and the retail sale of unfortified wine and spirit coolers in the
30 manufacturer's original container for consumption off the premises.
31 The permit may be issued for any of the following:
32 a. Restaurants;
33 b. Hotels;
34 c. Eating establishments;
35 d. Private clubs;
36 e. Convention centers;
37 f. Cooking schools;
38 g. Community ~~theatres~~;theatres;
39 h. ~~Winery~~-Wineries;
40 i. Distilleries.
- 41 (4) Off-Premises Unfortified Wine Permit. – An off-premises unfortified
42 wine permit authorizes the retail sale of unfortified wine and spirit
43 coolers in the manufacturer's original container for consumption off
44 the premises. The permit may be issued for retail businesses. The

- 1 permit may also be issued for a winery for sale of its own unfortified
2 ~~wine-wine~~ and for a distillery for sale of its own spirit coolers.
- 3 (5) On-Premises Fortified Wine Permit. – An on-premises fortified wine
4 permit authorizes the retail sale of fortified wine for consumption on
5 the premises, either alone or mixed with other beverages, the retail sale
6 of spirit coolers for consumption on the premises, and the retail sale of
7 fortified wine and spirit coolers in the manufacturer's original
8 container for consumption off the premises. The permit may be issued
9 for any of the following:
- 10 a. Restaurants;
11 b. Hotels;
12 c. Private clubs;
13 d. Community ~~theatres~~theatres;
14 e. Wineries;
15 f. Convention centers.
- 16 (6) Off-Premises Fortified Wine Permit. – An off-premises fortified wine
17 permit shall authorize the retail sale of fortified wine and spirit coolers
18 in the manufacturer's original container for consumption off the
19 premises. The permit may be issued for food businesses. The permit
20 may also be issued for a winery for sale of its own fortified wine.
- 21 (7) Brown-Bagging Permit. – A brown-bagging permit authorizes each
22 individual patron of an establishment, with the permission of the
23 permittee, to bring up to five liters of fortified wine or spirituous
24 liquor, or five liters of the two combined, onto the premises and to
25 consume those alcoholic beverages on the premises. The permit may
26 be issued for any of the following:
- 27 a. Restaurants;
28 b. Hotels;
29 c. Private clubs;
30 d. Community theaters;
31 e. Congressionally-chartered veterans organizations.
- 32 (8) Special Occasion Permit. – A special occasion permit authorizes the
33 host of a reception, party or other special occasion, with the permission
34 of the permittee, to bring fortified wine and spirituous liquor onto the
35 premises of the business and to serve the same to his guests. The
36 permit may be issued for any of the following:
- 37 a. Restaurants;
38 b. Hotels;
39 c. Eating establishments;
40 d. Private clubs;
41 e. Convention centers.
- 42 (9) Limited Special Occasion Permit. – A limited special occasion permit
43 authorizes the permittee to bring fortified wine and spirituous liquor
44 onto the premises of a business, with the permission of the owner of

1 that property, and to serve those alcoholic beverages to the permittee's
2 guests at a reception, party, or other special occasion being held there.
3 The permit may be issued to any individual other than the owner or
4 possessor of the premises. An applicant for a limited special occasion
5 permit shall have the written permission of the owner or possessor of
6 the property on which the special occasion is to be held.

7 (10) Mixed Beverages Permit. – A mixed beverages permit authorizes the
8 retail sale of spirit coolers and mixed beverages for consumption on
9 the premises. The permit also authorizes a mixed beverages permittee
10 to obtain a purchase-transportation permit under G.S. 18B-403 and
11 18B-404, and to use for culinary purposes spirituous liquor lawfully
12 purchased for use in mixed beverages. The permit may be issued for
13 any of the following:

- 14 a. Restaurants;
- 15 b. Hotels;
- 16 c. Private clubs;
- 17 d. Convention centers;
- 18 e. Community theatres;
- 19 f. Nonprofit and political organizations.

20 (11) Culinary Permit. – A culinary permit authorizes a permittee to possess
21 up to 12 liters of either fortified wine or spirituous liquor, or 12 liters
22 of the two combined, in the kitchen of a business and to use those
23 alcoholic beverages for culinary purposes. The permit may be issued
24 for either of the following:

- 25 a. Restaurants;
- 26 b. Hotels.
- 27 c. Cooking schools.

28 A culinary permit may also be issued to a catering service to allow the
29 possession of the amount of fortified wine and spirituous liquor stated
30 above at the business location of that service and at the cooking site.
31 The permit shall also authorize the caterer to transport those alcoholic
32 beverages to and from the business location and the cooking site, and
33 use them in cooking.

34 (12) Mixed Beverages Catering Permit. – A mixed beverages catering
35 permit authorizes a hotel or a restaurant that has a mixed beverages
36 permit to bring spirituous liquor onto the premises where the hotel or
37 restaurant is catering food for an event and to serve the liquor to guests
38 at the event.

39 (13) Guest Room Cabinet Permit. – A guest room cabinet permit authorizes
40 a hotel having a mixed beverages permit to sell to its room guests,
41 from securely locked cabinets, malt beverages, unfortified wine,
42 fortified wine, spirit coolers, and spirituous liquor. A permittee shall
43 designate and maintain at least ten percent (10%) of the permittee's
44 guest rooms as rooms that do not have a guest room cabinet. A

1 permittee may dispense alcoholic beverages from a guest room cabinet
2 only in accordance with written policies and procedures filed with and
3 approved by the Commission. A permittee shall provide a reasonable
4 number of vending machines, coolers, or similar machines on premises
5 for the sale of soft drinks to hotel guests.

6 A guest room cabinet permit may be issued for any of the following:

- 7 a. A hotel located in a county subject to G.S. 18B-600(f).
- 8 b. A hotel located in a county that has a population in excess of
9 150,000 by the last federal census."

10 Sec. 16. G.S. 18B-1002(a) reads as rewritten:

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

- 13 (1) A permit may be issued to a person who acquires ownership or
14 possession of alcoholic beverages through bankruptcy, inheritance,
15 foreclosure, judicial sale, or other special occurrence, and who does
16 not already have a permit authorizing the sale of that kind of alcoholic
17 beverage. The permit may authorize the sale or other disposition of the
18 alcoholic beverages in a manner prescribed by the Commission.
- 19 (2) A permit may be issued to a nonprofit organization to allow the retail
20 sale of malt beverages, unfortified wine, ~~or~~-fortified wine, or spirit
21 coolers, or to allow brown-bagging, at a single fund-raising event of
22 that organization. A permit for this purpose shall not be issued for the
23 sale of any kind of alcoholic beverage in a jurisdiction where the sale
24 of that alcoholic beverage is not lawful.
- 25 (3) A permit may be issued to a permittee who is going out of business to
26 authorize the sale or other disposition of his alcoholic beverages stock
27 in a manner that would not otherwise be authorized under his permit.
- 28 (4) A permit may be issued to a collector of wine or decorative decanters
29 of spirituous liquor authorizing that person to bring into the State,
30 transport, or possess as a collector, a greater amount of those alcoholic
31 beverages than is otherwise authorized by this Chapter, or to sell those
32 alcoholic beverages in a manner prescribed by the Commission.
- 33 (5) A permit may be issued to a nonprofit organization or a political
34 organization to serve ~~wine, malt beverages, and spirituous liquor~~ alcoholic
35 beverages at a ticketed event held to allow the organization to raise
36 funds. For purposes of this subdivision 'nonprofit organization' means
37 an organization that is exempt from taxation under Section 501(c)(3),
38 501(c)(4), 501(c)(6), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of
39 the Internal Revenue Code or is exempt under similar provisions of the
40 General Statutes as a bona fide nonprofit charitable, civic, religious,
41 fraternal, patriotic, or veterans' organization or as a nonprofit volunteer
42 fire department, or as a nonprofit volunteer rescue squad or a bona fide
43 homeowners' or property owners' association. For purposes of this
44 subdivision 'political organization' means an organization covered by

1 the provisions of G.S. 163-96(a)(1) or (2) or a campaign organization
2 established by or for a person who is a candidate who has filed a notice
3 of candidacy, paid the filing fees or filed the required petition, and
4 been certified as a candidate. The issuance of this permit will also
5 allow the issuance of a purchase-transportation permit under G.S. 18B-
6 403 and 18B-404 and the use for culinary purposes of spirituous liquor
7 lawfully purchased for use in mixed beverages."

8 Sec. 17. G.S. 18B-1004 reads as rewritten:

9 **"§ 18B-1004. Hours for sale and consumption.**

10 (a) Hours. – Except as otherwise provided in this section, it shall be unlawful to
11 sell malt beverages, unfortified wine, fortified wine, spirit coolers, or mixed beverages
12 between the hours of 2:00 A.M. and 7:00 A.M., or to consume any of those alcoholic
13 beverages between the hours of 2:30 A.M. and 7:00 A.M., in any place which has been
14 issued a permit under G.S. 18B-1001.

15 (b) Repealed by Session Laws 1991, c. 689, s. 310, effective August 1, 1991.

16 (c) Sunday Hours. – It shall be unlawful to sell or consume alcoholic beverages
17 on any licensed premises from the time at which sale or consumption must cease on
18 Sunday morning until 1:00 P.M. on that day.

19 (d) Local Option. – A city may adopt an ordinance prohibiting in the city the
20 retail sale of malt beverages, unfortified wine, ~~and fortified wine-wine~~, and spirit coolers
21 during any or all of the hours from 1:00 P.M. on Sunday until 7:00 A.M. on the
22 following Monday. A county may adopt an ordinance prohibiting, in the parts of the
23 county outside any city, the retail sale of malt beverages, unfortified wine, ~~and fortified~~
24 ~~wine-wine~~, and spirit coolers during any or all of the hours from 1:00 P.M. on Sunday
25 until 7:00 A.M. on the following Monday. Neither a city nor a county, however, may
26 prohibit those sales in establishments having brown-bagging or mixed beverages
27 permits.

28 (e) This section does not prohibit at any time the wholesale delivery and sale of
29 unfortified wine, fortified wine, spirit coolers, and malt beverages to retailers issued
30 permits pursuant to G.S. 18B-1001."

31 Sec. 18. G.S. 18B-1006 reads as rewritten:

32 **"§ 18B-1006. Miscellaneous provisions on permits.**

33 (a) School and College Campuses. – No permit for the sale of malt beverages,
34 unfortified wine, or fortified wine shall be issued to a business on the campus or
35 property of a public school or college unless that business is a hotel or a nonprofit
36 alumni organization with a mixed beverages permit or a special occasion permit.

37 (b) Lockers at Clubs. – A private club or congressionally-chartered veterans
38 organization which has been issued a brown-bagging permit may, but is not required to,
39 provide lockers for its members to store their alcoholic beverages. If lockers are
40 provided, however, they shall not be shared but shall be for individual members. Each
41 locker and each bottle of alcoholic beverages on the premises shall be labelled with the
42 name of the member to whom it belongs. No more than five liters each of malt ~~beverages~~
43 ~~or beverages~~, unfortified wine-wine, or spirit coolers may be stored by a member at one

1 time. No more than five liters of either fortified wine or spirituous liquor, or five liters
2 of the two combined, may be stored by a member at one time.

3 (c) Wine and Spirit Cooler Sales. – Holders of retail or wholesale permits for the
4 sale of unfortified or fortified wine may buy and sell only wines and spirit coolers on
5 the Commission's approved list. The Commission may authorize the importation and
6 purchase of wines and spirit coolers not on the approved list by permittees and others.
7 An authorization shall state the kind and amount of wine or spirit coolers that may be
8 imported and purchased and the time within which the transaction shall be completed.

9 (d) Unlawful Possession or Consumption. – It shall be unlawful for a permittee to
10 possess or consume, or allow any other person to possess or consume, on the licensed
11 premises, any fortified wine or spirituous liquor, the possession or consumption of
12 which is not authorized either by the permits issued to him for the premises or by any
13 other provision of the ABC law.

14 (e) Facsimile Permit. – It shall be unlawful for any person to produce or possess
15 any false or facsimile permit, or for a permittee to display any false or facsimile permit
16 on his licensed premises.

17 (f) Failure to Surrender Permit. – It shall be unlawful for any person to refuse to
18 surrender any permit to the Commission upon lawful demand of the Commission or its
19 agents.

20 (g) Restrictions on Sales at Cooking Schools. – Retail sales of food or alcoholic
21 beverages to be consumed on the premises of a cooking school are restricted to bona
22 fide enrolled students of that school. Violation of this subsection is a ground for
23 administrative action under G.S. 18B-104.

24 (h) Purchase Restrictions. – A retail permittee may purchase malt beverages,
25 unfortified wine, ~~or fortified wine~~ wine, or spirit coolers only from a wholesaler or
26 importer who maintains a place of business in this State and has the proper permit.

27 (i) Tour Boats. – The Commission may issue permits to boats that conduct
28 regularly scheduled tours upon the rivers or waterways of this State under the following
29 conditions:

- 30 (1) A boat shall serve meals on each tour and shall have a dining area with
31 seating for at least 36 people;
- 32 (2) A boat's gross receipts from food and non-alcoholic beverages shall be
33 greater than its gross receipts from alcoholic beverages;
- 34 (3) A boat may hold the permits listed in G.S. 18B-1001(1), (3), (5), (7),
35 and (10), but no off-premises sales may be made pursuant to those
36 permits;
- 37 (4) A boat shall have a home port in an area where issuance of the permits
38 listed in subdivision (3) is legal, and all passengers shall enter the boat
39 at the home port or at other ports listed on a preannounced itinerary.
40 The boat's permits are valid during tours that leave and return to the
41 boat's home port, and apply regardless of whether the boat crosses into
42 an area where sales are not legal, if the boat docks only at a port listed
43 on the preannounced itinerary, except in an emergency; and

- 1 (5) A boat conducting tours along the intracoastal waterway and navigable
2 waterways that enters into the intracoastal waterway, pursuant to a
3 preannounced itinerary that includes visits to two or more cities, may
4 serve alcoholic beverages pursuant to ABC permits issued according to
5 the jurisdiction of its home port in the following manner:
6 a. While on tour, alcoholic beverages may be served to
7 passengers;
8 b. While docked in any other port alcoholic beverages may be
9 served only to tour passengers;
10 c. During special city-sponsored events and festivals, in which
11 case the boat may open its galley and bars at dockside to the
12 general public and sell those alcoholic beverages that are lawful
13 in the jurisdiction in which it is docked. Any sales in this
14 manner shall be in accordance with the requirements of any
15 ordinances of the jurisdiction in which the boat is docked.
- 16 (6) Liquor purchased for resale in mixed beverages may be purchased
17 only from the local board for the jurisdiction of the boat's home port.
- 18 (j) Recreation/Sports Districts. – The Commission may issue permits for the sale
19 of malt beverages and unfortified wine in recreation/sports districts when they are
20 wholly located in a County where there are two or more municipalities that are wholly
21 located in the County that allow the sale of alcoholic beverages while the sale of any
22 alcoholic beverages is prohibited in the nonincorporated areas of the County, and the
23 area to be included in the recreation/sports district has been previously identified by one
24 of those municipalities through a resolution of intent for annexation. The issuance of the
25 permits shall be upon the formal written request of the City indicating the intent to
26 annex the area or upon formal written request of the County Commissioners with the
27 request designating the geographic boundaries of the district in which the permits may
28 be issued.
- 29 For the purposes of this act a recreation/sports district shall not exceed one-half mile
30 in diameter and shall host at least five sporting events each year.
- 31 (k) Special Private Club Permits. – The Commission may issue permits listed in
32 G.S. 18B-1001 to qualified persons and establishments located within a private club
33 located in a private development, without approval at an election:
- 34 (1) In any county which has a population of less than 45,000 by the last
35 federal census, and in which there are at least three but not more than
36 four cities that have approved the sale of malt beverages or unfortified
37 wine; and
38 a. Only one city in the county has approved the on-premises sale
39 of malt beverages, and
40 b. At least two cities in the county have approved the operation of
41 ABC stores before the ratification date of this section; or
42 (2) In any county bordering on a county that has called elections pursuant
43 to G.S. 18B-600(f); and

- 1 a. The issuance of permits in unincorporated areas of the county
2 has not been approved, and
3 b. Not more than three cities in the county have approved the
4 operation of ABC stores before the ratification date of this
5 section.

6 The mixed beverages transportation permit authorized by G.S. 18B-404(b) shall
7 be issued by a local board operating a store located in the county. A private club located
8 in the county is defined as a club or lodge located in a privately owned, primarily
9 residential and recreational development, which is open only to members by invitation
10 of the club's board of directors and the guests of these members."

11 Sec. 19. G.S. 18B-1105(a) reads as rewritten:

12 "(a) Authorized Acts. – The holder of a distillery permit may:

- 13 (1) Manufacture, purchase, import, ~~possess~~possess, and transport
14 ingredients and equipment used in the distillation of spirituous ~~liquor~~;
15 liquor and spirit coolers.
16 (2) Sell, ~~deliver~~deliver, and ship spirituous liquor in closed containers at
17 wholesale to exporters and local boards within the State, and, subject
18 to the laws of other jurisdictions, at wholesale or retail to private or
19 public agencies or establishments of other states or ~~nations~~;nations.
20 (3) Transport into or out of the distillery the maximum amount of liquor
21 allowed under federal law, if the transportation is related to the
22 distilling process.
23 (4) Sell, deliver, and ship spirit coolers in closed containers to wholesalers
24 licensed under this Chapter as authorized by the ABC laws, except that
25 spirit coolers may be sold to exporters and nonresident wholesalers
26 only when the purchase is not for resale in this State.
27 (5) Ship its spirit coolers in closed containers to individual purchasers
28 inside and outside the State.
29 (6) Regardless of the results of any local ABC store election or mixed
30 beverages election, sell the distillery's spirit coolers for on- or off-
31 premises consumption upon obtaining the appropriate permit under
32 G.S. 18B-1001."

33 Sec. 20. G.S. 18B-1106 reads as rewritten:

34 "**§ 18B-1106. Authorization of wine importer permit.**

35 (a) Authorization. – The holder of a wine importer permit may:

- 36 (1) Import spirit coolers, fortified and wines, and unfortified wines from
37 outside the United States in closed ~~containers~~;containers.
38 (2) Store those ~~wines~~;beverages.
39 (3) Sell those ~~wines~~;beverages at wholesale for purposes of resale.

40 (b) Distribution Agreements. – Wine and spirit cooler distribution agreements are
41 governed by Article 12 of this Chapter."

42 Sec. 21. G.S. 18B-1107 reads as rewritten:

43 "**§ 18B-1107. Authorization of wine wholesaler permit.**

44 (a) Authorization. – The holder of a wine wholesaler permit may:

- 1 (1) Receive, ~~possess~~possess, and transport shipments of spirit coolers,
 2 fortified wine, and unfortified wine;wine.
- 3 (2) Sell, ~~deliver~~deliver, and ship wine and spirit coolers in closed
 4 containers for purposes of resale to wholesalers or retailers licensed
 5 under this Chapter as authorized by the ABC ~~laws;~~laws.
- 6 (3) Furnish and sell wine and spirit coolers to its employees, subject to the
 7 rules of the Commission and the Department of ~~Revenue;~~Revenue.
- 8 (4) In locations where the sale is legal, furnish wine and spirit coolers to
 9 guests and any other person who does not hold an ABC permit, for
 10 promotional purposes, subject to rules of the Commission.

11 (b) Distribution Agreements. – Wine and spirit cooler distribution agreements are
 12 governed by Article 12 of this Chapter."

13 Sec. 22. G.S. 18B-1110 reads as rewritten:

14 "**§ 18B-1110. Authorization of bottler permit.**

15 (a) Authorization. – The holder of a bottler permit may:

- 16 (1) Receive, ~~possess~~possess, and transport shipments of malt beverages,
 17 unfortified wine and fortified wine;wine, fortified wine, and spirit
 18 coolers.
- 19 (2) Bottle, sell, ~~deliver~~deliver, and ship malt beverages, unfortified wine,
 20 ~~and fortified wine~~wine, and spirit coolers in closed containers to
 21 wholesalers licensed under this Chapter as authorized by the ABC
 22 ~~laws;~~laws.
- 23 (3) Furnish or sell packages ~~which~~that do not conform to the
 24 manufacturer's marketing standards, if State taxes have been or will be
 25 paid, to its employees for the use of the employees or their families
 26 and guests in this State.

27 A sale or gift under subdivision (3) shall not be considered a retail or wholesale
 28 sale under the ABC law.

29 (b) Distribution Agreements. – Wine and spirit cooler distribution agreements are
 30 governed by Article 12 of this Chapter."

31 Sec. 23. G.S. 18B-1111(a) reads as rewritten:

32 "(a) Authorized Acts. – The holder of a salesman permit may ~~sell~~do the
 33 following:

- 34 (1) Sell and transport malt beverages for a malt beverage ~~wholesaler or sell~~
 35 wholesaler.
- 36 (2) Sell and transport unfortified ~~and wine,~~ fortified wine-wine, and spirit
 37 coolers for a wine wholesaler."

38 Sec. 24. G.S. 18B-1112(a) reads as rewritten:

39 "(a) Authorized Acts. – The holder of a vendor representative permit may
 40 represent an unfortified winery, fortified winery, limited winery, brewery, bottler,
 41 importer, nonresident malt beverage vendor, or nonresident wine vendor, either as an
 42 employee or an agent, to solicit orders for that commercial permittee's product. The
 43 holder of a vendor representative permit may also represent a distillery, either as an
 44 employee or an agent, to solicit orders for spirit coolers made by the distillery. A

1 vendor representative may sell, deliver, and ship alcoholic beverages in this State only
2 to permittees to whom the commercial permittee he represents may sell, deliver, or
3 ship."

4 Sec. 25. G.S. 18B-1114 reads as rewritten:

5 **"§ 18B-1114. Authorization of nonresident wine vendor permit.**

6 The holder of a nonresident wine vendor permit may sell, ~~deliver-deliver,~~ and ship
7 unfortified ~~and-wine,~~ fortified ~~wine-wine,~~ and spirit coolers in this State only to
8 wholesalers, ~~importers-importers,~~ and bottlers licensed under this Chapter, as authorized
9 by the ABC laws. A nonresident wine vendor permit may be issued to a winery, a
10 distillery, a wholesaler, an importer, or a bottler outside North Carolina who desires to
11 sell, ~~deliver-deliver,~~ and ship unfortified ~~and-wine,~~ fortified ~~wine-wine,~~ and spirit coolers
12 into this State."

13 Sec. 26. G.S. 18B-1115 reads as rewritten:

14 **"§ 18B-1115. Commercial transportation.**

15 (a) Permit Required. – Unless a person holds a permit which otherwise allows
16 him to transport more than 80 liters of malt beverages other than draft malt beverages in
17 kegs, 20 liters of unfortified wine, 20 liters of spirit coolers, or five liters of fortified
18 wine or spirituous liquor, or is a retailer authorized to transport alcoholic beverages
19 under G.S. 18B-405, each person transporting alcoholic beverages in excess of those
20 quantities shall have the permit described in this section.

21 (b) When Transportation Legal. – No person may obtain a permit under this
22 section to transport spirituous liquor unless the transportation is for delivery to a federal
23 reservation over which North Carolina has ceded jurisdiction to the United States, for
24 delivery to an ABC store, or for transport through this State to another state.

25 (c) Common Carriers. – Railroad companies and other common carriers having
26 regularly established schedules of service in this State may transport alcoholic
27 beverages into, out of, and between points in this State without a permit. Those
28 companies shall keep accurate records of the character, volume and number of
29 containers transported and shall allow the Commission and alcohol law-enforcement
30 agents to inspect those records at any time. The Commission may require common
31 carriers to make reports of shipments.

32 (d) Motor Vehicle Carriers. – Alcoholic beverages may be transported over the
33 public highways of this State by motor vehicle carriers under the following conditions:

- 34 (1) The carrier shall notify the Commission of the character of the
35 alcoholic beverages it will transport and of its authorization from the
36 appropriate regulatory authority.
- 37 (2) The carrier shall obtain, at no charge, a fleet permit from the
38 Commission authorizing the transportation.
- 39 (3) The driver or person in charge of each vehicle transporting alcoholic
40 beverages shall possess a copy of the carrier's fleet permit certified by
41 the carrier to be an exact copy of the original.
- 42 (4) The driver or person in charge of each vehicle transporting alcoholic
43 beverages shall possess a bill of lading, invoice or other memorandum
44 of shipment showing the name and address of the person from whom

1 the alcoholic beverages were received, the character and contents of
 2 the shipment, the quantity and volume of the shipment, and the name
 3 and address of the person to whom the alcoholic beverages are being
 4 shipped.

5 (5) The driver or person in charge of each vehicle transporting the
 6 alcoholic beverages shall display all documents required by this
 7 section upon request of any law-enforcement officer. Failure to
 8 produce these documents or failure of the documents to disclose
 9 clearly and accurately the information required by this section shall be
 10 **prima facie** evidence of a violation of this section.

11 (6) Each carrier shall keep accurate records of character, volume and
 12 number of containers transported and shall allow the Commission and
 13 alcohol law-enforcement agents to inspect those records at any time.
 14 The Commission may require carriers to make reports of shipments.

15 (e) Transportation of Spirituous Liquor. – In addition to the requirements of
 16 subsection (d), motor vehicle carriers engaged in transporting spirituous liquor shall:

17 (1) Deposit with the Commission a surety bond for one thousand dollars
 18 (\$1,000) conditioned that the carrier will not unlawfully transport
 19 spirituous liquor into or through this State. The bond, which shall be
 20 approved by the Commission, shall be payable to the State of North
 21 Carolina. If the bonded carrier is convicted of a violation covered by
 22 the bond, the proceeds of the forfeited bond shall be paid to the school
 23 fund of the county in which the liquor was seized.

24 (2) Include in its bill of lading, invoice or other memorandum of shipment
 25 the North Carolina code numbers of the spirituous liquor being
 26 transported.

27 (3) Include in its bill of lading, invoice or other memorandum of shipment
 28 the route which the vehicle will follow, and the vehicle shall not vary
 29 substantially from that stated route.

30 (f) ~~Malt Beverages and Wine Beverages, Wine, and Spirit Coolers~~ Transported by
 31 Boats. – The owner or operator of any boat may transport malt beverages, unfortified
 32 ~~wine and wine~~, fortified ~~wine wine~~, and ~~spirit coolers~~ over the waters of this State if he
 33 satisfies all requirements of subsection (d).

34 (g) State Warehouse Carrier. – The Commission may exempt a carrier for the
 35 State or a local board warehouse from any of the requirements of this section provided
 36 that it determines that the requirements of this section are otherwise satisfied."

37 Sec. 27. G.S. 18B-1118 reads as rewritten:

38 "**§ 18B-1118. Purchase restrictions.**

39 The holder of a malt beverage wholesaler, wine wholesaler, malt beverage importer,
 40 wine importer, or bottler permit may not purchase malt ~~beverages or wine beverages~~,
 41 wine, or spirit coolers for resale in this State from a nonresident who does not have the
 42 proper nonresident vendor permit."

43 Sec. 28. The heading to Article 12 of Chapter 18B of the General Statutes
 44 reads as rewritten:

1 "ARTICLE 12.

2 "WINE AND SPIRIT COOLER DISTRIBUTION AGREEMENTS."

3 Sec. 29. G.S. 18B-1201 reads as rewritten:

4 "§ 18B-1201. Definitions.

5 As used in this Article, unless the context requires otherwise:

6 (1) 'Agreement' means a commercial relationship between a wine
7 wholesaler and a winery. The agreement may be of a definite or
8 indefinite duration and is not required to be in writing. Any of the
9 following constitutes prima facie evidence of an 'agreement' within the
10 meaning of this definition:

- 11 a. A relationship whereby the wine wholesaler is granted the right
12 to offer and sell a brand offered by a winery;
- 13 b. A relationship whereby the wine wholesaler, as an independent
14 business, constitutes a component of a winery's distribution
15 system;
- 16 c. A relationship whereby the wine wholesaler's business is
17 substantially associated with a brand offered by a winery;
- 18 d. A relationship whereby the wine wholesaler's business is
19 substantially reliant on a winery for the continued supply of
20 ~~wine;~~ wine, spirit coolers, and other beverages;
- 21 e. The shipment, preparation for shipment, or acceptance of any
22 order by any winery or its agent for any ~~wine or~~ wine, spirit
23 coolers, or other beverages to a wine wholesaler within this
24 State;
- 25 f. The payment by a wine wholesaler and the acceptance of
26 payment by any winery or its agent for the shipment of any
27 order of ~~wine or~~ wine, spirit coolers, or other beverages intended
28 for sale within this State.

29 (2) 'Territory' or 'sales territory' means the area of primary sales
30 responsibility expressly or implicitly designated by any agreement
31 between any wine wholesaler and winery for a brand offered by any
32 winery. The term 'area of primary sales responsibility' may not be
33 construed as restricting sales or sales efforts by any wine wholesaler
34 attempting to sell ~~wines~~ wines, spirit coolers, or other beverages within
35 any designated sales territory.

36 (3) 'Wine wholesaler' means any holder of a wine wholesaler permit, wine
37 importer permit, or bottler permit issued under the authority of this
38 Chapter.

39 (4) 'Winery' means any of the following:

- 40 a. A holder of an unfortified winery permit, a fortified winery
41 permit, a limited winery permit, or a nonresident wine vendor
42 permit issued under the authority of this Chapter who sells at
43 least 1,000 cases of wine in North Carolina per year.

1 b. A manufacturer, an importer, a bottler, or a nonresident vendor
2 of spirit coolers who sells at least 1,000 cases of spirit coolers in
3 North Carolina per year."

4 Sec. 30. G.S. 18B-1203 reads as rewritten:

5 **"§ 18B-1203. Primary area of responsibility.**

6 (a) Each agreement shall designate a sales territory of the wholesaler. No winery
7 may enter into more than one agreement for each brand of ~~wine or~~ beverage it offers in
8 any territory unless the Commission, using the standards of G.S. 18B-1204(4), orders
9 otherwise. Territories served by a wine wholesaler on March 21, 1983, are designated
10 sales territories ~~within the meaning of this section. Within 30 days of the effective date of this~~
11 ~~Article, each winery shall notify the Commission in writing of all designations of sales~~
12 ~~territories as of March 21, 1983. Redesignations occurring after March 21, 1983, shall be~~
13 ~~reported to the Commission within 30 days. No provisions of this Article, however, may for~~
14 wine. By September 1, 1993, a winery that sells spirit coolers in this State shall send
15 the Commission written notice of sales territories designated by the winery for spirit
16 coolers. A wholesaler shall report any change in a sales territory to the Commission
17 within 30 days after the change becomes effective. This Article does not prohibit the
18 continuation of a multi-wholesaler agreement entered into before March 21, 1983, as
19 between the winery and the original wine wholesalers thereto.

20 (b) This section may not be construed as restricting sales or sales efforts by any
21 wine wholesaler attempting to sell ~~wines~~ wines, spirit coolers, or other beverages within
22 ~~any a~~ designated sales territory."

23 Sec. 31. G.S. 18B-1207(b) reads as rewritten:

24 "(b) Any winery that amends, cancels, terminates, or refuses to renew any wine
25 agreement, or causes a wholesaler to resign from an agreement shall compensate the
26 wine wholesaler for the wine wholesaler's ~~wine inventory.~~ inventory acquired from the
27 winery. The amount of compensation shall include the F.O.B. costs of the ~~wine~~
28 inventory and any freight charges incurred by the wine wholesaler in receiving ~~them.~~ it."

29 Sec. 32. G.S. 18B-1208 reads as rewritten:

30 **"§ 18B-1208. Price of product.**

31 No winery, whether by means of a term or condition of an agreement or otherwise,
32 may directly or indirectly fix or maintain the prices at which the wholesaler may sell ~~any~~
33 ~~wine or a~~ beverage."

34 Sec. 33. G.S. 18B-1211 reads as rewritten:

35 **"§ 18B-1211. No discrimination.**

36 No winery may discriminate among its wholesalers in any business dealings,
37 including the price of ~~wine a~~ beverage sold to the wholesaler, unless the classification
38 among its wholesalers is based upon reasonable grounds."

39 Sec. 34. G.S. 105-113.68 reads as rewritten:

40 **"§ 105-113.68. Definitions; scope.**

41 (a) Definitions. – As used in this Article, unless the context clearly requires
42 otherwise:

43 (1) 'ABC Commission' means the North Carolina Alcoholic Beverage
44 Control Commission established under G.S. 18B-200.

- 1 (2) 'ABC law' means a statute in this Article or in Chapter 18B or a rule
2 issued by the Secretary under the authority of this Chapter.
- 3 (3) 'ABC permit' means a written or printed authorization issued by the
4 ABC Commission pursuant to Chapter 18B, other than a purchase-
5 transportation permit. Unless the context clearly requires otherwise,
6 'ABC permit' means a presently valid permit.
- 7 (4) 'Alcoholic beverage' means a beverage containing at least one half of
8 one percent (0.5%) alcohol by volume, including malt beverages,
9 unfortified wine, fortified wine, spirit coolers, spirituous liquor, and
10 mixed beverages.
- 11 (5) 'Fortified wine' means a wine made by fermentation from grapes,
12 fruits, berries, rice, or honey, to which nothing has been added other
13 than pure brandy made from the same type of grape, fruit, berry, rice,
14 or honey that is contained in the base wine, and which has an alcoholic
15 content of not more than twenty-four percent (24%) alcohol by
16 volume.
- 17 (6) 'License' means a certificate, issued pursuant to this Article by the
18 Secretary or by a city or county, that authorizes a person to engage in a
19 phase of the alcoholic beverage industry.
- 20 (7) 'Malt beverage' means beer, lager, malt liquor, ale, porter, and any
21 other brewed or fermented beverage containing at least one half of one
22 percent (0.5%) and not more than six percent (6%) alcohol by volume.
- 23 (8) 'Person' means an individual, firm, partnership, association,
24 corporation, other organization or group, or other combination of
25 individuals acting as a unit.
- 26 (9) 'Sale' means a transfer, trade, exchange, or barter, in any manner or by
27 any means, for consideration.
- 28 (10) 'Secretary' means the Secretary of Revenue.
- 29 (10a) 'Spirit cooler' means a beverage that contains distilled spirits or ethyl
30 alcohol and has an alcoholic content of no more than ten percent
31 (10%) alcohol by volume.
- 32 (11) 'Spirituous liquor' or 'liquor' means distilled spirits or ethyl alcohol,
33 including spirits of wine, whiskey, rum, brandy, gin, and all other
34 distilled spirits and mixtures of cordials, liqueurs, and premixed
35 ~~cocktails~~ cocktails, that contain more than ten percent (10%) alcohol by
36 volume and are in closed containers for beverage use regardless of the
37 dilution-use.
- 38 (12) 'Unfortified wine' means wine that has an alcoholic content produced
39 only by natural fermentation or by the addition of pure cane, beet, or
40 dextrose sugar, and that has an alcoholic content of not more than
41 seventeen percent (17%) alcohol by volume.
- 42 (13) 'Wholesaler or importer' when used with reference to wholesalers or
43 importers of wine or malt beverages includes resident wineries that sell

1 their wines at retail and resident breweries that produce fewer than
2 ~~62,000~~ 310,000 gallons of malt beverages per year.

3 (14) 'Wine' means unfortified and fortified wine.

4 (b) Scope. – All alcoholic beverages shall be taxed as provided in this Article
5 regardless whether they meet all criteria of these definitions."

6 Sec. 35. G.S. 105-113.80 is amended by adding a new subsection to read:

7 "(d) Spirit Coolers. – An excise tax of one dollar and eighty-nine cents (\$1.89) a
8 liter is levied on the sale of spirit coolers."

9 Sec. 36. Article 2C of Chapter 105 of the General Statutes is amended by
10 adding a new section to read:

11 **"§ 105-113.82A. Appropriation of part of excise tax on spirit coolers.**

12 (a) Amount and Use. – Sixty-two percent (62%) of the net amount of excise
13 taxes collected on spirit coolers during each 12-month period that begins on October 1
14 and ends on September 30 is annually appropriated from the General Fund to the
15 counties and cities in which their retail sale is authorized. The Secretary of Revenue
16 shall distribute the appropriation at the same time as the appropriation under G.S. 105-
17 113.82. A county or city may use funds appropriated to it under this section for any
18 public purpose.

19 (b) Method. – If spirit coolers may be sold at retail in both a county and a city
20 located in the county, both the county and the city shall receive a portion of the amount
21 appropriated. The portion each receives shall be determined on the basis of population.
22 If spirit coolers may be sold at retail in a city located in a county in which the sale of
23 spirit coolers is otherwise prohibited, only the city shall receive a portion of the amount
24 appropriated. The portion the city receives shall be determined on the basis of
25 population. To determine the population of a city or county, the Secretary shall use the
26 most recent annual population estimates certified by the State Planning Officer.

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

30 Sec. 37. This act becomes effective July 1, 1993.