

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 909
Committee Substitute Favorable 4/29/15
Senate Commerce Committee Substitute Adopted 5/21/15
Senate Finance Committee Substitute Adopted 5/27/15

Short Title: ABC Omnibus Legislation.

(Public)

Sponsors:

Referred to:

April 20, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE ALCOHOLIC BEVERAGE
3 CONTROL COMMISSION LAWS.

4 The General Assembly of North Carolina enacts:

5
6 **AUTHORIZE AND REGULATE THE SALE OF ANTIQUE SPIRITUOUS LIQUOR**

7 **SECTION 1.(a)** G.S. 18B-101 reads as rewritten:

8 **"§ 18B-101. Definitions.**

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

10 ...

11 (5) "ALE Branch" means the Alcohol Law Enforcement Branch of the
12 Department of Public Safety.

13 (5a) "Antique spirituous liquor" means spirituous liquor that has not been in
14 production or bottled in the last 20 years, is in the original manufacturer's
15 unopened container, is not owned by a distillery, and is not otherwise
16 available for purchase by an ABC Board except through the special order
17 process pursuant to G.S. 18B-1001(20).

18 (5b) "Antique spirituous liquor seller" means a person who sells antique
19 spirituous liquor to an ABC Board.

20 (5c) "Bailment surcharge" means the charge imposed on each case of liquor
21 shipped from a Commission warehouse as provided in G.S. 18B-208. This
22 bailment surcharge is in addition to the bailment charge imposed by
23 G.S. 18B-804(b)(2).

24"

25 **SECTION 1.(b)** G.S. 18B-1001 is amended by adding a new subdivision to read:

26 **"(20)** Antique spirituous liquor permit. – A permit under this subdivision may be
27 issued to a holder of a mixed beverages permit issued under subdivision (10)
28 of this section. Notwithstanding any law to the contrary, the permit holder
29 may sell at retail antique spirituous liquor for use in mixed beverages for
30 consumption on premises. The acquisition of antique spirituous liquor on or
31 after September 1, 2015, shall be in accordance with the process established
32 by rule of the Commission for special orders of spirituous liquor that is not
33 on the list approved by the Commission."

34 **SECTION 1.(c)** G.S. 18B-902(d) is amended by adding a new subdivision to read:



1 "(43) Antique spirituous liquor permit – \$100.00."

2 **SECTION 1.(d)** G.S. 18B-1001(10) reads as rewritten:

3 "(10) Mixed Beverages Permit. – A mixed beverages permit authorizes the retail
4 sale of mixed beverages for consumption on the premises. The permit also
5 authorizes a mixed beverages permittee (i) to obtain a
6 purchase-transportation permit under G.S. 18B-403 and 18B-404, (ii) to
7 obtain an antique spirituous liquor permit under subdivision (20) of this
8 section, and (iii) to use for culinary purposes spirituous liquor lawfully
9 purchased for use in mixed beverages. The permit may be issued for any of
10 the following:

- 11 a. Restaurants;
- 12 b. Hotels;
- 13 c. Private clubs;
- 14 d. Convention centers;
- 15 e. Community theatres;
- 16 f. Nonprofit organizations; and
- 17 g. Political organizations."

18 **SECTION 1.(e)** G.S. 18B-804 reads as rewritten:

19 **"§ 18B-804. Alcoholic beverage pricing.**

20 (a) Uniform Price of Spirituous Liquor. – The retail price of spirituous liquor sold in
21 ABC stores shall be uniform throughout the State, unless otherwise provided by the ABC law.

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

- 25 (1) The distiller's or the antique spirituous liquor seller's price.
- 26 (2) The freight and bailment charges of the State warehouse as determined by
27 the Commission.
- 28 (3) A markup for local boards as determined by the Commission.
- 29 (4) The tax levied under G.S. 105-113.80(c), which shall be levied on the sum
30 of subdivisions (1), (2), and (3).
- 31 (5) An additional markup for local boards equal to three and one-half percent (3
32 1/2%) of the sum of subdivisions (1), (2), and (3).
- 33 (6) A bottle charge of one cent (1¢) on each bottle containing 50 milliliters or
34 less and five cents (5¢) on each bottle containing more than 50 milliliters.
- 35 (6a) The bailment surcharge.
- 36 (6b) An additional bottle charge for local boards of one cent (1¢) on each bottle
37 containing 50 milliliters or less and five cents (5¢) on each bottle containing
38 more than 50 milliliters.
- 39 (7) A rounding adjustment, the formula of which may be determined by the
40 Commission, so that the sale price will be divisible by five.
- 41 (8) If the spirituous liquor is sold to a mixed beverage permittee for resale in
42 mixed beverages, a charge of twenty dollars (\$20.00) on each four liters and
43 a proportional sum on lesser quantities.
- 44 (9) If the spirituous liquor is sold to a guest room cabinet permittee for resale, a
45 charge of twenty dollars (\$20.00) on each four liters and a proportional sum
46 on lesser quantities.

47"

48 **SECTION 1.(f)** G.S. 105-113.80(c) reads as rewritten:

49 "(c) Liquor. – An excise tax of thirty percent (30%) is levied on spirituous liquor and
50 antique spirituous liquor sold in ABC stores. Pursuant to G.S. 18B-804(b), the price of liquor
51 on which this tax is computed is the distiller's or the antique spirituous liquor seller's price plus

(i) the State ABC warehouse freight and bailment ~~charges,~~ charges and (ii) a markup for local ABC boards."

SECTION 1.(g) G.S. 105-113.68(a) is amended by adding a new subdivision to read:

"(4a) Antique spirituous liquor. – Defined in G.S. 18B-101."

SECTION 1.(h) G.S. 105-164.4(a)(7) reads as rewritten:

"(7) The combined general rate applies to the sales price of antique spirituous liquor and spirituous liquor other than mixed beverages. As used in this subdivision, the terms "antique spirituous liquor", "spirituous liquor", and "mixed beverage" have the meanings provided in G.S. 18B-101."

SECTION 1.(i) No later than September 1, 2015, the ABC Commission shall establish and adopt temporary rules to implement the provisions of this section.

SECTION 1.(j) Subsections (a) through (h) of this section become effective upon adoption of rules pursuant to subsection (i) of this section. The remainder of this section is effective when it becomes law.

PROHIBIT THE SALE, POSSESSION, OR CONSUMPTION OF POWDERED ALCOHOL

SECTION 2.(a) G.S. 18B-101 reads as rewritten:

"§ 18B-101. Definitions.

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

...

(12a) "Premises" means all areas, whether inside or outside the licensed premises, where the permittee has control of the property through a lease, deed, or other legal process.

(12b) "Powdered alcohol" means any powder or crystalline substance capable of being converted into a liquid alcoholic beverage fit for human consumption.

(13) "Sale" means any transfer, trade, exchange, or barter, in any manner or by any means, for consideration.

...."

SECTION 2.(b) G.S. 18B-102 is amended by adding a new subsection to read:

"(a1) Powdered Alcohol Prohibition. – It shall be unlawful for any person to manufacture, sell, transport, import, deliver, furnish, purchase, consume, or possess powdered alcohol."

AUTHORIZE THE EASTERN BAND OF CHEROKEE INDIANS TRIBAL ALCOHOLIC BEVERAGE CONTROL COMMISSION TO ISSUE WINE SHIPPER PERMITS AND COMMERCIAL ABC PERMITS AND CLARIFY THAT THE EASTERN BAND OF CHEROKEE INDIANS TRIBAL ALCOHOLIC BEVERAGE CONTROL COMMISSION MAINTAINS EXCLUSIVE AUTHORITY TO ISSUE CERTAIN PERMITS

SECTION 3.(a) G.S. 18B-112 reads as rewritten:

"§ 18B-112. Tribal alcoholic beverage control.

...

(b) **Compliance Required.** – The Eastern Band of Cherokee Indians shall comply with the following provisions of this Chapter to the extent they apply to or can be made applicable to the tribe:

(1) The following provisions of Article 1. – General Provisions.

a. G.S. 18B-101(4), (7), (7c), (9), (10), (11), (12), (12a), (13), (14)(14a), (14b), and (15).

b. G.S. 18B-102.1.

- 1 c. G.S. 18B-104.
 2 d. G.S. 18B-105, except that this section shall not apply to any
 3 establishment where gaming is permitted under a State compact and
 4 pursuant to federal law.
 5 e. G.S. 18B-109(b).
 6 f. G.S. 18B-110.
 7 g. G.S. 18B-111.
 8 h. G.S. 18B-112.
- 9 (2) Article 1A. – Compensation for Injury Caused by Sales to Underage
 10 Persons, to the extent it applies to retail establishments or the tribal alcoholic
 11 beverage control commission if it operates ABC stores, or any other
 12 permitted establishment, at retail pursuant to the provisions of this section.
- 13 (3) Article 3. – Sale, Possession, and Consumption, except for G.S. 18B-308
 14 and G.S. 18B-309.
- 15 (4) Article 4. – Transportation.
- 16 (5) Article 5. – Enforcement, except for G.S. 18B-500 and G.S. 18B-501.
- 17 (6) Article 6. – Elections, compliance with only G.S. 18B-603(f) and (g) are
 18 required.
- 19 (7) Article 9. – Issuance of Permits, except for G.S. 18B-902(g) and (h) and
 20 G.S. 18B-906.
- 21 ~~(7)(8)~~ Article 10. – Retail Activity, except for G.S. 18B-1001.1, 18B-1001.2, and
 22 18B-1001.3:Activity.
- 23 (9) Article 11. – Commercial Activity, as clarified by the following:
- 24 a. The tribal alcoholic beverage control commission may issue
 25 commercial activity permits to any qualifying applicant that
 26 establishes a commercial business wholly on Indian Country lands
 27 and shall have sole enforcement authority over any permittee
 28 receiving a permit from the tribal alcoholic beverage control
 29 commission only to the extent the regulated conduct occurs on Indian
 30 Country lands.
- 31 b. The Eastern Band of Cherokee Indians shall recognize any permit
 32 issued by the North Carolina Alcoholic Beverage Control
 33 Commission allowing commercial activity in the same manner as if
 34 such permit was issued by the tribal alcoholic beverage control
 35 commission. The North Carolina Alcoholic Beverage Control
 36 Commission shall recognize any commercial activity permit issued
 37 by the tribal alcoholic beverage commission in the same manner as if
 38 the permit were issued by the North Carolina Alcoholic Beverage
 39 Control Commission.
- 40 c. The North Carolina Alcoholic Beverage Control Commission shall
 41 retain exclusive enforcement authority over all permits it issues to
 42 commercial activity permittees for violations of its rules or this
 43 Chapter.

44 Any provision of Articles 12 and 13 of this Chapter which has not been made applicable to
 45 the Eastern Band of Cherokee Indians by this section shall act as a bar to engaging in any
 46 activity authorized by that Article or section.

47 ...

48 (d) Establishment of a Tribal Commission. – In accordance with the provisions of 18
 49 U.S.C. § 1161, the Eastern Band of Cherokee Indians is authorized to establish a tribal
 50 alcoholic beverage control commission to regulate the purchase, possession, consumption, sale,
 51 and delivery of alcoholic beverages ~~at retail~~ on any land designated as Indian Country pursuant

1 to 18 U.S.C. § 1151 under the jurisdiction of the Eastern Band of Cherokee Indians. The tribal
 2 commission shall have exclusive authority to issue ~~retail-ABC~~ permits to retail and commercial
 3 establishments located wholly on Indian Country lands under the jurisdiction of the Eastern
 4 Band of Cherokee Indians and to regulate the purchase, possession, consumption, sale, and
 5 delivery of alcoholic beverages at ~~retail-permitted~~ outlets and premises. Permits issued by the
 6 tribal commission pursuant to this section shall be deemed issued by the State for the purposes
 7 of sales and delivery of beer and wine by wholesalers to the retail outlets located on Indian
 8 Country lands. The fees generated by the tribal alcoholic beverage control commission for the
 9 issuance of retail permits may be retained by the Eastern Band of Cherokee Indians to offset
 10 costs of operating the tribal alcoholic beverage control commission.

11"

12 **SECTION 3.(b)** G.S. 18B-101(14a) reads as rewritten:

13 "(14a) "Tourism ABC establishment" means a restaurant or hotel that meets both of
 14 the following requirements:

- 15 a. Is located on property, a property line of which is located within 1.5
 16 miles of the end of an entrance or exit ramp of a junction on a
 17 national scenic parkway designed to attract local, State, national, and
 18 international tourists between the State line and Milepost ~~460-469~~,
 19 provided that the Eastern Band of Cherokee Indians tribal alcoholic
 20 beverage control commission established under G.S. 18B-112 shall
 21 have exclusive authority to issue permits pursuant to this subdivision
 22 between Milepost 460 and the southern terminus of the national
 23 scenic byway at Milepost 469 for any restaurant or hotel that is
 24 located wholly on Indian Country lands.
- 25 b. Is located in a county in which the on-premises or off-premises sale
 26 of malt beverages or unfortified wine is authorized in at least one
 27 city."
 28

29 **ALLOW DISTILLERY PERMIT HOLDERS TO SELL SPIRITUOUS LIQUOR**
 30 **DISTILLED ON PREMISES TO VISITORS OF THE DISTILLERY FOR**
 31 **CONSUMPTION OFF THE PREMISES**

32 **SECTION 4.(a)** G.S. 18B-1105(a) reads as rewritten:

33 "(a) Authorized Acts. – The holder of a distillery permit ~~may; may do any of the~~
 34 following:

- 35 (1) Manufacture, purchase, import, possess and transport ingredients and
 36 equipment used in the distillation of spirituous ~~liquor;~~ liquor.
- 37 (2) Sell, deliver and ship spirituous liquor in closed containers at wholesale to
 38 exporters and local boards within the State, and, subject to the laws of other
 39 jurisdictions, at wholesale or retail to private or public agencies or
 40 establishments of other states or ~~nations;~~ nations.
- 41 (3) Transport into or out of the distillery the maximum amount of liquor allowed
 42 under federal law, if the transportation is related to the distilling process.
- 43 (4) Sell spirituous liquor distilled at the distillery in closed containers to visitors
 44 who tour the distillery for consumption off the premises if the distillery
 45 manufactures less than 100,000 proof gallons per year. Sales under this
 46 subdivision are allowed only in a county where the establishment of a county
 47 or municipal ABC store has been approved pursuant to G.S. 18B-602(g) and
 48 are subject to the time and day restrictions in G.S. 18B-802. Spirituous
 49 liquor sold under this subdivision shall (i) be listed as a code item for sale in
 50 the State, (ii) be sold at the price set by the Commission for the code item
 51 pursuant to G.S. 18B-804(b), and (iii) have affixed to its bottle a sticker that

1 bears the words "North Carolina Distillery Tour Commemorative Spirit" in
2 addition to any other labeling requirements set by law. Consumers
3 purchasing spirituous liquor under this subdivision are limited to purchasing,
4 and the selling distillery is limited to selling to each consumer, no more than
5 one bottle of spirituous liquor per 12-month period. The distillery shall use a
6 commonly adopted standard point of sale system to maintain searchable
7 electronic records captured at the point of sale, to include the purchaser's
8 name, drivers license number, and date of birth for at least 12 months from
9 the date of purchase. The Commission shall adopt rules regulating the retail
10 sale of spirituous liquor under this subdivision."

11 **SECTION 4.(b)** G.S. 105-113.68(a) is amended by adding a new subdivision to
12 read:

13 "(4a) Distillery permittee. – A distillery that holds a distillery permit issued by the
14 ABC Commission under G.S. 18B-1105."

15 **SECTION 4.(c)** G.S. 105-113.80(c) reads as rewritten:

16 "(c) Liquor. – An excise tax of thirty percent (30%) is levied on liquor sold in ABC
17 ~~stores.~~ stores and in permitted distilleries. Pursuant to G.S. 18B-804(b), the price of liquor on
18 which this tax is computed is the distiller's price plus (i) the State ABC warehouse freight and
19 bailment charges, and (ii) a markup for local ABC boards."

20 **SECTION 4.(d)** G.S. 105-113.81(e) reads as rewritten:

21 "(e) Tasting. – Resident ~~breweries and wineries~~ breweries, wineries, and distilleries are
22 not required to remit excise taxes on malt ~~beverages and wine~~ beverages, wine, or spirituous
23 liquor given free of charge to customers, visitors, and employees on the manufacturer's licensed
24 premises for consumption on those premises."

25 **SECTION 4.(e)** G.S. 105-113.83(a) reads as rewritten:

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

30 **SECTION 4.(f)** G.S. 18B-800(a) reads as rewritten:

31 "(a) Spirituous Liquor. – Except as provided in Article 10 of this ~~Chapter,~~ Chapter and
32 G.S. 18B-1105(a), spirituous liquor may be sold only in ABC stores operated by local boards."

33 **SECTION 4.(g)** G.S. 18B-804(a) reads as rewritten:

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

37 **SECTION 4.(h)** No later than October 1, 2015, the ABC Commission shall
38 establish and adopt temporary rules to implement the provisions of this section.

39 **SECTION 4.(i)** Subsections (a) through (g) of this section become effective upon
40 adoption of rules pursuant to subsection (h) of this section. The remainder of this section is
41 effective when it becomes law.

42
43 **ALLOW CERTAIN ABC PERMITTEES TO SELL CIDER IN CERTAIN**
44 **CONTAINERS FOR CONSUMPTION OFF THE PERMITTED PREMISES AND**
45 **MAKE TECHNICAL CHANGES TO THE SALE OF MALT BEVERAGES IN**
46 **GROWLERS**

47 **SECTION 5.(a)** G.S. 18B-1001 reads as rewritten:

48 "**§ 18B-1001. Kinds of ABC permits; places eligible.**

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

- 1 (1) On-Premises Malt Beverage Permit. – An on-premises malt beverage permit
2 authorizes (i) the retail sale of malt beverages for consumption on the
3 premises, (ii) the retail sale of malt beverages in the manufacturer's original
4 container for consumption off the premises, and (iii) the retail sale of malt
5 beverages in a cleaned, sanitized, resealable container ~~as defined in 4 NCAC~~
6 ~~2T.0308(a)~~ that is filled or refilled and sealed for consumption off the
7 ~~premises, complies with 4 NCAC 2T.0303, 4 NCAC 2T.0305, and 4 NCAC~~
8 ~~2T.0308(d) (e), premises and the container that identifies the permittee and~~
9 the date the container was filled or refilled. It also authorizes the holder of
10 the permit to ship malt beverages in closed containers to individual
11 purchasers inside and outside the State. The permit may be issued for any of
12 the following:
- 13 a. Restaurants;
 - 14 b. Hotels;
 - 15 c. Eating establishments;
 - 16 d. Food businesses;
 - 17 e. Retail businesses;
 - 18 f. Private clubs;
 - 19 g. Convention centers;
 - 20 h. Community theatres;
 - 21 i. Breweries as authorized by G.S. 18B-1104(7) and (8).
- 22 (2) Off-Premises Malt Beverage Permit. – An off-premises malt beverage
23 permit authorizes (i) the retail sale of malt beverages in the manufacturer's
24 original container for consumption off the premises, (ii) the retail sale of
25 malt beverages in a cleaned, sanitized, resealable container ~~as defined in 4~~
26 ~~NCAC 2T.0308(a)~~ that is filled or refilled and sealed for consumption off
27 the ~~premises, complies with 4 NCAC 2T.0303, 4 NCAC 2T.0305, and 4~~
28 ~~NCAC 2T.0308(d) (e), premises and the container that identifies the~~
29 permittee and the date the container was filled or refilled, and (iii) the holder
30 of the permit to ship malt beverages in closed containers to individual
31 purchasers inside and outside the State. The permit may be issued for any of
32 the following:
- 33 a. Restaurants.
 - 34 b. Hotels.
 - 35 c. Eating establishments.
 - 36 d. Food businesses.
 - 37 e. Retail businesses.
 - 38 f. The holder of a brewing, distillation, and fermentation course
39 authorization under G.S. 18B-1114.6. A school obtaining a permit
40 under this subdivision is authorized to sell malt beverages
41 manufactured during its brewing, distillation, and fermentation
42 program at one noncampus location in a county where the permittee
43 holds and offers classes on a regular full-time basis in a facility
44 owned by the permittee.
- 45 (3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine
46 permit authorizes (i) the retail sale of unfortified wine for consumption on
47 the premises, either alone or mixed with other beverages, and (ii) the retail
48 sale of unfortified wine in the manufacturer's original container for
49 consumption off the premises, premises, and (iii) the retail sale of unfortified
50 wine dispensed from a tap connected to a pressurized container utilizing
51 carbon dioxide or similar gas into a cleaned, sanitized, resealable container

1 that is filled or refilled and sealed for consumption off the premises and that
2 identifies the permittee and the date the container was filled or refilled. The
3 permit also authorizes the permittee to transfer unfortified wine, not more
4 than four times per calendar year, to another on-premises unfortified wine
5 permittee that is under common ownership or control as the transferor.
6 Except as authorized by this subdivision, transfers of wine by on-premises
7 unfortified wine permittees, purchases of wine by a retail permittee from
8 another retail permittee for the purpose of resale, and sale of wine by a retail
9 permittee to another retail permittee for the purpose of resale are unlawful.
10 In addition, a particular brand of wine may be transferred only if both the
11 transferor and transferee are located within the territory designated between
12 the winery and the wholesaler on file with the Commission. Prior to or
13 contemporaneous with any such transfer, the transferor shall notify each
14 wholesaler who distributes the transferred product of the transfer. The notice
15 shall be in writing or verifiable electronic format and shall identify the
16 transferor and transferee, the date of the transfer, quantity, and items
17 transferred. The holder of the permit is authorized to ship unfortified wine in
18 closed containers to individual purchasers inside and outside the State.
19 Orders received by a winery by telephone, Internet, mail, facsimile, or other
20 off-premises means of communication shall be shipped pursuant to a wine
21 shipper permit and not pursuant to this subdivision. The permit may be
22 issued for any of the following:

- 23 a. Restaurants;
- 24 b. Hotels;
- 25 c. Eating establishments;
- 26 d. Private clubs;
- 27 e. Convention centers;
- 28 f. Cooking schools;
- 29 g. Community theatres;
- 30 h. Wineries;
- 31 i. Wine producers.

- 32 (4) Off-Premises Unfortified Wine Permit. – An off-premises unfortified wine
33 permit authorizes (i) the retail sale of unfortified wine in the manufacturer's
34 original container for consumption off the premises and it authorizes
35 premises, (ii) the retail sale of unfortified wine dispensed from a tap
36 connected to a pressurized container utilizing carbon dioxide or similar gas
37 into a cleaned, sanitized, resealable container that is filled or refilled and
38 sealed for consumption off the premises and that identifies the permittee and
39 the date the container was filled or refilled, and (iii) the holder of the permit
40 to ship unfortified wine in closed containers to individual purchasers inside
41 and outside the State. The permit may be issued for retail businesses. The
42 permit also authorizes the permittee to transfer unfortified wine, not more
43 than four times per calendar year, to another off-premises unfortified wine
44 permittee that is under common ownership or control as the transferor.
45 Except as authorized by this subdivision, transfers of wine by off-premises
46 unfortified wine permittees, purchases of wine by a retail permittee from
47 another retail permittee for the purpose of resale, and sale of wine by a retail
48 permittee to another retail permittee for the purpose of resale are unlawful.
49 In addition, a particular brand of wine may be transferred only if both the
50 transferor and transferee are located within the territory designated between
51 the winery and the wholesaler on file with the Commission. Prior to or

1 contemporaneous with any such transfer, the transferor shall notify each
2 wholesaler who distributes the transferred product of the transfer. The notice
3 shall be in writing or verifiable electronic format and shall identify the
4 transferor and transferee, the date of the transfer, quantity, and items
5 transferred. The permit may also be issued to the holder of a
6 viticulture/enology course authorization under G.S. 18B-1114.4. A school
7 obtaining a permit under this subdivision is authorized to sell wines
8 manufactured during its viticulture/enology program at one non-campus
9 location in a county where the permittee holds and offers classes on a regular
10 full-time basis in a facility owned by the permittee. The permit may also be
11 issued for a winery or a wine producer for sale of its own unfortified wine
12 during hours when the winery or wine producer's premises is open to the
13 public, subject to any local ordinance adopted pursuant to G.S. 18B-1004(d)
14 concerning hours for the retail sale of unfortified wine. A winery obtaining a
15 permit under this subdivision is authorized to sell wine manufactured by the
16 winery at one additional location in the county under the same conditions
17 specified in G.S. 18B-1101(5) for the sale of wine at the winery; provided,
18 however, that no other alcohol sales shall be authorized at the additional
19 location. Orders received by a winery by telephone, Internet, mail, facsimile,
20 or other off-premises means of communication shall be shipped pursuant to
21 a wine shipper permit and not pursuant to this subdivision.

22 ...

23 (16) Wine Shop Permit. – A wine shop permit authorizes (i) the retail sale of malt
24 beverages, unfortified wine, and fortified wine in the manufacturer's original
25 container for consumption off the premises, (ii) the retail sale of malt
26 beverages or unfortified wine dispensed from a tap connected to a
27 pressurized container utilizing carbon dioxide or similar gas in a cleaned,
28 sanitized, resealable container as defined in 4 NCAC 2T.0308(a) that is
29 filled or refilled and sealed for consumption off the premises, complies with
30 4 NCAC 2T.0303, 4 NCAC 2T.0305, and 4 NCAC 2T.0308(d) (e), premises
31 and the container that identifies the permittee and the date the container was
32 filled or refilled, and (iii) wine tastings on the premises conducted and
33 supervised by the permittee in accordance with subdivision (15) of this
34 section. It also authorizes the holder of the permit to ship malt beverages,
35 unfortified wine, and fortified wine in closed containers to individual
36 purchasers inside and outside the State. The permit may be issued for retail
37 businesses whose primary purpose is selling malt beverages and wine for
38 consumption off the premises and regularly and customarily educating
39 consumers through tastings, classes, and seminars about the selection,
40 selling, and storing of wine. The holder of the permit is authorized to sell
41 unfortified wine for consumption on the premises, provided that the sale of
42 wine for consumption on the premises does not exceed forty percent (40%)
43 of the establishment's total sales for any 30-day period. The holder of a
44 wine-tasting permit not engaged in the preparation or sale of food on the
45 premises is not subject to Part 6 of Article 8 of Chapter 130A of the General
46 Statutes.

47"

48 **SECTION 5.(b)** The North Carolina Alcoholic Beverage Control Commission
49 rules regulating the retail sale of malt beverages in growlers shall apply to the retail sale of
50 unfortified wine in growlers until such time as the Commission shall adopt administrative rules
51 implementing this act.

ALLOW ALTERNATING PROPRIETORSHIPS FOR BREWERIES

SECTION 6. G.S. 18B-903 is amended by adding a new subsection to read:

"(c1) Construction of Change in Ownership. – Nothing in subsection (c) of this section shall be construed to limit alternating brewery proprietorships in which the holder of a brewery permit leases or otherwise makes available its facility to another holder of a brewery permit. In this arrangement, the tenant brewery shall maintain title to the malt beverages at all states of the brewing process and shall be responsible for all aspects associated with manufacturing the product, including maintaining appropriate records, obtaining label approval in its own name, and remitting the appropriate taxes. Alternating brewery proprietorships are authorized between affiliated breweries, but shall not be used as a means to allocate production quantities between affiliated breweries to obtain a malt beverage wholesaler permit pursuant to G.S. 18B-1104(8) where either brewery would not otherwise qualify for a permit, and the Commission shall have no authority to grant an exemption to this requirement pursuant to G.S. 18B-1116(b)."

ALLOW THE HOLDER OF A BREWERY PERMIT TO SELL MALT BEVERAGES TO A NONRESIDENT WHOLESALER IF THE MALT BEVERAGES ARE SHIPPED FROM THE BREWERY TO LICENSED WHOLESALERS AND CLARIFY THE LAW GOVERNING CHANGES IN OWNERSHIP AND CONTRACT BREWING

SECTION 7. G.S. 18B-1104 reads as rewritten:

"§ 18B-1104. Authorization of brewery permit.

The holder of a brewery permit may:

- (1) Manufacture malt beverages.
- (2) Purchase malt, hops and other ingredients used in the manufacture of malt beverages.
- (3) Sell, deliver and ship malt beverages in closed containers to wholesalers licensed under this Chapter as authorized by the ABC laws, except that malt beverages may be sold to exporters and nonresident wholesalers only when the purchase is not for resale in this State. However, nothing in this subdivision shall prohibit the holder of a brewery permit from selling malt beverages to a nonresident wholesaler, nonresident malt beverage vendor, bottler, or other similar party for resale in this State if the malt beverages are shipped from the brewery to wholesalers licensed under this Chapter.
- (4) Receive malt beverages manufactured by the permittee in some other state for transshipment to dealers in other states.
- (5) Furnish or sell marketable malt beverage products, or packages which do not conform to the manufacturer's marketing standards, if State taxes have been or will be paid, to its employees for the use of the employees or their families and guests in this State.
- (6) Give its products to its employees and guests for consumption on its premises.
- (6a) Receive, in closed containers, and sell at the brewery, malt beverages produced inside or outside North Carolina under contract with a contract brewery. The contract brewery that manufactures the malt beverages shall be responsible for all aspects associated with manufacturing the product, including maintaining appropriate records, obtaining label approval in its own name, and remitting the appropriate taxes. The contract malt beverages may be sold also at affiliated retail outlets of the brewery physically located on or adjacent to the brewery. Any malt beverages received from a contract brewery under this subdivision shall be made available for sale by the brewery to wholesalers for distribution to retailers, without discrimination,

1 in the same manner as if the malt beverages were being imported by the
2 brewery. Contract brewing is authorized between affiliated breweries, but
3 shall not be used as a means to allocate production quantities between
4 affiliated breweries to obtain a malt beverage wholesaler permit pursuant to
5 G.S. 18B-1104(8) where either brewery would not otherwise qualify for a
6 permit, and the Commission shall have no authority to grant an exemption to
7 this requirement pursuant to G.S. 18B-1116(b).

8 (7) In an area where the sale of any type of alcoholic beverage is authorized by
9 law, sell the brewery's malt beverages or malt beverages manufactured by
10 the permittee in some other state that have been approved by the
11 Commission for sale in North Carolina only at the brewery upon receiving a
12 permit under G.S. 18B-1001(1).

13 (8) Obtain a malt beverage wholesaler permit to sell, deliver, and ship at
14 wholesale only malt beverages manufactured by the brewery. The
15 authorization of this subdivision applies to a brewery that sells, to consumers
16 at the brewery, to wholesalers, to retailers, and to exporters, fewer than
17 25,000 barrels, as defined in G.S. 81A-9, of malt beverages produced by it
18 per year. A brewery not exceeding the sales quantity limitations in this
19 subdivision may also sell the malt beverages manufactured by the brewery at
20 not more than three other locations in the State, where the sale is legal, upon
21 obtaining the appropriate permits under G.S. 18B-1001. A brewery operating
22 any additional retail location pursuant to this subdivision shall also offer for
23 sale at that location a reasonable selection of competitive malt beverage
24 products.

25 A sale or gift under subdivision (5) or (6) shall not be considered a retail or wholesale sale
26 under the ABC laws."
27

28 **AUTHORIZE THE ABC COMMISSION TO ISSUE GUEST ROOM CABINET** 29 **PERMITS TO CERTAIN 18-HOLE GOLF COURSES**

30 **SECTION 8.** G.S. 18B-1001(13) reads as rewritten:

31 "(13) Guest Room Cabinet Permit. – A guest room cabinet permit authorizes a
32 ~~hotel having a mixed beverages permit or a private club having a mixed~~
33 ~~beverages permit and management contracts for the rental of living units~~
34 guest room cabinet permittee to sell to its room guests, from securely locked
35 cabinets, malt beverages, unfortified wine, fortified wine, and spirituous
36 liquor. A permittee shall designate and maintain at least ten percent (10%)
37 of the permittee's guest rooms as rooms that do not have a guest room cabinet.
38 A permittee may dispense alcoholic beverages from a guest room cabinet
39 only in accordance with written policies and procedures filed with and
40 approved by the Commission. A permittee shall provide a reasonable
41 number of vending machines, coolers, or similar machines on premises for
42 the sale of soft drinks to hotel guests.

43 A guest room cabinet permit may be issued ~~for~~ to any of the following:

- 44 a. A hotel (i) holding a mixed beverages permit and (ii) located in a
45 county subject to G.S. 18B-600(f).
46 b. A hotel (i) holding a mixed beverages permit and (ii) located in a
47 county that has a population in excess of 150,000 by the last federal
48 census.
49 c. A ~~qualifying~~ private club (i) holding a mixed beverages permit, (ii)
50 having management contracts for the rental of living units, and (iii)
51 located in a county defined in G.S. 18B-101(13a)b.2.

1 d. An 18-hole golf course (i) holding a mixed beverages permit or
2 located in a county where ABC stores have heretofore been
3 established but in which the sale of mixed beverages has not been
4 approved, (ii) having management contracts for the rental of living
5 units, and (iii) located in a county that has a population in excess of
6 20,000 people by the last federal census."
7

8 **EFFECTIVE DATE**

9 **SECTION 9.** Except as otherwise provided, this act is effective when it becomes
10 law.