A BILL TO BE ENTITLED
AN ACT TO REQUIRE THE ABC COMMISSION AND THE DEPARTMENT OF
REVENUE TO CERTIFY ON AN ANNUAL BASIS THAT BREWERY AND
DISTILLERY PERMIT HOLDERS ARE COMPLIANT WITH STATE TAX
REQUIREMENTS AND TO REQUIRE CERTAIN BREWERY PERMIT HOLDERS TO
SUBMIT AN ANNUAL REPORT TO THE ABC COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-1104 reads as rewritten:


(a) Authorized Acts. – The holder of a brewery permit may:

(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,
in the same manner as if the malt beverages were being imported by the
brewery. Contract brewing is 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) subdivision (8) of this subsection 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).

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

(b) Sales or Gifts. – A sale or gift under subdivision (5) or (6) of subsection (a) of this
section shall not be considered a retail or wholesale sale under the ABC laws.

(c) Tax Compliance. – By October 1 of each year, the Commission shall confirm that
the holder of a brewery permit is in compliance with G.S. 18B-900(a)(8). The provisions of
G.S. 18B-900(f) apply to the confirmation required under this subsection, except that the
Commission may suspend a person's brewery permit until the Commission receives notice from
the Department of Revenue that the person is in compliance.

(d) Annual Report. – By October 1 of each year, a holder of a brewery permit who
obtains a malt beverage wholesaler permit pursuant to subdivision (8) of subsection (a) of this
section shall provide a report to the Commission that includes all of the following for the
12-month period preceding the date of the report:

1. The number of barrels of malt beverages sold by the permit holder that were
produced by the permit holder.
2. The quantity and dollar amount of malt beverages sold by the permit holder
under subdivision (7) of subsection (a) of this section.
3. The quantity and dollar amount of malt beverages sold on-premises under
subdivision (8) of subsection (a) of this section.
4. The quantity and dollar amount of malt beverages sold off-premises under
subdivision (8) of subsection (a) of this section.
5. The quantity and dollar amount of malt beverages sold under
G.S. 18B-1114.5.
6. The quantity and dollar amount of malt beverages destroyed, spoiled, or
otherwise rendered unsalable.

(e) Form and Delivery of Report. – The report required under subsection (d) of this
section shall list separately the information required under subsection (d) of this section. Except
as otherwise provided in this subsection, the form and delivery method of the report required
under subsection (d) of this section shall be set by the Commission. The Commission shall keep
all information provided pursuant to subsection (d) confidential except as required by law or
requested by the Department of Revenue. The information shall not be a public record under
Chapter 132 of the General Statutes.

(f) Definition. – For purposes of this section, the term "barrels" is as defined in
G.S. 81A-9.

SECTION 2. G.S. 18B-1105 is amended by adding a new subsection to read:

"(c) Tax Compliance. – By October 1 of each year, the Commission shall confirm the
holder of a distillery permit is in compliance with G.S. 18B-900(a)(8). The provisions of
G.S. 18B-900(f) apply to the confirmation required under this subsection, except that the
Commission may suspend a person's distillery permit until the Commission receives notice from
the Department of Revenue that the person is in compliance;"

SECTION 3. G.S. 18B-903(c1) reads as rewritten:

"(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) G.S. 18B-1104(a)(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)."

SECTION 4. G.S. 18B-1001(1)i. reads as rewritten:
"i. breweries as authorized by G.S. 18B-1104(7) and (8) subdivisions (7) and (8) of G.S. 18B-1104(a)."

SECTION 5. G.S. 18B-1114.5(a) reads as rewritten:
"(a) Authorization. The holder of a brewery permit, a malt beverages importer permit, a brewing, distillation, and fermentation course authorization, or a nonresident malt beverage vendor permit may obtain a malt beverage special event permit allowing the permittee to give free tastings of its malt beverages and to sell its malt beverages by the glass or in closed containers at trade shows, conventions, shopping malls, malt beverage festivals, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission. Except for a brewery operating under the provisions of G.S. 18B-1104(8), G.S. 18B-1104(a)(8), all malt beverages sampled or sold pursuant to this section must be purchased from a licensed malt beverages wholesaler."

SECTION 6. G.S. 18B-1116(a) reads as rewritten:
"§ 18B-1116. Exclusive outlets prohibited.
(a) Prohibitions. It shall be unlawful for any manufacturer, bottler, or wholesaler of any alcoholic beverages, or for any officer, director, or affiliate thereof, either directly or indirectly to:

... A brewery qualifying under G.S. 18B-1104(8), G.S. 18B-1104(a)(8) to act as a wholesaler or retailer of its own malt beverages is not subject to the provisions of this subsection concerning financial interests in, and lending or giving things of value to, a wholesaler or retailer with respect to the brewery's transactions with the retail business on its premises. The brewery is subject to the provisions of this subsection, however, with respect to its transactions with all other wholesalers and retailers."

SECTION 7. G.S. 18B-1305(a1) reads as rewritten:
"(a1) Termination by a Small Brewery. A brewery's authorization to distribute its own malt beverage products pursuant to G.S. 18B-1104(8), G.S. 18B-1104(a)(8) shall revert back to the brewery, in the absence of good cause, following the fifth business day after confirmed receipt of written notice of such reversion by the brewery to the wholesaler. The brewery shall pay the wholesaler fair market value for the distribution rights for the affected brand. For purposes of this subsection, "fair market value" means the highest dollar amount at which a seller would be willing to sell and a buyer willing to buy at the time the self-distribution rights revert back to the brewery, after each party has been provided all information relevant to the transaction."

SECTION 8. This act is effective when it becomes law.