

March 24, 2009

**H 768. MODERNIZATION OF THE ABC SYSTEM.** Filed 3/24/09. *TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL SYSTEM, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.*

Enacts a new GS 18B-704 to prohibit more than one local ABC board per county. Requires that, in any county where more than one local ABC board exists, the governing bodies of any city or county having a local board must meet and develop a plan to consolidate all assets and operations of each board into a merged system as provided by GS 18B-703. Any new board authorized by statute or lawful election after July 1, 2011, must join an existing local or regional board. Requires that the ABC Commission (Commission) develop a plan to merge all assets and operations of each local board into one local board if, after July 1, 2011, any county still has more than one board in existence, regardless of whether the governing bodies accept the plan. Allows the Commission to merge more than one local board into a regional local ABC board if it determines that to do so would best serve the needs of the public, increase profitability, enhance revenue distributions to the affected local governments, and streamline the operation and oversight of the state's ABC system. Effective July 1, 2011, repeals any local act or modification regarding the establishment and operation of a local ABC board. Provides that this statute does not affect a merger that created a regional board and was approved by the Commission prior to July 1, 2009.

Enacts a new GS 18B-705 to require that the Commission ensure that all local boards comply with performance standards by conducting regular or special audits, conducting performance evaluations, or taking other measures which may include inspections by Commission auditors and alcohol law enforcement agents. Also requires that the Commission, upon determining that a local board is failing to meet performance standards, meet with the chair of the local board, issue a statement of findings, and deliver a performance improvement plan. Sets forth information to be included in the plan. Specifies that the Commission may allow up to six months for a local board to show improvement under the plan, which may be extended to meet all the requirements of the plan for an additional six months upon showing of good cause. Requires that the Commission seize all assets of the board and take appropriate action to ensure profitability if the Commission determines that the established performance standards cannot be met in the time frame provided, limited to no more than 12 months. Provides specific actions that may be taken by the Commission. Amends GS 18B-203 to add that the Commission is required to establish performance standards for local ABC boards, which include standards that address store appearance, operating efficiency, profitability, and customer service. Makes conforming changes to GS 18B-701 (powers and duties of local ABC boards). Amends GS 18B-700 to provide that the mission of ABC boards and their employees is to responsibly serve their localities by controlling the sale of spirituous liquor in customer-friendly, modern, and efficient stores in order to optimize revenue distributions. Also prohibits any local board member from being compensated for service if the profit margin for the local board falls below 5% based on the information in the annual audit.

Enacts a new GS 18B-809 to provide for the establishment of an *Agency store*, defined as a retail outlet operated pursuant to a contract between an individual and a local board, or the Commission, to provide, under the same conditions and restrictions on location and operation as an ABC store, the services to a community which would have been provided by an ABC store. Prohibits an Agency store from being located within the geographic boundaries of a local board where an ABC store is open and operating. Provides for Agency store contracting requirements. Prohibits any person holding a valid ABC permit, or any person that has had an ABC permit revoked, suspended, or allowed to expire from being eligible to contract with a local board or the Commission to be an Agency store.

Enacts a new GS 18B-208(c) to create the Technical Assistance and Financial Assistance Fund (Fund) as a special fund in the Department of the State Treasurer. Allows funds to be transferred from the ABC Commission Fund to the Fund to provide needed revenue to be used by the Commission to issue no-interest loans to local ABC boards, upon application and approval of the full Commission, for technical assistance and financial incentives that will result in increased efficiencies in store operation and improved customer service. Authorizes that the Commission may levy an additional bailment surcharge up to 10 cents per case if additional

revenue is needed for the Fund. Provides that the Commission is subject to the State Budget Act except that no unexpended surplus of this fund reverts to the General Fund. Requires that the Commission fix the level of the bailment surcharges at an amount calculated to generate a maximum of \$2 million for the Fund. Once \$2 million is reached, the Commission must reduce the bailment surcharge to an amount no greater than necessary to maintain the balance in the Fund.

Amends GS 18B-301(b) to increase the maximum amount of fortified wine or spirituous liquor a person is allowed to possess in certain locations for personal use or use of guests, without an ABC permit, to 40 liters (was, eight liters) or 40 liters (was, eight) of the two combined. Amends GS 18B-303(a) to increase the amount of (1) unfortified wine to a maximum of 100 liters (was, 50 liters) and (2) either fortified wine or spirituous liquor to a maximum of 40 liters (was, eight liters) that a person may purchase at one time without a permit. Makes a conforming change to GS 18B-304 (Sale and possession for sale). Repeals GS 18B-403, which allows, with a purchase-transportation permit issued by the local board or an ABC manager or assistant manager authorized by the local board, a person to purchase and transport an amount of alcoholic beverages greater than the amount specified in GS 18B-303(a). Makes a conforming change to GS 18B-701.

Amends GS 18B-600 to increase the threshold registered voter population of a city authorized to hold an ABC store election to 5,000 (was, 500) voters. Also deletes all requirements that would allow a city to hold a mixed beverage election, except that the city must have at least 500 registered voters.

Amends GS 18B-801(b) to add that the Commission may consider the proximity of the new location of an ABC store to existing stores operated by the local board or any other local boards in making a decision on the new store's location. Makes a technical change.

Effective October 1, 2009.

**Intro. by Crawford.**

GS 18B