

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1717\*  
PROPOSED COMMITTEE SUBSTITUTE H1717-PCS50933-RV-64

Short Title: Modernization of the State ABC System.

(Public)

Sponsors:

Referred to:

May 17, 2010

A BILL TO BE ENTITLED

AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL SYSTEM, TO ENSURE THE INTEGRITY OF THE THREE TIER SYSTEM, AND TO REQUIRE MINIMUM STANDARDS AGE STANDARDS LAW ENFORCEMENT.

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:

...

(6f) "Finance officer" means the local board employee, other than a general manager, that is responsible for keeping the accounts of the local board, receiving and depositing receipts, disbursing funds, and any other duties assigned by the local board or Commission.

(7) "Fortified wine" means any wine, of more than sixteen percent (16%) and no more than twenty-four percent (24%) alcohol by volume, made by fermentation from grapes, fruits, berries, rice, or honey; or by the addition of pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine and produced in accordance with the regulations of the United States.

(7d) "General manager" means the local board employee that is responsible for the oversight of daily operations of the ABC system and any other duties assigned by the local board or Commission. The board may designate only one employee to be the general manager.

~~(7a)~~(7g) "Historic ABC establishment" means a restaurant or hotel that meets all of the following requirements:

- a. Is on the national register of historic places or located within a State historic district.
- b. Is a property designed to attract local, State, national, and international tourists located on a State Route (SR) and with a property line located within 1.5 miles of the intersection of a designated North Carolina scenic byway as defined in G.S. 136-18(31).
- c. Is located within 15 miles of a national scenic highway.



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1 d. Is located in a county in which the on-premises sale of malt  
2 beverages or unfortified wine is authorized in two or more cities in  
3 the county.

4 ~~(7b)~~(7k) "Keg" means a portable container designed to hold and dispense 7.75  
5 gallons or more of malt beverage.

6 ...."

7 **SECTION 2.** G.S. 18B-201 reads as rewritten:

8 **"§ 18B-201. Conflict of ~~interest~~interest; gifts.**

9 (a) Financial Interests Restricted. – No person shall be appointed to or employed by the  
10 Commission, a local board, or the ALE Division if that person or a member of that person's  
11 family related to that person by blood or marriage to the first degree has or controls, directly or  
12 indirectly, a financial interest in any commercial alcoholic beverage enterprise, including any  
13 business required to have an ABC permit. The Commission may exempt from this provision  
14 any person, other than a Commission member, when the financial interest in question is so  
15 insignificant or remote that it is unlikely to affect the person's official actions in any way.  
16 Exemptions may be granted only to individuals, not to groups or classes of people, and each  
17 exemption shall be in writing, be available for public inspection, and contain a statement of the  
18 financial interest in question.

19 (b) Self-dealing. – The provisions of G.S. 14-234 shall apply to the Commission and  
20 local boards.

21 (c) Dealing for Family Members. – Neither the Commission nor any local board shall  
22 contract or otherwise deal in any business matter so that a member, member's spouse or any  
23 person related to ~~him~~the member by blood to a degree of first cousin or closer in any way  
24 financially benefits, directly or indirectly, from the transaction unless:

25 (1) The member who financially benefits from the transaction or whose spouse  
26 or relative financially benefits from the transaction abstains from  
27 participating in any way, including voting, in the decision;

28 (2) The minutes of the meeting at which the final decision is reached  
29 specifically note the member who is financially benefited or whose spouse  
30 or relative is financially benefited and the amount involved in each  
31 transaction;

32 (3) The next annual audit of the Commission or local board specifically notes  
33 the member and the amount involved in each transaction occurring during  
34 the year covered by the audit; and

35 (4) If the transaction is by a local board, the Commission is notified at least two  
36 weeks before final board approval of the transaction.

37 (d) Gifts Generally. – The provisions of G.S. 133-32 shall apply to the Commission and  
38 local boards.

39 (e) Conflicts of Interest for the Commission. – The provisions of Article 4 of Chapter  
40 138A of the General Statutes shall apply to the Commission.

41 (f) Conflicts of Interest for Local Boards. – Except as permitted under subsection (h) of  
42 this section, a local ABC board member shall not knowingly use the local ABC board member's  
43 position on the board in any way that will result in financial benefit to the local ABC board  
44 member, the local ABC board member's spouse, any person related to the local ABC board  
45 member by blood to a degree of first cousin or closer, or any business with which the local  
46 ABC board member is associated.

47 (g) For Purposes of Subsection (f) of this section, 'business with which associated' shall  
48 have the same meaning as in G.S. 138A-3(3). For purposes of this section, 'financial benefit'  
49 shall mean a direct pecuniary gain or loss, or a direct pecuniary loss to a business competitor.

1        (h) Notwithstanding subsection (f) of this section, a local ABC board member may  
2 participate in an action of the local ABC board under any of the following circumstances  
3 except as specifically limited:

4            (1) The financial benefit that accrues to the local ABC board member, the local  
5 ABC board member's spouse or any person related to the local ABC board  
6 member by blood to a degree of first cousin or closer, or a business with  
7 which the local ABC board member is associated is one that is accrued as a  
8 member of a profession, occupation, or general class and is no greater than  
9 that which could reasonably be foreseen to accrue to all members of that  
10 profession, occupation, or general class.

11           (2) The financial benefit derived by a local ABC board member, the local ABC  
12 board member's spouse or any person related to the local ABC board  
13 member by blood to a degree of first cousin or closer, or a business with  
14 which the local ABC board member is associated is one that would be  
15 enjoyed to an extent no greater than that which other citizens of the State  
16 would or could enjoy.

17           (3) The financial benefit derived by a local ABC board member, the local ABC  
18 board member's spouse or any person related to the local ABC board  
19 member by blood to a degree of first cousin or closer, or a business with  
20 which the local ABC board member is so remote, tenuous, insignificant, or  
21 speculative that a reasonable person would conclude under the  
22 circumstances that the local ABC board member's ability to protect the  
23 public interest and perform the local ABC board member's duties would not  
24 be compromised.

25           (4) When an action affects or would affect the local ABC board member's  
26 compensation as a local ABC board member.

27           (5) Before the local ABC board member participated in the action, the board  
28 member requested and received from the ABC Commission a written  
29 advisory opinion that authorized the participation. In authorizing the  
30 participation under this subdivision, the ABC Commission shall consider the  
31 need for the local ABC board member's particular contribution, such as  
32 special knowledge of the subject matter and the effective functioning of the  
33 local ABC board.

34           (6) When action is ministerial only and does not require the exercise of  
35 discretion.

36           (7) When the local ABC board records in its minutes that it cannot obtain a  
37 quorum in order to take the action because the local ABC board member is  
38 disqualified from acting, the local ABC board member may be counted for  
39 purposes of a quorum but shall otherwise abstain from taking any further  
40 action.

41           (i) Nothing in this section shall allow participation in an action prohibited by  
42 G.S. 14-234 or G.S. 133-32.

43           (j) A local board member shall not improperly use or improperly disclose any  
44 confidential information.

45           (k) A local board member shall have an affirmative duty to promptly disclose in writing  
46 to the local board any conflict of interest or potential conflict of interest."

47           **SECTION 3.** G.S. 18B-202 reads as rewritten:

48           **"§ 18B-202. Discharge upon conviction.**

49           In addition to imposing any other penalty authorized by law, a judge may remove from  
50 office or discharge from employment any Commission or local board member or employee, or  
51 any ALE agent, who is convicted of a violation of any provision of this Chapter or of any

1 felony and may declare that person ineligible for membership or employment with the  
2 Commission, any local board, or the ALE Division, for a period of not longer than three years.  
3 Conviction of a crime under this Chapter or of any felony shall also be grounds for the  
4 Commission to remove from office or discharge from employment any local board member or  
5 employee. In addition to imposing any other penalty authorized by law, a judge may prohibit a  
6 designated officer of an agency which holds a contract to enforce the ABC laws for a local  
7 board who is convicted of a violation of this Chapter or of any felony from participating in any  
8 contract to enforce the ABC laws for a local board and may prohibit the officer from being  
9 designated as an officer that enforces the ABC law under a contract with a local board for a  
10 period of not longer than three years."

11 **SECTION 4.** G.S. 18B-203(a) is amended by adding two new subdivisions to read:  
12 **"§ 18B-203. Powers and duties of the Commission.**

13 (a) Powers. – The Commission shall have authority to:

14 ...

15 (20) Promulgate rules to establish performance standards for local boards.  
16 Performance standards established pursuant to this subdivision shall include,  
17 but not be limited to, standards that address enforcement of ABC laws, store  
18 appearance, operating efficiency, solvency, and customer service.

19 (21) Promulgate rules to establish mandatory training requirements for local  
20 board members, finance officers, and general managers. The Commission  
21 shall not require more than four hours of training and shall provide up to two  
22 hours of training at convenient locations around the State in conjunction  
23 with ethics training if personal attendance is required."

24 **SECTION 5.** G.S. 18B-501(f) reads as rewritten:

25 "(f) Contracts with Other Agencies. – Instead of hiring local ABC officers, a local board  
26 may contract to pay its enforcement funds to a sheriff's department, city police department, or  
27 other local law-enforcement agency for enforcement of the ABC laws within the  
28 law-enforcement agency's territorial jurisdiction. Enforcement agreements may be made with  
29 more than one agency at the same time. When such a contract for enforcement exists, the  
30 designated officers of the contracting law-enforcement agency shall have the same authority to  
31 inspect under G.S. 18B-502 that an ABC officer employed by that local board would have. An  
32 agency contracted to provided ABC law enforcement shall designate no more than five officers  
33 to conduct inspections pursuant to this section and G.S. 18B-502. If a city located in two or  
34 more counties approves the sale of some type of alcoholic beverage pursuant to the provisions  
35 of G.S. 18B-600(e4), and there are no local ABC boards established in the city and one of the  
36 counties in which the city is located, the local ABC board of any county in which the city is  
37 located may enter into an enforcement agreement with the city's police department for  
38 enforcement of the ABC laws within the entire city, including that portion of the city located in  
39 the county of the ABC board entering into the enforcement agreement."

40 **SECTION 6.** G.S. 18B-501 is amended by adding a new section to read:

41 "(f1) Accountability; Enforcement Reports. – To ensure accountability to the appointing  
42 authority and the Commission, every local board's ABC officers and those law enforcement  
43 agencies subject to an enforcement agreement entered into pursuant to subsection (f) of this  
44 section shall report to the local board, by the fifth business day of each month, on a form  
45 developed by the Commission, the following:

46 (1) The number of arrests made for ABC law, Controlled Substance Act, or  
47 other violations, by category, at ABC permitted outlets.

48 (2) The number of arrests made for ABC law, Controlled Substance Act, or  
49 other violations, by category, at other locations.

50 (3) The number of agencies assisted with ABC law or controlled substance  
51 related matters.

1           (4) The number of alcohol education and responsible server programs presented.  
2           The local board shall submit a copy of the enforcement report to the appointing authority  
3 and the Commission not later than five business days after receipt of the enforcement report by  
4 the local board. The Commission shall publish this information, by local board and  
5 enforcement agency, on a public Internet Web site maintained by the Commission."

6           **SECTION 7.** G.S. 18B-501(g) reads as rewritten:

7           "(g) Discharge. – Local ABC officers and the designated officers of agencies which  
8 contract with local boards for enforcement of the ABC laws are subject to the discharge  
9 provisions of G.S. 18B-202."

10          **SECTION 8.** G.S. 18B-600(e) reads as rewritten:

11          "(e) City Mixed Beverage Elections. – A city may hold a mixed beverage election only  
12 if the city has at least 500 registered voters.

13           (1) ~~The city has at least 500 registered voters; and~~

14           (2) ~~Either:~~

15           a. ~~The city already operates a city ABC store; or~~

16           b. ~~A city ABC store election is to be held at the same time as the mixed~~  
17 ~~beverage election; or~~

18           e. ~~The city does not operate a city ABC store but:~~

19           1. ~~The county operates an ABC store;~~

20           2. ~~The county has already held a mixed beverage election; and~~

21           3. ~~The vote in the last county election was against the sale of~~  
22 ~~mixed beverages."~~

23          **SECTION 9.** G.S. 18B-700 is amended by adding a new subsection to read:

24          "(a1) Mission. – The mission of local ABC boards and their employees shall be to  
25 responsibly serve their localities by controlling the sale of spirituous liquor and promoting  
26 customer-friendly, modern, and efficient stores."

27          **SECTION 10.** G.S. 18B-700(g) reads as rewritten:

28          "(g) Salary Compensation of Board Members. – A local board member may be  
29 compensated as determined by the appointing authority shall receive compensation in an  
30 amount not to exceed one hundred fifty dollars (\$150.00) per board meeting unless a different  
31 level of monetary compensation is approved by the appointing authority. If a different level is  
32 approved by the appointing authority, the appointing authority shall notify the Commission of  
33 the approved level of compensation in writing. Any change in compensation approved by the  
34 appointing authority shall be reported to the Commission in writing within 30 days of the  
35 effective date of the change. No local board member shall receive any nonmonetary  
36 compensation or benefits unless specifically authorized by this section."

37          **SECTION 11.** G.S. 18B-700 is amended by adding a new subsection to read:

38          "(g1) Compensation of General Managers of Local Boards. – The salary authorized for  
39 the general manager of a local board shall not exceed the salary authorized by the General  
40 Assembly for the clerk of superior court of the county in which the appointing authority was  
41 originally incorporated unless such compensation is otherwise approved by the appointing  
42 authority. The local board shall provide the appointing authority's written confirmation of such  
43 approval to the Commission. Any change in compensation approved by the appointing  
44 authority shall be reported to the Commission in writing within 30 days of the effective date of  
45 the change. The general manager of a local board may receive any other benefits to which all  
46 employees of the local board are entitled. The salary authorized for other employees of a local  
47 board may not exceed that of the general manager."

48          **SECTION 12.** G.S. 18B-700 is amended by adding a new subsection to read:

49          "(g2) Travel Allowance and Per Diem Rates. – Approved travel on official business by  
50 the members and employees of local boards shall be reimbursed pursuant to G.S. 138-6 unless  
51 the local board adopts a travel policy that conforms to the travel policy of the appointing

1 authority and such policy is approved by the appointing authority. The local board shall  
2 annually provide the appointing authority's written confirmation of such approval to the  
3 Commission and a copy of the travel policy authorized by the appointing authority. Any excess  
4 expenses not covered by the local board's travel policy shall only be paid with the written  
5 authorization of the appointing authority's finance officer. A copy of the written authorization  
6 for excess expenses shall be submitted to the Commission by the local board within 30 days of  
7 approval."

8 **SECTION 13.** G.S. 18B-700(i) reads as rewritten:

9 "(i) Bond. – Each local board member and the employees designated as the general  
10 manager or finance officer of the local board shall be bonded in an amount not less than five  
11 thousand dollars (\$5,000), fifty thousand dollars (\$50,000) secured by a corporate surety, for the  
12 faithful performance of his duties. A public employees' blanket position bond in the required  
13 amount satisfies the requirements of this subsection. The bond shall be payable to the local  
14 board and shall be approved by the appointing authority for the local board. The appointing  
15 authority may exempt from this bond requirement any board member who does not handle  
16 board funds, and it may also increase the amount of the bond required for any member or  
17 employee who does handle handles board funds."

18 **SECTION 14.** G.S. 18B-700 is amended by adding a new subsection to read:

19 "(k) Nepotism. – Members of an immediate family shall not be employed within the  
20 local board if such employment will result in one member of the immediate family supervising  
21 another member of the immediate family, or if one member of the immediate family will  
22 occupy a position which has influence over another member's employment, promotion, salary  
23 administration, or other related management or personnel considerations. This subsection  
24 applies to local board members and employees.

25 For the purpose of this subsection, the term immediate family includes wife, husband,  
26 mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson, and  
27 granddaughter. Also included are the step-, half-, and in-law relationships. It also includes other  
28 people living in the same household, who share a relationship comparable to immediate family  
29 members, if either occupies a position which requires influence over the other's employment,  
30 promotion, salary administration, or other related management or personnel considerations."

31 **SECTION 15.** G.S. 18B-700 is amended by adding a new subsection to read:

32 "(l) Local Acts. – Notwithstanding the provisions of any local act, this section applies to  
33 all local boards."

34 **SECTION 16.** G.S. 18B-701 reads as rewritten:

35 "**§ 18B-701. Powers and duties of local ABC boards.**

36 (a) Powers. – A local board shall have authority to:

- 37 (1) Buy, sell, transport, and possess alcoholic beverages as necessary for the  
38 operation of its ABC stores;
- 39 (2) Adopt rules for its ABC system, subject to the approval of the Commission;
- 40 (3) Hire and fire employees for the ABC system;
- 41 (4) Designate one employee as manager of the ABC system and determine his  
42 responsibilities;
- 43 (5) Require bonds of employees as provided in the rules of the Commission;
- 44 (6) Operate ABC stores as provided in Article 8;
- 45 (7) Issue purchase-transportation permits as provided in Article 4;
- 46 (8) Employ local ABC officers or make other provision for enforcement of ABC  
47 laws as provided in Article 5;
- 48 (9) Borrow money as provided in G.S. 18B-702;
- 49 (10) Buy and lease real and personal property, and receive property bequeathed  
50 or given, as necessary for the operation of the ABC system;
- 51 (11) Invest surplus funds as provided in G.S. 18B-702;

1 (12) Dispose of property in the same manner as a city council may under Article  
2 12 of Chapter 160A of the General Statutes; and

3 (13) Perform any other activity authorized or required by the ABC law.

4 (b) Duties. – A local board shall have the duty to comply with all rules adopted by the  
5 Commission pursuant to this Chapter and meet all standards for performance and training  
6 established by the Commission pursuant to G.S. 18B-203(a)(20) and (21). Failure to comply  
7 with Commission rules shall be cause for removal."

8 **SECTION 17.** G.S. 18B-702 reads as rewritten:

9 **"§ 18B-702. Financial operations of local boards.**

10 (a) Generally. – A local board may transact business as a corporate body, except as  
11 limited by this section. A local board shall not be considered a public authority under  
12 G.S. 159-7(b)(10).

13 (b) Budget Officer. – The general manager of the local board shall be the budget officer  
14 for the local board. In the absence of a general manager, a local board may impose the duties of  
15 budget officer on the chairman or any member of the local board or any other employee of the  
16 board.

17 (c) Annual Balanced Budget. – Each local board shall operate under an annual balanced  
18 budget administered in accordance with this section. A budget is balanced when the sum of  
19 estimated gross revenues and both restricted and unrestricted funds are equal to appropriations.  
20 Expenditures shall not exceed the amount of funds received or in reserve for the purpose to  
21 which the funds are appropriated. It is the intent of this section that all monies received and  
22 expended by a local board should be included in the budget. Therefore, notwithstanding any  
23 other provision of law, no local board may expend any monies, regardless of their source,  
24 except in accordance with a budget adopted under this section. The budget of a local board  
25 shall cover a fiscal year beginning July 1 and ending June 30.

26 (d) Preparation and Submission of Budget and Budget Message. – Upon receipt of the  
27 budget requests and revenue estimates and the financial information supplied by the finance  
28 officer, the budget officer shall prepare a budget for consideration by the local board in such  
29 form and detail as may have been prescribed by the budget officer or the local board. The  
30 budget, together with a budget message, shall be submitted to the local board, the appointing  
31 authority, and the Commission not later than June 1. The budget and budget message should,  
32 but need not, be submitted at a formal meeting of the board. The budget message should  
33 contain a concise explanation of the goals fixed by the budget for the budget year, should  
34 explain important features of the activities anticipated in the budget, should set forth the  
35 reasons for stated changes from the previous year in appropriation levels, and should explain  
36 any major changes in fiscal policy.

37 (e) Filing and Publication of the Budget. – On the same day the budget officer submits  
38 the budget to the local board, the budget officer shall make a copy for public inspection, and it  
39 shall remain available for public inspection until the budget is adopted. The budget officer shall  
40 make a copy of the budget available to all news media in the county. The budget officer shall  
41 also publish a statement that the budget has been submitted to the local board and is available  
42 for public inspection in the office of the general manager of the local board. The statement shall  
43 also give notice of the time and place of the budget hearing required by subsection (f) of this  
44 section.

45 (f) Budget Hearings. – Before adopting the budget, the board shall hold a public  
46 hearing at which time any persons who wish to be heard on the budget may appear.

47 (g) Adoption of Budget. – Not earlier than 10 days after the day the budget is presented  
48 to the board and not later than July 1, the local board shall adopt a budget making  
49 appropriations for the budget year in such sums as the board may consider sufficient and  
50 proper, whether greater or less than the sums recommended in the budget. The budget shall  
51 authorize all financial transactions of the local board. The budget may be in any form that the

1 board considers most efficient in enabling it to make the fiscal policy decisions embodied  
2 therein, but it shall make appropriations by department, function, or project and show revenues  
3 by major source. The following directions and limitations shall bind the local board in adopting  
4 the budget:

- 5       (1) The full amount estimated by the finance officer to be required for debt  
6 service during the budget year shall be appropriated.  
7       (2) The full amount of any deficit in each fund shall be appropriated.  
8       (3) Working capital funds set aside pursuant to G.S.18B-805 shall be  
9 established by rule of the Commission. "Working capital" means the total of  
10 cash, investments, and inventory less all unsecured liabilities. Gross sales  
11 means gross receipts from the sale of alcoholic beverages less distributions  
12 as defined in G.S. 18B-805(b)(2), (3), (4), and (5). Any expenditure to be  
13 charged against working capital funds shall be authorized by resolution of  
14 the local board, which resolution shall be deemed an amendment to the  
15 budget setting up an appropriation for the object of expenditure authorized.  
16 The local board may authorize the budget officer to authorize expenditures  
17 from working capital funds subject to such limitations and procedures as it  
18 may prescribe. Any such expenditure shall be deemed an amendment and  
19 reported to the board at its next regular meeting and recorded in the minutes.  
20       (4) Estimated revenues shall include only those revenues reasonably expected to  
21 be realized in the budget year.  
22       (5) Sufficient funds to meet the amounts to be paid during the fiscal year under  
23 continuing contracts previously entered into shall be appropriated unless  
24 such contract reserves to the local board the right to limit or not to make  
25 such appropriation.  
26       (6) The sum of estimated net revenues and appropriated fund balance in each  
27 fund shall be equal to appropriations in that fund. Appropriated fund balance  
28 in a fund shall not exceed the sum of cash and investments minus the sum of  
29 liabilities, encumbrances, and deferred revenues arising from cash receipts,  
30 as those figures stand at the close of the fiscal year next preceding the budget  
31 year.

32 The budget shall be entered in the minutes of the local board and within five days after  
33 adoption, and copies thereof shall be filed with the finance officer, the budget officer, the  
34 appointing authority, and the Commission.

35       (h) Amendments to the Budget. – Except as otherwise restricted by law, the local board  
36 may amend the budget at any time after adoption, in any manner, so long as the budget, as  
37 amended, continues to satisfy the requirements of this section. The local board by appropriate  
38 resolution may authorize the budget officer to transfer monies from one appropriation to  
39 another within the same fund subject to such limitations and procedures as it may prescribe.  
40 Any such transfers shall be reported to the local board at its next regular meeting and shall be  
41 entered in the minutes. Amendments to the adopted budget shall also be provided to the  
42 appointing authority and the Commission.

43       (i) Interim Budget. – In case the adoption of the budget is delayed until after July 1, the  
44 local board shall make interim appropriations for the purpose of paying salaries, debt service  
45 payments, and the usual ordinary expenses of the local board for the interval between the  
46 beginning of the budget year and the adoption of the budget. Interim appropriations so made  
47 shall be charged to the proper appropriations in the adopted budget.

48       (j) Finance Officer. – The local board shall designate (i) a part-time or full-time  
49 employee of the board other than the general manager or (ii) the finance officer of the  
50 appointing authority with consent of the appointing authority to be the finance officer for the  
51 local board. The Commission, for good cause shown, may allow the general manager of a



1 board to also be the finance officer. Good cause includes, but is not limited to, the fact that the  
2 board operates no more than two stores, and any approval for the general manager to also be  
3 the finance officer shall apply until the board operates more than two stores; in any event, the  
4 approval shall be effective for 36 months.

5 (k) Duties and Powers of the Finance Officer. – The finance officer for a local board  
6 shall:

7 (1) Keep the accounts of the local board in accordance with generally accepted  
8 principles of governmental accounting and the rules and regulations of the  
9 Commission.

10 (2) Disburse all funds of the local board in strict compliance with this Chapter,  
11 the budget, and preaudit obligations, and disbursements as required by this  
12 section.

13 (3) As often as may be requested by the local board or the general manager,  
14 prepare and file with the board a statement of the financial condition of the  
15 local board.

16 (4) Receive and deposit all monies accruing to the local board, or supervise the  
17 receipt and deposit of money by other duly authorized employees.

18 (5) Maintain all records concerning the debt and other obligations of the local  
19 board, determine the amount of money that will be required for debt service  
20 or the payment of other obligations during each fiscal year, and maintain all  
21 funds.

22 (6) Supervise the investment of idle funds of the local board pursuant to  
23 subsection (t) of this section.

24 The finance officer shall perform such other duties as may be assigned by law, by the  
25 general manager, budget officer, or local board, or by rules and regulations of the Commission.

26 (l) Accounting System. – Each local board shall establish and maintain an accounting  
27 system designed to show in detail its assets, liabilities, equities, revenues, and expenditures.  
28 The system shall also be designed to show appropriations and estimated revenues as established  
29 in the budget originally adopted and subsequently amended.

30 (m) Incurring Obligations. – No obligation may be incurred in a program, function, or  
31 activity accounted for in a fund included in the budget unless the budget includes an  
32 appropriation authorizing the obligation and an unencumbered balance remains in the  
33 appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction  
34 for the current fiscal year. No obligation may be incurred for a capital project unless the budget  
35 authorizing the obligation and an unencumbered balance remains in the appropriation sufficient  
36 to pay the sums obligated by the transaction. If an obligation is evidenced by a contract or  
37 agreement requiring the payment of money or by a purchase order for supplies and materials,  
38 the contract, agreement, or purchase order shall include on its face a certificate stating that the  
39 instrument has been preaudited to assure compliance with this subsection. The certificate,  
40 which shall be signed by the finance officer or any deputy finance officer approved for this  
41 purpose by the local board, shall take substantially the following form:

42 "This instrument has been preaudited in the manner required by G.S. 18B-702.

43 \_\_\_\_\_  
44 (Signature of finance officer)."

45 An obligation incurred in violation of this subsection is invalid and may not be enforced.  
46 The finance officer shall establish procedures to assure compliance with this subsection.

47 (n) Disbursements. – When a bill, invoice, or other claim against a local board is  
48 presented, the finance officer shall either approve or disapprove the necessary disbursement. If  
49 the claim involves a program, function, or activity accounted for in a fund included in the  
50 budget or a capital project or a grant project authorized by the budget, the finance officer may  
51 approve the claim only if:



1 recipients of the profits and the activities for which the funds were distributed. A local board  
2 shall also submit to any other audits and submit any reports demanded by the appointing  
3 authority or the Commission.

4 ~~(d)~~(t) Deposits and Investments. – A local board may deposit ~~moneys~~monies at interest in  
5 any bank or trust company in this State in the form of savings accounts or certificates of  
6 deposit. Investment deposits shall be secured as provided in G.S. 159-31(b) and the reports  
7 required by G.S. 159-33 shall be submitted. A local board may invest all or part of the cash  
8 balance of any fund as provided in G.S. 159-30(c) and (d), and may deposit any portion of  
9 those funds for investment with the State Treasurer in the same manner as State boards and  
10 commissions under G.S. 147-69.3.

11 ~~(e)~~(u) Compliance with Commission Rules. – The Commission shall adopt, and each local  
12 board shall comply with, fiscal control rules concerning the borrowing of money, maintenance  
13 of working capital, investments, appointment of a budget officer, appointment of a financial  
14 officer, daily deposit of funds, bonding of employees, auditing of operations, and the schedule,  
15 manner and other procedures for distribution of profits. The Commission may also adopt any  
16 other rules concerning the financial operations of local boards which are needed to assure the  
17 proper accountability of public funds. The Commission may vary these rules and regulations  
18 according to any other criteria reasonably related to the purpose or complexity of the financial  
19 operations involved. The Commission has the authority to inquire into and investigate the  
20 internal control procedures of a local board and may require any modifications in internal  
21 control procedures which, in the opinion of the Commission, are necessary or desirable to  
22 prevent embezzlements or mishandling of public monies.

23 (v) Penalties. – If a board member or employee of a local board incurs an obligation or  
24 pays out or causes to be paid out any funds in violation of this section, the member or employee  
25 and the sureties on the official bond are liable for any sums so committed or disbursed. If the  
26 finance officer or any properly designated deputy finance officer gives a false certificate to any  
27 contract, agreement, purchase order, check, draft, or other document, the finance officer and the  
28 sureties on the official bond are liable for any sums illegally committed or disbursed thereby.

29 ~~(f)~~(w) Applicability of Criminal Statutes. – The provisions of G.S. 14-90 and G.S. 14-254  
30 shall apply to any person appointed to or employed by a local board, and any person convicted  
31 of a violation of G.S. 14-90 or G.S. 14-254 shall be punished as a Class H felon.

32 (x) Local Acts. – Notwithstanding the provisions of any local act, this section applies to  
33 all local boards."

34 **SECTION 18.** Chapter 18B of the General Statutes is amended by adding a new  
35 section to read:

36 **"§ 18B-704. Removal of local board members and employees.**

37 (a) Improper Influence. – Neither the Commission nor its individual members shall  
38 attempt to coerce any appointing authority to appoint a particular person as a member of a local  
39 board or attempt to coerce a local board to employ any particular applicant.

40 (b) Purpose. – This section is intended to provide a uniform system of removal for  
41 appointing authorities and the Commission.

42 (c) Cause for Removal. – Disqualification of a local board member or employee under  
43 the law, a violation of the ABC laws, failure to complete training required by this Chapter or  
44 the Commission, or engaging in any conduct constituting moral turpitude or which brings the  
45 local board or the ABC system into disrepute is cause for the Commission to remove any  
46 member or employee of a local board. The employment or retention of any employee who is  
47 known to be disqualified under the law to hold a position with a local board is cause for the  
48 Commission to remove the board members involved.

49 (d) Removal Process. – The Commission or appointing authority shall provide, in  
50 writing, to the local board member or employee the findings of fact upon which the decision for  
51 removal is based. The Commission or appointing authority shall also provide the local board

1 member or employee with notice of the availability of a hearing before the Commission to  
2 review the removal.

3 (e) Removal Hearing. – Any local board member or employee removed from office or  
4 discharged by the Commission or the appointing authority may request a hearing before the  
5 Commission. Such a request operates to stay the action of the Commission or the appointing  
6 authority with regard to the matter until after the hearing, unless the Commission finds that the  
7 public interest requires immediate action. At the hearing, the employee or the employee's  
8 counsel may examine all evidence used against the employee and present evidence in the  
9 employee's own behalf. A removal hearing is not subject to the provisions of Chapter 150B of  
10 the General Statutes. All hearings shall be conducted informally and in such manner as to  
11 preserve the substantial rights of the parties.

12 (f) Hearing Procedure. – The Commission shall hold the hearing required by subsection  
13 (e) of this section within 15 days of the member's or employee's request for a hearing. The  
14 standard of review by the Commission is de novo. The Commission or appointing authority  
15 shall be represented by a Commission hearing officer. The Commission shall discharge the  
16 member or employee if two-thirds of the Commission's members vote for removal. The  
17 Commission shall make findings of fact. The Commission may adopt the findings of fact of the  
18 Commission or the appointing authority, may add new findings of fact to the original findings  
19 of fact, or may substitute new findings of fact for the original findings of fact. The Commission  
20 shall make conclusions of law and shall issue a written decision to the member or employee of  
21 the local board, and to the appointing authority, within 15 days of the hearing.

22 (g) Commission Authority. – The Commission shall have the sole power, in its  
23 discretion, to determine if cause exists for removal of a local board member or employee who  
24 has requested a hearing before the Commission. The Commission's decision in a removal  
25 hearing is final.

26 (h) Appeal. – A local board member or employee may appeal the Commission's final  
27 decision to the Court of Appeals. The standard of review for an appeal shall be abuse of  
28 discretion. The sole remedy for a local board member or employee shall be the reinstatement of  
29 the board member or employee to the local board with back pay. All awards for back pay shall  
30 be paid by the local board from which the board member or employee was removed.

31 (i) Removal Hearing Not a Substitute for Termination of Employee. – Nothing in this  
32 section replaces or is intended to replace a local board's policy regarding the termination of an  
33 employee for personnel reasons. The removal process under this section is reserved solely for  
34 the appointing authority or the Commission to remove a board member or employee for cause.

35 (j) Local Acts. – Notwithstanding the provisions of any local act, this section applies to  
36 all local boards."

37 **SECTION 19.** Chapter 18B of the General Statutes is amended by adding a new  
38 section to read:

39 **"§ 18B-705. Compliance with performance standards; remedies.**

40 (a) Local Board Compliance. – The Commission shall establish performance standards  
41 pursuant to G.S. 18B-203(a)(20). The Commission shall ensure that all local boards comply  
42 with established performance standards by conducting regular or special audits, conducting  
43 performance evaluations, monitoring ABC law enforcement efforts, or taking other measures,  
44 which may include inspections by Commission auditors or alcohol law enforcement agents.

45 (b) Performance Improvement Plans. – The Commission, upon determining that a local  
46 board is failing to meet performance standards established pursuant to G.S. 18B-203(a)(20),  
47 shall meet with the chair of the local board and the appointing authority and issue a statement  
48 of findings. The appointing authority, in consultation with the Commission and the local board,  
49 shall develop for and deliver a performance improvement plan to the local board within 60 days  
50 of the meeting with the Commission. The performance improvement plan shall include, but not  
51 be limited to, recommendations for improved performance based on the performance standards

1 established by the Commission. The plan shall also state a period of time in which the  
2 performance improvements are to occur and what action will be taken by the Commission if  
3 performance standards are not met within the given time limits. The appointing authority shall  
4 allow up to, but no more than, 12 months' time to the local board to implement and show  
5 improvement under the performance improvement plan. The local appointing authority, in  
6 consultation with the Commission and upon good cause shown, may allow up to an additional  
7 six-month period of time for the local board to meet all requirements in the performance  
8 improvement plan and to establish that the performance standards established by the  
9 Commission are met.

10 (c) Remedies. – If the Commission determines that the established performance  
11 standards identified in the statement of findings cannot be met after a performance  
12 improvement plan has been implemented and adequate time has been given, but in no case less  
13 than 12 months, the Commission shall take appropriate action to avoid insolvency. This action  
14 may include closing the board pursuant to G.S. 18B-801(d), closing a store or multiple stores,  
15 or merging the local board with another local board in order to maintain solvency. The  
16 Commission may also seize the assets of the local board and liquidate any assets necessary to  
17 satisfy any debt in order to maintain the solvency of the local board. Prior to taking action  
18 pursuant to this subsection, the Commission shall issue a notice of intent to take such action to  
19 the appointing authority and the local board.

20 (d) Local Acts. – Notwithstanding the provisions of any local act, this section applies to  
21 all local boards."

22 **SECTION 20.** Chapter 18B of the General Statutes is amended by adding a new  
23 section to read:

24 **"§ 18B-706. Ethics requirements for local boards.**

25 (a) Each local board shall adopt a policy containing a code of ethics, consistent with the  
26 provisions of G.S. 18B-201, to guide actions by the local board members and employees of the  
27 local board in the performance of their official duties. The policy shall address at least all of the  
28 following:

- 29 (1) The need to obey all applicable laws regarding official actions taken as a  
30 local board member or employee.
- 31 (2) The need to uphold the integrity and independence of the local board  
32 member or employee's position.
- 33 (3) The need to avoid impropriety in the exercise of official duties.
- 34 (4) The need to faithfully perform the duties of the position.
- 35 (5) The need to conduct the affairs of the board in an open and public manner,  
36 including complying with all applicable laws governing open meetings and  
37 public records.

38 (b) Each member of a local board shall receive a minimum of two hours of ethics  
39 education within 12 months after initial appointment to the office and again within 12 months  
40 after each subsequent appointment to the office. The ethics education shall cover laws and  
41 principles that govern conflicts of interest and ethical standards of conduct for local ABC  
42 boards. The education may be provided by the Commission or other qualified source approved  
43 by the Commission. The local board shall maintain a record verifying receipt of the ethics  
44 education by each member of the local board. The local board may require appropriate ethics  
45 training and education for employees of the local ABC board.

46 (c) The Commission shall develop a model ethics policy that local ABC boards may  
47 adopt to be in compliance with this section."

48 **SECTION 21.** G.S. 18B-801(b) reads as rewritten:

49 "(b) Location of Stores. – A local board may choose the location of the ABC stores  
50 within its jurisdiction, subject to the approval of the Commission. In making its decision on a  
51 location, the Commission may consider:

- 1 (1) Whether the health, safety, or general welfare of the community will be  
 2 adversely ~~affected; and~~ affected.  
 3 (2) Whether the citizens of the community or city in which the proposed store is  
 4 to be located voted for or against ABC stores in the last election on the  
 5 question.  
 6 (3) The proximity of the new location to existing ABC stores operated by the  
 7 local board or any other board."

8 **SECTION 21.1.** G.S. 18B-801(c) reads as rewritten:

9 "(c) Closing of Stores. – Subject to the provisions of ~~subsection (a),~~ subsection (a) of  
 10 this section, a local board may ~~close,~~ close a store, or the Commission may order a local board  
 11 to ~~close,~~ close any store when the local board or the Commission determines that:

- 12 (1) ~~The operation of the store is not sufficiently profitable to justify its~~  
 13 ~~continuation;~~  
 14 (2) The store is not operated in accordance with the ABC law; or  
 15 (3) The continued operation of that store will adversely affect the health, safety,  
 16 or general welfare of the community in which the store operates."

17 **SECTION 22.** G.S. 18B-803 reads as rewritten:

18 "**§ 18B-803. Store management.**

19 (a) Manager. – A local board shall provide for the management of each store operated  
 20 by it. The board shall employ at least one manager for each store, who shall operate the store  
 21 pursuant to the directions of that board.

22 (b) Bonding of Manager. – Each store manager shall be bonded in an amount not less  
 23 than ~~five thousand dollars (\$5,000),~~ fifty thousand dollars (\$50,000) secured by a corporate  
 24 surety, for the honest performance of his duties. A public employees' blanket position bond,  
 25 honesty form, in the required amount satisfies the requirements of this subsection. The bond  
 26 shall be payable to the local board and shall be approved by the appointing authority for the  
 27 local board. The appointing authority may increase the amount of bond required for store  
 28 managers under this subsection.

29 (c) Bonding of Other Employees. – A local board or the appointing authority may  
 30 require any of its other employees who handle funds to obtain bonds. The amount and form of  
 31 those bonds shall be determined by the local board.

32 (d) Local Acts. – Notwithstanding the provisions of any local act, this section applies to  
 33 all local boards."

34 **SECTION 23.** G.S. 18B-1213 reads as rewritten:

35 "**§ 18B-1213. Obligations of purchaser.**

36 The purchaser of a ~~winery~~ winery, and any successor to the rights of a winery, is obligated  
 37 to all the terms and conditions of an agreement in effect on the date of the ~~purchase,~~ purchase or  
 38 other acquisition of the right to distribute a brand, except for good cause, which includes,

- 39 (1) Revocation of the wholesaler's permit or license to do business in this State,  
 40 (2) Bankruptcy or insolvency of the wholesaler,  
 41 (3) Assignment for the benefit of creditors or similar disposition of the assets of  
 42 the wholesaler, or  
 43 (4) Failure by the wholesaler to comply substantially, without reasonable excuse  
 44 or justification, with any reasonable and material requirement imposed upon  
 45 ~~him~~ the wholesaler by the winery.

46 As used in this Article, "purchase" includes the sale of stock, sale of assets, merger, lease,  
 47 transfer, or consolidation."

48 **SECTION 24.** G.S. 93B-9 reads as rewritten:

49 "**§ 93B-9. Age requirements.**

50 Any other provision notwithstanding, except certifications issued by the North Carolina  
 51 Criminal Justice Education and Training Standards Commission and the North Carolina

1 Sheriff's Education and Training Standards Commission pursuant to Chapters 17C, 17D, 74E,  
2 and 74G of the General Statutes, no occupational licensing board may require that an individual  
3 be more than 18 years of age as a requirement for receiving a license."

4       **SECTION 25.** Section 6 of this act becomes effective January 1, 2011. Sections 11  
5 and 14 of this act become effective October 1, 2010, and apply to general managers and  
6 employees hired on or after that date. Section 15 of this act becomes effective October 1, 2011.  
7 Section 17 of this act becomes effective May 1, 2011, and is applicable for local board fiscal  
8 years beginning July 1, 2011. The ABC Commission shall offer training and education to local  
9 boards to assist local boards in complying with Section 17 of this act, and such training and  
10 education shall be offered at least once annually after the effective date of this act; however, the  
11 Commission shall have no obligation to provide such training and education after December  
12 31, 2013. Section 23 of this act is effective when it becomes law and its provisions shall apply  
13 to all existing franchise agreements. A supplier's shipment of wine to a wholesaler in North  
14 Carolina following the effective date of Section 23 of this act shall constitute acceptance by the  
15 supplier of the terms of this act and shall be incorporated into the agreement between the  
16 supplier and wholesaler. Section 24 of this act is effective when it becomes law. The remainder  
17 of this act becomes effective October 1, 2010.