

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 909
Committee Substitute Favorable 4/29/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H909-PCS40462-TQxf-14

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:

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



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

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

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

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

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

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

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

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

46 "

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

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

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

3 **SECTION 1.(g)** No later than September 1, 2015, the ABC Commission shall
4 establish and adopt temporary rules to implement the provisions of this act.

5 **SECTION 1.(h)** Subsections (a) through (f) of this section become effective upon
6 adoption of rules pursuant to subsection (g) of this section. The remainder of this section is
7 effective when it becomes law.

8
9 **PROHIBIT THE SALE, POSSESSION, OR CONSUMPTION OF POWDERED**
10 **ALCOHOL.**

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

12 **"§ 18B-101. Definitions.**

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

14 ...

15 (12a) "Premises" means all areas, whether inside or outside the licensed premises,
16 where the permittee has control of the property through a lease, deed, or
17 other legal process.

18 (12b) "Powdered alcohol" means any powder or crystalline substance capable of
19 being converted into a liquid alcoholic beverage fit for human consumption.

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

22"

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

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

26
27 **AUTHORIZE THE EASTERN BAND OF CHEROKEE INDIANS TRIBAL**
28 **ALCOHOLIC BEVERAGE CONTROL COMMISSION TO ISSUE WINE SHIPPER**
29 **PERMITS AND COMMERCIAL ABC PERMITS AND CLARIFY THAT THE**
30 **EASTERN BAND OF CHEROKEE INDIANS TRIBAL ALCOHOLIC BEVERAGE**
31 **CONTROL COMMISSION MAINTAINS EXCLUSIVE AUTHORITY TO ISSUE**
32 **CERTAIN PERMITS.**

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

34 **"§ 18B-112. Tribal alcoholic beverage control.**

35 ...

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

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

40 a. G.S. 18B-101(4), (7), (7c), (9), (10), (11), (12), (12a), (13),
41 (14)(14a), (14b), and (15).

42 b. G.S. 18B-102.1.

43 c. G.S. 18B-104.

44 d. G.S. 18B-105, except that this section shall not apply to any
45 establishment where gaming is permitted under a State compact and
46 pursuant to federal law.

47 e. G.S. 18B-109(b).

48 f. G.S. 18B-110.

49 g. G.S. 18B-111.

50 h. G.S. 18B-112.

- 1 (2) Article 1A. – Compensation for Injury Caused by Sales to Underage
2 Persons, to the extent it applies to retail establishments or the tribal alcoholic
3 beverage control commission if it operates ABC stores, or any other
4 permitted establishment, at retail pursuant to the provisions of this section.
- 5 (3) Article 3. – Sale, Possession, and Consumption, except for G.S. 18B-308
6 and G.S. 18B-309.
- 7 (4) Article 4. – Transportation.
- 8 (5) Article 5. – Enforcement, except for G.S. 18B-500 and G.S. 18B-501.
- 9 (6) Article 6. – Elections, compliance with only G.S. 18B-603(f) and (g) are
10 required.
- 11 (7) Article 9. – Issuance of Permits, except for G.S. 18B-902(g) and (h) and
12 G.S. 18B-906.
- 13 ~~(7)(8)~~ Article 10. – Retail Activity, except for G.S. 18B-1001.1, 18B-1001.2, and
14 ~~18B-1001.3.~~Activity.
- 15 (9) Article 11. – Commercial Activity, as clarified by the following:
- 16 a. The tribal alcoholic beverage control commission may issue
17 commercial activity permits to any qualifying applicant that
18 establishes a commercial business wholly on Indian Country lands
19 and shall have sole enforcement authority over any permittee
20 receiving a permit from the tribal alcoholic beverage control
21 commission only to the extent the regulated conduct occurs on Indian
22 Country lands.
- 23 b. The Eastern Band of Cherokee Indians shall recognize any permit
24 issued by the North Carolina Alcoholic Beverage Control
25 Commission allowing commercial activity in the same manner as if
26 such permit was issued by the tribal alcoholic beverage control
27 commission. The North Carolina Alcoholic Beverage Control
28 Commission shall recognize any commercial activity permit issued
29 by the tribal alcoholic beverage commission in the same manner as if
30 the permit were issued by the North Carolina Alcoholic Beverage
31 Control Commission.
- 32 c. The North Carolina Alcoholic Beverage Control Commission shall
33 retain exclusive enforcement authority over all permits it issues to
34 commercial activity permittees for violations of its rules or this
35 Chapter.

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

39 ...

40 (d) Establishment of a Tribal Commission. – In accordance with the provisions of 18
41 U.S.C. § 1161, the Eastern Band of Cherokee Indians is authorized to establish a tribal
42 alcoholic beverage control commission to regulate the purchase, possession, consumption, sale,
43 and delivery of alcoholic beverages ~~at retail~~ on any land designated as Indian Country pursuant
44 to 18 U.S.C. § 1151 under the jurisdiction of the Eastern Band of Cherokee Indians. The tribal
45 commission shall have exclusive authority to issue ~~retail-ABC~~ permits to retail and commercial
46 establishments located wholly on Indian Country lands under the jurisdiction of the Eastern
47 Band of Cherokee Indians and to regulate the purchase, possession, consumption, sale, and
48 delivery of alcoholic beverages at ~~retail-permitted~~ outlets and premises. Permits issued by the
49 tribal commission pursuant to this section shall be deemed issued by the State for the purposes
50 of sales and delivery of beer and wine by wholesalers to the retail outlets located on Indian
51 Country lands. The fees generated by the tribal alcoholic beverage control commission for the

1 issuance of retail permits may be retained by the Eastern Band of Cherokee Indians to offset
2 costs of operating the tribal alcoholic beverage control commission.

3"

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

5 "(14a) "Tourism ABC establishment" means a restaurant or hotel that meets both of
6 the following requirements:

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

21 **ALLOW DISTILLERY PERMIT HOLDERS TO SELL SPIRITUOUS LIQUOR**
22 **DISTILLED ON PREMISES TO VISITORS OF THE DISTILLERY FOR**
23 **CONSUMPTION OFF THE PREMISES**

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

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

- 27 (1) Manufacture, purchase, import, possess and transport ingredients and
28 equipment used in the distillation of spirituous ~~liquor~~liquor.
29 (2) Sell, deliver and ship spirituous liquor in closed containers at wholesale to
30 exporters and local boards within the State, and, subject to the laws of other
31 jurisdictions, at wholesale or retail to private or public agencies or
32 establishments of other states or ~~nations~~nations.
33 (3) Transport into or out of the distillery the maximum amount of liquor allowed
34 under federal law, if the transportation is related to the distilling process.
35 (4) Sell spirituous liquor distilled at the distillery in closed containers to visitors
36 who tour the distillery for consumption off the premises if the distillery
37 manufactures less than 100,000 proof gallons per year. Sales under this
38 subdivision are allowed only in a county where the establishment of a county
39 or municipal ABC store has been approved pursuant to G.S. 18B-602(g) and
40 are subject to the time and day restrictions in G.S. 18B-802. Spirituous
41 liquor sold under this subdivision shall (i) be sold at the price set by the
42 Commission for the corresponding North Carolina code item, including all
43 applicable excise taxes, bottle charges, and sales taxes and (ii) have affixed
44 to its bottle a sticker that bears the words "North Carolina Distillery Tour
45 Commemorative Spirit" in addition to any other labeling requirements set by
46 law. Consumers purchasing spirituous liquor under this subdivision are
47 limited to purchasing, per calendar year, no more than one of any North
48 Carolina code item listed for sale in the State. The distillery shall use a
49 commonly adopted standard point of sale system to maintain searchable
50 electronic records captured at the point of sale, to include the purchaser's
51 name, drivers license number, and date of birth for at least one year from the

1 date of purchase. The distillery shall not sell any North Carolina code item to
2 a customer who has purchased the item in the last year. The distillery
3 permittee shall remit all excise taxes, bottle charges, and sales taxes derived
4 from sales under this subdivision to the Department of Revenue in
5 accordance with Article 2C of Chapter 105 of the General Statutes. The
6 Commission shall adopt rules regulating the retail sale of spirituous liquor
7 under this subdivision."

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

10 "(4a) Distillery permittee. – A distillery that holds a distillery permit issued by the
11 ABC Commission under G.S. 18B-1105."

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

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

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

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

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

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

27
28 **ALLOW CERTAIN ABC PERMITTEES TO SELL CIDER IN CERTAIN**
29 **CONTAINERS FOR CONSUMPTION OFF THE PERMITTED PREMISES AND**
30 **MAKE TECHNICAL CHANGES TO THE SALE OF MALT BEVERAGES IN**
31 **GROWLERS**

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

33 **"§ 18B-1001. Kinds of ABC permits; places eligible.**

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

36 (1) On-Premises Malt Beverage Permit. – An on-premises malt beverage permit
37 authorizes (i) the retail sale of malt beverages for consumption on the
38 premises, (ii) the retail sale of malt beverages in the manufacturer's original
39 container for consumption off the premises, and (iii) the retail sale of malt
40 beverages in a cleaned, sanitized, resealable container ~~as defined in 4 NCAC~~
41 ~~2T.0308(a)~~ that is filled or refilled and sealed for consumption off the
42 premises, complies with 4 NCAC 2T.0303, 4 NCAC 2T.0305, and 4 NCAC
43 ~~2T.0308(d)–(e),~~ premises and the container that identifies the permittee and
44 the date the container was filled or refilled. It also authorizes the holder of
45 the permit to ship malt beverages in closed containers to individual
46 purchasers inside and outside the State. The permit may be issued for any of
47 the following:

- 48 a. Restaurants;
- 49 b. Hotels;
- 50 c. Eating establishments;
- 51 d. Food businesses;

- 1 e. Retail businesses;
 - 2 f. Private clubs;
 - 3 g. Convention centers;
 - 4 h. Community theatres;
 - 5 i. Breweries as authorized by G.S. 18B-1104(7) and (8).
- 6 (2) Off-Premises Malt Beverage Permit. – An off-premises malt beverage
7 permit authorizes (i) the retail sale of malt beverages in the manufacturer's
8 original container for consumption off the premises, (ii) the retail sale of
9 malt beverages in a cleaned, sanitized, resealable container ~~as defined in 4~~
10 ~~NCAC 2T.0308(a)~~ that is filled or refilled and sealed for consumption off
11 the premises, ~~complies with 4 NCAC 2T.0303, 4 NCAC 2T.0305, and 4~~
12 ~~NCAC 2T.0308(d) (e), premises and the container that~~ identifies the
13 permittee and the date the container was filled or refilled, and (iii) the holder
14 of the permit to ship malt beverages in closed containers to individual
15 purchasers inside and outside the State. The permit may be issued for any of
16 the following:
- 17 a. Restaurants.
 - 18 b. Hotels.
 - 19 c. Eating establishments.
 - 20 d. Food businesses.
 - 21 e. Retail businesses.
 - 22 f. The holder of a brewing, distillation, and fermentation course
23 authorization under G.S. 18B-1114.6. A school obtaining a permit
24 under this subdivision is authorized to sell malt beverages
25 manufactured during its brewing, distillation, and fermentation
26 program at one noncampus location in a county where the permittee
27 holds and offers classes on a regular full-time basis in a facility
28 owned by the permittee.
- 29 (3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine
30 permit authorizes (i) the retail sale of unfortified wine for consumption on
31 the premises, either alone or mixed with other beverages, and (ii) the retail
32 sale of unfortified wine in the manufacturer's original container for
33 consumption off the premises, premises, and (iii) the retail sale of unfortified
34 wine dispensed from a tap connected to a pressurized container utilizing
35 carbon dioxide or similar gas into a cleaned, sanitized, resealable container
36 that is filled or refilled and sealed for consumption off the premises and that
37 identifies the permittee and the date the container was filled or refilled. The
38 permit also authorizes the permittee to transfer unfortified wine, not more
39 than four times per calendar year, to another on-premises unfortified wine
40 permittee that is under common ownership or control as the transferor.
41 Except as authorized by this subdivision, transfers of wine by on-premises
42 unfortified wine permittees, purchases of wine by a retail permittee from
43 another retail permittee for the purpose of resale, and sale of wine by a retail
44 permittee to another retail permittee for the purpose of resale are unlawful.
45 In addition, a particular brand of wine may be transferred only if both the
46 transferor and transferee are located within the territory designated between
47 the winery and the wholesaler on file with the Commission. Prior to or
48 contemporaneous with any such transfer, the transferor shall notify each
49 wholesaler who distributes the transferred product of the transfer. The notice
50 shall be in writing or verifiable electronic format and shall identify the
51 transferor and transferee, the date of the transfer, quantity, and items

1 transferred. The holder of the permit is authorized to ship unfortified wine in
2 closed containers to individual purchasers inside and outside the State.
3 Orders received by a winery by telephone, Internet, mail, facsimile, or other
4 off-premises means of communication shall be shipped pursuant to a wine
5 shipper permit and not pursuant to this subdivision. The permit may be
6 issued for any of the following:

- 7 a. Restaurants;
- 8 b. Hotels;
- 9 c. Eating establishments;
- 10 d. Private clubs;
- 11 e. Convention centers;
- 12 f. Cooking schools;
- 13 g. Community theatres;
- 14 h. Wineries;
- 15 i. Wine producers.

- 16 (4) Off-Premises Unfortified Wine Permit. – An off-premises unfortified wine
17 permit authorizes (i) the retail sale of unfortified wine in the manufacturer's
18 original container for consumption off the premises and it authorizes
19 premises, (ii) the retail sale of unfortified wine dispensed from a tap
20 connected to a pressurized container utilizing carbon dioxide or similar gas
21 into a cleaned, sanitized, resealable container that is filled or refilled and
22 sealed for consumption off the premises and that identifies the permittee and
23 the date the container was filled or refilled, and (iii) the holder of the permit
24 to ship unfortified wine in closed containers to individual purchasers inside
25 and outside the State. The permit may be issued for retail businesses. The
26 permit also authorizes the permittee to transfer unfortified wine, not more
27 than four times per calendar year, to another off-premises unfortified wine
28 permittee that is under common ownership or control as the transferor.
29 Except as authorized by this subdivision, transfers of wine by off-premises
30 unfortified wine permittees, purchases of wine by a retail permittee from
31 another retail permittee for the purpose of resale, and sale of wine by a retail
32 permittee to another retail permittee for the purpose of resale are unlawful.
33 In addition, a particular brand of wine may be transferred only if both the
34 transferor and transferee are located within the territory designated between
35 the winery and the wholesaler on file with the Commission. Prior to or
36 contemporaneous with any such transfer, the transferor shall notify each
37 wholesaler who distributes the transferred product of the transfer. The notice
38 shall be in writing or verifiable electronic format and shall identify the
39 transferor and transferee, the date of the transfer, quantity, and items
40 transferred. The permit may also be issued to the holder of a
41 viticulture/enology course authorization under G.S. 18B-1114.4. A school
42 obtaining a permit under this subdivision is authorized to sell wines
43 manufactured during its viticulture/enology program at one non-campus
44 location in a county where the permittee holds and offers classes on a regular
45 full-time basis in a facility owned by the permittee. The permit may also be
46 issued for a winery or a wine producer for sale of its own unfortified wine
47 during hours when the winery or wine producer's premises is open to the
48 public, subject to any local ordinance adopted pursuant to G.S. 18B-1004(d)
49 concerning hours for the retail sale of unfortified wine. A winery obtaining a
50 permit under this subdivision is authorized to sell wine manufactured by the
51 winery at one additional location in the county under the same conditions

1 specified in G.S. 18B-1101(5) for the sale of wine at the winery; provided,
 2 however, that no other alcohol sales shall be authorized at the additional
 3 location. Orders received by a winery by telephone, Internet, mail, facsimile,
 4 or other off-premises means of communication shall be shipped pursuant to
 5 a wine shipper permit and not pursuant to this subdivision.

6 ...
 7 (16) Wine Shop Permit. – A wine shop permit authorizes (i) the retail sale of malt
 8 beverages, unfortified wine, and fortified wine in the manufacturer's original
 9 container for consumption off the premises, (ii) the retail sale of malt
 10 beverages or unfortified wine dispensed from a tap connected to a
 11 pressurized container utilizing carbon dioxide or similar gas in a cleaned,
 12 sanitized, resealable container as defined in 4 NCAC 2T.0308(a) that is
 13 filled or refilled and sealed for consumption off the premises, complies with
 14 4 NCAC 2T.0303, 4 NCAC 2T.0305, and 4 NCAC 2T.0308(d) (e), premises
 15 and the container that identifies the permittee and the date the container was
 16 filled or refilled, and (iii) wine tastings on the premises conducted and
 17 supervised by the permittee in accordance with subdivision (15) of this
 18 section. It also authorizes the holder of the permit to ship malt beverages,
 19 unfortified wine, and fortified wine in closed containers to individual
 20 purchasers inside and outside the State. The permit may be issued for retail
 21 businesses whose primary purpose is selling malt beverages and wine for
 22 consumption off the premises and regularly and customarily educating
 23 consumers through tastings, classes, and seminars about the selection,
 24 selling, and storing of wine. The holder of the permit is authorized to sell
 25 unfortified wine for consumption on the premises, provided that the sale of
 26 wine for consumption on the premises does not exceed forty percent (40%)
 27 of the establishment's total sales for any 30-day period. The holder of a
 28 wine-tasting permit not engaged in the preparation or sale of food on the
 29 premises is not subject to Part 6 of Article 8 of Chapter 130A of the General
 30 Statutes.

31"

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

36
 37 **ALLOW ALTERNATING PROPRIETORSHIPS FOR BREWERIES**

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

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

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

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

6 "§ 18B-1104. Authorization of brewery permit.

7 The holder of a brewery permit may:

- 8 (1) Manufacture malt beverages.
- 9 (2) Purchase malt, hops and other ingredients used in the manufacture of malt
10 beverages.
- 11 (3) Sell, deliver and ship malt beverages in closed containers to wholesalers
12 licensed under this Chapter as authorized by the ABC laws, except that malt
13 beverages may be sold to exporters and nonresident wholesalers only when
14 the purchase is not for resale in this State. However, nothing in this
15 subdivision shall prohibit the holder of a brewery permit from selling malt
16 beverages to a nonresident wholesaler, nonresident malt beverage vendor,
17 bottler, or other similar party for resale in this State if the malt beverages are
18 shipped from the brewery to wholesalers licensed under this Chapter.
- 19 (4) Receive malt beverages manufactured by the permittee in some other state
20 for transshipment to dealers in other states.
- 21 (5) Furnish or sell marketable malt beverage products, or packages which do not
22 conform to the manufacturer's marketing standards, if State taxes have been
23 or will be paid, to its employees for the use of the employees or their
24 families and guests in this State.
- 25 (6) Give its products to its employees and guests for consumption on its
26 premises.
- 27 (6a) Receive, in closed containers, and sell at the brewery, malt beverages
28 produced inside or outside North Carolina under contract with a contract
29 brewery. The contract brewery that manufactures the malt beverages shall be
30 responsible for all aspects associated with manufacturing the product,
31 including maintaining appropriate records, obtaining label approval in its
32 own name, and remitting the appropriate taxes. The contract malt beverages
33 may be sold also at affiliated retail outlets of the brewery physically located
34 on or adjacent to the brewery. Any malt beverages received from a contract
35 brewery under this subdivision shall be made available for sale by the
36 brewery to wholesalers for distribution to retailers, without discrimination,
37 in the same manner as if the malt beverages were being imported by the
38 brewery. Contract brewing is authorized between affiliated breweries, but
39 shall not be used as a means to distribute production quantities between
40 affiliated breweries to obtain a malt beverage wholesaler permit pursuant to
41 G.S. 18B-1104(8) where either brewery would not otherwise qualify for a
42 permit, and the Commission shall have no authority to grant an exemption to
43 this requirement pursuant to G.S. 18B-1116(b).
- 44 (7) In an area where the sale of any type of alcoholic beverage is authorized by
45 law, sell the brewery's malt beverages or malt beverages manufactured by
46 the permittee in some other state that have been approved by the
47 Commission for sale in North Carolina only at the brewery upon receiving a
48 permit under G.S. 18B-1001(1).
- 49 (8) Obtain a malt beverage wholesaler permit to sell, deliver, and ship at
50 wholesale only malt beverages manufactured by the brewery. The
51 authorization of this subdivision applies to a brewery that sells, to consumers

1 at the brewery, to wholesalers, to retailers, and to exporters, fewer than
2 25,000 barrels, as defined in G.S. 81A-9, of malt beverages produced by it
3 per year. A brewery not exceeding the sales quantity limitations in this
4 subdivision may also sell the malt beverages manufactured by the brewery at
5 not more than three other locations in the State, where the sale is legal, upon
6 obtaining the appropriate permits under G.S. 18B-1001. A brewery operating
7 any additional retail location pursuant to this subdivision shall also offer for
8 sale at that location a reasonable selection of competitive malt beverage
9 products.

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

12
13 **AUTHORIZE THE ABC COMMISSION TO ISSUE GUEST ROOM CABINET**
14 **PERMITS TO CERTAIN 18-HOLE GOLF COURSES**

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

16 "(13) Guest Room Cabinet Permit. – A guest room cabinet permit authorizes a
17 ~~hotel having a mixed beverages permit or a private club having a mixed~~
18 ~~beverages permit and management contracts for the rental of living units~~
19 guest room cabinet permittee to sell to its room guests, from securely locked
20 cabinets, malt beverages, unfortified wine, fortified wine, and spirituous
21 liquor. A permittee shall designate and maintain at least ten percent (10%) of
22 the permittee's guest rooms as rooms that do not have a guest room cabinet.
23 A permittee may dispense alcoholic beverages from a guest room cabinet
24 only in accordance with written policies and procedures filed with and
25 approved by the Commission. A permittee shall provide a reasonable
26 number of vending machines, coolers, or similar machines on premises for
27 the sale of soft drinks to hotel guests.

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

- 29 a. A hotel (i) holding a mixed beverages permit and (ii) located in a
30 county subject to G.S. 18B-600(f).
- 31 b. A hotel (i) holding a mixed beverages permit and (ii) located in a
32 county that has a population in excess of 150,000 by the last federal
33 census.
- 34 c. ~~A qualifying private club~~ (i) holding a mixed beverages permit, (ii)
35 having management contracts for the rental of living units, and (iii)
36 located in a county defined in G.S. 18B-101(13a)b.2.
- 37 d. An 18-hole golf course (i) holding a mixed beverages permit or
38 located in a county where ABC stores have heretofore been
39 established but in which the sale of mixed beverages has not been
40 approved, (ii) having management contracts for the rental of living
41 units, and (iii) located in a county that has a population in excess of
42 20,000 people by the last federal census."

43
44 **EFFECTIVE DATE**

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