



## Bill Draft 2013-TMz-7: Tax Compliance for ABC Permit and Fee Use.

2013-2014 General Assembly

**Committee:** Revenue Laws Study Committee  
**Introduced by:**  
**Analysis of:** 2013-TMz-7

**Date:** March 12, 2014  
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Committee Counsel

**SUMMARY:** *The bill draft would require filing all State tax returns and paying all State taxes to receive and hold an ABC permit. The bill draft also would authorize the Department of Revenue to use \$500,000 (currently, \$150,000) from the collection assistance fee account to contract for taxpayer locator services.*

**CURRENT LAW:** G.S. 18B-900 lists the following requirements to receive and hold an ABC permit:

- Be at least 21 years old (19 years old for managers selling only beer and wine).
- Be a NC resident unless the out-of-state person is not responsible for operations.
- Not have been convicted of a felony within 3 years or had citizenship restored.
- Not have been convicted of an alcoholic beverage offense within 2 years.
- Not have been convicted of a misdemeanor controlled substance offense within 2 years.
- Not have had an ABC permit revoked within 3 years except failures to pay registration fee.
- Not have an unsatisfied judgment for injury caused by sales to underage persons.

The requirements under G.S. 18B-900 apply to each of the following persons:

- Owner of a sole proprietorship.
- Managers for a corporation.
- Members of a general partnership.
- General partners in a limited partnership.
- Managers and any members with 25% interest in a limited liability company.
- Each officer, director, and owner of 25% of a corporation.

G.S. 18C-141 prohibits the Director of the North Carolina State Lottery Commission from recommending lottery game retailers to the Commission who are not current in filing all State tax returns and paying all State taxes.

G.S. 105-230 suspends the charter of any corporation or a limited liability company that fails to file any tax return or pay any tax. Any act performed or attempted to be performed during the period of suspension is invalid and of no effect unless the charter is reinstated after filing and paying all taxes.



G.S. 105-243.1 imposes a 20% collection assistance fee on overdue tax debts after 90 days.<sup>1</sup> The collection assistance fee is credited to a special account and must be applied to the costs of collecting overdue tax debts.

## **BILL ANALYSIS:**

**Section 1:** The bill draft would add a new requirement to G.S. 18B-900 that ABC permit applicants file and pay all State taxes. State taxes must be collectable and finally determined to be due for the tax to block an ABC application.

Procedurally, the ABC Commission will request the Department of Revenue check the State tax compliance status of persons. If the Department of Revenue reports to the ABC Commission that a person is not in State tax compliance, then the person cannot receive an ABC permit until the Department of Revenue reports to the ABC Commission that the person is in compliance. Taxpayers who enter into an installment payment agreement with the Department of Revenue are considered in compliance as long as the agreement is in force.

The requirement of State tax compliance operates like all ABC permit requirements under G.S. 18B-900 – applying to all persons listed in G.S. 18B-900(c) and applying continually to hold a permit. Four types of ABC permits may still be issued without State tax compliance: special occasion permit under G.S. 18B-1001(8), limited special occasion permit under G.S. 18B-1001(9), special one-time permit under G.S. 18B-1002, and salesman permit under G.S. 18B 1111.

**Section 2:** The Administrative Procedure Act (Chapter 150B) does not apply to the ABC Commission's actions when determining State tax compliance and refusing to issue ABC permits.

**Section 3:** The exchange of confidential taxpayer information between the Department of Revenue and the ABC Commission is authorized.

**Section 4:** The bill draft authorizes the Department of Revenue to spend \$500,000 annually on taxpayer locator services. The current authorization is \$150,000. The source of the funds is the collection assistance fee imposed on overdue tax debts.

## **BACKGROUND:**

**Sections 1-3:** The bill draft closely follows the statute (G.S. 18C-141) requiring lottery retailers to file and pay all State taxes. The ABC Commission and the NC Department of Revenue plan to check the State tax compliance of all new and renewing ABC permits starting May 1, 2015.

**Section 4:** The collection assistance fee provides funds to pay for the costs of collecting overdue tax debts which have included personnel at the Department of Revenue that collect taxes, locator services, and infrastructure projects at the Department of Revenue. When attempting to collect overdue taxes, the Department of Revenue uses locator services through contracts with private data services to identify current addresses for taxpayers.

**EFFECTIVE DATE:** Sections 1-3 of the bill draft requiring tax compliance for ABC permits would be effective May 1, 2015. Section 4 increasing funding for locator services is effective when it becomes law.

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<sup>1</sup> The Department of Revenue may not mail the collection assistance fee notice earlier than 60 days after the tax debt becomes collectible under G.S. 105-241.22. A collection assistance fee is imposed on an overdue tax debt that remains unpaid 30 days or more after the fee notice is mailed to the taxpayer.