


2005

**HOUSE
ALCOHOLIC BEVERAGE
CONTROL**

**COMMITTEE
MINUTES**



2005-2006

**HOUSE COMMITTEE ON
ALCOHOLIC BEVERAGE CONTROL**

Chair

Representative Pryor Gibson

Committee Assistant

Shirlyn MacPherson

NORTH CAROLINA GENERAL ASSEMBLY

ALCOHOLIC BEVERAGE CONTROL

2005 – 2006 SESSION



Rep. Gibson
Chair



Rep. Grady
Vice chair



Rep. Ed Jones
Vice chair



Rep. Miller
Vice chair



Rep. Daughtry



Rep. Goforth



Rep. Lucas



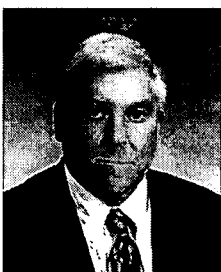
Rep. Moore



Rep. Starnes



Rep. Tucker



Rep. Culpepper
Ex-officio



Rep. Cunningham
Ex-officio



Rep. Eddins
Ex-officio



Rep. Hackney
Ex-officio

North Carolina General Assembly
Pending House Committee on
Alcoholic Beverage Control

Date: 07/27/2006
Time: 11:30
Page: 001 of 001
Leg. Day: H-173/S-175

2005-2006 Biennium

Bill	Introducer	Short Title		Date	Latest Action
H 86	Miller	ABC PERMITS IN STATE DEVELOPMENT ZONES.	H	02-07-2005	Ref To Com On Alcoholic Beverage Control
H 808	Allen	LOCAL/STATE CONTROL OF ABC REGULATION.	H	03-21-2005	Ref To Com On Alcoholic Beverage Control
\$ H1292	Miller	LRC STUDY ABC STORE PRIVATIZATION.	H	04-19-2005	Ref To Com On Alcoholic Beverage Control
H1872=	Walend	NO ALCOHOL ON POLK COUNTY RIVERS.	H	05-17-2006	Re-ref Com On Alcoholic Beverage Control

'\$' indicates the bill is an appropriations bill.

A bold line indicates the bill is an appropriations bill.

'*' indicates that the text of the original bill was changed by some action.

'=' indicates that the original bill is identical to another bill.

ATTENDANCE

HOUSE COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL

(Name of Committee)

[illegible]

ATTENDANCE

HOUSE COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL

(Name of Committee)

[illegible]

HOUSE COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL

Meeting Agenda

**July 18, 2006
11:00 am**

- 1. Call to Order**
- 2. Bill(s)**
- 3. Adjourn**

MINUTES
HOUSE COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL

Tuesday, July 18, 2006

The House Committee on Alcoholic Beverage Control met on Tuesday, July 18, 2006, at 11:00 am in the Legislative Office Building, Room 425. The following members were present: Chairman Pryor Gibson, Vice-Chair Ed Jones, Representatives Daughtry, Goforth, Lucas, Moore, Saunders, Starnes, and Tucker. Staff in attendance: Brenda Carter and Susan Sitze. A Visitor Registration list is attached and made part of these minutes. Chairman Gibson called the meeting to order.

HB 2465 – Dare ABC Profits Technical Correction (Attachment 1). Representative Spear said that the correction, requested by Dare County, refers to the distribution of profits since the 1965 bill was passed, and the language was left out in numerous revisions. The bill will insert the original 1965 language to read “of the net profits remaining” in line 4, page 2, to replace “gross proceeds” inadvertently changed in the rewriting in 1981 and 1995. All towns in Dare County are in agreement with this change. Representative Daughtry moved for a favorable report. After a short discussion, the motion was brought forward. Passed.

SB 828 – 2006 Viticulture/Enology Act (Attachments 2, 3). Representative Gibson said that the original bill had been changed to encompass viticulture, winery, and advertising. He discussed Attachment 2 (PCS S828-CSR-V-33 [v.6]): (1) name change of the bill; (2) Section 2-change wine “Growers” name to “Council”; (3) Section 4- change the method of reimbursement; (4) Sections 5-8 – changing clarifying changes; (5) Section 11 – regarding wine tasting establishments sanitation rules being under the same sanitations rules as restaurants. It is a positive change for the wine tasting only business establishments. (6) Section 10 – allow coupons for sale of alcoholic beverages.

Representative Daughtry asked if malt beverages were included. Representative Gibson said that it does not allow retail coupons for malt beverages. It does allow peel off coupons.

Andy Ellen, Retail Merchants Association, said that “exit” store discounts would apply. This is not solely for North Carolina products.

Following some discussion, Doug Beason, Seaboard Wine Shop, said that on internet purchases, a retailer can ship to an individual within North Carolina, the discount coupon would be taken at the store of origin.

Dick Carlton, Harris Teeter, said that grocery stores’ “loyalty cards” is the way stores do business now. It is a way to keep track and manage inventory and offer discounts to their customers.

Reverend Mark Creech, Executive Director, Christian Action League, said that the North Carolina ABC Commission has prohibited the "cents-off" coupon. He cited studies that conclude that with coupons, there is a rise in consumption. There is significant negative potential, would target college students for binge drinking, target Black and Hispanics and there is nothing to stop retailers from targeting these groups. Manufacturers rebating is limited. Whereas, retailers are not. The coupon issue ought to be considered in a stand-alone bill.

Andy Ellen said that Virginia and South Carolina has coupons and there is no targeting of race or class. This may deter underage drinking because loyalty cards are not owned and used by underage people. Small stores would not use coupons because the discount must be financed solely by the retailer.

Sandy Sands, Miller Brewing Company, said manufacturers support Version 33 as the brewing industry does not want coupons.

Dean Plunkett, NC Beer and Wine Wholesalers, said the manufacturers and distributors are against coupons as the amount of the discounts got out of hand and would increase more than a dollar.

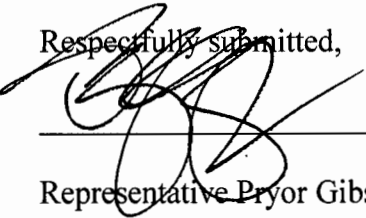
Following additional discussion, Representative Gibson put forth an amendment to delete "name of" "to provide for the distribution of wine taxes earmarked for the North Carolina Wine and Grape Council" (name change of "Growers" to "Council") (Attachment 4). Representative Gibson moved for adoption. Passed.

Representative Harrell offered a perfecting amendment to assist vineyards with tax exemption to read "quarterly" rather than "monthly" (Attachment 5). Representative Saunders moved for Version 6 as amended to include malt beverage. Representative Gibson moved for a perfecting amendment to change the title. Passed.

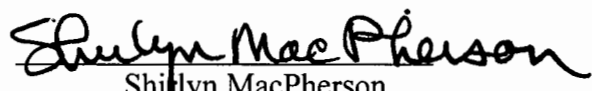
Representative Lucas moved to incorporate Representative Gibson's amendment with Representative Harrell's amendment for a new PCS S828-PCS65635-RV-33 (Attachment 6), unfavorable to the original, and adjust the title. Passed.

There being no further business, Chair Gibson adjourned the meeting at 11:55 a.m.

Respectfully submitted,



Representative Pryor Gibson
Chair



Shirlyn MacPherson
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 2465

Short Title: Dare ABC Profits Technical Correction. (Local)

Sponsors: Representative Spear.

Referred to: Alcoholic Beverage Control.

May 24, 2006

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE A TECHNICAL CORRECTION IN A LOCAL ACT TO
3 CLARIFY THAT THE DISTRIBUTION PROCEDURE IS IN ACCORDANCE
4 WITH 1977 LEGISLATION AS HAS BEEN THE CONTINUOUS PRACTICE
5 SINCE THEN.

6 Whereas, Chapter 202 of the 1977 Session Laws provided for distribution of
7 fifteen percent (15%) of the net profits remaining from the operation of the Dare County
8 Alcoholic Beverage Control Board to incorporated municipalities within that county;
9 and

10 Whereas, a completely separate local bill, Chapter 201 of the Session Laws of
11 1965 also provided for distribution of the profits, and that local act was not mentioned
12 in the 1977 enactment; and

13 Whereas, Chapter 995 of the 1981 Session Laws amended the 1965 local act
14 and changed the distribution procedures, and did not mention the 1977 law; and

15 Whereas, distributions continued under the 1977 law; and

16 Whereas, Chapter 679 of the 1995 Session Laws rewrote the 1977 law and
17 repealed the other thread of local acts that had started in 1965; and

18 Whereas, the 1995 law inadvertently carried forward part of the 1981 law
19 rather than the 1977 law; and

20 Whereas, Dare County is desirous of continuing to operate under the 1977
21 wording; Now, therefore,

22 The General Assembly of North Carolina enacts:

23 **SECTION 1.** Section 1(3) of Chapter 202 of the 1977 Session Laws, as
24 rewritten by Chapter 679 of the 1995 Session Laws, reads as rewritten:

25 "Section 1. After making the distributions provided in subsections (b) and (c) of
26 G.S. 18B-805, the Dare County Alcoholic Beverage Control Board shall determine and
27 retain from the remaining gross receipts a sufficient and proper amount necessary to be
28 retained as working capital, within the limits set by rules of the Commission.

1 The entire remaining gross receipts shall be paid over to the Dare County Board of
2 County Commissioners to be allocated as follows:

3 ...

4 (3) fifteen percent (15%) of the net profits remaining shall be allocated to
5 and divided among the incorporated towns within Dare County, such
6 sums to go to the general fund of each of the incorporated towns to be
7 used for any governmental purpose deemed necessary by the
8 governing body of each town; and

9 ..."

10 **SECTION 2.** This act is effective when it becomes law, and any
11 distributions heretofore made are validated.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

S

D

SENATE BILL 828

Commerce Committee Substitute Adopted 5/25/05

Third Edition Engrossed 5/26/05

PROPOSED HOUSE COMMITTEE SUBSTITUTE S828-CSR-V-33 [v.6]

7/18/2006 10:50:14 AM

Short Title: 2006 Viticulture/Enology Act.

(Public)

Sponsors:

Referred to:

March 23, 2005

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE NAME OF THE NORTH CAROLINA GRAPE GROWERS COUNCIL; TO PROVIDE FOR THE DISTRIBUTION OF WINE TAXES EARMARKED FOR THE NORTH CAROLINA WINE AND GRAPE COUNCIL, TO PROVIDE FOR THE DESIGNATION OF A PRIMARY SOURCE FOR THE IMPORTATION OF WINE INTO THE STATE AND TO AMEND CHAPTER 18B OF THE GENERAL STATUTES TO RESTRICT THE USE OF PROMOTIONAL ADVERTISING FOR WINE AND MALT BEVERAGES.

The General Assembly of North Carolina enacts:

SECTION 1. The title of Part 2J of Article 10 of Chapter 143B of the General Statutes reads as rewritten:

"Part 2J. North Carolina Wine and Grape Growers Council."

SECTION 2. G.S. 143B-437.90 reads as rewritten:

"§ 143B-437.90. North Carolina Wine and Grape Growers Council – Creation; powers and duties.

There is created the North Carolina Wine and Grape Growers Council of the Department of Commerce. The North Carolina Wine and Grape Growers Council shall have the following powers and duties:

- (1) To identify and implement methods for improving North Carolina's rank as a wine-producing State; State.
- (2) To assure orderly growth and development of North Carolina's grape and wine industry; industry.
- (3) To achieve public awareness of the quality of North Carolina grapes and wine; wine.

- (4) To coordinate the interaction of North Carolina's grape and wine industry with other segments of the State's economy such as tourism, retail trade, and ~~horticulture~~; horticulture.
- (5) To conduct methods of quality assurance of North Carolina's grape and wine industry to create a sound foundation for further ~~growth~~; growth.
- (6) To assist in the coordination of the activities of the various State agencies and other organizations contributing to the development of the grape and wine ~~industry~~; industry.
- (7) To receive and disburse ~~funds~~; funds.
- (8) To enter into contracts for the purpose of developing new or improved markets or marketing methods for wine and grape ~~products~~; products.
- (9) To contract for research services to improve viticultural and enological practices in North ~~Carolina~~; Carolina.
- (10) To enter into agreements with any local, state, or national organizations or agency engaged in education for the purpose of disseminating information on wine or other viticultural ~~projects~~; projects.
- (11) To enter into contracts with commercial entities for the purpose of developing marketing, advertising, and other promotional programs designed to promote the orderly growth of the North Carolina grape and wine ~~industry~~; industry.
- (12) To acquire any licenses or permits necessary for performance of the duties of the ~~Council~~; and Council.
- (13) To develop a State Viticulture Plan that identifies problems and constraints of the viticultural industry, proposes solutions to those problems and delineates planning mechanisms for the orderly growth of the industry."

SECTION 3. G.S. 143B-437.91 reads as rewritten:

"§ 143B-437.91. North Carolina Wine and Grape Growers-Council – Composition; terms; reimbursement.

(a) The North Carolina Wine and Grape Growers-Council shall consist of 11 members appointed by the Secretary of Commerce in the following manner: seven commercial grape growers; three winery operators; and one retailer of North Carolina grape products. For purposes of this Article, a commercial grape grower is one who has at least three acres of grapes or sells ten thousand dollars (\$10,000) worth of grapes annually. The Secretary shall appoint members for staggered four-year terms. Members shall serve until their successors are appointed and qualified. Any member of the Council may be reappointed for additional terms. Any appointment to fill a vacancy on the Council shall be for the balance of the unexpired term. Any member of the Council may be removed by the Secretary for misfeasance, malfeasance, or nonfeasance.

(b) Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 from funds appropriated for the operation of the Council.

(c) All clerical and other services required by the Council may be provided by the Department of Commerce.

(d) The Secretary of Commerce shall appoint a chair who shall serve at the pleasure of the Secretary.

(e) The Council may select a secretary who need not be a member of the Council.

(f) The Council shall meet when necessary as determined by the chair or upon written request of a majority of the members.

(g) A majority of the Council shall constitute a quorum for the transaction of business."

SECTION 4. (a) G.S. 105-113.81A reads as rewritten:

"§ 105-113.81A. Distribution of part of wine taxes attributable to North Carolina wine.

The Secretary shall on a ~~quarterly~~ annual basis at the beginning of the fiscal year credit to the Department of Commerce five hundred thousand dollars (\$500,000) from the net proceeds of the excise tax collected on unfortified wine bottled in North Carolina ~~during the previous quarter and the net proceeds of the excise tax collected on fortified wine bottled in North Carolina during the previous quarter, except that the amount credited to the Department of Commerce under this section shall not exceed five hundred thousand dollars (\$500,000) per fiscal year.~~ wine. The Department of Commerce shall allocate the funds received under this section to the North Carolina Wine and Grape Growers Council to be used to promote the North Carolina grape and wine industry and to contract for research and development services to improve viticultural and enological practices in North Carolina. Any funds credited to the Department of Commerce under this section that are not expended by June 30 of any fiscal year ~~may do not~~ may not revert to the General Fund, but ~~shall~~ remain available to the Department for the uses set forth in this section."

SECTION 4.(b) This section becomes effective July 1, 2006. Notwithstanding the provisions of G.S. 105-113.81A, as amended by this section, for the 2006-2007 fiscal year, the distribution required by that section shall be made by October 1, 2006.

SECTION 5. G.S. 18B-203(a) reads as rewritten:

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

...

(19) Recognize the holder of a wine importer permit or nonresident wine vendor permit as a primary American source of supply for the wine of a winery. To be considered a primary American source of supply, a wine importer must establish that it has lawfully purchased the wine from the winery, or from an agent of the winery, and by written contract or otherwise has been authorized by the winery to distribute the wine to wholesalers in the United States."

SECTION 6. G.S. 18B-1106 reads as rewritten:

"§ 18B-1106. Authorization of wine importer permit.

(a) Authorization. – The holder of a wine importer permit may:

- (1) Import fortified and unfortified wines from outside the United States in closed containers;
- (2) Store those wines;
- (3) Sell those wines to wine wholesalers for purposes of resale.

(b) Distribution Agreements. – Wine distribution agreements are governed by Article 12 of this Chapter.

(c) The holder of a wine importer permit may import and sell to wholesalers only wine for which it is a primary American source of supply. To be considered a primary American source of supply, a wine importer must establish that it has lawfully purchased the wine from the winery, or from an agent of the winery, and by written contract or otherwise has been authorized by the winery to distribute the wine to wholesalers in the United States.

SECTION 7. G.S. 18B-1107 reads as rewritten:

"§ 18B-1107. Authorization of wine wholesaler permit.

(a) Authorization. – The holder of a wine wholesaler permit may:

- (1) Receive, possess and transport shipments of fortified and unfortified ~~wine;~~wine. The wine must be received from one of the following:
 - a. A primary American source of supply for that wine as recognized by the Commission or as verified by the wholesaler.
 - b. A licensed North Carolina wholesaler who received the wine from a primary American source of supply and with whom the second wholesaler has a subcontracting agreement for distribution of the wine.
 - c. Another wholesaler from whom the purchasing wholesaler is purchasing the wholesaler's business or from whom the wholesaler is purchasing the brand or distribution rights for the wine being received.
 - d. Another wholesaler who also has distribution rights for the wine being received and from whom the wholesaler is acquiring the wine in order to address a temporary inventory shortage.
- (2) Sell, deliver and ship wine in closed containers for purposes of resale to wholesalers or retailers licensed under this Chapter as authorized by the ABC ~~laws;~~laws.
- (3) Furnish and sell wine to its employees, subject to the rules of the Commission and the Department of ~~Revenue;~~Revenue.
- (4) In locations where the sale is legal, furnish wine to guests and any other person who does not hold an ABC permit, for promotional purposes, subject to rules of the ~~Commission;~~Commission.
- (5) Sell out-of-date unfortified and fortified wines to holders of cider and vinegar manufacturer permits, provided that each bottle is marked "out-of-date" by the wholesaler.

(b) Distribution Agreements. – Wine distribution agreements are governed by Article 12 of this Chapter."

SECTION 8. G.S. 18B-1114 reads as rewritten:

1 **"§ 18B-1114. Authorization of nonresident wine vendor permit.**

2 The holder of a nonresident wine vendor permit may sell, deliver, and ship
3 unfortified and fortified wine in this State only to wholesalers, importers, and bottlers
4 licensed under this Chapter, as authorized by the ABC laws. The unfortified and
5 fortified wine must come to rest at the licensed premises of a wine wholesaler in this
6 State before being resold to a retailer. A nonresident wine vendor permit may be issued
7 to a winery, a wholesaler, an importer, or a bottler outside North Carolina who desires
8 to sell, deliver, and ship unfortified and fortified wine into this State. The holder of a
9 nonresident wine vendor permit may sell, deliver, and ship into this State only wine for
10 which it is a primary American source of supply. To be considered a primary American
11 source of supply, a nonresident wine vendor must establish that it has lawfully
12 purchased the wine from the winery, or from an agent of the winery, and by written
13 contract or otherwise has been authorized by the winery to distribute the wine to
14 wholesalers in the United States."

15 **SECTION 9.** G.S. 18B-105(a) reads as rewritten:

16 "(a) General Rule. – No person shall offer or advertise alcoholic beverages in this
17 State except in compliance with this Article and the rules of the Commission."

18 **SECTION 10.** Article 10 of Chapter 18B of the General Statutes is amended
19 by adding a new section to read:

20 **"§ 18B-105.1. Use of discounts in advertising.**

21 (a) Authorization – Advertising for an alcoholic beverage may not include a
22 coupon offering a free alcoholic beverage. No person shall advertise by means of a
23 coupon or rebate offering a discount off the purchase of a malt beverage or wine,
24 except as provided in this section. A permittee who holds an on-premises or
25 off-premises malt beverage or wine permit under G.S. 18B-1001(1) through (6) or a
26 wine shop permit under G.S. 18B-1001(16) may promote by means of a coupon, a
27 membership card, a discount card, or a retailer's loyalty card in the following
28 circumstances:

29 (1) The permittee may provide a discount coupon for use by a customer
30 when purchasing a malt beverage or wine sold at the permittee's retail
31 location for off-premises consumption.

32 (2) The permittee may require a customer to use the permittee's
33 membership card, discount card, or loyalty card in order for the
34 customer to receive a discounted price when purchasing a malt
35 beverage or wine sold at the permittee's retail location for off-premises
36 consumption.

37 (b) Scope – This section shall not authorize cooperation between a retailer and an
38 industry member in violation of G.S. 18B-1116."

39 **SECTION 11.** G.S. 18B-1001(16) reads as rewritten:

40 **"§ 18B-1001. Kinds of ABC permits; places eligible.**

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

43 ...

1 (16) Wine Shop Permit. – A wine shop permit authorizes the retail sale of
2 malt beverages, unfortified wine, and fortified wine in the
3 manufacturer's original container for consumption off the premises,
4 and authorizes wine tastings on the premises conducted and supervised
5 by the permittee in accordance with subdivision (15) of this section. It
6 also authorizes the holder of the permit to ship malt beverages,
7 unfortified wine, and fortified wine in closed containers to individual
8 purchasers inside and outside the State. The permit may be issued for
9 retail businesses whose primary purpose is selling malt beverages and
10 wine for consumption off the premises and regularly and customarily
11 educating consumers through tastings, classes, and seminars about the
12 selection, serving, and storing of wine. The holder of the permit is
13 authorized to sell unfortified wine for consumption on the premises,
14 provided that the sale of wine for consumption on the premises does
15 not exceed forty percent (40%) of the establishment's total sales for
16 any 30-day period. ~~The sale of wine for consumption on the premises~~
17 ~~shall be limited to those amounts that remain in opened bottles upon~~
18 ~~the conclusion of an authorized wine tasting, and individual servings~~
19 ~~shall not exceed four ounces per glass.~~ The holder of a wine-tasting
20 permit not engaged in the preparation or sale of food on the premises is
21 not subject to Part 6 of Article 8 of Chapter 130A of the General
22 Statutes."

23 **SECTION 12.** Except as otherwise provided herein, this act is effective
24 when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

S

D

SENATE BILL 828

Commerce Committee Substitute Adopted 5/25/05

Third Edition Engrossed 5/26/05

PROPOSED HOUSE COMMITTEE SUBSTITUTE S828-CSR-V-34 [v.2]

7/18/2006 10:46:58 AM

Short Title: Amend Wine Sales and Production Laws.

(Public)

Sponsors:

Referred to:

March 23, 2005

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE NAME OF THE NORTH CAROLINA GRAPE GROWERS COUNCIL; TO PROVIDE FOR THE DISTRIBUTION OF WINE TAXES EARMARKED FOR THE NORTH CAROLINA WINE AND GRAPE COUNCIL, TO PROVIDE FOR THE DESIGNATION OF A PRIMARY SOURCE FOR THE IMPORTATION OF WINE INTO THE STATE AND TO AMEND CHAPTER 18B OF THE GENERAL STATUTES TO RESTRICT THE USE OF PROMOTIONAL ADVERTISING FOR WINE AND MALT BEVERAGES.

The General Assembly of North Carolina enacts:

SECTION 1. The title of Part 2J of Article 10 of Chapter 143B of the General Statutes reads as rewritten:

"Part 2J. North Carolina Wine and Grape Growers Council."

SECTION 2. G.S. 143B-437.90 reads as rewritten:

"§ 143B-437.90. North Carolina Wine and Grape Growers Council – Creation; powers and duties.

There is created the North Carolina Wine and Grape Growers Council of the Department of Commerce. The North Carolina Wine and Grape Growers Council shall have the following powers and duties:

- (1) To identify and implement methods for improving North Carolina's rank as a wine-producing ~~State~~State.
- (2) To assure orderly growth and development of North Carolina's grape and wine ~~industry~~industry.
- (3) To achieve public awareness of the quality of North Carolina grapes and ~~wine~~wine.

- (4) To coordinate the interaction of North Carolina's grape and wine industry with other segments of the State's economy such as tourism, retail trade, and ~~horticulture~~; horticulture.
- (5) To conduct methods of quality assurance of North Carolina's grape and wine industry to create a sound foundation for further ~~growth~~; growth.
- (6) To assist in the coordination of the activities of the various State agencies and other organizations contributing to the development of the grape and wine ~~industry~~; industry.
- (7) To receive and disburse ~~funds~~; funds.
- (8) To enter into contracts for the purpose of developing new or improved markets or marketing methods for wine and grape ~~products~~; products.
- (9) To contract for research services to improve viticultural and enological practices in North ~~Carolina~~; Carolina.
- (10) To enter into agreements with any local, state, or national organizations or agency engaged in education for the purpose of disseminating information on wine or other viticultural ~~projects~~; projects.
- (11) To enter into contracts with commercial entities for the purpose of developing marketing, advertising, and other promotional programs designed to promote the orderly growth of the North Carolina grape and wine ~~industry~~; industry.
- (12) To acquire any licenses or permits necessary for performance of the duties of the ~~Council~~; and Council.
- (13) To develop a State Viticulture Plan that identifies problems and constraints of the viticultural industry, proposes solutions to those problems and delineates planning mechanisms for the orderly growth of the industry."

SECTION 3. G.S. 143B-437.91 reads as rewritten:

"§ 143B-437.91. North Carolina Wine and Grape Growers-Council – Composition; terms; reimbursement.

(a) The North Carolina Wine and Grape Growers-Council shall consist of 11 members appointed by the Secretary of Commerce in the following manner: seven commercial grape growers; three winery operators; and one retailer of North Carolina grape products. For purposes of this Article, a commercial grape grower is one who has at least three acres of grapes or sells ten thousand dollars (\$10,000) worth of grapes annually. The Secretary shall appoint members for staggered four-year terms. Members shall serve until their successors are appointed and qualified. Any member of the Council may be reappointed for additional terms. Any appointment to fill a vacancy on the Council shall be for the balance of the unexpired term. Any member of the Council may be removed by the Secretary for misfeasance, malfeasance, or nonfeasance.

(b) Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 from funds appropriated for the operation of the Council.

(c) All clerical and other services required by the Council may be provided by the Department of Commerce.

(d) The Secretary of Commerce shall appoint a chair who shall serve at the pleasure of the Secretary.

(e) The Council may select a secretary who need not be a member of the Council.

(f) The Council shall meet when necessary as determined by the chair or upon written request of a majority of the members.

(g) A majority of the Council shall constitute a quorum for the transaction of business."

SECTION 4. (a) G.S. 105-113.81A reads as rewritten:

"§ 105-113.81A. Distribution of part of wine taxes attributable to North Carolina wine.

The Secretary shall on a ~~quarterly~~ annual basis at the beginning of the fiscal year credit to the Department of Commerce five hundred thousand dollars (\$500,000) from the net proceeds of the excise tax collected on unfortified wine bottled in North Carolina ~~during the previous quarter and the net proceeds of the excise tax collected on fortified wine bottled in North Carolina during the previous quarter, except that the amount credited to the Department of Commerce under this section shall not exceed five hundred thousand dollars (\$500,000) per fiscal year wine.~~ The Department of Commerce shall allocate the funds received under this section to the North Carolina Wine and Grape Growers Council to be used to promote the North Carolina grape and wine industry and to contract for research and development services to improve viticultural and enological practices in North Carolina. Any funds credited to the Department of Commerce under this section that are not expended by June 30 of any fiscal year ~~may do not~~ revert to the General Fund, but ~~shall remain~~ available to the Department for the uses set forth in this section."

SECTION 4.(b) This section becomes effective July 1, 2006. Notwithstanding the provisions of G.S. 105-113.81A, as amended by this section, for the 2006-2007 fiscal year, the distribution required by that section shall be made by October 1, 2006.

SECTION 5. G.S. 18B-203(a) reads as rewritten:

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

...

(19) Recognize the holder of a wine importer permit or nonresident wine vendor permit as a primary American source of supply for the wine of a winery. To be considered a primary American source of supply, a wine importer must establish that it has lawfully purchased the wine from the winery, or from an agent of the winery, and by written contract or otherwise has been authorized by the winery to distribute the wine to wholesalers in the United States."

SECTION 6. G.S. 18B-1106 reads as rewritten:

"§ 18B-1106. Authorization of wine importer permit.

(a) Authorization. – The holder of a wine importer permit may:

- (1) Import fortified and unfortified wines from outside the United States in closed containers;
- (2) Store those wines;
- (3) Sell those wines to wine wholesalers for purposes of resale.

(b) Distribution Agreements. – Wine distribution agreements are governed by Article 12 of this Chapter.

(c) The holder of a wine importer permit may import and sell to wholesalers only wine for which it is a primary American source of supply. To be considered a primary American source of supply, a wine importer must establish that it has lawfully purchased the wine from the winery, or from an agent of the winery, and by written contract or otherwise has been authorized by the winery to distribute the wine to wholesalers in the United States."

SECTION 7. G.S. 18B-1107 reads as rewritten:

"§ 18B-1107. Authorization of wine wholesaler permit.

(a) Authorization. – The holder of a wine wholesaler permit may:

- (1) Receive, possess and transport shipments of fortified and unfortified ~~wine;~~wine. The wine must be received from one of the following:
 - a. A primary American source of supply for that wine as recognized by the Commission or as verified by the wholesaler.
 - b. A licensed North Carolina wholesaler who received the wine from a primary American source of supply and with whom the second wholesaler has a subcontracting agreement for distribution of the wine.
 - c. Another wholesaler from whom the purchasing wholesaler is purchasing the wholesaler's business or from whom the wholesaler is purchasing the brand or distribution rights for the wine being received.
 - d. Another wholesaler who also has distribution rights for the wine being received and from whom the wholesaler is acquiring the wine in order to address a temporary inventory shortage.
- (2) Sell, deliver and ship wine in closed containers for purposes of resale to wholesalers or retailers licensed under this Chapter as authorized by the ABC ~~laws;~~laws.
- (3) Furnish and sell wine to its employees, subject to the rules of the Commission and the Department of ~~Revenue;~~Revenue.
- (4) In locations where the sale is legal, furnish wine to guests and any other person who does not hold an ABC permit, for promotional purposes, subject to rules of the ~~Commission;~~Commission.
- (5) Sell out-of-date unfortified and fortified wines to holders of cider and vinegar manufacturer permits, provided that each bottle is marked "out-of-date" by the wholesaler.

(b) Distribution Agreements. – Wine distribution agreements are governed by Article 12 of this Chapter."

SECTION 8. G.S. 18B-1114 reads as rewritten:

1 **"§ 18B-1114. Authorization of nonresident wine vendor permit.**

2 The holder of a nonresident wine vendor permit may sell, deliver, and ship
3 unfortified and fortified wine in this State only to wholesalers, importers, and bottlers
4 licensed under this Chapter, as authorized by the ABC laws. The unfortified and
5 fortified wine must come to rest at the licensed premises of a wine wholesaler in this
6 State before being resold to a retailer. A nonresident wine vendor permit may be issued
7 to a winery, a wholesaler, an importer, or a bottler outside North Carolina who desires
8 to sell, deliver, and ship unfortified and fortified wine into this State. The holder of a
9 nonresident wine vendor permit may sell, deliver, and ship into this State only wine for
10 which it is a primary American source of supply. To be considered a primary American
11 source of supply, a nonresident wine vendor must establish that it has lawfully
12 purchased the wine from the winery, or from an agent of the winery, and by written
13 contract or otherwise has been authorized by the winery to distribute the wine to
14 wholesalers in the United States."

15 **SECTION 9.** G.S. 18B-105(a) reads as rewritten:

16 "(a) General Rule. – No person shall offer or advertise alcoholic beverages in this
17 State except in compliance with this Article and the rules of the Commission."

18 **SECTION 10.** Article 10 of Chapter 18B of the General Statutes is amended
19 by adding a new section to read:

20 **"§ 18B-105.1. Use of discounts in advertising.**

21 (a) Authorization – Advertising for an alcoholic beverage may not include a
22 coupon offering a free alcoholic beverage. No person shall advertise by means of a
23 coupon or rebate offering a discount off the purchase of a malt beverage or wine,
24 except as provided in this section. A permittee who holds an on-premises or
25 off-premises wine permit under G.S. 18B-1001(3) through (6) or a wine shop permit
26 under G.S. 18B-1001(16) may promote by means of a coupon, a membership card, a
27 discount card, or a retailer's loyalty card in the following circumstances:

28 (1) The permittee may provide a discount coupon for use by a customer
29 when purchasing a wine sold at the permittee's retail location for
30 off-premises consumption.

31 (2) The permittee may require a customer to use the permittee's
32 membership card, discount card, or loyalty card in order for the
33 customer to receive a discounted price when purchasing a wine sold at
34 the permittee's retail location for off-premises consumption.

35 (b) Scope – This section shall not authorize cooperation between a retailer and an
36 industry member in violation of G.S. 18B-1116."

37 **SECTION 11.** G.S. 18B-1001(16) reads as rewritten:

38 **"§ 18B-1001. Kinds of ABC permits; places eligible.**

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

41 ...
42 (16) Wine Shop Permit. – A wine shop permit authorizes the retail sale of
43 malt beverages, unfortified wine, and fortified wine in the
44 manufacturer's original container for consumption off the premises,

1 and authorizes wine tastings on the premises conducted and supervised
2 by the permittee in accordance with subdivision (15) of this section. It
3 also authorizes the holder of the permit to ship malt beverages,
4 unfortified wine, and fortified wine in closed containers to individual
5 purchasers inside and outside the State. The permit may be issued for
6 retail businesses whose primary purpose is selling malt beverages and
7 wine for consumption off the premises and regularly and customarily
8 educating consumers through tastings, classes, and seminars about the
9 selection, serving, and storing of wine. The holder of the permit is
10 authorized to sell unfortified wine for consumption on the premises,
11 provided that the sale of wine for consumption on the premises does
12 not exceed forty percent (40%) of the establishment's total sales for
13 any 30-day period. ~~The sale of wine for consumption on the premises~~
14 ~~shall be limited to those amounts that remain in opened bottles upon~~
15 ~~the conclusion of an authorized wine tasting, and individual servings~~
16 ~~shall not exceed four ounces per glass.~~ The holder of a wine-tasting
17 permit not engaged in the preparation or sale of food on the premises is
18 not subject to Part 6 of Article 8 of Chapter 130A of the General
19 Statutes."

20 **SECTION 12.** Except as otherwise provided herein, this act is effective
21 when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

7/18/06 - ATT# 4

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____

DATE _____

S. B. No. _____

Amendment No. _____

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) _____

Sen.) _____

1 moves to amend the bill on page 1, line 2

2 (X) WHICH CHANGES THE TITLE

3 by deleting "NAME OF" and substituting

4 "LAW CONCERNING" and on lines 3-5 by

5 deleting the phrase "TO PROVIDE FOR THE DISTRIBUTION

6 OF WINE TAXES EARMARKED FOR THE NORTH

7 CAROLINA WINE AND GRAPE COUNCIL"

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 828

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S828-ALY-142 [v.3]

Page 1 of 2

Date _____, 2006

Comm. Sub. [YES]
Amends Title [YES]
S828-CSR-33

Representative _____

1 moves to amend the bill on page 1, lines 3-8, by rewriting those lines to read:
2 "GROWERS COUNCIL; TO AMEND THE REVENUE LAWS RELATED TO WINE
3 PRODUCTION; TO PROVIDE FOR THE DESIGNATION OF A PRIMARY
4 SOURCE FOR THE IMPORTATION OF WINE INTO THE STATE; AND TO
5 AMEND CHAPTER 18B OF THE GENERAL STATUTES TO RESTRICT THE
6 USE OF PROMOTIONAL ADVERTISING FOR WINE AND MALT
7 BEVERAGES."
8

9 And on page 6, lines 23-24, by rewriting those lines to read:

10 "SECTION 12. Effective July 1, 2007, G.S. 105-164.13(39) reads as
11 rewritten:

12 '**§ 105-164.13. Retail sales and use tax.**

13 The sale at retail and the use, storage, or consumption in this State of the following
14 tangible personal property and services are specifically exempted from the tax imposed
15 by this Article:

16 ...

17 (39) Sales of paper, ink, and other tangible personal property to commercial
18 printers and commercial publishers for use as ingredients or
19 component parts of free distribution periodicals and sales by printers
20 of free distribution periodicals to the publishers of these periodicals.
21 As used in this subdivision, the term "free distribution periodical"
22 means a publication that is continuously published on a periodic basis
23 ~~monthly~~ quarterly or more frequently, is provided without charge to
24 the recipient, and is distributed in any manner other than by mail.'



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 828

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S828-ALY-142 [v.3]

Page 2 of 2

1 **SECTION 13.** Except as otherwise provided herein, this act is effective
2 when it becomes law."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

S

D

**SENATE BILL 828
Commerce Committee Substitute Adopted 5/25/05
Third Edition Engrossed 5/26/05
PROPOSED HOUSE COMMITTEE SUBSTITUTE S828-PCS65635-RV-33**

Short Title: 2006 Viticulture/Enology Act.

(Public)

Sponsors:

Referred to:

March 23, 2005

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE LAW CONCERNING THE NORTH CAROLINA GRAPE GROWERS COUNCIL, TO AMEND THE REVENUE LAWS RELATED TO WINE PRODUCTION, TO PROVIDE FOR THE DESIGNATION OF A PRIMARY SOURCE FOR THE IMPORTATION OF WINE INTO THE STATE, TO AMEND CHAPTER 18B OF THE GENERAL STATUTES CONCERNING WINESHOPS AND TO RESTRICT THE USE OF PROMOTIONAL ADVERTISING FOR WINE AND MALT BEVERAGES.

The General Assembly of North Carolina enacts:

SECTION 1. The title of Part 2J of Article 10 of Chapter 143B of the General Statutes reads as rewritten:

"Part 2J. North Carolina Wine and Grape Growers-Council."

SECTION 2. G.S. 143B-437.90 reads as rewritten:

"§ 143B-437.90. North Carolina Wine and Grape Growers-Council – Creation; powers and duties.

There is created the North Carolina Wine and Grape Growers-Council of the Department of Commerce. The North Carolina Wine and Grape Growers-Council shall have the following powers and duties:

- (1) To identify and implement methods for improving North Carolina's rank as a wine-producing State; State.
- (2) To assure orderly growth and development of North Carolina's grape and wine industry; industry.
- (3) To achieve public awareness of the quality of North Carolina grapes and wine; wine.

- (4) To coordinate the interaction of North Carolina's grape and wine industry with other segments of the State's economy such as tourism, retail trade, and ~~horticulture~~; horticulture.
- (5) To conduct methods of quality assurance of North Carolina's grape and wine industry to create a sound foundation for further ~~growth~~; growth.
- (6) To assist in the coordination of the activities of the various State agencies and other organizations contributing to the development of the grape and wine ~~industry~~; industry.
- (7) To receive and disburse ~~funds~~; funds.
- (8) To enter into contracts for the purpose of developing new or improved markets or marketing methods for wine and grape ~~products~~; products.
- (9) To contract for research services to improve viticultural and enological practices in North ~~Carolina~~; Carolina.
- (10) To enter into agreements with any local, state, or national organizations or agency engaged in education for the purpose of disseminating information on wine or other viticultural ~~projects~~; projects.
- (11) To enter into contracts with commercial entities for the purpose of developing marketing, advertising, and other promotional programs designed to promote the orderly growth of the North Carolina grape and wine ~~industry~~; industry.
- (12) To acquire any licenses or permits necessary for performance of the duties of the ~~Council~~; and Council.
- (13) To develop a State Viticulture Plan that identifies problems and constraints of the viticultural industry, proposes solutions to those problems and delineates planning mechanisms for the orderly growth of the industry."

SECTION 3. G.S. 143B-437.91 reads as rewritten:

"§ 143B-437.91. North Carolina Wine and Grape Growers-Council – Composition; terms; reimbursement.

(a) The North Carolina Wine and Grape Growers-Council shall consist of 11 members appointed by the Secretary of Commerce in the following manner: seven commercial grape growers; three winery operators; and one retailer of North Carolina grape products. For purposes of this Article, a commercial grape grower is one who has at least three acres of grapes or sells ten thousand dollars (\$10,000) worth of grapes annually. The Secretary shall appoint members for staggered four-year terms. Members shall serve until their successors are appointed and qualified. Any member of the Council may be reappointed for additional terms. Any appointment to fill a vacancy on the Council shall be for the balance of the unexpired term. Any member of the Council may be removed by the Secretary for misfeasance, malfeasance, or nonfeasance.

(b) Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 from funds appropriated for the operation of the Council.

(c) All clerical and other services required by the Council may be provided by the Department of Commerce.

(d) The Secretary of Commerce shall appoint a chair who shall serve at the pleasure of the Secretary.

(e) The Council may select a secretary who need not be a member of the Council.

(f) The Council shall meet when necessary as determined by the chair or upon written request of a majority of the members.

(g) A majority of the Council shall constitute a quorum for the transaction of business."

SECTION 4.(a) G.S. 105-113.81A reads as rewritten:

"§ 105-113.81A. Distribution of part of wine taxes attributable to North Carolina wine.

The Secretary shall on ~~a quarterly~~ an annual basis at the beginning of the fiscal year credit to the Department of Commerce five hundred thousand dollars (\$500,000) from the net proceeds of the excise tax collected on unfortified wine bottled in North Carolina during the previous quarter and the net proceeds of the excise tax collected on fortified wine bottled in North Carolina during the previous quarter, except that the amount credited to the Department of Commerce under this section shall not exceed five hundred thousand dollars (\$500,000) per fiscal year. The Department of Commerce shall allocate the funds received under this section to the North Carolina Wine and Grape Growers Council to be used to promote the North Carolina grape and wine industry and to contract for research and development services to improve viticultural and enological practices in North Carolina. Any funds credited to the Department of Commerce under this section that are not expended by June 30 of any fiscal year may do not revert to the General Fund, but ~~shall~~ remain available to the Department for the uses set forth in this section."

SECTION 4.(b) This section becomes effective July 1, 2006. Notwithstanding the provisions of G.S. 105-113.81A, as amended by this section, for the 2006-2007 fiscal year, the distribution required by that section shall be made by October 1, 2006.

SECTION 5. G.S. 18B-203(a) reads as rewritten:

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

...

(19) Recognize the holder of a wine importer permit or nonresident wine vendor permit as a primary American source of supply for the wine of a winery. To be considered a primary American source of supply, a wine importer must establish that it has lawfully purchased the wine from the winery, or from an agent of the winery, and by written contract or otherwise has been authorized by the winery to distribute the wine to wholesalers in the United States."

SECTION 6. G.S. 18B-1106 reads as rewritten:

"§ 18B-1106. Authorization of wine importer permit.

(a) Authorization. – The holder of a wine importer permit may:

- (1) Import fortified and unfortified wines from outside the United States in closed containers;
- (2) Store those wines;
- (3) Sell those wines to wine wholesalers for purposes of resale.

(b) Distribution Agreements. – Wine distribution agreements are governed by Article 12 of this Chapter.

(c) The holder of a wine importer permit may import and sell to wholesalers only wine for which it is a primary American source of supply. To be considered a primary American source of supply, a wine importer must establish that it has lawfully purchased the wine from the winery, or from an agent of the winery, and by written contract or otherwise has been authorized by the winery to distribute the wine to wholesalers in the United States.

SECTION 7. G.S. 18B-1107 reads as rewritten:

"§ 18B-1107. Authorization of wine wholesaler permit.

(a) Authorization. – The holder of a wine wholesaler permit may:

- (1) Receive, possess and transport shipments of fortified and unfortified ~~wine;~~wine. The wine must be received from one of the following:
 - a. A primary American source of supply for that wine as recognized by the Commission or as verified by the wholesaler.
 - b. A licensed North Carolina wholesaler who received the wine from a primary American source of supply and with whom the second wholesaler has a subcontracting agreement for distribution of the wine.
 - c. Another wholesaler from whom the purchasing wholesaler is purchasing the wholesaler's business or from whom the wholesaler is purchasing the brand or distribution rights for the wine being received.
 - d. Another wholesaler who also has distribution rights for the wine being received and from whom the wholesaler is acquiring the wine in order to address a temporary inventory shortage.
- (2) Sell, deliver and ship wine in closed containers for purposes of resale to wholesalers or retailers licensed under this Chapter as authorized by the ABC ~~laws;~~laws.
- (3) Furnish and sell wine to its employees, subject to the rules of the Commission and the Department of ~~Revenue;~~Revenue.
- (4) In locations where the sale is legal, furnish wine to guests and any other person who does not hold an ABC permit, for promotional purposes, subject to rules of the ~~Commission;~~Commission.
- (5) Sell out-of-date unfortified and fortified wines to holders of cider and vinegar manufacturer permits, provided that each bottle is marked "out-of-date" by the wholesaler.

(b) Distribution Agreements. – Wine distribution agreements are governed by Article 12 of this Chapter."

SECTION 8. G.S. 18B-1114 reads as rewritten:

"§ 18B-1114. Authorization of nonresident wine vendor permit.

The holder of a nonresident wine vendor permit may sell, deliver, and ship unfortified and fortified wine in this State only to wholesalers, importers, and bottlers licensed under this Chapter, as authorized by the ABC laws. The unfortified and fortified wine must come to rest at the licensed premises of a wine wholesaler in this State before being resold to a retailer. A nonresident wine vendor permit may be issued to a winery, a wholesaler, an importer, or a bottler outside North Carolina who desires to sell, deliver, and ship unfortified and fortified wine into this State. The holder of a nonresident wine vendor permit may sell, deliver, and ship into this State only wine for which it is a primary American source of supply. To be considered a primary American source of supply, a nonresident wine vendor must establish that it has lawfully purchased the wine from the winery, or from an agent of the winery, and by written contract or otherwise has been authorized by the winery to distribute the wine to wholesalers in the United States."

SECTION 9. G.S. 18B-105(a) reads as rewritten:

"(a) General Rule. – No person shall offer or advertise alcoholic beverages in this State except in compliance with this Article and the rules of the Commission."

SECTION 10. Article 10 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-105.1. Use of discounts in advertising.

(a) Authorization. – Advertising for an alcoholic beverage may not include a coupon offering a free alcoholic beverage. No person shall advertise by means of a coupon or rebate offering a discount off the purchase of a malt beverage or wine, except as provided in this section. A permittee who holds an on-premises or off-premises malt beverage or wine permit under G.S. 18B-1001(1) through (6) or a wine shop permit under G.S. 18B-1001(16) may promote by means of a coupon, a membership card, a discount card, or a retailer's loyalty card in the following circumstances:

(1) The permittee may provide a discount coupon for use by a customer when purchasing a malt beverage or wine sold at the permittee's retail location for off-premises consumption.

(2) The permittee may require a customer to use the permittee's membership card, discount card, or loyalty card in order for the customer to receive a discounted price when purchasing a malt beverage or wine sold at the permittee's retail location for off-premises consumption.

(b) Scope. – This section shall not authorize cooperation between a retailer and an industry member in violation of G.S. 18B-1116."

SECTION 11. G.S. 18B-1001(16) reads as rewritten:

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

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

...

(16) Wine Shop Permit. – A wine shop permit authorizes the retail sale of malt beverages, unfortified wine, and fortified wine in the manufacturer's original container for consumption off the premises, and authorizes wine tastings on the premises conducted and supervised by the permittee in accordance with subdivision (15) of this section. It also authorizes the holder of the permit to ship malt beverages, unfortified wine, and fortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for retail businesses whose primary purpose is selling malt beverages and wine for consumption off the premises and regularly and customarily educating consumers through tastings, classes, and seminars about the selection, serving, and storing of wine. The holder of the permit is authorized to sell unfortified wine for consumption on the premises, provided that the sale of wine for consumption on the premises does not exceed forty percent (40%) of the establishment's total sales for any 30-day period. ~~The sale of wine for consumption on the premises shall be limited to those amounts that remain in opened bottles upon the conclusion of an authorized wine tasting, and individual servings shall not exceed four ounces per glass.~~ The holder of a wine-tasting permit not engaged in the preparation or sale of food on the premises is not subject to Part 6 of Article 8 of Chapter 130A of the General Statutes."

SECTION 12. Effective July 1, 2007, G.S. 105-164.13(39) reads as rewritten:

"§ 105-164.13. Retail sales and use tax.

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property and services are specifically exempted from the tax imposed by this Article:

...

(39) Sales of paper, ink, and other tangible personal property to commercial printers and commercial publishers for use as ingredients or component parts of free distribution periodicals and sales by printers of free distribution periodicals to the publishers of these periodicals. As used in this subdivision, the term "free distribution periodical" means a publication that is continuously published on a periodic basis ~~monthly~~ quarterly or more frequently, is provided without charge to the recipient, and is distributed in any manner other than by mail."

SECTION 13. Except as otherwise provided herein, this act is effective when it becomes law.

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative Gibson (Chair) for the Committee on ALCOHOLIC BEVERAGE CONTROL.

☐ Committee Substitute for

HB 2465 A BILL TO BE ENTITLED AN ACT TO MAKE A TECHNICAL CORRECTION IN A LOCAL ACT TO CLARIFY THAT THE DISTRIBUTION PROCEDURE IS IN ACCORDANCE WITH 1977 LEGISLATION AS HAS BEEN THE CONTINUOUS PRACTICE SINCE THEN.

☒ With a favorable report.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative Gibson (Chair) for the Committee on ALCOHOLIC BEVERAGE CONTROL.

☒ ~~House~~ Committee Substitute for

SB 828 A BILL TO BE ENTITLED AN ACT TO ELIMINATE THE ONE-TIME WINE SHIPPERS' APPLICATION FEE, AND TO TRANSFER THE NORTH CAROLINA GRAPE GROWERS COUNCIL TO THE DEPARTMENT OF COMMERCE.

☒ With a favorable report as to the House committee substitute bill, which changes the title, unfavorable as to the original bill -1.

Senate Comm. Sub Bill

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No. _____) is placed on the Calendar of _____. (The original bill resolution No. _____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. _____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. _____) is placed on the Unfavorable Calendar.

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

<u>NAME</u>	<u>FIRM OR AGENCY</u>
John McQuillen	MFS
WH POTTER JR	Indwidual
SUSANNE STEER	NCRAT
Sam Seif	WCSR
Chris Volpuri	NC Bee & Wine Assoc
Elizabeth Dutton	NCRMA
B. Lynn	NC
Andy Roman	NCLM
Lauren Rogers	NCFBO
John Little	Self
Jeff Miron	Civitas
MARK CREECH	CAC
Lynn Bonner	NBO
Jon Carr	Jordan Price - NC Assoc. ABC Boards
Joni Fitzgerald	NC Family Policy Council
Don Diering	NC Ind. Wine Retailers Assoc.
Margo Knight	NC Wine and Grape Council
Dick Corliss	attn.
Andy Ellen	NCRMA
Ally Hays	NCPCA
John Jackson	
John Wolf	Daily Bulletin
Justin Brackett	Rep. Moore
Danish Belfer	ALLEY ASSOCIATES INC
Camden Courtland	Rod C. Clark Group
	Daily Bulletin

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME

FIRM OR AGENCY

Judy McConnell

Daily Bulletin

Barbara Casler

BSCOR

DAVID BARNES

Poyner & Spruill

HOUSE COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL

Meeting Agenda

June 20, 2006

3:30 pm

1. Call to Order

2. Bills

SB 1311 – No Alcohol on Polk County Rivers

HB 2136 – Increase High Point ABC Board Members

HB 2135 – Transfer of ABC Board Property

3. Adjourn

MINUTES
HOUSE COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL

Tuesday, June 20, 2006

The House Committee on Alcoholic Beverage Control met on Tuesday, June 20, 2006, 3:35 pm around Representative Gibson's desk on the Chamber Floor. The following members were present: Chairman Pryor Gibson, Vice-Chair Ed Jones, Representatives Goforth, Lucas, Jones, Moore, Starnes, and Tucker. Staff in attendance: Susan Sitze.

Chairman Gibson called the meeting to order.

SB 1311 – No Alcohol on Polk County Rivers (Attachments 1, 2). Representative Walend said that this was a technical correction to clarify that shoreline was not included. Representative Starnes proposed an amendment to the bill. Representative Goforth moved for to include the amendment. Passed. Representative Goforth again moved for a favorable report on the amended bill rolled into a Proposed Committee Substitute, unfavorable to the original bill. Passed.

HB 2136 – Increase High Point ABC Board Members (Attachment 3). Representative Wylie explained that the bill increased the High Point ABC Board from three to five members and established terms of office for the new members. Representative Lucas moved for a favorable report. Passed.


HB 2135 – Transfer of ABC Board Property (Attachment 4). Representative Wiley explained that the bill fixed the sale with title clear in High Point due to a mistake in advertising. It is a local government bill. Representative Goforth moved for a favorable report.

There being no further business, the Chair adjourned the meeting at 3:45 p.m.

Respectfully submitted,



Representative Pryor Gibson
Chair



Shirlyn MacPherson
Committee Assistant

ATT # 1
6/20/06

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

S

D

SENATE BILL 1311*

**State and Local Government Committee Substitute Adopted 6/1/06
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1311-PCS55506-SA-37**

Short Title: No Alcohol on Polk County Rivers.

(Local)

Sponsors:

Referred to:

May 11, 2006

A BILL TO BE ENTITLED

**AN ACT TO PROHIBIT THE POSSESSION OR CONSUMPTION OF ALCOHOL
ON RIVERS IN POLK COUNTY.**

The General Assembly of North Carolina enacts:

SECTION 1. It is unlawful to possess or consume any alcoholic beverage on the waters of any river in Polk County or within 50 feet of the banks of any river in Polk County.

SECTION 2. This act does not apply to the actions of a landowner, the landowner's lessee, or the landowner's or lessee's guests on the landowner's property, if that property is adjacent to a river, and does not apply to that portion of the Green River that has been impounded to form Lake Adger.

SECTION 3. Violation of this act is a Class 3 misdemeanor punishable by a fine of not less than fifty dollars (\$50.00).

SECTION 4. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by peace officers with general subject matter jurisdiction.

SECTION 5. This act applies only to Polk County.

SECTION 6. This act becomes effective August 1, 2006, and applies to offenses committed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

S

2

SENATE BILL 1311*
State and Local Government Committee Substitute Adopted 6/1/06

Short Title: No Alcohol on Polk County Rivers.

(Local)

Sponsors:

Referred to:

May 11, 2006

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE POSSESSION OR CONSUMPTION OF ALCOHOL
ON RIVERS IN POLK COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. It is unlawful to possess or consume any alcoholic beverage on
the waters of any river in Polk County or within 50 feet of the banks of any river in Polk
County.

SECTION 2. This act does not apply to the actions of a landowner, the
landowners lessee, or the landowner or lessee's guests on the landowner's property and
does not apply to that portion of the Green River that has been impounded to form Lake
Adger.

SECTION 3. Violation of this act is a Class 3 misdemeanor punishable by a
fine of not less than fifty dollars (\$50.00).

SECTION 4. This act is enforceable by law enforcement officers of the
Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by peace officers
with general subject matter jurisdiction.

SECTION 5. This act applies only to Polk County.

SECTION 6. This act becomes effective August 1, 2006, and applies to
offenses committed on or after that date.

ATT#2A
6/20/06



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1311*

S1311-ARV-24 [v.1]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

Date _____, 2006

Comm. Sub. [NO]
Amends Title [NO]
Second Edition

Representative _____

- 1 moves to amend the bill on page 1, line 9,
- 2 by inserting after the word "property" the following: "if that property is adjacent to a
- 3 river".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 2136

Short Title: Increase High Point ABC Board Members. (Local)Sponsors: Representatives Wiley, Jones (Primary Sponsors); Adams and Jeffus.Referred to: Local Government I, if favorable, Alcoholic Beverage Control.

May 18, 2006

A BILL TO BE ENTITLED
AN ACT TO INCREASE THE NUMBER OF THE CITY OF HIGH POINT ABC BOARD
MEMBERS FROM THREE TO FIVE AND TO ESTABLISH TERMS OF OFFICE FOR
THE NEWLY APPOINTED MEMBERS.

The General Assembly of North Carolina enacts:

SECTION 1. Article VI of Chapter 501 of the 1979 Session Laws reads as rewritten:
"ARTICLE VI.**"ALCOHOLIC BEVERAGE CONTROL.****"Sec. 6.1. Membership; term of office; appointment; vacancy.****"Sec. 6.2. Powers and duties.****"Sec. 6.3. Distribution of profit.**

"Sec. 6.1. Membership; term of office; appointment; vacancy. The City of High Point ~~Board of Alcoholic Control~~ Alcoholic Beverage Control Board shall be composed of a chairman and ~~two (2)~~ four (4) other members who shall be well known for their character, ability, and business acumen. The chairman and ~~two (2)~~ other members of the Board shall serve for terms of three (3) years each on a staggered basis, with the term of one (1) member expiring each ~~year~~ year except in those years when two members' terms will expire at the same time. All appointments to the Board, including appointments to fill vacancies, shall be made by the Mayor and City Council of High Point. Compensation of the members of the ~~board of alcoholic control~~ Alcoholic Beverage Control Board shall be fixed by the council. Any member appointed to the board must be a resident of the City of High Point and in the event any member, during the term of his appointment, shall move out of the corporate limits of the City of High Point it shall be the duty of the council to appoint a person to fill the vacancy.

"Sec. 6.2. Powers and duties. The Board shall have all the powers and duties imposed by State law on county boards of alcoholic control, shall be subject to the authority of the State ~~Board of Alcoholic Control~~ Alcoholic Beverage Control Commission to the same extent as are county ~~boards of alcoholic control~~ alcoholic beverage control boards, and shall operate all city alcoholic beverage control stores in accordance with State laws regulating the operation of county alcoholic beverage control stores. The Council of the City of High Point shall, upon its request, have the right to review any action taken by said Alcoholic Beverage Control Board and

to either approve or disapprove the action.

"Sec. 6.3. Distribution of profit. The City of High Point ~~Board of Alcoholic Control~~ Alcoholic Beverage Control Board shall at the end of each quarterly period following the establishment of ~~liquor~~ alcoholic beverage control stores deduct the necessary expenses of the operation of such stores, and shall expend for law enforcement, education and rehabilitation purposes not less than five percent (5%) nor more than fifteen percent (15%) of the total profits, and shall retain a sufficient and proper working capital, the amount to be determined by the board; and the entire net profits derived from the operation of ~~liquor~~ alcoholic beverage control stores in the City of High Point shall be paid as follows:

a. Twenty percent (20%) of the net profits shall be apportioned and paid into the General Fund of Guilford County.

b. Eighty percent (80%) of the net profits shall be paid to the city collector of the City of High Point and may be used by the City of High Point for any public purposes."

SECTION 2. G.S. 18B-700(a) reads as rewritten:

"(a) Membership. – A local ABC board shall consist of ~~three~~ five members appointed for three-year terms, unless a different membership or term is provided by a local act enacted before the effective date of this Chapter, or unless the board is a board for a merged ABC system under G.S. 18B-703 and a different size membership has been provided for as part of the negotiated merger. One member of the initial board of a newly created ABC system shall be appointed for a three-year term, one member for a two-year term, and one member for a one-year term. As the terms of initial board members expire, their successors shall each be appointed for three-year terms. The appointing authority shall designate one member of the local board as chairman."

SECTION 3. Section 2 of this act applies to the City of High Point only.

SECTION 4. The Mayor and City Council of the City of High Point shall appoint additional members authorized by this act to serve initial terms that will be effective on July 1, 2006, or upon appointment, and will expire on November 15, 2009, and then for three-year terms thereafter. Members currently appointed to the Board shall continue to serve their term until it expires. In the event a member is removed or leaves the Board for any reason, the new member appointed to the Board shall fill the remainder of the unexpired term.

SECTION 5. This act is effective when it becomes law.

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**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

H

1

HOUSE BILL 2135

Short Title: Transfer of ABC Board Property. (Local)
Sponsors: Representatives Wiley, Jones (Primary Sponsors); Adams and Jeffus.
Referred to: Local Government I, if favorable, Alcoholic Beverage Control.

May 18, 2006

**A BILL TO BE ENTITLED
AN ACT TO EXEMPT THE SALE OF REAL PROPERTY WHICH WAS OWNED BY THE
HIGH POINT ALCOHOLIC BEVERAGE CONTROL BOARD FROM THE
REQUIREMENTS OF ARTICLE 12 OF CHAPTER 160A FOR SALES THAT
OCCURRED IN 2002 AND 2005.**

The General Assembly of North Carolina enacts:

SECTION 1. The transfer of real property by the High Point Alcoholic Beverage Control Board located at Lot B of the property of The Mitchell Company as described in Book 5584, pages 0182 to 0184, per plats thereof recorded in the Office of the Register of Deeds for Guilford County, North Carolina, in 2002, and 910 Greensboro Road, High Point, North Carolina, as described in Book 6389, pages 0107 to 0109 and recorded in the Office of the Register of Deeds for Guilford County, North Carolina, in 2005, shall not be deemed invalid for failure to follow the procedures for the sale of real property outlined in Article 12 of Chapter 160A.

SECTION 2. This act is effective when it becomes law.

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**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2005-2006 SESSION**

You are hereby notified that the Committee on ALCOHOLIC BEVERAGE CONTROL will meet as follows:

DAY & DATE: TUESDAY, APRIL 19, 2005

TIME: 1:00 PM

LOCATION: 425 LOB

The following bills will be considered (Bill # & Short Title & Bill Sponsor):
TBA

Respectfully,
Representative Gibson
Chair

I hereby certify this notice was filed by the committee assistant at the following offices at
11:30 a.m. on April 14, 2005.

____Principal Clerk
____Reading Clerk - House Chamber

Shirlyn MacPherson (Committee Assistant)

HOUSE COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL

Meeting Agenda

APRIL 19, 2005

1:00 pm

1. Call to Order

2. Bills (not necessarily in this order and as time allows):

HB-570 – Kings Mountain ABC Board Profit Distribution

HB 1174 – ABC Permit Issuance and Compliance

3. Adjourn

MINUTES
HOUSE COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL

Tuesday, April 19, 2005

The House Committee on Alcoholic Beverage Control met on Tuesday, April 19, 2005, in Room 425 of the Legislative Office Building at 1:00 P.M. The following members were present: Chairman Pryor Gibson, Vice-Chair Ed Jones, Vice-Chair Paul Miller, Representatives Daughtry, Goforth, Lucas, Moore, Starnes and Tucker. Staff in attendance: Brenda Carter, Mikael Gross and Susan Sitze. A Visitor Registration list is attached and made part of these minutes.

Chairman Gibson called the meeting to order and welcomed staff, members and visitors. He explained that this committee planned to meet at least the next three Tuesdays before crossover on May 11th. There are at least eight or nine pieces of legislation.

House Bill 570 (Attachment 1), KINGS MOUNTAIN ABC BOARD PROFIT DISTRIBUTION. Representative Moore explained that the bill was created to change profit distribution by giving more to the City of Kings Mountain and that as far as he knew, there was no objection to the bill. Representative Daughtry moved to give the bill a favorable report. Motion passed.

House Bill 1174 (Attachment #2), AMEND DEFINITION OF MALT BEVERAGE IN ABC LAW. Representative Daughtry moved to place the Proposed Committee Substitute (PCS H1174-CSSA-7 [v.3] before the committee. (Attachments 3 and 4). Representative Ross said that, in her district, there were a wide variety of ABC establishments as Glenwood South, Moore Square (an urban development), and areas of southeast Raleigh that supposed illegal activities on their premises is often difficult to get compliance with ABC and local laws. For the past two years, she have been looking at ways to tighten ABC laws so that good responsible people who have permits and contribute to the economy are not affected or suffer from any law. Some establishments who are not accountable may lose their ABC permits. She has worked with the ABC Commission, the Restaurant Association, and Retail Merchants to attain workable legislation. That is not to say that all of those parties endorse this legislation. They have just been solicited for input.

The first section talks about what the premises are for the purposes of Chapter 18B which is the state ABC laws. It talks about the area (inside and out) where the permittee has control of the property. The second part requires, prior to the issuance of an ABC permit to any business, the Alcoholic Beverage Control Commission must determine whether such business would be detrimental to the neighborhood according to specified criteria. It also requires that, before a permit issued to a business in an Urban Redevelopment Area, the local governing board must provide the Commission with a Zoning and Compliance Form demonstrating that the business has been notified that it will be located within that area. Once the business is notified, obligations under the ABC laws are enforced. In the past, lack of notification has caused problems enforcing regulations and wanted to be sure that notification be given. The next part gives the Commission discretion to determine the suitability of a location to which a permit may be issued.

Section 4 creates a mandatory revocation where a permittee (or their employee) has been found in violation of ABC laws two or more times within a twelve-month period or has knowingly allowed a violation. Those violations must be proven throughout the process – not just a citation – it is a violation you can challenge but you have due process. After due process, if violations of two in a twelve-month period, a mandatory revocation will occur. If the permittee provides alcohol education training to the employees within thirty days of receiving notification, the Commission may choose not to revoke the permit. The training is to show a good faith that the business is trying not to have future violations.

Section 5 exempts that the revocation under the new provisions in Section 4 because you have already had all the hearing requirements.

Section 6 makes the act effective December 1, 2005. Anything that happened before that date would not go to apply to this particular law.

Representative Daughtry inquired what the definition was for premises. Representative Ross explained that there really was no definition before. It was basically something that was in a permit – it could be something very broad or something very narrow. It was whatever might have been drawn out. This was a way to make it clear across the board what the premise would be but have it be a fair definition because the permittee would have to have control over that premise. Representative Daughtry asked was there nowhere in the law that defined premise? Representative Ross responded not to her knowledge but would defer to staff. She also added that this definition was by the request of the ABC Commission.

Doyle Alley, Assistant Administrator of the ABC Commission, explained there was a presently defined rule that are by diagram prepared by the ALE agent who completes the application investigation shall be prima facie evidence of what the needs and bounds of the licensed premise will be. Some of the issues that we encounter are a wide variety of the quality of those diagrams, and some are very detailed and not very detailed at all.

T. Jerry Williams, NC Restaurant Association, said that at the beginning of the 2003 Session, after ABC zoning was defeated, Representative Ross approached him to discuss that issue. He said the worse thing in the world that could happen in our system was to have local authorities have zoning authority over ABC permits because with 600+ municipalities, 100 counties, theoretically, we could have 700 sets of ABC laws in North Carolina and that would be a nightmare for permittees, particularly those people who own multiple establishments. He said they set out to do something that the Commission, ALE, and the permittees could work with that would solve some of the problems that Representative Ross was seeking to solve without going into an ABC zoning concept and would like it so that a zoning bill will not be introduced every session.

Andy Allen, General Council, North Carolina Retail Merchants Association, stated that they had been working with this also for two or three years and would like to help solve some of the problems in the more blighted areas of our communities without going so large. He thought that they were close to getting a good bill, but do still have some concerns regarding the mandatory revocation for two violations of the Chapter. There are a number of things that can be cited as a retailer, especially for businesses that surround a college or university for example NC State. He recommended looking at 18B-105, which looks at violations of drugs, violence, gambling and prostitution on the premises, which may be a first

step to see if that works. Last week there was a shooting out in Representative Ross's area at a nightclub, a sports bar, and I think that may be a better first step to perhaps move that way and see if that would work and solve the problem.

Mr. Williams added that, during discussions regarding the education component, the industry had been looking at a number of training programs, and in May they will be starting a new Serve Safe Alcohol program through the National Restaurant Association, which is an excellent training program. He said, on behalf of the ABC Commission, at the last meeting, the Chairman asked everyone in violation about what kind of training they had done. We are also interested in others training programs to solve problems in the future. The training program will be an important part of what we want to do.

Representative Ross said the positive thing about the training aspect of the bill is that any establishment that has an ABC permit will have a huge incentive to have an alcohol-training program. It will be considered a remedial and good faith effort to comply with their ABC permits. This might encourage all sorts of establishments that have not done that kind of training to engage in the training to show good faith effort.

Representative Goforth asked after they have had two violations and they go through the training for those two violations, what happens if they have another violation or two more violations? What is the consequence? Representative Ross responded that if they have had the education, then it is up to the ABC Commission to decide how to deal with their permit in the normal course. If they have another violation in the same twelve-month period, it would be up to the ABC Commission to decide how to deal with that violation. The ABC Commission can always revoke their permit for one violation. If they were repeat offenders, it would always be in the ABC Commission's authority.

Representative Jones: If I have the ABC training before I have a violation, then my recourse is what? You have to have the training within thirty days after the violation, said Representative Ross.

Representative Jones: So if I have an establishment, I can't have my employees trained before that time? You can have them trained before and hopefully, there would not be these violations, said Representative Ross. You can redo the training if you have a violation. That would keep you from an automatic revocation but the Commission can still use their normal standards to revoke or give you a penalty.

Representative Moore: Has the Commission taken a position on the bill? Representative Gibson: They are going to get that opportunity as soon as they feel like standing up.

Mr. Dick Carlton: Harris Teeter lobbyist and attorney for the ABC Commission said the ABC Commission does a good job regarding violations. There are a lot of good sting operations both from the ALE and the local level that you don't know about. Harris Teeter has a strict training program – you have to make 100% on the test. But no matter how hard we try, these things can still fall through the cracks. I applaud Representative Ross with her efforts. I was a little surprised with the memo from the ABC Commission, which said that this would have the possibility of shutting the whole retail industry down. Representative Ross commented on the memo and said the ABC Commission never shared the memo with her.

Chair Gibson: In fairness again, this is my fault again, we did not know if we would be ready on this draft last week and 18B is not exactly a walk in the park. This statute is convoluted at best. We've made it hard for the ABC Commission to do their job and for the ALE officers. It is probably one of the messiest statutes in the books.

Representative Daughtry: If you have a wholesaler and the salesman goes to the City Club and sells a product and the driver takes it up there and then it is discovered that the City Club does not have a permit for the product line, so the driver gets written up. Then a month later he goes to another establishment and they don't have a permit, it seems to be unfair to that particular person.

Representative Gibson: I am not sure the wholesaler is responsible in this because he is not the permittee. I am assuming it would be the restaurant.

Mikael Gross, Bill Drafting, said the jest of the statute is to determine if a location is unsuitable. It has to do with where the actual location is under 18B 904. If a wholesale driver is issued a permit of his own, a driver permit, the Commission obviously has the authority to revoke that permit. I am not quite sure exactly what their position would be on this. It could be considered a violation under the actual wholesaler's permit.

Doyle Alley: It is possible in this instance that a violation would be written against the wholesaler, the driver, and the retail establishment. All three could be in violation. Representative Gibson, So that is already the law and we would not be changing that.

Representative Miller: This fear of a zoning bill – you know we already zoning laws on the books now in regards to ABC establishments. The problem is they do not apply to any of the areas that we have the problems with – the low income, blighted areas. These areas are blighted because of these establishments. In talking with the police chief two days ago about this measure, his thought is that this is consistent with what we have been trying to pass for the last few years and that is these establishments should be controlled based on demographics of the area. For instance, if they are in a low-income area that is proven by census data, then obviously we want to help develop that area. We already have designations for that called development zones. One of the things this bill does not address that relates to my area is the fact that these establishments bunch together four on a corner. That would blight any area. When the proper time comes, I have an amendment that would basically deal with that issue which would be any new permit should be a certain distance from an old one in an area that is a development zone which is based on census data that shows that this is a low income, poor area. We are talking about people living in low-income areas who have to deal with a blighted situation because we have a law that basically has no control over how these establishments are bunched together. Many of the owners of these establishments do not even live in these areas. They just take the money and after a few years they move on and someone else gets the permit and does the same thing. This is the kind of areas I represent. So basically, I am happy about the intent but it does not fully address my particular problem in Durham.

Representative Ross: I completely understand Representative Miller's concern. In part of my district I have that concern but then in another part of my district still in an urban redevelopment area, I don't have that concern. In those areas we have some of the nicer

restaurants and bars – we don't have that problem. I have a problem where Representative Miller is concerned about the areas such as Glenwood South and Moore Square to develop by restricting the number of permittees that can be there. In this bill, I am trying to address people who violate the law. I do not want to create for example in Moore Square where someone wanted an ABC permit, that would not be permitted because we want to encourage people to move into Moore Square. My area has the problems but also has the benefits and I am trying to balance those things out but clearly address the problems.

Representative Miller: My concern would address a development zone different than an urban redevelopment zone. Urban redevelopment zones were established in the 1970's. They have not changed since. Most of the places from the 70's have a total demographic pattern than they did then. Obviously some of those areas are not going to be economically depressed. My concern is pointed towards development zones re-assessed every two years based on census data. If it is a low-income area for working poor – not an area that has changed since the thirty-five years since the last redevelopment zone has been looked at. They are not one in the same. I am specifically targeting development zones having demographics that show poor areas and not urban redevelopment zones that were done thirty-five years ago.

Representative Gibson: I know we have worked on Representative Miller's bill, in fact, he has a bill in this committee and I think Representative Allen also has a bill in this committee circulating around the same issue. And, for the record, Representative Ross does have both in her district.

Representative Ross: I think for the benefit of this committee we need to know where these zones are so that there are no unintended consequences from any kind of amendment where we are not aware of all of the different places that we are looking at because I would not want unintended consequences. I would ask Representative Miller to share with me those locations before we move forward.

Mike Herring, ABC Commission: The full Commission has not officially met to consider this bill. They have a meeting next Friday. The memo that was referred to earlier was an internal memo from our chief counsel, Fred Gregory, and myself outlining some of the concerns that he had about the bill. One of those is that after two violations, the Commission can revoke the permit even if the business has had the training before or taking the training class afterward. It puts us in a difficult position to determine should we revoke after two say in Representative Miller's district or if it is out in another area say a Food Lion or Harris Teeter, should we give them a third or fourth offense before revoking. It puts in a difficult position although the Commission does take a tough stance on ABC violations. We have a penalty grid for first, second and third offense as to when we suspend or revoke permits. Our Commission sends these businesses to training programs held by law enforcement and the ABC Commission. The Commission has not formally met to take a position on this bill.

Representative Gibson: Is it fair to say that this will be a topic of discussion on Friday? Mr. Herring replied, Next Friday.

Representative Ross: What I was going to say is the ABC Commission can revoke a permit after one violation right now and this really would not change anything that the ABC Commission could do if somebody took a training class. They could still revoke it or not

revoke it. Even before they get to two violations, the Commission can always revoke the permit. For that reason, I don't know why there should be that kind of concern. I would just ask that this Committee give the bill a favorable report. We've got plenty of time to work on it on the Senate side assuming it passes the House. And that is my request to the Committee.

Representative Daughtry: I would prefer to allow the Commission to hear the bill and give us some recommendations.

Representative Ross: That is certainly the Committee's prerogative. I will say that I have met with the Commission for two years on this bill and have gotten suggestions and recommendations on it.

Representative Gibson: I view this as kind of a working group Committee because I am not really a proponent of alcohol consumption, I am actually 100% in favor of what Representative Miller is trying to do. It is just that I am convinced that correct regulation is the way to fix this and what Representative Daughtry just alluded to is exactly what I am hoping you folks will do. I am going to ask staff to provide everybody with a copy of 18B and the ABC Commission provide us with the charts you have about taxation and dredge. Please distribute those at your earliest convenience so members can be aware of where everyone is because we will have to have four meetings between now and crossover.

Representative Moore: It would be helpful for the Commission to give us the grid that you have in terms of offense.

Mike Robinson, Alcohol Law Enforcement: Sometimes the premise includes the covering out in the parking lot, or hotels and motels cover every floor. We are working with the Commission on a training program to be offered at community colleges and through the ABC Commission. We would like to have data that we can send that we can say it works in every place.

Representative Ross: In response to the training component, we received a lot of feedback on that section and one reason we said the Commission would establish the minimum requirements then that way the Commission would have an opportunity to work on what those requirements would be and there would be ample notice to everybody who has an ABC permit. Training would comply.

Mike Robinson: I think like Jerry said some agencies and institutions have excellent training programs. We have patterned some of ours after theirs. We picked up parts of the Retail Merchants Association and from others. That is what we are trying to do is to have one unified package.

Representative Gibson: Mr. Herring, what is the earliest the Commission could have an opinion on this?

Mr. Herring: I was wrong on the date. It is two weeks – Friday, May 6, 2005.

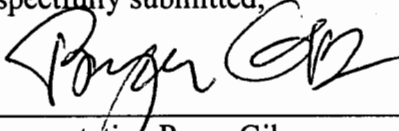
Representative Gibson: That's really almost three weeks. I would ask Mike and Doyle if you could get some kind of feel – if nothing else administratively. I think the sponsor is willing to wait another week or so if there is any way you can get a feel on how you might be

directed to help guide our members, I would appreciate that. If you can't, would you please communicate with the bill sponsor? We will put it off another week. Please continue to work closely with compromise on things. The two violations thing we need to make sure that the good actors are still good actors. I am at a loss as to how I would vote on it, to be honest with you. I absolutely applaud what Representative Ross is trying to do but just like we have had problems with Representative Miller's bill in the past, you throw out the bath water and sometimes you grab the baby, too.

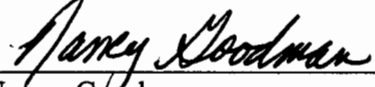
We are going to punt on Tuesday unless something else comes up and we can call a meeting anytime we want to. For your planning purposes, Representative Tucker, the winery sweep – four, five, six, eight bills involving wineries will come up in about two weeks from today. Probably we will finish this one Tuesday and we will go into the malt beverage cap hopefully a week from Tuesday.

There being no further business, the Chair adjourned the meeting at 2:00 p.m.

Respectfully submitted,



Representative Pryor Gibson
Chair



Nancy Goodman
Acting Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 570

Short Title: Kings Mountain ABC Board Profit Distribution.

(Local)

Sponsors: Representative Moore.

Referred to: Alcoholic Beverage Control.

March 10, 2005

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE PROFIT DISTRIBUTION FROM THE SALES OF
ALCOHOLIC BEVERAGES BY THE KINGS MOUNTAIN ALCOHOLIC
BEVERAGE CONTROL BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 832 of the 1969 Session Laws reads as
rewritten:

"**Section 1.** The provisions of this Act shall apply to any incorporated municipality
in Rockingham, Cleveland and Stokes ~~Counties~~ Counties, but excludes the City of
Kings Mountain in Cleveland County, which have and maintain an organized municipal
police force of one or more full-time officers, who each receive an annual salary, paid
monthly or weekly.

The State Board of Alcoholic Control is hereby empowered to determine upon
application of the governing body of any municipality, whether such municipality
comes within the provisions of this Section, and any such determination shall be solely
within the discretion of the State Board of Alcoholic Control. The State Board of
Alcoholic Control shall supply the application forms."

SECTION 2. This act does not affect the rights or liabilities of the City of
Kings Mountain arising under Chapter 832 of the 1969 Session Laws prior to the
amendment of Chapter 832 of the 1969 Session Laws by this act.

SECTION 3. The Kings Mountain Alcoholic Beverage Control Board
constitutes a duly created Alcoholic Beverage Control Board and shall be subject to the
provisions of Chapter 18B of the General Statutes from the effective date of this act. All
revenues shall be distributed in accordance with G.S. 18B-805.

SECTION 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

1

HOUSE BILL 1174

Short Title: ABC Permit Issuance and Compliance.

(Public)

Sponsors: Representatives Ross; B. Allen and Stam.

Referred to: Alcoholic Beverage Control.

April 12, 2005

A BILL TO BE ENTITLED

AN ACT TO AMEND THE ALCOHOLIC BEVERAGE CONTROL LAWS
REGARDING THE ISSUANCE AND REVOCATION OF PERMITS AT
LOCATIONS THAT ARE OR BECOME UNSUITABLE TO HOLD ABC
PERMITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-101 is amended by adding a new subdivision to read:

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

SECTION 2. G.S. 18B-300(b) reads as rewritten:

"(b) Consumption at Off-Premises Establishment. – It shall be unlawful to
consume, or for a permittee or his designee to allow the consumption of, malt beverages
or unfortified wine on any premises having only an off-premises permit for the kind of
alcoholic beverage being consumed."

SECTION 3. G.S. 18B-901(c) reads as rewritten:

"(c) Factors in Issuing Permit. – Before issuing a permit, the Commission shall be
satisfied that the applicant is a suitable person to hold an ABC permit and that the
location is a suitable place to hold the permit for which ~~he~~ the applicant has applied. To
be a suitable place, the local governing body shall return a Zoning and Compliance
Form to the Commission on a form provided by the Commission to show the
establishment ~~shall comply~~ is in compliance with all applicable building and fire
~~codes~~ codes and, if applicable, has been notified that it is located in an Urban
Redevelopment Area as defined by Article 22 of Chapter 160A and as required by
G.S. 18B-904(e)(2). Other factors the Commission shall consider in determining
whether the applicant and the business location are suitable are:

- (1) The reputation, character, and criminal record of the applicant;
- (2) The number of places already holding ABC permits within the
neighborhood;

- (3) Parking facilities and traffic conditions in the neighborhood;
- (4) Kinds of businesses already in the neighborhood;
- (5) Whether the establishment is located within 50 feet of a church ~~or public school or church school~~, public school, or any nonpublic school as defined by Part 1 or Part 2 in Article 39 of Chapter 115C;
- (6) Zoning laws;
- (7) The recommendations of the local governing body; and
- (8) Any other evidence that would tend to show whether the applicant would comply with the ABC laws ~~and whether operation of his business at that location would be detrimental to the neighborhood laws.~~
- (9) Whether the operation of the applicant's business at that location would be detrimental to the neighborhood including evidence admissible under G.S. 150B-29(a) of the following:
 - a. Past revocations, suspensions, and violations of ABC laws by prior permittees at this location; or
 - b. Evidence of illegal drug activity on or about the licensed premises; or
 - c. Evidence of fighting, disorderly conduct, and other dangerous activities on or about the licensed premises."

SECTION 4. G.S. 18B-901(d) reads as rewritten:

"(d) Commission's Authority. – The Commission shall have the sole power, in its discretion, to determine the suitability and qualifications of an applicant for a permit and the location to which the permit may be issued."

SECTION 5. G.S. 18B-904(e) reads as rewritten:

"(e) Business or Location No Longer Suitable. –

- (1) The Commission may suspend or revoke a permit issued by it if, after compliance with the provisions of Chapter 150B of the General Statutes, it finds that the location occupied by the permittee is no longer a suitable place to hold ABC permits or that the operation of the business with an ABC permit at that location is detrimental to the neighborhood. ~~No order revoking or suspending an ABC permit pursuant to this section may be made except upon substantial evidence admissible under G.S. 150B-29(a).~~
- (2) The Commission shall suspend or revoke a permit issued by it if a permittee is in violation of G.S. 18B-309. Notwithstanding subdivision (e)(1) of this section, the Commission shall, by order and without prior hearing, summarily suspend or revoke a permit issued by it if a permittee is in violation of G.S. 18B-309(c) when, prior to the period of time for which the audit is to be conducted, the city council has filed information designating the location of the Urban Redevelopment Area as required under G.S. ~~14-309(a)~~ 18B-309(a) and has provided actual notice to permittees located in the Urban Redevelopment Area that they are located in such an area and must abide by

1 G.S. 18B-309(c). Upon entry of a summary order under this
2 subdivision, the Commission shall promptly notify all interested
3 parties that the order has been entered and of the reasons therefore.
4 The order will remain in effect until it is modified or vacated by the
5 Commission. The permittee may, within 30 days after receipt of notice
6 of the order, make written request to the Commission for a hearing on
7 the matter. If a hearing is requested, after compliance with the
8 provisions of Chapter 150B of the General Statutes, the Commission
9 shall issue an order to affirm, reverse, or modify its previous action.

10 (3) The Commission shall revoke a permit issued by it if, after complying
11 with the provisions of Chapter 150B of the General Statutes and,
12 without a finding of mitigating evidence or circumstances, it finds
13 evidence of the following:

14 a. Evidence that the permittee or his employee has been found
15 responsible by a court of competent jurisdiction or the
16 Commission for two or more violations of this Chapter within a
17 12-month period; or

18 b. Evidence that the permittee or his employee has been found
19 responsible by a court of competent jurisdiction or the
20 Commission for two or more violations of knowingly allowing
21 a violation of any other law that governs the conduct of a
22 permittee, his employees, or patrons on the ABC licensed
23 premises pursuant to G.S. 18B-1005(a)(2), (a)(3), or
24 G.S. 18B-1005.1 within a 12-month period.

25 The permittee and the owner of the property have the sole
26 responsibility to monitor the conduct on the licensed premises pursuant
27 to G.S. 18B-1005(b) and G.S. 19-1.

28 (4) Notwithstanding the provisions of subdivisions (3)(a) and (3)(b) of this
29 section, if a permittee takes reasonable remedial action to prevent
30 recurring violations of this Chapter and any other laws governing the
31 conduct of the permittee and his employees, the provisions of
32 subsection (3) shall not apply and the Commission shall proceed under
33 subsection (1) of this section.

34 (5) Reasonable remedial action defined. – Reasonable remedial action is
35 an alcohol education and safety program that educates permittees and
36 their employees who are involved in the sales or service of alcoholic
37 beverages about the following:

38 a. The provisions of G.S. 18B-120, et seq., regarding civil liability
39 of the permittee.

40 b. The provisions of G.S. 18B-300 and G.S. 18B-303 regarding
41 the purchase and possession of alcoholic beverages and what
42 amounts may be lawfully purchased and transported.

- 1 c. The provisions of G.S. 18B-302 regarding sales, giving, and
2 aiding and abetting an underage person to acquire alcoholic
3 beverages.
4 d. The provisions of G.S. 18B-305 regarding sales to intoxicated
5 patrons.
6 e. Civil and criminal liability for both the server and the permittee.
7 f. The provisions of G.S. 18B-1004 regarding the hours of sale
8 and consumption.
9 g. The provisions of G.S. 18B-1005, 18B-1005.1, and 18B-1006
10 regarding the conduct of the permittee, the permittee's
11 employees, and patrons on an ABC licensed premises.

12 State Alcohol Law Enforcement agents, local ABC officers, and local
13 law enforcement officers designated as local ABC enforcement
14 officers may also give a program to a permittee upon request. These
15 programs shall be considered reasonable remedial action. In order to
16 be considered a reasonable remedial action, the training shall take
17 place within 30 working days of the notification of a violation by an
18 Alcohol Law Enforcement agent, a local Alcoholic Beverage Control
19 law enforcement officer, or the Commission. If the Commission finds
20 that reasonable remedial action has been taken by the permittee, the
21 provisions of subdivision (1) of this subsection will apply to any
22 revocation or suspension process by the Commission. The
23 Commission shall maintain a copy of any documentation offered as
24 proof of remedial action to show who gave the program, who attended
25 the program, and whether or not it was given and attended within the
26 required 30-day limit. If a permittee falsifies or in any other way
27 misrepresents to the Commission that reasonable remedial action has
28 been taken and evidence shows that it was not, the Commission shall
29 summarily suspend the ABC Permits issued to the permittee at the
30 location in question pending a hearing pursuant to Chapter 150B of the
31 General Statutes."

32 **SECTION 6.** This act becomes effective December 1, 2005, and applies to
33 offenses committed on or after that date.

ATT# 3
4/19/05

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 1174
PROPOSED COMMITTEE SUBSTITUTE H1174-CSSA-7 [v.3]

4/18/2005 7:10:18 PM

Short Title: ABC Permit Issuance and Compliance.

(Public)

Sponsors:

Referred to:

April 12, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE ALCOHOLIC BEVERAGE CONTROL LAWS
3 REGARDING THE ISSUANCE AND REVOCATION OF PERMITS AT
4 LOCATIONS THAT ARE OR BECOME UNSUITABLE TO HOLD ABC
5 PERMITS.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 18B-101 is amended by adding a new subdivision to read:
8 "(12a) 'Premises' means all areas, whether inside or outside the licensed
9 premises, where the permittee has control of the property through a
10 lease, deed, or other legal process."

11 SECTION 2. G.S. 18B-901(c) reads as rewritten:

12 "(c) Factors in Issuing Permit. – Before issuing a permit, the Commission shall be
13 satisfied that the applicant is a suitable person to hold an ABC permit and that the
14 location is a suitable place to hold the permit for which ~~he~~ the applicant has applied. To
15 be a suitable place, the local governing body shall return a Zoning and Compliance
16 Form to the Commission on a form provided by the Commission to show the
17 establishment shall comply is in compliance with all applicable building and fire
18 ~~codes~~ codes and, if applicable, has been notified that it is located in an Urban
19 Redevelopment Area as defined by Article 22 of Chapter 160A and as required by
20 G.S. 18B-904(e)(2). Other factors the Commission shall consider in determining
21 whether the applicant and the business location are suitable are:

- 22 (1) The reputation, character, and criminal record of the applicant;
23 (2) The number of places already holding ABC permits within the
24 neighborhood;
25 (3) Parking facilities and traffic conditions in the neighborhood;
26 (4) Kinds of businesses already in the neighborhood;

- (5) Whether the establishment is located within 50 feet of a church or ~~public school or church school~~, public school, or any nonpublic school as defined by Part 1 or Part 2 in Article 39 of Chapter 115C;
- (6) Zoning laws;
- (7) The recommendations of the local governing ~~body~~; and ~~body~~;
- (8) Any other evidence that would tend to show whether the applicant would comply with the ABC laws ~~and whether operation of his business at that location would be detrimental to the neighborhood laws; and~~
- (9) Whether the operation of the applicant's business at that location would be detrimental to the neighborhood including evidence admissible under G.S. 150B-29(a) of the following:
- a. Past revocations, suspensions, and violations of ABC laws by prior permittees at this location; or
 - b. Evidence of illegal drug activity on or about the licensed premises; or
 - c. Evidence of fighting, disorderly conduct, and other dangerous activities on or about the licensed premises."

SECTION 3. G.S. 18B-901(d) reads as rewritten:

"(d) Commission's Authority. – The Commission shall have the sole power, in its discretion, to determine the suitability and qualifications of an applicant for a permit and the location to which the permit may be issued."

SECTION 4. G.S. 18B-904(e) reads as rewritten:

"(e) Business or Location No Longer Suitable. –

- (1) The Commission may suspend or revoke a permit issued by it if, after compliance with the provisions of Chapter 150B of the General Statutes, it finds that the location occupied by the permittee is no longer a suitable place to hold ABC permits or that the operation of the business with an ABC permit at that location is detrimental to the neighborhood. ~~No order revoking or suspending an ABC permit pursuant to this section may be made except upon substantial evidence admissible under G.S. 150B-29(a).~~
- (2) The Commission shall suspend or revoke a permit issued by it if a permittee is in violation of G.S. 18B-309. Notwithstanding subdivision (e)(1) of this section, the Commission shall, by order and without prior hearing, summarily suspend or revoke a permit issued by it if a permittee is in violation of G.S. 18B-309(c) when, prior to the period of time for which the audit is to be conducted, the city council has filed information designating the location of the Urban Redevelopment Area as required under ~~G.S. 14-309(a)~~ 18B-309(a) and has provided actual notice to permittees located in the Urban Redevelopment Area that they are located in such an area and must abide by G.S. 18B-309(c). Upon entry of a summary order under this subdivision, the Commission shall promptly notify all interested

parties that the order has been entered and of the reasons therefore. The order will remain in effect until it is modified or vacated by the Commission. The permittee may, within 30 days after receipt of notice of the order, make written request to the Commission for a hearing on the matter. If a hearing is requested, after compliance with the provisions of Chapter 150B of the General Statutes, the Commission shall issue an order to affirm, reverse, or modify its previous action.

(3) Notwithstanding G.S. 18B-906, the Commission shall revoke a permit issued by it if, after complying with the provisions of Chapter 150B of the General Statutes and, without a finding of mitigating evidence or circumstances, it finds evidence of the following:

- a. The permittee or his employee has been found responsible by a court of competent jurisdiction or the Commission for two or more violations of this Chapter within a 12-month period; or
- b. The permittee or his employee has been found responsible by a court of competent jurisdiction or the Commission for two or more violations of knowingly allowing a violation of any other law that governs the conduct of a permittee, his employees, or patrons on the ABC licensed premises pursuant to G.S. 18B-1005(a)(2), (a)(3), or G.S. 18B-1005.1 within a 12-month period.

The permittee and the owner of the property have the sole responsibility to monitor the conduct on the licensed premises pursuant to G.S. 18B-1005(b) and G.S. 19-1.

(4) Notwithstanding the provisions of subdivisions (3)a. and (3)b. of this subsection, if a permittee takes reasonable remedial action to prevent recurring violations of this Chapter and any other laws governing the conduct of the permittee and his employees, the Commission may not revoke the permit pursuant to subsection (3) of this section. However, the Commission may still revoke the permit or apply other penalties pursuant to other provisions of this Chapter.

(5) Reasonable remedial action defined. – Reasonable remedial action is an alcohol education and safety program that educates permittees and their employees who are involved in the sales or service of alcoholic beverages. The Commission shall establish minimum standards for programs to be accepted as reasonable remedial action under this section.

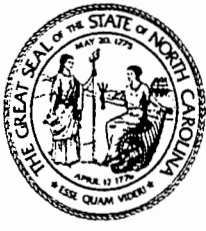
In order to be considered a reasonable remedial action, the training shall take place within 30 working days of the notification of a violation by an Alcohol Law Enforcement agent, a local Alcoholic Beverage Control law enforcement officer, or the Commission. If the Commission finds that reasonable remedial action has been taken by the permittee, the Commission may not revoke the permit pursuant to subsection (3) of this section. The Commission shall maintain a copy

1 of any documentation offered as proof of remedial action to show who
2 gave the program, who attended the program, and whether or not it
3 was given and attended within the required 30-day limit. If a permittee
4 falsifies or in any other way misrepresents to the Commission that
5 reasonable remedial action has been taken and evidence shows that it
6 was not, the Commission shall summarily suspend the ABC Permits
7 issued to the permittee at the location in question pending a hearing
8 pursuant to Chapter 150B of the General Statutes."

9 **SECTION 5.** G.S. 18B-906(a) reads as rewritten:

10 "(a) Act Applies. – An ABC permit is a "license" within the meaning of G.S.
11 150B-2, ~~and~~ and, except for revocation pursuant to G.S. 18B-904(e)(3), a Commission
12 action on issuance, suspension, or revocation of an ABC permit, other than a temporary
13 permit issued under G.S. 18B-905, is a "contested case" subject to the provisions of
14 Chapter 150B except as provided in this section."

15 **SECTION 6.** This act becomes effective December 1, 2005, and applies to
16 offenses committed on or after that date.



HOUSE BILL 1174: ABC Permit Issuance and Compliance

ATT # 4
4/19/05

BILL ANALYSIS

Committee: House ABC
Date: April 19, 2005
Version: H1174-CSSA-7

Introduced by: Rep. Ross
Summary by: Susan L. Sitze
Committee Counsel

SUMMARY: *House Bill 1174 amends the ABC laws regarding the issuance and revocation of permits at locations that are or become unsuitable to hold ABC permits.*

BILL ANALYSIS: Section 1 of the bill defines "premises" for the purposes of Chapter 18B as all areas, inside or out, where the permittee has control of the property through a lease, deed, or other legal process.

Section 2 requires that prior to the issuance of an ABC permit to any business, the Alcoholic Beverage Control Commission (Commission) must determine whether the operation of the business would be detrimental to the neighborhood according to specific criteria. This section also requires that before a permit is issued to a business located in an Urban Redevelopment Area, the local governing board must provide the Commission with a Zoning and Compliance Form demonstrating that the business has been notified that it is located within that area.

Section 3 gives the Commission the discretion to determine the suitability of a location to which a permit may be issued.

Section 4 creates a mandatory revocation where a permittee or their employee has been found in violation of the ABC laws two or more times in a 12 month period, or has knowingly allowed a violation. The Commission may choose to not revoke the permit if the permittee provides alcohol education training to its employees within 30 working days of receiving notification of the violation.

Section 5 exempts a revocation under the new provisions in Section 4 from the administrative hearing requirements.

Section 6 makes this act effective December 1, 2005, and applies to offenses committed on or after that date.

H1174-SMSA-001

VISITOR REGISTRATION SHEET

ALCOHOLIC BEVERAGE CONTROL COMMITTEE

April 19, 2005

Name of Committee

Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

[illegible]

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative Gibson (Chair) for the Committee on ALCOHOLIC BEVERAGE CONTROL.

☐ Committee Substitute for

HB 570 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR THE PROFIT DISTRIBUTION FROM THE SALES OF ALCOHOLIC BEVERAGES BY THE KINGS MOUNTAIN ALCOHOLIC BEVERAGE CONTROL BOARD.

☒ With a favorable report.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

HOUSE COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL

Meeting Agenda

APRIL 26, 2005

1:00 pm

- 1. Call to Order**
- 2. Bills (not necessarily in this order and as time allows):**
 - HB 1174 – ABC Permit Issuance and Compliance**
 - HB 392 – Amend Definition of Malt Beverage in ABC Law.**
- 3. Adjourn**

MINUTES
HOUSE COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL

Tuesday, April 26, 2005

The House Committee on Alcoholic Beverage Control met on Tuesday, April 26, 2005, in Room 425 of the Legislative Office Building at 1:00 P.M. The following members were present: Chairman Pryor Gibson, Vice-Chair Ed Jones, Vice-Chair Paul Miller, Representatives Daughtry, Goforth, Lucas, Moore, Starnes and Tucker. Staff in attendance: Brenda Carter and Susan Sitze. A Visitor Registration list is attached and made part of these minutes.

Chairman Gibson called the meeting to order and welcomed the pages and staff.

HB 392- Amend Definition of Malt Beverage in ABC Law (Attachments 1, 2).

Representative LaRoque said that about 70 years ago the mill owners put a cap on the alcohol content in beer. Their workers were beer drinkers, and a cap would insure that they would show up for work on Monday. Times, beers and beer lovers have changed. About 100 different beers in the world are unavailable to beer drinkers in North Carolina. The consumers who are interested in these kinds of beers are those who will pay more for fine food, organic produce, and gourmet beers. The bill would raise the current maximum limit on the alcohol content of malt beverages from six percent to fifteen percent and make conforming technical changes to the revenue laws to define ABC terms by cross referencing definitions in the Alcohol Beverage Control Act. These beverages will be sold at higher end stores and restaurants. MADD (Mothers Against Drunk Driving) does not oppose the bill.

Representative Starnes suggested an amendment. Chair Gibson said that, if the amendment added to the tax structure, it would be more appropriate to address the bill in Finance.

Reverend Mark Creech, Executive Director, Christian Action League, said that there are three problems: (1) raising the alcohol content in beer from six percent to fifteen percent could open the door for some spirituous liquors which currently are being sold in ABC stores to eventually be sold in groceries. This bill undermines our ABC System; (2) it would open the doors to potent malt liquor products, which are currently unavailable in our State. Higher alcohol content malt liquors are associated with higher consumption of higher blood alcohol content and loss of control and aggressive behaviors than alcohol products which are heavily marketed to Black and Hispanic user and are largely the drink of the unemployed and homeless in chilled 40 ounce bottles in brown paper bags for immediate consumption. These products lure young adults with machismo marketing. These products which are so problematic are not allowed in this State; (3) puts responsible drinkers at risk because there is no alcohol content on labels, and consumers have no idea how much they are drinking, and many of these brews will be sold on draft. These products contain nearly one-half to three times as much alcohol with no disclosure required; (4) across our State, voters have approved beer sales in their communities, but this is not the beer they approved. He asked that the Committee not support this legislation

Chair Gibson reiterated to Representative Starnes that the Committee not entertain a tax-oriented motion. A short discussion ensued.

Representative LaRoque opposed the amendment to label alcohol content as it would be too costly for beer manufacturers to change labels from one state to another. Beer and wine wholesalers are neutral on the bill; any type of labeling requirement may change their position because of the cost involved. Representative Grady said he thought labeling was the right thing to do.

Theresa Kostrava, "Pop the Cap," said her groups did not have an issue with the labeling, i.e., ABC, Anheuser-Busch, Millers, Coors, beer and wine wholesalers are all good with the bill. Any "tweaking" to the bill may affect the major beer companies if they have to change the labeling for one state.

Representative Lucas, at the proper time, moved for a favorable report.

John McMillan, Anheuser-Busch Companies, said that if Anheuser-Busch has a product over six percent, they label and would be prepared to do that. Anheuser-Busch has not taken a position against the labeling.

Following a discussion on the Starnes amendment (Attachment 3), a vote was taken for labeling above six percent. Passed.

Representative Lucas again moved for a favorable report on the amended bill rolled into a Proposed Committee Substitute, unfavorable to the original bill. Passed.

HB 1174-ABC Permit Issuance and Compliance (Attachment 4). Representative Miller moved to adopt PCS H1174-CSSA-7 [v.6] (Attachment 5) and placed before the Committee. Representative Ross said that since last week, she has met with all interested parties. There are essentially three changes to the original bill on the final page: Page 3, line 19, if there was a permit violation at one store (say Food Lion), it would not affect the other stores Food Lion stores; Page 3, line 16 minor violations, as not posting a sign which might contribute to the detriment of the neighborhood—large violations that have adverse effects on the neighborhood. Page 3, line 10 relates to training outside the ABC Commission to provide incentives for training.

Mike Roberts, Director of Alcohol Law Enforcements, supported the law enforcement parts of the bill.

Andy Allen, General Council, North Carolina Retail Merchants Association, spoke in favor of the bill and complimented Representative Ross on her work with the bill.

Reverend Mark Creech drew chuckles when he said that the Christian Action League supported this bill—the first one in this committee.

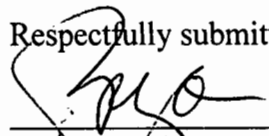
Mike Herring, ABC Commission, spoke in support of the bill.

Representative Miller had a prepared amendment (Attachment 6). After some discussion, a vote was taken. Failed.

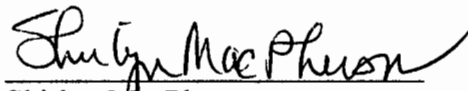
Representative Lucas moved for a favorable report for the PCS, unfavorable to the original bill. Passed.

There being no further business, the Chair adjourned the meeting at 2:00 p.m.

Respectfully submitted,



Representative Pryor Gibson
Chair



Shirlyn MacPherson
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

2

HOUSE BILL 392
Committee Substitute Favorable 4/18/05

Short Title: Amend Definition of Malt Beverage in ABC Law.

(Public)

Sponsors:

Referred to:

February 28, 2005

A BILL TO BE ENTITLED
AN ACT TO AMEND THE DEFINITION OF A MALT BEVERAGE UNDER THE
ALCOHOLIC BEVERAGE CONTROL LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-101(9) reads as rewritten:

"(9) 'Malt beverage' means beer, lager, malt liquor, ale, porter, and any other brewed or fermented beverage containing at least one-half of one percent (0.5%), and not more than ~~six percent (6%)~~, fifteen percent (15%), alcohol by volume."

SECTION 2. G.S. 105-113.68(a) reads as rewritten:

"(a) Definitions. – As used in this Article, unless the context clearly requires otherwise:

(1) ~~"ABC Commission" means ABC Commission. – the The North Carolina Alcoholic Beverage Control Commission established under G.S. 18B-200.~~

(2) Repealed by Session Laws 2004-170, s. 6, effective August 2, 2004.

(3) ~~"ABC permit" means a written or printed authorization issued by the ABC Commission pursuant to Chapter 18B, other than a purchase-transportation permit. Unless the context clearly requires otherwise, "ABC permit" means a presently valid permit. ABC permit. – Defined in G.S. 18B-101.~~

(4) ~~"Alcoholic beverage" means a beverage containing at least one half of one percent (0.5%) alcohol by volume, including malt beverages, unfortified wine, fortified wine, spirituous liquor, and mixed beverages. Alcoholic beverage. – Defined in G.S. 18B-101.~~

(5) ~~"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~~

1 ~~pure brandy from the same type of grape, fruit, berry, rice, or honey~~
2 ~~that is contained in the base wine and produced in accordance with the~~
3 ~~regulations of the United States.~~Fortified wine. – Defined in
4 G.S. 18B-101.

5 (6) ~~"License" means a License. – A certificate, issued pursuant to this~~
6 ~~Article by a city or county, that authorizes a person to engage in a~~
7 ~~phase of the alcoholic beverage industry.~~

8 (7) ~~"Malt beverage" means beer, lager, malt liquor, ale, porter, and any~~
9 ~~other brewed or fermented beverage containing at least one-half of one~~
10 ~~percent (0.5%) and not more than six percent (6%) alcohol by~~
11 ~~volume.~~Malt beverage. – Defined in G.S. 18B-101.

12 (8) ~~"Person" has the same meaning as in G.S. 105-228.90.~~Person. –
13 Defined in G.S. 105-228.90.

14 (9) ~~"Sale" means a transfer, trade, exchange, or barter, in any manner or~~
15 ~~by any means, for consideration.~~Sale. – Defined in G.S. 18B-101.

16 (10) ~~"Secretary" means the Secretary. – The Secretary of Revenue.~~

17 (11) ~~"Spirituos liquor" or "liquor" means distilled spirits or ethyl alcohol,~~
18 ~~including spirits of wine, whiskey, rum, brandy, gin, and all other~~
19 ~~distilled spirits and mixtures of cordials, liqueurs, and premixed~~
20 ~~cocktails in closed containers for beverage use regardless of the~~
21 ~~dilution.~~Spirituos liquor or liquor. – Defined in G.S. 18B-101.

22 (12) ~~"Unfortified wine" means any wine of sixteen percent (16%) or less~~
23 ~~alcohol by volume made by fermentation from grapes, fruits, berries,~~
24 ~~rice, or honey; or by the addition of pure cane, beet, or dextrose sugar;~~
25 ~~or by the addition of pure brandy from the same type of grape, fruit,~~
26 ~~berry, rice, or honey that is contained in the base wine, and produced~~
27 ~~in accordance with the regulations of the United States.~~Unfortified
28 wine. – Defined in G.S. 18B-101.

29 (13) ~~"Wholesaler or importer" when~~Wholesaler or importer. – When used
30 with reference to wholesalers or importers of wine or malt beverages
31 includes resident wineries that sell their wines at retail and resident
32 breweries that produce fewer than 310,000 gallons of malt beverages
33 per year.

34 (14) ~~"Wine" means unfortified Wine. – Unfortified and fortified wine.~~

35 (15) ~~"Wine shipper permittee" means a~~Wine shipper permittee. – A winery
36 that holds a wine shipper permit issued by the ABC Commission under
37 G.S. 18B-1001.1."

38 **SECTION 3.** This act is effective when it becomes law.



ATTN 2
4/26/05

HOUSE BILL 392: Amend Definition of Malt Beverage in ABC Law

BILL ANALYSIS

Committee:	House Alcoholic Beverage Control	Date:	April 26, 2005
Introduced by:	Reps. LaRoque, Earle, Holliman, Daughtridge	Summary by:	Brenda J. Carter
Version:	Second Edition		Committee Co-Counsel

SUMMARY: *House Bill 392 would raise the current maximum limit on the alcohol content of malt beverages from six percent to fifteen percent. The bill would also make conforming technical changes to the revenue laws to define ABC terms by cross referencing definitions in the Alcoholic Beverage Control Act.*

CURRENT LAW: Current law defines malt beverages as "beer, lager, malt liquor, ale, porter, and any other brewed or fermented beverage containing at least one-half of one percent (0.5%), and not more than six percent (6.0%), alcohol by volume." Sales of malt beverages with alcohol content in excess of 6.0% are illegal in the State.

BILL ANALYSIS: *Section 1* of the bill would raise the maximum cap of 6.0% alcohol content for malt beverages and would allow the sale of malt beverages with an alcohol content of up to 15% in this State. *Section 2* of the bill amends the definition section of Article 20 of Chapter 105 (Revenue Laws) that deals with alcoholic beverage license and excise taxes. These changes delete specific definitions in the revenue statutes and define terms by referring to the definitions in the alcoholic beverage control statutes set out in Chapter 18B, the Alcoholic Beverage Control Act.

EFFECTIVE DATE: The bill would become effective when it becomes law.

Walker Reagan, counsel to the House Commerce Committee, contributed to this summary.

H0392e2-SMRV

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTN 3
4/26/05

EDITION No. _____

H. B. No. _____

DATE _____

S. B. No. _____

Amendment No. _____

COMMITTEE SUBSTITUTE _____

(to be filled in by
Principal Clerk)

Rep.) Starnes
Sen.) _____

1 moves to amend the bill on page 1, line 9

2 () WHICH CHANGES THE TITLE

3 by adding after the word "volume" the
4 following:

5 "Any malt beverage containing more
6 than 6% alcohol by volume shall bear
7 a label clearly indicating the alcohol
8 content of the malt beverage."

9 _____
10 _____
11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____
18 _____
19 _____

SIGNED E. Starnes

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 1174

Short Title: ABC Permit Issuance and Compliance.

(Public)

Sponsors: Representatives Ross; B. Allen and Stam.

Referred to: Alcoholic Beverage Control.

April 12, 2005

A BILL TO BE ENTITLED

AN ACT TO AMEND THE ALCOHOLIC BEVERAGE CONTROL LAWS
REGARDING THE ISSUANCE AND REVOCATION OF PERMITS AT
LOCATIONS THAT ARE OR BECOME UNSUITABLE TO HOLD ABC
PERMITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-101 is amended by adding a new subdivision to read:

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

SECTION 2. G.S. 18B-300(b) reads as rewritten:

"(b) Consumption at Off-Premises Establishment. – It shall be unlawful to consume, or for a permittee or his designee to allow the consumption of, malt beverages or unfortified wine on any premises having only an off-premises permit for the kind of alcoholic beverage being consumed."

SECTION 3. G.S. 18B-901(c) reads as rewritten:

"(c) Factors in Issuing Permit. – Before issuing a permit, the Commission shall be satisfied that the applicant is a suitable person to hold an ABC permit and that the location is a suitable place to hold the permit for which ~~he~~ the applicant has applied. To be a suitable place, the local governing body shall return a Zoning and Compliance Form to the Commission on a form provided by the Commission to show the establishment ~~shall comply~~ is in compliance with all applicable building and fire codes and, if applicable, has been notified that it is located in an Urban Redevelopment Area as defined by Article 22 of Chapter 160A and as required by G.S. 18B-904(e)(2). Other factors the Commission shall consider in determining whether the applicant and the business location are suitable are:

- (1) The reputation, character, and criminal record of the applicant;
- (2) The number of places already holding ABC permits within the neighborhood;

- (3) Parking facilities and traffic conditions in the neighborhood;
- (4) Kinds of businesses already in the neighborhood;
- (5) Whether the establishment is located within 50 feet of a church or ~~public school or church school~~; public school, or any nonpublic school as defined by Part 1 or Part 2 in Article 39 of Chapter 115C;
- (6) Zoning laws;
- (7) The recommendations of the local governing body; and
- (8) Any other evidence that would tend to show whether the applicant would comply with the ABC laws ~~and whether operation of his business at that location would be detrimental to the neighborhood laws.~~
- (9) Whether the operation of the applicant's business at that location would be detrimental to the neighborhood including evidence admissible under G.S. 150B-29(a) of the following:
 - a. Past revocations, suspensions, and violations of ABC laws by prior permittees at this location; or
 - b. Evidence of illegal drug activity on or about the licensed premises; or
 - c. Evidence of fighting, disorderly conduct, and other dangerous activities on or about the licensed premises."

SECTION 4. G.S. 18B-901(d) reads as rewritten:

"(d) Commission's Authority. – The Commission shall have the sole power, in its discretion, to determine the suitability and qualifications of an applicant for a permit and the location to which the permit may be issued."

SECTION 5. G.S. 18B-904(e) reads as rewritten:

"(e) Business or Location No Longer Suitable. –

- (1) The Commission may suspend or revoke a permit issued by it if, after compliance with the provisions of Chapter 150B of the General Statutes, it finds that the location occupied by the permittee is no longer a suitable place to hold ABC permits or that the operation of the business with an ABC permit at that location is detrimental to the neighborhood. ~~No order revoking or suspending an ABC permit pursuant to this section may be made except upon substantial evidence admissible under G.S. 150B-29(a).~~
- (2) The Commission shall suspend or revoke a permit issued by it if a permittee is in violation of G.S. 18B-309. Notwithstanding subdivision (e)(1) of this section, the Commission shall, by order and without prior hearing, summarily suspend or revoke a permit issued by it if a permittee is in violation of G.S. 18B-309(c) when, prior to the period of time for which the audit is to be conducted, the city council has filed information designating the location of the Urban Redevelopment Area as required under ~~G.S. 14-309(a)~~ 18B-309(a) and has provided actual notice to permittees located in the Urban Redevelopment Area that they are located in such an area and must abide by

1 G.S. 18B-309(c). Upon entry of a summary order under this
2 subdivision, the Commission shall promptly notify all interested
3 parties that the order has been entered and of the reasons therefore.
4 The order will remain in effect until it is modified or vacated by the
5 Commission. The permittee may, within 30 days after receipt of notice
6 of the order, make written request to the Commission for a hearing on
7 the matter. If a hearing is requested, after compliance with the
8 provisions of Chapter 150B of the General Statutes, the Commission
9 shall issue an order to affirm, reverse, or modify its previous action.

10 (3) The Commission shall revoke a permit issued by it if, after complying
11 with the provisions of Chapter 150B of the General Statutes and,
12 without a finding of mitigating evidence or circumstances, it finds
13 evidence of the following:

14 a. Evidence that the permittee or his employee has been found
15 responsible by a court of competent jurisdiction or the
16 Commission for two or more violations of this Chapter within a
17 12-month period; or

18 b. Evidence that the permittee or his employee has been found
19 responsible by a court of competent jurisdiction or the
20 Commission for two or more violations of knowingly allowing
21 a violation of any other law that governs the conduct of a
22 permittee, his employees, or patrons on the ABC licensed
23 premises pursuant to G.S. 18B-1005(a)(2), (a)(3), or
24 G.S. 18B-1005.1 within a 12-month period.

25 The permittee and the owner of the property have the sole
26 responsibility to monitor the conduct on the licensed premises pursuant
27 to G.S. 18B-1005(b) and G.S. 19-1.

28 (4) Notwithstanding the provisions of subdivisions (3)(a) and (3)(b) of this
29 section, if a permittee takes reasonable remedial action to prevent
30 recurring violations of this Chapter and any other laws governing the
31 conduct of the permittee and his employees, the provisions of
32 subsection (3) shall not apply and the Commission shall proceed under
33 subsection (1) of this section.

34 (5) Reasonable remedial action defined. – Reasonable remedial action is
35 an alcohol education and safety program that educates permittees and
36 their employees who are involved in the sales or service of alcoholic
37 beverages about the following:

38 a. The provisions of G.S. 18B-120, et seq., regarding civil liability
39 of the permittee.

40 b. The provisions of G.S. 18B-300 and G.S. 18B-303 regarding
41 the purchase and possession of alcoholic beverages and what
42 amounts may be lawfully purchased and transported.

- 1 c. The provisions of G.S. 18B-302 regarding sales, giving, and
2 aiding and abetting an underage person to acquire alcoholic
3 beverages.
4 d. The provisions of G.S. 18B-305 regarding sales to intoxicated
5 patrons.
6 e. Civil and criminal liability for both the server and the permittee.
7 f. The provisions of G.S. 18B-1004 regarding the hours of sale
8 and consumption.
9 g. The provisions of G.S. 18B-1005, 18B-1005.1, and 18B-1006
10 regarding the conduct of the permittee, the permittee's
11 employees, and patrons on an ABC licensed premises.

12 State Alcohol Law Enforcement agents, local ABC officers, and local
13 law enforcement officers designated as local ABC enforcement
14 officers may also give a program to a permittee upon request. These
15 programs shall be considered reasonable remedial action. In order to
16 be considered a reasonable remedial action, the training shall take
17 place within 30 working days of the notification of a violation by an
18 Alcohol Law Enforcement agent, a local Alcoholic Beverage Control
19 law enforcement officer, or the Commission. If the Commission finds
20 that reasonable remedial action has been taken by the permittee, the
21 provisions of subdivision (1) of this subsection will apply to any
22 revocation or suspension process by the Commission. The
23 Commission shall maintain a copy of any documentation offered as
24 proof of remedial action to show who gave the program, who attended
25 the program, and whether or not it was given and attended within the
26 required 30-day limit. If a permittee falsifies or in any other way
27 misrepresents to the Commission that reasonable remedial action has
28 been taken and evidence shows that it was not, the Commission shall
29 summarily suspend the ABC Permits issued to the permittee at the
30 location in question pending a hearing pursuant to Chapter 150B of the
31 General Statutes."

32 **SECTION 6.** This act becomes effective December 1, 2005, and applies to
33 offenses committed on or after that date.

ART # 5
4/26/05

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 1174
PROPOSED COMMITTEE SUBSTITUTE H1174-CSSA-7 [v.6]

4/25/2005 8:18:18 PM

Short Title: ABC Permit Issuance and Compliance. (Public)

Sponsors:

Referred to:

April 12, 2005

A BILL TO BE ENTITLED

AN ACT TO AMEND THE ALCOHOLIC BEVERAGE CONTROL LAWS
REGARDING THE ISSUANCE AND REVOCATION OF PERMITS AT
LOCATIONS THAT ARE OR BECOME UNSUITABLE TO HOLD ABC
PERMITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-101 is amended by adding a new subdivision to read:

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

SECTION 2. G.S. 18B-901(c) reads as rewritten:

"(c) Factors in Issuing Permit. – Before issuing a permit, the Commission shall be satisfied that the applicant is a suitable person to hold an ABC permit and that the location is a suitable place to hold the permit for which ~~he~~ the applicant has applied. To be a suitable place, the local governing body shall return a Zoning and Compliance Form to the Commission on a form provided by the Commission to show the establishment shall comply is in compliance with all applicable building and fire codes. ~~codes and~~, if applicable, has been notified that it is located in an Urban Redevelopment Area as defined by Article 22 of Chapter 160A and as required by G.S. 18B-904(e)(2). Other factors the Commission shall consider in determining whether the applicant and the business location are suitable are:

- (1) The reputation, character, and criminal record of the applicant;
- (2) The number of places already holding ABC permits within the neighborhood;
- (3) Parking facilities and traffic conditions in the neighborhood;
- (4) Kinds of businesses already in the neighborhood;

- (5) Whether the establishment is located within 50 feet of a church or ~~public school or church school~~, public school, or any nonpublic school as defined by Part 1 or Part 2 in Article 39 of Chapter 115C;
- (6) Zoning laws;
- (7) The recommendations of the local governing body; ~~and~~ body;
- (8) Any other evidence that would tend to show whether the applicant would comply with the ABC laws ~~and whether operation of his business at that location would be detrimental to the neighborhood laws; and~~
- (9) Whether the operation of the applicant's business at that location would be detrimental to the neighborhood including evidence admissible under G.S. 150B-29(a) of the following:
- a. Past revocations, suspensions, and violations of ABC laws by prior permittees at this location; or
 - b. Evidence of illegal drug activity on or about the licensed premises; or
 - c. Evidence of fighting, disorderly conduct, and other dangerous activities on or about the licensed premises."

SECTION 3. G.S. 18B-901(d) reads as rewritten:

"(d) Commission's Authority. – The Commission shall have the sole power, in its discretion, to determine the suitability and qualifications of an applicant for a permit and the location to which the permit may be issued."

SECTION 4. G.S. 18B-904(e) reads as rewritten:

"(e) Business or Location No Longer Suitable. –

- (1) The Commission may suspend or revoke a permit issued by it if, after compliance with the provisions of Chapter 150B of the General Statutes, it finds that the location occupied by the permittee is no longer a suitable place to hold ABC permits or that the operation of the business with an ABC permit at that location is detrimental to the neighborhood. ~~No order revoking or suspending an ABC permit pursuant to this section may be made except upon substantial evidence admissible under G.S. 150B-29(a).~~
- (2) The Commission shall suspend or revoke a permit issued by it if a permittee is in violation of G.S. 18B-309. Notwithstanding subdivision (e)(1) of this section, the Commission shall, by order and without prior hearing, summarily suspend or revoke a permit issued by it if a permittee is in violation of G.S. 18B-309(c) when, prior to the period of time for which the audit is to be conducted, the city council has filed information designating the location of the Urban Redevelopment Area as required under ~~G.S. 14-309(a)~~ 18B-309(a) and has provided actual notice to permittees located in the Urban Redevelopment Area that they are located in such an area and must abide by G.S. 18B-309(c). Upon entry of a summary order under this subdivision, the Commission shall promptly notify all interested

parties that the order has been entered and of the reasons therefore. The order will remain in effect until it is modified or vacated by the Commission. The permittee may, within 30 days after receipt of notice of the order, make written request to the Commission for a hearing on the matter. If a hearing is requested, after compliance with the provisions of Chapter 150B of the General Statutes, the Commission shall issue an order to affirm, reverse, or modify its previous action.

(3) Notwithstanding G.S. 18B-906, the Commission shall revoke a permit issued by it if, after complying with the provisions of Chapter 150B of the General Statutes and, without a finding of mitigating evidence or circumstances, it finds evidence that the permittee or his employee has been found responsible by a court of competent jurisdiction or the Commission for two or more violations of knowingly allowing a violation of the gambling, disorderly conduct, prostitution, or controlled substance laws at a single ABC licensed premises pursuant to G.S. 18B-1005(a)(2), (a)(3), or (b), or G.S. 18B-1005.1 within a 12-month period. The permittee and the owner of the property have the sole responsibility to monitor the conduct on the licensed premises pursuant to G.S. 18B-1005(b) and G.S. 19-1. Revocation of permits pursuant to this subdivision shall only apply to the permits issued to the location where the violations occurred."

SECTION 5. G.S. 18B-906(a) reads as rewritten:

"(a) Act Applies. – An ABC permit is a "license" within the meaning of G.S. 150B-2, ~~and~~ except for revocation pursuant to G.S. 18B-904(e)(3), a Commission action on issuance, suspension, or revocation of an ABC permit, other than a temporary permit issued under G.S. 18B-905, is a "contested case" subject to the provisions of Chapter 150B except as provided in this section."

SECTION 6. This act becomes effective December 1, 2005, and applies to offenses committed on or after that date.



ATT #6
4/26/05
Failed

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1174

H1174-ARV-2 [v.1]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
H1174-CSSA-7

Representative Miller

1 moves to amend the bill on page 2, lines 18 and 19,
2 by inserting between those lines the following:

3 "(10) Whether the establishment is located in an area designated as a
4 development zone pursuant to G.S. 105-129.3A. prior to January 1,
5 2006. The Commission shall not issue a permit for an establishment
6 located in a development zone if the applicant's business will be
7 located within 880 yards of an existing establishment with a permit
8 issued by the Commission."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Gibson** (Chair) for the Committee on **ALCOHOLIC BEVERAGE CONTROL**.

- ☒ Committee Substitute for
H.B. 392 A BILL TO BE ENTITLED AN ACT TO AMEND THE DEFINITION OF A
MALT BEVERAGE UNDER THE ALCOHOLIC BEVERAGE CONTROL LAWS.
- ☐ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.
- ☒ With a favorable report as to the committee substitute bill (# 2), ☐ which changes the title,
unfavorable as to ~~(the original bill)~~ (Committee Substitute Bill # 1), ~~(and recommendation~~
~~that the committee substitute bill # _____) be re-referred to the Committee on _____)~~
- ☐ With a favorable report as to House committee substitute bill (# _____), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

D

HOUSE BILL 392

Committee Substitute Favorable 4/18/05

PROPOSED COMMITTEE SUBSTITUTE H392-PCS80327-RV-6

Short Title: Amend Definition of Malt Beverage in ABC Law.

(Public)

Sponsors:

Referred to:

February 28, 2005

A BILL TO BE ENTITLED
AN ACT TO AMEND THE DEFINITION OF A MALT BEVERAGE UNDER THE
ALCOHOLIC BEVERAGE CONTROL LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-101(9) reads as rewritten:

"(9) 'Malt beverage' means beer, lager, malt liquor, ale, porter, and any other brewed or fermented beverage containing at least one-half of one percent (0.5%), and not more than ~~six percent (6%)~~, fifteen percent (15%), alcohol by volume. Any malt beverage containing more than six percent (6%) alcohol by volume shall bear a label clearly indicating the alcohol content of the malt beverage."

SECTION 2. G.S. 105-113.68(a) reads as rewritten:

"(a) Definitions. – As used in this Article, unless the context clearly requires otherwise:

- (1) ~~"ABC Commission" means ABC Commission. – the The North Carolina Alcoholic Beverage Control Commission established under G.S. 18B-200.~~
- (2) Repealed by Session Laws 2004-170, s. 6, effective August 2, 2004.
- (3) ~~"ABC permit" means a written or printed authorization issued by the ABC Commission pursuant to Chapter 18B, other than a purchase transportation permit. Unless the context clearly requires otherwise, "ABC permit" means a presently valid permit. ABC permit. – Defined in G.S. 18B-101.~~
- (4) ~~"Alcoholic beverage" means a beverage containing at least one half of one percent (0.5%) alcohol by volume, including malt beverages, unfortified wine, fortified wine, spirituous liquor, and mixed beverages. Alcoholic beverage. – Defined in G.S. 18B-101.~~

- (5) ~~"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.~~ Fortified wine. – Defined in G.S. 18B-101.
- (6) ~~"License" means a~~ License. – A certificate, issued pursuant to this Article by a city or county, that authorizes a person to engage in a phase of the alcoholic beverage industry.
- (7) ~~"Malt beverage" means beer, lager, malt liquor, ale, porter, and any other brewed or fermented beverage containing at least one half of one percent (0.5%) and not more than six percent (6%) alcohol by volume.~~ Malt beverage. – Defined in G.S. 18B-101.
- (8) ~~"Person" has the same meaning as in G.S. 105-228.90.~~ Person. – Defined in G.S. 105-228.90.
- (9) ~~"Sale" means a transfer, trade, exchange, or barter, in any manner or by any means, for consideration.~~ Sale. – Defined in G.S. 18B-101.
- (10) ~~"Secretary" means the~~ Secretary. – The Secretary of Revenue.
- (11) ~~"Spirituos liquor" or "liquor" means distilled spirits or ethyl alcohol, including spirits of wine, whiskey, rum, brandy, gin, and all other distilled spirits and mixtures of cordials, liqueurs, and premixed cocktails in closed containers for beverage use regardless of the dilution.~~ Spirituos liquor or liquor. – Defined in G.S. 18B-101.
- (12) ~~"Unfortified wine" means any wine of sixteen percent (16%) or less 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.~~ Unfortified wine. – Defined in G.S. 18B-101.
- (13) ~~"Wholesaler or importer" when~~ Wholesaler or importer. – When used with reference to wholesalers or importers of wine or malt beverages includes resident wineries that sell their wines at retail and resident breweries that produce fewer than 310,000 gallons of malt beverages per year.
- (14) ~~"Wine" means unfortified~~ Wine. – Unfortified and fortified wine.
- (15) ~~"Wine shipper permittee" means a~~ Wine shipper permittee. – A winery that holds a wine shipper permit issued by the ABC Commission under G.S. 18B-1001.1."

SECTION 3. This act is effective when it becomes law.

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Gibson** (Chair) for the Committee on **ALCOHOLIC BEVERAGE CONTROL**.

☐ Committee Substitute for

H.B. 1174 A BILL TO BE ENTITLED AN ACT TO AMEND THE ALCOHOLIC BEVERAGE CONTROL LAWS REGARDING THE ISSUANCE AND REVOCATION OF PERMITS AT LOCATIONS THAT ARE OR BECOME UNSUITABLE TO HOLD ABC PERMITS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill (~~#~~), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on ~~on~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

D

HOUSE BILL 1174

PROPOSED COMMITTEE SUBSTITUTE H1174-PCS70403-SA-7

Short Title: ABC Permit Issuance and Compliance.

(Public)

Sponsors:

Referred to:

April 12, 2005

A BILL TO BE ENTITLED

AN ACT TO AMEND THE ALCOHOLIC BEVERAGE CONTROL LAWS
REGARDING THE ISSUANCE AND REVOCATION OF PERMITS AT
LOCATIONS THAT ARE OR BECOME UNSUITABLE TO HOLD ABC
PERMITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-101 is amended by adding a new subdivision to read:

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

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"(c) Factors in Issuing Permit. – Before issuing a permit, the Commission shall be satisfied that the applicant is a suitable person to hold an ABC permit and that the location is a suitable place to hold the permit for which ~~he~~ the applicant has applied. To be a suitable place, the local governing body shall return a Zoning and Compliance Form to the Commission on a form provided by the Commission to show the establishment shall comply is in compliance with all applicable building and fire codes and, if applicable, has been notified that it is located in an Urban Redevelopment Area as defined by Article 22 of Chapter 160A and as required by G.S. 18B-904(e)(2). Other factors the Commission shall consider in determining whether the applicant and the business location are suitable are:

- (1) The reputation, character, and criminal record of the applicant;
- (2) The number of places already holding ABC permits within the neighborhood;
- (3) Parking facilities and traffic conditions in the neighborhood;
- (4) Kinds of businesses already in the neighborhood;
- (5) Whether the establishment is located within 50 feet of a church ~~or public school or church school;~~ public school, or any nonpublic

1 school as defined by Part 1 or Part 2 in Article 39 of Chapter 115C of
2 the General Statutes;

3 (6) Zoning laws;

4 (7) The recommendations of the local governing ~~body;~~ and body;

5 (8) Any other evidence that would tend to show whether the applicant
6 would comply with the ABC laws ~~and whether operation of his~~
7 ~~business at that location would be detrimental to the~~
8 ~~neighborhood.~~ laws; and

9 (9) Whether the operation of the applicant's business at that location
10 would be detrimental to the neighborhood including evidence
11 admissible under G.S. 150B-29(a) of the following:

12 a. Past revocations, suspensions, and violations of ABC laws by
13 prior permittees at this location; or

14 b. Evidence of illegal drug activity on or about the licensed
15 premises; or

16 c. Evidence of fighting, disorderly conduct, and other dangerous
17 activities on or about the licensed premises."

18 **SECTION 3.** G.S. 18B-901(d) reads as rewritten:

19 "(d) Commission's Authority. – The Commission shall have the sole power, in its
20 discretion, to determine the suitability and qualifications of an applicant for a permit and
21 the location to which the permit may be issued."

22 **SECTION 4.** G.S. 18B-904(e) reads as rewritten:

23 "(e) Business or Location No Longer Suitable. –

24 (1) The Commission may suspend or revoke a permit issued by it if, after
25 compliance with the provisions of Chapter 150B of the General
26 Statutes, it finds that the location occupied by the permittee is no
27 longer a suitable place to hold ABC permits or that the operation of the
28 business with an ABC permit at that location is detrimental to the
29 neighborhood. ~~No order revoking or suspending an ABC permit~~
30 ~~pursuant to this section may be made except upon substantial evidence~~
31 ~~admissible under G.S. 150B-29(a).~~

32 (2) The Commission shall suspend or revoke a permit issued by it if a
33 permittee is in violation of G.S. 18B-309. Notwithstanding subdivision
34 (e)(1) of this section, the Commission shall, by order and without prior
35 hearing, summarily suspend or revoke a permit issued by it if a
36 permittee is in violation of G.S. 18B-309(c) when, prior to the period
37 of time for which the audit is to be conducted, the city council has filed
38 information designating the location of the Urban Redevelopment
39 Area as required under G.S. ~~14-309(a)~~ 18B-309(a) and has provided
40 actual notice to permittees located in the Urban Redevelopment Area
41 that they are located in such an area and must abide by
42 G.S. 18B-309(c). Upon entry of a summary order under this
43 subdivision, the Commission shall promptly notify all interested
44 parties that the order has been entered and of the reasons therefore.

1 The order will remain in effect until it is modified or vacated by the
2 Commission. The permittee may, within 30 days after receipt of notice
3 of the order, make written request to the Commission for a hearing on
4 the matter. If a hearing is requested, after compliance with the
5 provisions of Chapter 150B of the General Statutes, the Commission
6 shall issue an order to affirm, reverse, or modify its previous action.

7 (3) Notwithstanding G.S. 18B-906, the Commission shall revoke a permit
8 issued by it if, after complying with the provisions of Chapter 150B of
9 the General Statutes and, without a finding of mitigating evidence or
10 circumstances, it finds evidence that the permittee or his employee has
11 been found responsible by a court of competent jurisdiction or the
12 Commission for two or more violations of knowingly allowing a
13 violation of the gambling, disorderly conduct, prostitution, or
14 controlled substance laws at a single ABC-licensed premises pursuant
15 to G.S. 18B-1005(a)(2), (a)(3), or (b), or G.S. 18B-1005.1 within a
16 12-month period. The permittee and the owner of the property have the
17 sole responsibility to monitor the conduct on the licensed premises
18 pursuant to G.S. 18B-1005(b) and G.S. 19-1. Revocation of permits
19 pursuant to this subdivision shall only apply to the permits issued to
20 the location where the violations occurred."

21 **SECTION 5.** G.S. 18B-906(a) reads as rewritten:

22 "(a) Act Applies. – An ABC permit is a "license" within the meaning of
23 G.S. 150B-2, ~~and~~ and, except for revocation pursuant to G.S. 18B-904(e)(3), a
24 Commission action on issuance, suspension, or revocation of an ABC permit, other than
25 a temporary permit issued under G.S. 18B-905, is a "contested case" subject to the
26 provisions of Chapter 150B except as provided in this section."

27 **SECTION 6.** This act becomes effective December 1, 2005, and applies to
28 offenses committed on or after that date.

VISITOR REGISTRATION SHEET

ALCOHOLIC BEVERAGE CONTROL

04-26-05

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Steve Davis	CSM, INC
Sean Wilson	Pop The Cap 79 Margaret Pl. Chapel Hill, NC 27516
Kemille Crowley	Cape Fear Wine & Beer 106 N. Water St. Suite 107 Wilmington, NC 28401
Nick Williams	Cape Fear Wine & Beer 106 N. Water #107 Wilmington, NC 28401
GLENN GIRTMAN	POP THE CAP 103 POSSUM PLACE CHAPEL HILL NC 27516
Suzanne Buckley	GOV OFFICE
Blair Goldstein	The Independent Weekly
REBECCA REEVE	RASS
Susan Auger	RASS
Jim Stephens	Glocester, NC
Jon Carr	NC Assoc. of ABC Boards

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

FIRM OR AGENCY AND ADDRESS

MARK SCRECH

INTERN - PRYOR GIBSON

NCR A - NCLBC

ABC

14

AOS

HOUSE COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL

Meeting Agenda

May 3, 2005

1:00 pm

- 1. Call to Order**
- 2. Bills (not necessarily in this order and as time allows):**
 - HB 1025 – Winemaking on Premises Permit**
 - HB 1389 – Clarify Wineries Wholesale License**
 - HB 1390 – Amend ABC Transportation Limit**
 - HB 1500 – Wine-Tasting Changes**
- 3. Adjourn**

MINUTES
HOUSE COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL

Tuesday, May 3, 2005

The House Committee on Alcoholic Beverage Control met on Tuesday, May 3, 2005, in Room 425 of the Legislative Office Building at 1:05 P.M. The following members were present: Chairman Pryor Gibson, Vice-Chair Ed Jones, Vice-Chair Paul Miller, Representatives Daughtry, Goforth, Lucas, Moore, Starnes and Tucker. Staff in attendance: Brenda Carter and Susan Sitze. A Visitor Registration list is attached and made part of these minutes.

Chairman Gibson called the meeting to order.

HB 1025—Winemaking on Premises Permit (Attachments 1, 2). Representative Harrell standing for bill sponsor Representative Luebke asked Counsel Brenda Carter to explain the bill. She said that under current law, there is a brew on premises permit, which allows people to rent equipment, space, and materials and brew wine. This bill creates a wine making on premises permit to make unfortified wine for personal Use. There is a \$400 application fee for the permit.

Doyle Alloy, Deputy Administrator, ABC Commission said they had no problem with the bill.

After a short discussion, Representative Daughtry moved for favorable report. Passed.

HB 1389—Clarify Wineries Wholesale License (Attachments 3, 4). Representative Harrell referred to Brenda Carter who said that the bill amends the law governing wine distribution agreements to provide that a North Carolina winery acting as its own master wholesaler is not subject to certain laws governing wine distribution agreements.

John Bodie said that North Carolina laws, in the 1980's, allowed NC wineries to be wholesalers, and some the larger wineries in the State, such as Biltmore and Shelton, do that. Some of the smaller wineries want to be wholesalers because the larger wholesalers do not want to handle their product. This bill would shelter a winery that wants to be his or her own wholesaler from litigation by the distributor of that product because the contract with the distributor of that product makes it clear that the distributor is the wholesaler. The issues are resolved, but the law has not been resolved.

Chris Valauri, NC Beer and Wine Wholesalers, spoke in favor of the bill; it is a safeguard. This bill is related to the "Direct Ship" bill passed in 2003.

Representative Goforth moved for a favorable report. Passed.

HB 1390—Amend ABC Transportation Limit (Attachments 5, 6). Representative Gibson and Representative Harrell said that this is a technical correction bill, which allows a person to transport up to 50 liters of unfortified wine without a permit—it was a mistake in drafting.

Representative Lucas moved for a favorable report. Passed.

HB 1500—Wine-Tasting Changes (Attachments 7, 8). Representative Gibson asked Counsel Carter to explain the bill. The wine tasting bill allows samples of 2 oz. to be served to

customers without charge and conducted by the permit holders. Major issues: the permit holder must actively supervise the wine tasting; an employee may not supervise more than three wine-tasting areas; no more than six wines may be tested at any one tasting area; and, wine tasting may not last longer than four hours from the designated starting time. The retail permit holder is solely liable for any violations of law occurring in connection with a wine tasting.

Following some discussion, Representative Starnes asked that an amendment be drafted to delete the word, "solely" from Line 4, page 2 (Attachment 9).

John Bodie said that the retailers have agreed to accept full responsibility for the consumption of alcohol on their premises in order to expand their business.

Andy Ellen, NC Retail Merchants Association, said that major wholesalers and retailers had worked out guidelines with major wineries. The ABC Commission said it is a good plan. However, they said the group would have to take the plan to the General Assembly.

Dick Carlton, Harris Teeter, said that Harris Teeter's wine tasting have been very successful and accepts responsibility, tasting are supervised and closely monitored. They support the bill.

Representative Daughtry moved for a favorable report.

Representative Starnes' amendment was brought before the Committee. Failed.

Chair Gibson said that Representative Harrell had an amendment to this bill for a Vitaculture/Enology Program at Surrey Community College (Attachment 10). The Program at the College would like to be able to sell the wine they produce in their laboratory at that center, but not on the campus.

Representative Harrell said that the amendment would continue to promote the programs at the school. Part of the curriculum for the students is how to do retail.

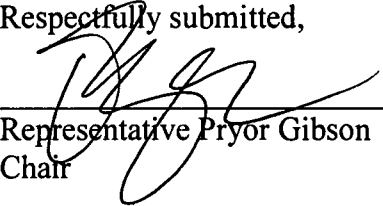
Representative Starnes suggested a cap on production. After some discussion, a cap perfecting amended of 250 liters per annum was suggested and proceeds of any sale would go to the school. Chair Gibson reviewed the perfecting amendment to read, "Proceeds from the sale of wine shall be used for the school, for the operation of the Vitaculture/Enology Program and not to exceed 250 liters per annum. Passed.

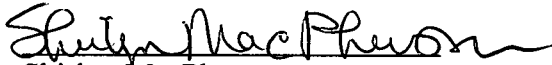
Dean Plunkett, NC Beer and Wine Wholesalers, said the wine is unfortified (low in alcohol content.)

Representative Daughtry's motion was brought forward for a favorable report, unfavorable to the original bill. Passed.

There being no further business, the Chair adjourned the meeting at 1:55 p.m.

Respectfully submitted,


Representative Pryor Gibson
Chair


Shirlyn MacPherson
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 1025

Short Title: Winemaking on Premises Permit.

(Public)

Sponsors: Representatives Luebke; LaRoque and Ross.

Referred to: Alcoholic Beverage Control.

March 31, 2005

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE ALCOHOLIC BEVERAGE CONTROL COMMISSION
TO ISSUE PERMITS FOR 'WINEMAKING ON PREMISES' BUSINESSES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-1001 is amended by adding a new subdivision to
read:

"(16) Winemaking on Premises Permit. – A permit may be issued to a
business, located in a jurisdiction where the sale of unfortified wine is
allowed, where individual customers who are 21 years old or older
may purchase ingredients and rent the equipment, time, and space to
make unfortified wine for personal use in amounts set forth in 27
C.F.R. § 24.75. Except for wine produced for testing equipment or
recipes and samples pursuant to this subdivision, the permit holder
shall not engage in the actual production or manufacture of wine.
Samples may be consumed on the premises only by a person who has a
nonrefundable contract to ferment at the premises, and the samples
may not exceed one ounce per sample. All wine produced at a
winemaking on premises facility shall be removed from the premises
by the customer, and may only be used for home consumption and the
personal use of the customer."

SECTION 2. G.S. 18B-307 reads as rewritten:

"§ 18B-307. **Manufacturing offenses.**

(a) Offenses. – It shall be unlawful for any person, except as authorized by this
Chapter, to:

(1) Sell or possess equipment or ingredients intended for use in the
manufacture of any alcoholic beverage, except equipment and
ingredients provided under a Brew on Premises permit or a
Winemaking on Premises permit; or

1 (2) Knowingly allow real or personal property owned or possessed by him
2 to be used by another person for the manufacture of any alcoholic
3 beverage, except pursuant to a Brew on Premises permit or a
4 Winemaking on Premises permit.

5 (b) Unlawful Manufacturing. – Except as provided in G.S. 18B-306, it shall be
6 unlawful for any person to manufacture any alcoholic beverage, except at an
7 establishment with a Brew on Premises permit or a Winemaking on Premises permit,
8 without first obtaining the applicable ABC permit and revenue licenses.

9 (c) Second Offense of Manufacturing. – A second offense of unlawful
10 manufacturing of alcoholic beverage shall be a Class I felony."

11 **SECTION 3.** G.S. 18B-902(d) is amended by adding a new subdivision to
12 read:

13 "(37) Winemaking on premises permit. – \$400.00."

14 **SECTION 4.** This act is effective when it becomes law.



BILL ANALYSIS

**HOUSE BILL 1025:
Winemaking on Premises Permit**

ATT# 2
5/3/05

Committee: House Alcoholic Beverage Control
Introduced by: Rep. Luebke
Version: First Edition

Date: May 3, 2005
Summary by: Brenda J. Carter
Committee Co-Counsel

SUMMARY: *House Bill 1025 creates a new "Winemaking on Premises" permit to businesses where customers may purchase ingredients and rent the equipment, time, and space to make unfortified wine for personal use. There is a \$400 application fee for the permit.*

CURRENT LAW: Under G.S. 18B-307 it is generally unlawful for any person without the appropriate ABC permit to:

- Sell or possess equipment or ingredients intended for use in the manufacture of any alcoholic beverage
- Knowingly allow real or personal property owned or possessed by him to be used by another person for the manufacture of any alcoholic beverage.
- Manufacture any alcoholic beverage, without first obtaining the applicable ABC permit and revenue licenses.

There are two notable exceptions to the general prohibition against the unlicensed manufacture of alcoholic beverages. G.S. 18B-306 allows an individual to make, possess, and transport native wines and malt beverages for his own use and for the use of his family and guests; and G.S. 18B-1001(14) provides for the manufacture of malt beverages pursuant to a "Brew on Premises" permit. A brew on premises permit authorizes the holder to rent the equipment and space necessary to produce malt beverages only; it does not apply to the manufacture of wine.

A Brew on Premises permit may be issued to a business, located in a jurisdiction where the sale of malt beverages is allowed, where individual customers who are 21 years old or older may purchase ingredients and rent the equipment, time, and space to brew malt beverages for personal use in amounts set forth in federal law. The statute requires that the customer do all of the following:

- a. Select a recipe and kettle.
- b. Weigh out the proper ingredients and add them to the kettle.
- c. Transfer the wort to the fermenter.
- d. Add the yeast.
- e. Place the ingredients in a fermentation room.
- f. Filter, carbonate, and bottle the malt beverage.

BILL ANALYSIS: House Bill 1025 would provide for the licensing of commercial establishments in which individuals could purchase ingredients and rent equipment, time, and space to make unfortified wine on the premises for their personal and family use, similar to the current brew on premises permit for making malt beverages. The permit holder will not engage in the actual production of the wine, and all wine must be removed from the premises by the customer and used only for home consumption and the customer's personal use. The fee for the permit is \$400.

EFFECTIVE DATE: The bill would be effective when it becomes law.

H1025e1-SMRV

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 1389

Short Title: Clarify Wineries Wholesale License.

(Public)

Sponsors: Representatives Gibson and Harrell (Primary Sponsors).

Referred to: Alcoholic Beverage Control.

April 21, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW GOVERNING WINE DISTRIBUTION
3 AGREEMENTS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 18B-1200 reads as rewritten:

6 "**§ 18B-1200. Construction; findings and ~~purpose~~; purpose; exceptions.**

7 (a) This Article shall be liberally construed and applied to promote its underlying
8 purposes and policies.

9 (b) The underlying purposes and policies of the Article are:

- 10 (1) To promote the compelling interest of the public in fair business
11 relations between wine wholesalers and wineries, and in the
12 continuation of wine wholesalerships on a fair basis;
13 (2) To protect wine wholesalers against unfair treatment by wineries;
14 (3) To provide wine wholesalers with rights and remedies in addition to
15 those existing by contract or common law; and
16 (4) To govern all wine wholesalerships, including any renewals or
17 amendments, to the full extent consistent with the Constitution of this
18 State and the United States.

19 (c) The effect of this Article may not be waived or varied by contract or
20 agreement. Any contract or agreement purporting to do so is void and unenforceable to
21 the extent of that waiver or variance.

22 (d) A North Carolina winery holding a valid wine wholesaler permit issued
23 pursuant to G.S. 18B-1101(7) and G.S. 18B-1107, when acting as its own master
24 wholesaler, shall not be subject to the provisions of G.S. 18B-1204, 18B-1205, and
25 18B-1207."

26 SECTION 2. This act is effective when it becomes law. This act shall be
27 effective prospectively only and shall not apply to pending litigation or claims that
28 accrued before the effective date of this act.



HOUSE BILL 1389: Clarify Wineries Wholesale License

Att. #4
5/3/05

BILL ANALYSIS

Committee: House Alcoholic Beverage Control
Introduced by: Reps. Gibson, Harrell
Version: First Edition

Date: May 2, 2005
Summary by: Brenda J. Carter
Committee Counsel

SUMMARY: *House Bill 1389 amends the law governing wine distribution agreements to provide that a North Carolina winery acting as its own master wholesaler is not subject to certain laws governing wine distribution agreements.*

CURRENT LAW: G.S. 18B-1204 prohibits a winery from amending, canceling, terminating, or refusing to renew an agreement with a wholesaler without good cause. G.S. 18B-1205 requires that a winery provide a wholesaler with at least 90 days prior written notice of a intent to amend, terminate, cancel or not renew any agreement. G.S. 18B-1207 provides that a wholesale may sue the winery for a violation, and the court may grant injunctive and other relief including damages to compensate the wholesaler for the value of the agreement. A winery would also be required to compensate the wholesaler for the wine inventory, and could be subject to suspension or revocation of its winery permit and the imposition of a monetary penalty.

BILL ANALYSIS: House Bill 1389 makes the provisions of G.S 18B-1204 (Cancellation), G.S. 18B-1205 (Notice of intent to terminate), and G.S. 18B-1207 (Judicial remedies) inapplicable to a North Carolina winery acting as its own master wholesaler.

EFFECTIVE DATE: The bill would be effective when it becomes law. It would not apply to any pending litigation or claims accruing before the effective date.

H1389e1-SMRV

ATT. # 5
5/3/05

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 1390

Short Title: Amend ABC Transportation Limit.

(Public)

Sponsors: Representatives Gibson and Harrell (Primary Sponsors).

Referred to: Alcoholic Beverage Control.

April 21, 2005

A BILL TO BE ENTITLED

AN ACT TO MAKE THE LAW GOVERNING THE COMMERCIAL
TRANSPORTATION OF ALCOHOLIC BEVERAGES CONSISTENT WITH THE
LAW GOVERNING THE AMOUNTS OF ALCOHOLIC BEVERAGES THAT
MAY BE PURCHASED WITHOUT A PERMIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-1115(a) reads as rewritten:

"(a) Permit Required. – Unless a person holds a permit which otherwise allows him to transport more than 80 liters of malt beverages other than draft malt beverages in kegs, ~~20~~50 liters of unfortified wine, or eight liters of fortified wine or spirituous liquor, or is a retailer authorized to transport alcoholic beverages under G.S. 18B-405, each person transporting alcoholic beverages in excess of those quantities shall have the permit described in this section."

SECTION 2. This act is effective when it becomes law.



HOUSE BILL 1390: Amend ABC Transportation Limit

ATT 126
5/3/05

BILL ANALYSIS

Committee: House Alcoholic Beverage Control
Introduced by: Reps. Gibson, Harrell
Version: First Edition

Date: May 2, 2005
Summary by: Brenda J. Carter
Committee Counsel

SUMMARY: *House Bill 1390 allows a person to transport up to 50 liters of unfortified wine without a permit.*

CURRENT LAW: Under 18B-303, a person without an ABC permit may purchase up to 50 liters of unfortified wine at any one time. A greater amount may be purchased with a purchase-transportation permit under G.S. 18B-403. A purchase-transportation permit authorizes the holder to transport a maximum of 100 liters of unfortified wine from the place of purchase to the destination within North Carolina indicated on the permit. G.S. 18B-1115(a), which applies to the commercial transportation of alcoholic beverages, provides that unless a person holds a permit which otherwise allows him to transport more than 20 liters of unfortified wine, the person must have a commercial transportation permit.

BILL ANALYSIS: House Bill 1390 would amend G.S. 18B-1115 by increasing the 20-liter commercial limit to conform to the 50 liter maximum that any person may purchase and transport without a permit pursuant to G.S. 18B-303. The inconsistency between the two statutes arose when G.S. 18B-303 was amended in 2001 to increase the purchase-transportation limit for unfortified wine from 20 to 50 liters.

EFFECTIVE DATE: The bill would be effective when it becomes law.

H1390e1-SMRV

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 1500

Short Title: Wine-Tasting Changes.

(Public)

Sponsors: Representatives Gibson and Harrell (Primary Sponsors).

Referred to: Alcoholic Beverage Control.

April 21, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE REQUIREMENTS TO HOLD A WINE-TASTING
3 PERMIT.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 18B-1001(15) reads as rewritten:

6 "(15) Wine-Tasting Permit. – A wine-tasting permit authorizes wine tastings
7 on ~~the a premises conducted and supervised by the permittee.~~ holding
8 a retail permit, by the retail permit holder or his employee. A wine
9 tasting consists of the offering of a sample of one or more unfortified
10 wine products, in amounts of no more than one ounce for each sample,
11 without charge, to customers of the business. Any person pouring wine
12 at a wine tasting shall be at least 21 years of age.

13 a. Representatives of the winery, which produced the wine, ~~or the~~
14 ~~wine producer-producer, a wholesaler or a wholesaler's~~
15 employee may assist with the tastingtasting in a manner
16 consistent with existing law by, including but not limited to:

17 1. Pouring samples for customers.

18 2. Checking the identification of patrons being served at the
19 wine tasting.

20 b. When a representative of the winery which produced the wine,
21 the wine producer, a wine wholesaler, or a wine wholesaler's
22 employee assists in a wine tasting conducted by a retail permit
23 holder:

24 1. The retail permit holder shall designate an employee to
25 actively supervise the wine tasting.

26 2. A retail permit holder's employee shall not supervise
27 more than three wine-tasting areas.

28 3. No more than six wines may be tasted at any one tasting
29 area.

1 4. The wine tasting shall not last longer than four hours
2 from the time designated as the starting time by the retail
3 permit holder.

4 c. The retail permit holder shall be solely liable for any violations
5 of law occurring in connection with the wine tasting.

6 The Commission shall adopt rules to assure that the tastings are limited
7 to samplings and not a subterfuge for the unlawful sale or distribution
8 of wine, and that the tastings are not used by industry members for
9 unlawful inducements to retail permit holders, and do not violate
10 existing rules. Except for purposes of this subsection, the holder of a
11 wine-tasting permit shall not be construed to hold a permit for the
12 on-premises sale or consumption of alcoholic beverages. Any food
13 business is eligible for a wine-tasting permit."

14 **SECTION 2.** This act is effective when it becomes law.



BILL ANALYSIS

HOUSE BILL 1500: Wine-Tasting Changes

ATT # 8

5/3/05

Committee: House Alcoholic Beverage Control
Introduced by: Reps. Gibson, Harrell
Version: First Edition

Date: May 3, 2005
Summary by: Brenda J. Carter
Committee Co-Counsel

SUMMARY: *House Bill 1500 amends the requirements for wine tasting permits, clarifying the law concerning the participation of wineries, wine producers, and wholesalers and specifying the responsibilities of the permit holder.*

CURRENT LAW: G.S. 18B-1001(15) authorizes the issuance of wine tasting permits that allow the offering of one-ounce samples of one or more unfortified wine products, without charge. A wine tasting must be conducted and supervised by the permit holder. Representatives of the winery that produced the wine may assist with a wine tasting, subject to rules adopted by the ABC Commission. Wine tasting permits may be issued to food businesses, which are defined in G.S. 18B-1000 as any establishment "engaged in the business of regularly and customarily selling food, primarily to be eaten off the premises." Food businesses include grocery stores, convenience stores, and other establishments where food is regularly sold. The fee for a wine tasting permit is \$100.

BILL ANALYSIS: House Bill 1500 allows the offering of wine samples by the permit holder or a designated employee. Any person pouring wine at a wine tasting must be at least 21 years old.

A winery, wine producer, wholesaler, or wholesaler employee's participation in a wine tasting specifically includes, but is not limited to, pouring samples or checking the ID of persons receiving the samples. The bill sets out specific requirements that apply when a winery, wine producer, wholesaler, or wholesaler's employee is participating in a wine tasting:

- An employee designated by the permit holder must actively supervise the wine tasting
- The employee may not supervise more than three wine-tasting areas
- No more than six wines may be tested at any one tasting area; and
- The wine tasting may not last longer than four hours from the designated starting time

The bill provides that the retail permit holder is solely liable for any violations of law occurring in connection with a wine tasting.

EFFECTIVE DATE: The act is effective when it becomes law.

H1500e1-SMRV

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATT # 9
5/3/05

EDITION No. 1

H. B. No. 1500

DATE 5-3-05

S. B. No. _____

Amendment No. _____

COMMITTEE SUBSTITUTE _____

(to be filled in by
Principal Clerk)

Rep.) Starnes
Sen.) _____

1 moves to amend the bill on page 2, line 4

2 () WHICH CHANGES THE TITLE

3 by deleting the word "solely"

4 _____

5 _____

6 _____

7 _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED E. Starnes

ADOPTED _____ FAILED ☒ TABLED _____



Att # 10
5/3/05

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT

Bill _____

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

_____ ARV-4 [v.1]

Page 1 of 2

Date _____, 2005

Comm. Sub. [NO]
Amends Title [YES]

Representative _____

1 moves to amend the bill on page 1, line ____, by inserting before the period the
2 following: "AND TO AMEND THE LAW CONCERNING COMMUNITY COLLEGE
3 VITACULTURE/ENOLOGY PROGRAMS";

4
5 and on page ____, lines ____, by inserting between those lines the following:

6
7 **SECTION ____.** G.S. 18B-1114.4 reads as rewritten:

8 **"§ 18B-1114.4. Viticulture/Enology course authorization.**

9 (a) Authorization. – The holder of a viticulture/enology course authorization
10 may:

- 11 (1) Manufacture wine from grapes grown on the school's campus or the
12 school's contracted or leased property for the purpose of providing
13 instruction and education on the making of unfortified wines.
14 (2) Possess wines manufactured during the viticulture/enology program
15 for the purpose of conducting wine-tasting seminars and classes for
16 students who are 21 years of age or older.
17 (3) Sell wines produced during the course to wholesalers or to retailers
18 upon obtaining a wine wholesaler permit under G.S. 18B-1107, except
19 that the permittee may not receive shipments of wines from other
20 producers.

21 (b) Limitation. – Authorization for a viticulture/enology course shall be granted
22 by the Commission only for a community college or college that offers a
23 viticulture/enology program as a part of its curriculum offerings for students of the
24 school. ~~No retail sales of wine shall be made by the students, instructor, or school.~~
25 Wines may be manufactured only from grapes grown in a viticulture/enology course



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT

Bill _____

AMENDMENT NO. _____

(to be filled in by
Principal Clerk)

_____ ARV-4 [v.1]

Page 2 of 2

1 vineyard, ~~not to exceed five acres,~~ that is located on the school's campus or the school's
2 contracted or leased property.

3 (c) The holder of a viticulture/enology course authorization may ~~manufacture~~
4 ~~wines from grapes grown by others until June 30, 2004. Otherwise, wine may be~~
5 ~~manufactured only as provided in subsection (b) of this section.~~ obtain a winery special
6 event permit under G.S. 18B-1114.1, and where the permit is valid may participate in
7 approved events and sell at retail at those events any wine produced incident to the
8 operation of the viticulture/enology program.

9 (d) The holder of a viticulture/enology course authorization shall not be
10 considered a winery for the purposes of this Chapter or Chapter 105 of the General
11 Statutes."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

D

HOUSE BILL 1500

PROPOSED COMMITTEE SUBSTITUTE H1500-PCS80348-RV-10

Short Title: Wine-Tasting Changes.

(Public)

Sponsors:

Referred to:

April 21, 2005

A BILL TO BE ENTITLED

AN ACT TO AMEND THE REQUIREMENTS TO HOLD A WINE-TASTING
PERMIT AND TO AMEND THE LAW CONCERNING COMMUNITY
COLLEGE VITICULTURE/ENOLOGY PROGRAMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-1001(15) reads as rewritten:

"(15) Wine-Tasting Permit. – A wine-tasting permit authorizes wine tastings on the a premises conducted and supervised by the permittee, holding a retail permit, by the retail permit holder or his employee. A wine tasting consists of the offering of a sample of one or more unfortified wine products, in amounts of no more than one ounce for each sample, without charge, to customers of the business. Any person pouring wine at a wine tasting shall be at least 21 years of age.

a. Representatives of the winery, which produced the wine, or the wine producer—producer, a wholesaler, or a wholesaler's employee may assist with the tastings in a manner consistent with existing law. tasting. Assisting with a wine tasting includes, but is not limited to:

1. Pouring samples for customers.
2. Checking the identification of patrons being served at the wine tasting.

b. When a representative of the winery which produced the wine, the wine producer, a wine wholesaler, or a wine wholesaler's employee assists in a wine tasting conducted by a retail permit holder:

1. The retail permit holder shall designate an employee to actively supervise the wine tasting.

2. A retail permit holder's employee shall not supervise more than three wine-tasting areas.

3. No more than six wines may be tasted at any one tasting area.

4. The wine tasting shall not last longer than four hours from the time designated as the starting time by the retail permit holder.

c. The retail permit holder shall be solely liable for any violations of law occurring in connection with the wine tasting.

The Commission shall adopt rules to assure that the tastings are limited to samplings and not a subterfuge for the unlawful sale or distribution of wine, and that the tastings are not used by industry members for unlawful inducements to retail permit holders, and do not violate existing rules. Except for purposes of this subsection, the holder of a wine-tasting permit shall not be construed to hold a permit for the on-premises sale or consumption of alcoholic beverages. Any food business is eligible for a wine-tasting permit."

SECTION 2. G.S. 18B-1114.4 reads as rewritten:

"§ 18B-1114.4. Viticulture/Enology course authorization.

(a) Authorization. – The holder of a viticulture/enology course authorization may:

(1) Manufacture wine from grapes grown on the school's campus or the school's contracted or leased property for the purpose of providing instruction and education on the making of unfortified wines.

(2) Possess wines manufactured during the viticulture/enology program for the purpose of conducting wine-tasting seminars and classes for students who are 21 years of age or older.

(3) Sell wines produced during the course to wholesalers or to retailers upon obtaining a wine wholesaler permit under G.S. 18B-1107, except that the permittee may not receive shipments of wines from other producers.

(b) Limitation. – Authorization for a viticulture/enology course shall be granted by the Commission only for a community college or college that offers a viticulture/enology program as a part of its curriculum offerings for students of the school. ~~No retail sales of wine shall be made by the students, instructor, or school.~~ Wines may be manufactured only from grapes grown in a viticulture/enology course ~~vineyard, not to exceed five acres, vineyard~~ that is located on the school's campus or the school's contracted or leased property.

(c) The holder of a viticulture/enology course authorization may ~~manufacture wines from grapes grown by others until June 30, 2004. Otherwise, wine may be manufactured only as provided in subsection (b) of this section.~~ obtain a winery special event permit under G.S. 18B-1114.1, and where the permit is valid may participate in approved events and sell at retail at those events any wine produced incident to the operation of the viticulture/enology program. The amount of wine sold pursuant to this

1 subsection is limited to 250 liters annually, and net proceeds from sale of the wine shall
2 be retained by the school and used for support of the viticulture/enology program.

3 (d) The holder of a viticulture/enology course authorization shall not be
4 considered a winery for the purposes of this Chapter or Chapter 105 of the General
5 Statutes."

6 **SECTION 3.** This act is effective when it becomes law.

VISITOR REGISTRATION SHEET

ALCOHOLIC BEVERAGE CONTROL

05-03-05

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Doyle Alley	ABC Commission
Thompson	NCRA
Andy Eller	NCRMA
Rev. Mark Cheek	CAU
Dick Carlton	HAT
Chris Vickari	NC Beer & Wine Assoc
Dean Plunkett	NC BOWA
Mike Rife	Boys Call V Surge
Rebecca Key	intern - Pryor Gibson
Bill Hester	A.D.S.
Tony Osbourne	Rowan County ABC Commission

VISITOR REGISTRATION SHEET

House Alcoholic Beverage Control Committee

Name of Committee

5/3/05

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Tom Novink

Pres of N.C. ABC System

LARRY BECK

GASTONIA ABC BOARD

2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative **Gibson** (Chair) for the Committee on **ALCOHOLIC BEVERAGE CONTROL**.

☐ Committee Substitute for

H.B. 1025 A BILL TO BE ENTITLED AN ACT TO ALLOW THE ALCOHOLIC BEVERAGE CONTROL COMMISSION TO ISSUE PERMITS FOR 'WINEMAKING ON PREMISES' BUSINESSES.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Gibson** (Chair) for the Committee on **ALCOHOLIC BEVERAGE CONTROL**.

- ☐ Committee Substitute for
H.B. 1389 A BILL TO BE ENTITLED AN ACT TO AMEND THE LAW GOVERNING
WINE DISTRIBUTION AGREEMENTS.
- ☒ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the
title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and
recommendation that the committee substitute bill #) be re-referred to the Committee
on .)
- ☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Gibson** (Chair) for the Committee on **ALCOHOLIC BEVERAGE CONTROL**.

☐ Committee Substitute for

H.B. 1390 A BILL TO BE ENTITLED AN ACT TO MAKE THE LAW GOVERNING THE COMMERCIAL TRANSPORTATION OF ALCOHOLIC BEVERAGES CONSISTENT WITH THE LAW GOVERNING THE AMOUNTS OF ALCOHOLIC BEVERAGES THAT MAY BE PURCHASED WITHOUT A PERMIT.

- ☒ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ .
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ .
- ☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)
- ☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Gibson** (Chair) for the Committee on **ALCOHOLIC BEVERAGE CONTROL**.

- ☐ Committee Substitute for
H.B. 1500 A BILL TO BE ENTITLED AN ACT TO AMEND THE REQUIREMENTS TO
HOLD A WINE-TASTING PERMIT.
- ☐ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.
- ☒ With a favorable report as to the committee substitute bill (~~#~~), ☒ which changes the
title, unfavorable as to (the original bill) (~~Committee Substitute Bill #~~), (and
~~recommendation that the committee substitute bill #~~) be re-referred to the Committee
on ~~_____~~.)
- ☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

HOUSE COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL

Meeting Agenda

May 31, 2005

1:00 pm

1. Call to Order

2. Bills (not necessarily in this order and as time allows):

HB 1416 An Act to Amend the ABC Election Law

HB 1518 ABC Licensees to Recycle Beverage Containers

3. Adjourn

MINUTES
HOUSE COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL

Tuesday, May 31, 2005

The House Committee on Alcoholic Beverage Control met on Tuesday, May 31, 2005, in Room 425 of the Legislative Office Building at 1:00 P.M. The following members were present: Chairman Pryor Gibson, Vice-Chair Ed Jones, Representatives Daughtry, Goforth, Lucas, Moore, and Tucker. Staff in attendance: Brenda Carter and Susan Sitze. A Visitor Registration list is attached and made part of these minutes.

Chairman Gibson called the meeting to order.

HB 1416 – An Act to Amend the ABC Election Law (Attachment 1, 2). Representative Haire said that the bill allows the town of Dillsboro to vote on beer and wine in the town, i.e., it would provide for malt beverage and unfortified wine elections in any city or town that was a passenger end point of a rail line that carries at least 60,000 passengers. The Town Board had requested this bill.

Representative Tucker moved for a favorable report.

Reverend Mark Creech, Executive Director, Christian Action League, said that the bill was a local bill that only applied to Dillsboro, NC, and could not be applied statewide, therefore, unconstitutional.

Representative Haire cited other North Carolina cities that have rail service and have at least 60,000 passengers annually as Wellington, Salisbury, and Fayetteville, so the bill does have statewide implications.

Representative Tucker's motion was brought forward. Passed

HB 1518 – ABC Licensees to Recycle Beverage Containers (Attachment 3). Representative Tucker moved to adopt H1518-CSSA-18 [v.1] (Attachment 4) and be put before the Committee. Representative Hackney said that this bill requires the ABC permit holders to participate in recycling programs and prohibit glass and metal beverage containers from landfills.

Susan Sitze, Counsel, said that the PCS just made technical corrections as to the wrong Statute in the original bill, a place that had not been underlined properly, and the effective date. Representative Hackney pointed out that incidental disposal of small quantities does not qualify as a violation.

A short discussion ensued regarding issues of landfill bans prosecutions, incentives to do right, education of retailers, tax credits, etc. Representative Hackney said that the bill is not intended to be criminal statute.

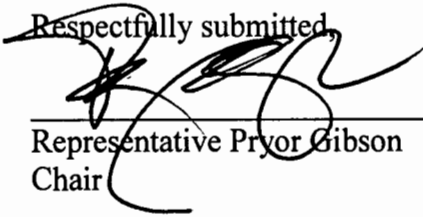
T. Jerry Williams, NC Restaurant Association, applauded the intent, but thinks it goes too far too fast, and that it is a solid waste issue rather than an ABC issue. As a stakeholder, his association would be willing to work on this issue. Representative Hackney said that only the ABC people know who the on-premise people were, and probably all Mr. William's members

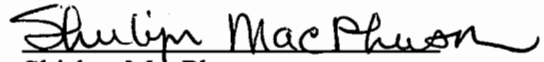
recycle now. This just picks up the ones who do not recycle. He would offer to push it out one year and continue to work on it in good faith with Mr. Williams.

Representative Gibson offered an amendment (Attachment 5) to change the effective date to January 1, 2007. Passed. Representative Goforth moved to roll the amendment into a new PCS, favorable, unfavorable to the original bill. Representative Tucker seconded. Passed.

There being no further business, the Chair adjourned the meeting at 1:25 p.m.

Respectfully submitted,



Representative Pryor Gibson
Chair

Shirlyn MacPherson
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 1416

Short Title: An Act to Amend the ABC Election Law.

(Public)

Sponsors: Representative Haire.

Referred to: Alcoholic Beverage Control.

April 21, 2005

A BILL TO BE ENTITLED

AN ACT TO MAKE TOWNS OR CITIES WHERE A RAILROAD PASSENGER
TERMINUS EXISTS ELIGIBLE TO HOLD MALT BEVERAGE PERMIT
ELECTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-600 is amended by adding a new subsection to read:

"(h) Railroad Passenger Terminus Location Elections. – Notwithstanding any other provision of this section, any city or town that is the passenger terminus of a rail line that carries at least 60,000 passengers annually may hold an election authorized by subdivisions (a)(1) and (a)(2) of this section. Any election held under this subsection shall be for the on-premises sale of malt beverages and the on-premises sale of unfortified wine pursuant to G.S. 18B-602(a)(2) and G.S. 18B-602(d)(2)."

SECTION 2. This act is effective when it becomes law.



BILL ANALYSIS

HOUSE BILL 1416: An Act to Amend the ABC Election Law

ATT #2
5/31/05

Committee: House Alcoholic Beverage Control
Introduced by: Rep. Haire
Version: First Edition

Date: May 31, 2005
Summary by: Brenda J. Carter
Committee Counsel

SUMMARY: *House Bill 1416 would provide for malt beverage and unfortified wine elections in any city or town that is the passenger end point of a rail line that carries at least 60,000 passengers annually.*

CURRENT LAW: G.S. 18B-600 prescribes the places eligible to hold alcoholic beverage elections. In general, a city may hold a malt beverage or unfortified wine election only if the county in which the city is located has already held such an election, the vote in the last county election was against the sale of that kind of alcoholic beverage, and the city has a population of 500 or more or the city operates an ABC store. Exceptions exist for ski resorts, cities located in two or more counties, and townships.

BILL ANALYSIS: House Bill 1416 would amend G.S. 18B-600 (Places eligible to hold alcoholic beverage elections) to provide for railroad passenger terminus location elections. Any city or town that is the passenger end point of a rail line that carries at least 60,000 passengers annually would be eligible to hold elections to permit the on-premises sale of malt beverages and unfortified wine. A known place that would be affected by this bill is Dillsboro, which is the site of the main depot and headquarters for the Great Smoky Mountains Railroad. Dillsboro is a community with a population of 205 as of the 2000 census. It is located in Jackson County, which is dry except for Sylva -- the county seat.

EFFECTIVE DATE: The bill would be effective when it becomes law.

H1416e1-SMRV (Corrected Copy)

ATTN: 5
5/31/05

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 1518

Short Title: ABC Licensees to Recycle Beverage Containers. (Public)

Sponsors: Representatives Hackney; Harrison, Insko, Martin, Starnes, Underhill,
and Weiss.

Referred to: Alcoholic Beverage Control.

April 21, 2005

A BILL TO BE ENTITLED

AN ACT TO REQUIRE HOLDERS OF CERTAIN ABC PERMITS TO RECYCLE
ALL RECYCLABLE CONTAINERS OF ALL BEVERAGES SOLD AT RETAIL
ON THE PREMISES AND TO PROHIBIT THE DISPOSAL OF THOSE
CONTAINERS IN LANDFILLS OR BY INCINERATION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 10 of Chapter 18B of the General Statutes is amended
by adding a new section to read:

**"§ 18B-1006.1. Additional requirement for certain permittees to recycle beverage
containers.**

Holders of on-premises malt beverage permits, on-premises unfortified wine
permits, on-premises fortified wine permits, and mixed beverages permits shall
separate, store, and provide for the collection for recycling of all recyclable beverage
containers of all beverages sold at retail on the premises. A permittee has satisfied the
requirements of this subsection if it implements a recycling program that meets the
minimum standards of the model recycling program developed by the Commission
pursuant to G.S. 130A-309.14(m)."

SECTION 2. G.S. 130A-309.14 is amended by adding a new subsection to
read:

"(m) The Alcoholic Beverage Control Commission, with the assistance of the
Department, shall develop a model recycling program for holders of on-premises malt
beverage permits, on-premises unfortified wine permits, on-premises fortified wine
permits, and mixed beverages permits under G.S. 18B-1001 that are required to recycle
beverage containers under G.S. 18B-1006.1. The model program shall provide for the
separation, storage, and collection for recycling of all beverage containers that are
required to be recycled under G.S. 18B-1006.1 and shall provide alternatives that reflect
variations in local circumstances across the State. The Alcoholic Beverage Control
Commission may adopt rules to comply with this section."

1 **SECTION 3.** Subsections (f) and (f1) of G.S. 130A-310.10 read as
2 rewritten:

3 "(f) No person shall knowingly dispose of the following solid wastes in landfills:

4 (1) Repealed by Session Laws 1991, c. 375, s. 1.

5 (2) Used oil.

6 (3) Yard trash, except in landfills approved for the disposal of yard trash
7 under rules adopted by the Commission. Yard trash that is source
8 separated from solid waste may be accepted at a solid waste disposal
9 area where the area provides and maintains separate yard trash
10 composting facilities.

11 (4) White goods.

12 (5) Antifreeze (ethylene glycol).

13 (6) Aluminum cans.

14 (7) Whole scrap tires, as provided in G.S. 130A-309.58(b). ~~The~~
15 ~~prohibition against landfilling~~ The prohibition of the disposal of whole
16 scrap tires in landfills applies to all whole pneumatic rubber coverings,
17 but does not apply to whole solid rubber coverings.

18 (8) Lead-acid batteries, as provided in G.S. 130A-309.70.

19 (9) Beverage containers that are required to be recycled under
20 G.S. 18B-1006.1.

21 (f1) No person shall knowingly dispose of the following solid wastes by
22 incineration in an incinerator for which a permit is required under this Article:

23 (1) Antifreeze (ethylene glycol) used solely in motor vehicles.

24 (2) Aluminum cans.

25 (3) Repealed by Session Laws 1995 (Regular Session, 1996), c. 594, s. 17.

26 (4) White goods.

27 (5) Lead-acid batteries, as provided in G.S. 130A-309.70.

28 (6) Beverage containers that are required to be recycled under
29 G.S. 18B-1006.1."

30 **SECTION 4.** This act becomes effective 1 October 2005.

Att. 4
5/31/05

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

D

HOUSE BILL 1518

PROPOSED COMMITTEE SUBSTITUTE H1518-CSSA-18 [v.1]

5/31/2005 12:57:12 PM

Short Title: ABC Licensees to Recycle Beverage Containers.

(Public)

Sponsors:

Referred to:

April 21, 2005

A BILL TO BE ENTITLED

AN ACT TO REQUIRE HOLDERS OF CERTAIN ABC PERMITS TO RECYCLE
ALL RECYCLABLE CONTAINERS OF ALL BEVERAGES SOLD AT RETAIL
ON THE PREMISES AND TO PROHIBIT THE DISPOSAL OF THOSE
CONTAINERS IN LANDFILLS OR BY INCINERATION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 10 of Chapter 18B of the General Statutes is amended
by adding a new section to read:

**"§ 18B-1006.1. Additional requirement for certain permittees to recycle beverage
containers.**

Holders of on-premises malt beverage permits, on-premises unfortified wine
permits, on-premises fortified wine permits, and mixed beverages permits shall
separate, store, and provide for the collection for recycling of all recyclable beverage
containers of all beverages sold at retail on the premises. A permittee has satisfied the
requirements of this subsection if it implements a recycling program that meets the
minimum standards of the model recycling program developed by the Commission
pursuant to G.S. 130A-309.14(m)."

SECTION 2. G.S. 130A-309.14 is amended by adding a new subsection to
read:

"(m) The Alcoholic Beverage Control Commission, with the assistance of the
Department, shall develop a model recycling program for holders of on-premises malt
beverage permits, on-premises unfortified wine permits, on-premises fortified wine
permits, and mixed beverages permits under G.S. 18B-1001 that are required to recycle
beverage containers under G.S. 18B-1006.1. The model program shall provide for the
separation, storage, and collection for recycling of all beverage containers that are
required to be recycled under G.S. 18B-1006.1 and shall provide alternatives that reflect
variations in local circumstances across the State. The Alcoholic Beverage Control
Commission may adopt rules to comply with this section."

1 **SECTION 3.** Subsections (f) and (f1) of G.S. 130A-309.10 read as
2 rewritten:

3 "(f) No person shall knowingly dispose of the following solid wastes in landfills:

4 (1) Repealed by Session Laws 1991, c. 375, s. 1.

5 (2) Used oil.

6 (3) Yard trash, except in landfills approved for the disposal of yard trash
7 under rules adopted by the Commission. Yard trash that is source
8 separated from solid waste may be accepted at a solid waste disposal
9 area where the area provides and maintains separate yard trash
10 composting facilities.

11 (4) White goods.

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13 (6) Aluminum cans.

14 (7) Whole scrap tires, as provided in G.S. 130A-309.58(b). ~~The~~
15 ~~prohibition against landfilling~~ The prohibition of the disposal of whole
16 scrap tires in landfills applies to all whole pneumatic rubber coverings,
17 but does not apply to whole solid rubber coverings.

18 (8) Lead-acid batteries, as provided in G.S. 130A-309.70.

19 (9) Beverage containers that are required to be recycled under
20 G.S. 18B-1006.1.

21 (f1) No person shall knowingly dispose of the following solid wastes by
22 incineration in an incinerator for which a permit is required under this Article:

23 (1) Antifreeze (ethylene glycol) used solely in motor vehicles.

24 (2) Aluminum cans.

25 (3) Repealed by Session Laws 1995 (Regular Session, 1996), c. 594, s. 17.

26 (4) White goods.

27 (5) Lead-acid batteries, as provided in G.S. 130A-309.70.

28 (6) Beverage containers that are required to be recycled under
29 G.S. 18B-1006.1."

30 **SECTION 4.** This act becomes effective October 1, 2005.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATT. 5
5/31/05

EDITION No. H1518-CSSA-18 [v.1]

H. B. No. 1518

DATE _____

S. B. No. _____

Amendment No. _____

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)

Sen.)

1 moves to amend the bill on page 2, line 30

2 () WHICH CHANGES THE TITLE

3 by deleting "2005" and substituting "2007"
4 "1 October 2005" "1 January 2007"

5 _____

6 _____

7 _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED Hack

ADOPTED _____ FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

ABC

5-31-05

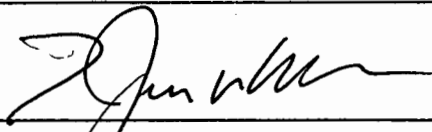
Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Kimberly Wilson	Leadership Anson Wadesboro NC
Shelia Spencer	Leadership Anson Wadesboro, NC
Terry Landis	Leadership Anson " "
CRYSTAL CHAVIS	ANSON COUNTY COOP EXTENSION 4-H YOUTH PROMISE PO BOX 633 WADESBORO NC 28170
JD Bricken	USFWS Leadership Anson
	NCR
Jon carr	Nc Assoc. ABC Boards
Andy Pigse	Leadership Anson
Chris Valauri	NC Beer & Wine Wholesalers
Anne Rivers Flynn	Muharrie Capital Corp. / Anson Bank & Trust Co. Leadership Anson
Jeania Martin	Leadership Anson

VISITOR REGISTRATION SHEET

ABC

5-31-05

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Cynthia V. Springs

Leadership Anson 2005

Carri Brock

Leadership Anson

Bonnie Morgan

" "

Kavita Pillai

News & Record

Dawn McQuirk

Leadership Anson

Arta Henry

Leadership Anson

Ed TURLINGTON

BPM # L

Alison Kiser

Leadership Anson

John Ruff

Leadership Anson

Jessica Sage

NCFPC

William Lutz

Metrol District

VISITOR REGISTRATION SHEET

ABC

Name of Committee

5-31-05

Date _____

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

John Bode
Dean Plunkett

Book Call & Stamp
BEER'S WINE WHOLESALERS.

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Gibson** (Chair) for the Committee on **ALCOHOLIC BEVERAGE CONTROL**.

- ☐ Committee Substitute for
H.B. 1416 A BILL TO BE ENTITLED AN ACT TO MAKE TOWNS OR CITIES WHERE
A RAILROAD PASSENGER TERMINUS EXISTS ELIBIBLE TO HOLD MALT
BEVERAGE PERMIT ELECTIONS.
- ☒ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the
title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and
recommendation that the committee substitute bill #) be re-referred to the Committee
on .)
- ☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Gibson** (Chair) for the Committee on **ALCOHOLIC BEVERAGE CONTROL**.

☐ Committee Substitute for

H.B. 1518 A BILL TO BE ENTITLED AN ACT TO REQUIRE HOLDERS OF CERTAIN ABC PERMITS TO RECYCLE ALL RECYCLABLE CONTAINERS OF ALL BEVERAGES SOLD AT RETAIL ON THE PREMISES AND TO PROHIBIT THE DISPOSAL OF THOSE CONTAINERS IN LANDFILLS OR BY INCINERATION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill (~~#~~), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on ~~on~~.

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

D

HOUSE BILL 1518

PROPOSED COMMITTEE SUBSTITUTE H1518-PCS50457-SA-18

Short Title: ABC Licensees to Recycle Beverage Containers.

(Public)

Sponsors:

Referred to:

April 21, 2005

A BILL TO BE ENTITLED

AN ACT TO REQUIRE HOLDERS OF CERTAIN ABC PERMITS TO RECYCLE ALL RECYCLABLE CONTAINERS OF ALL BEVERAGES SOLD AT RETAIL ON THE PREMISES AND TO PROHIBIT THE DISPOSAL OF THOSE CONTAINERS IN LANDFILLS OR BY INCINERATION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 10 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-1006.1. Additional requirement for certain permittees to recycle beverage containers.

Holders of on-premises malt beverage permits, on-premises unfortified wine permits, on-premises fortified wine permits, and mixed beverages permits shall separate, store, and provide for the collection for recycling of all recyclable beverage containers of all beverages sold at retail on the premises. A permittee has satisfied the requirements of this subsection if it implements a recycling program that meets the minimum standards of the model recycling program developed by the Commission pursuant to G.S. 130A-309.14(m)."

SECTION 2. G.S. 130A-309.14 is amended by adding a new subsection to read:

"(m) The Alcoholic Beverage Control Commission, with the assistance of the Department, shall develop a model recycling program for holders of on-premises malt beverage permits, on-premises unfortified wine permits, on-premises fortified wine permits, and mixed beverages permits under G.S. 18B-1001 that are required to recycle beverage containers under G.S. 18B-1006.1. The model program shall provide for the separation, storage, and collection for recycling of all beverage containers that are required to be recycled under G.S. 18B-1006.1 and shall provide alternatives that reflect variations in local circumstances across the State. The Alcoholic Beverage Control Commission may adopt rules to comply with this section."

1 **SECTION 3.** Subsections (f) and (f1) of G.S. 130A-309.10 read as
2 rewritten:

3 "(f) No person shall knowingly dispose of the following solid wastes in landfills:

4 (1) Repealed by Session Laws 1991, c. 375, s. 1.

5 (2) Used oil.

6 (3) Yard trash, except in landfills approved for the disposal of yard trash
7 under rules adopted by the Commission. Yard trash that is source
8 separated from solid waste may be accepted at a solid waste disposal
9 area where the area provides and maintains separate yard trash
10 composting facilities.

11 (4) White goods.

12 (5) Antifreeze (ethylene glycol).

13 (6) Aluminum cans.

14 (7) Whole scrap tires, as provided in G.S. 130A-309.58(b). ~~The~~
15 ~~prohibition against landfilling~~ The prohibition of the disposal of whole
16 scrap tires in landfills applies to all whole pneumatic rubber coverings,
17 but does not apply to whole solid rubber coverings.

18 (8) Lead-acid batteries, as provided in G.S. 130A-309.70.

19 (9) Beverage containers that are required to be recycled under
20 G.S. 18B-1006.1.

21 (f1) No person shall knowingly dispose of the following solid wastes by
22 incineration in an incinerator for which a permit is required under this Article:

23 (1) Antifreeze (ethylene glycol) used solely in motor vehicles.

24 (2) Aluminum cans.

25 (3) Repealed by Session Laws 1995 (Regular Session, 1996), c. 594, s. 17.

26 (4) White goods.

27 (5) Lead-acid batteries, as provided in G.S. 130A-309.70.

28 (6) Beverage containers that are required to be recycled under
29 G.S. 18B-1006.1."

30 **SECTION 4.** This act becomes effective January 1, 2007.

HOUSE COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL

Meeting Agenda

June 21, 2005

1:00 pm

1. Call to Order

2. Bills (not necessarily in this order and as time allows):

HB 1429 - Wine Shipper Fee/Wine Primary Source

SB 974 - Alcohol Sales-Campus Performing

3. Adjourn

MINUTES

HOUSE COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL

Tuesday, June 21, 2005

The House Committee on Alcoholic Beverage Control met on Tuesday, June 21, 2005, in Room 425 of the Legislative Office Building at 1:00 P.M. The following members were present: Chairman Pryor Gibson, Vice-Chairs Robert Grady and Paul Miller, Representatives Daughtry, Goforth, Lucas, and Tucker. Staff in attendance: Brenda Carter and Susan Sitze. A Visitor Registration list is attached and made part of these minutes.

Chairman Gibson called the meeting to order.

SB 974 – Alcohol Sales-Campus Arts Centers/AgriCenter (Attachment 1). Representative Daughtry moved to adopt S974-CSSA-21 [v.2] and be put before the Committee. Representative Gibson spoke on the bill for Senator Dannelly. He explained that the bill allows the Cultural Center in Charlotte to serve beer and wine. The bill also allows the Agricultural Center in Duplin County to serve wine at the Wine Festival. It is a simple, one-time provision that expires at the end of 2005, and allows that facility to sell the product they are promoting. Representative Daughtry said that the Duplin County Winery has done an outstanding job, and as many as fifty winery representatives could “show off their wares.” Representative Lucas moved for a favorable report to the PCS, unfavorable to the original bill. Passed.

HB 1429 – Wine Shipper Fee/Wine Primary Source (Attachment 2). Representative Gibson that this bill does four things: (1) removes the wine shipper fee; (2) recognizes “primary source”; (3) moves the Grape Council from Agriculture to the Department of Commerce because the winery business now addresses the tourism side to the business in North Carolina. These two State Government departments can work together cooperatively; (4) “split case” is the short title for “‘giving things of value’ shall not include the dividing or removing of individual containers of alcohol from larger packages of alcohol or the delivery of such to the retail permittee” (page 4, section 7). The splitting of the product does not have value.

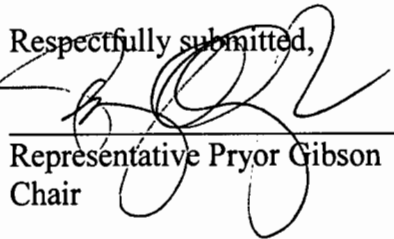
Rep. Daughtry asked to be excused from voting.

Dean Plunkett, NC Beer and Wine Wholesalers Association, spoke on the “split case” part of the bill. He said that wholesalers saw a problem with the importation of small batches of wines coming through non-recognized sources. When wholesalers purchase wine for retailers, and retailers purchase wine from wholesalers, they would know they had the proper sources and channels. They have worked with large and small retailers, large and small importers into North Carolina and United States, wineries, large collectors, and others making sure everyone were satisfied with the language. He also reintegrated that all involved are happy with “primary source.”

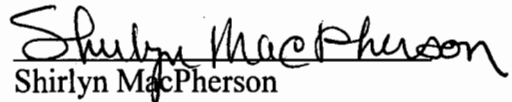
Representative Tucker moved for a favorable report to the PCS, unfavorable to the original bill. Passed.

There being no further business, the Chair adjourned the meeting at 1:15 p.m.

Respectfully submitted,



Representative Pryor Gibson
Chair



Shirlyn MacPherson
Committee Assistant

Att #1
6/21/05

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

S

D

SENATE BILL 974
PROPOSED HOUSE COMMITTEE SUBSTITUTE S974-CSSA-21 [v.2]

6/21/2005 8:25:50 AM

Short Title: Alcohol Sales-Campus Arts Centers/AgriCenter.

(Public)

Sponsors:

Referred to:

March 24, 2005

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE SALE OF BEER AND WINE AT CERTAIN
UNIVERSITY FACILITIES AND CERTAIN COUNTY FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-1006(a) reads as rewritten:

"(a) School and College Campuses. – No permit for the sale of malt beverages, unfortified wine, or fortified wine shall be issued to a business on the campus or property of a public school or college, other than at a regional facility as defined by G.S. 160A-480.2 operated by a facility authority under Part 4 of Article 20 of Chapter 160A of the General Statutes except for a public school or college function, unless that business is a hotel or a nonprofit alumni organization with a mixed beverages permit or a special occasion permit. Provided, however, this-This subsection shall not apply on property owned by a local board of education which was leased for 99 years or more to a nonprofit auditorium authority created prior to 1991 whose governing board is appointed by a city board of aldermen, a county board of commissioners, or a local school board. This subsection shall also not apply to the constituent institutions of The University of North Carolina with respect to the sale of beer and wine at performing arts centers located on property owned or leased by the institutions if the seating capacity does not exceed 2,000 seats."

SECTION 2. G.S. 18B-1006 is amended by adding a new subsection to read:

"(o) County owned facilities. - Notwithstanding any other provision of this Chapter, the Commission shall issue permits to allow the on premises sales and consumption of beer and wine at a county-owned facility that is located adjacent to or separated by a road right-of-way from, a municipality where mixed beverages, on premises beer and on premises wines sales are authorized by law."

SECTION 3. G.S. 18B-1006(o), as enacted by Section 2 of this act, shall expire on December 31, 2005, and shall apply only to a wine festival where 15 or more

1 wineries will be exhibiting their wines, the event is sponsored by a non-profit
2 organization, and the event lasts for not more than two days. The permits issued
3 pursuant to G.S. 18B-1006(o) shall be valid only for the two days of the event.

4 **SECTION 4.** This act is effective when it becomes law.

ATT#2
6/21/05

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 1429
Committee Substitute Favorable 5/18/05
PROPOSED COMMITTEE SUBSTITUTE H1429-CSR-21 [v.3]

6/21/2005 12:14:14 PM

Short Title: Wine Shipper Fee/Wine Primary Source.

(Public)

Sponsors:

Referred to:

April 21, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR RECIPROCITY BY ELIMINATING THE
3 APPLICATION FEE FOR A WINE SHIPPER PERMIT, TO REQUIRE THE
4 DESIGNATION OF A PRIMARY SOURCE FOR THE IMPORTATION OF
5 WINE INTO THE STATE, TO CLARIFY THE LAW CONCERNING SPLIT-
6 CASE FEES AND TO TRANSFER THE NORTH CAROLINA GRAPE
7 GROWERS COUNCIL TO THE DEPARTMENT OF COMMERCE.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 18B-902(d) reads as rewritten:

10 "(d) Fees. – An application for an ABC permit shall be accompanied by payment
11 of the following application fee:

- 12 (1) On-premises malt beverage permit – \$400.00.
- 13 (2) Off-premises malt beverage permit – \$400.00.
- 14 (3) On-premises unfortified wine permit – \$400.00.
- 15 (4) Off-premises unfortified wine permit – \$400.00.
- 16 (5) On-premises fortified wine permit – \$400.00.
- 17 (6) Off-premises fortified wine permit – \$400.00.
- 18 (7) Brown-bagging permit – \$400.00, unless the application is for a
19 restaurant seating less than 50, in which case the fee shall be \$200.00.
- 20 (8) Special occasion permit – \$400.00.
- 21 (9) Limited special occasion permit – \$50.00.
- 22 (10) Mixed beverages permit – \$1,000.
- 23 (11) Culinary permit – \$200.00.
- 24 (12) Unfortified winery permit – \$300.00.
- 25 (13) Fortified winery permit – \$300.00.
- 26 (14) Limited winery permit – \$300.00.
- 27 (15) Brewery permit – \$300.00.

- (16) Distillery permit – \$300.00.
(17) Fuel alcohol permit – \$100.00.
(18) Wine importer permit – \$300.00.
(19) Wine wholesaler permit – \$300.00.
(20) Malt beverage importer permit – \$300.00.
(21) Malt beverage wholesaler permit – \$300.00.
(22) Bottler permit – \$300.00.
(23) Salesman permit – \$100.00.
(24) Vendor representative permit – \$50.00.
(25) Nonresident malt beverage vendor permit – \$100.00.
(26) Nonresident wine vendor permit – \$100.00.
(27) Any special one-time permit under G.S. 18B-1002 – \$50.00.
(28) Winery special event permit – \$200.00.
(29) Mixed beverages catering permit – \$200.00.
(30) Guest room cabinet permit – \$1,000.
(31) Liquor importer/bottler permit – \$500.00.
(32) Cider and vinegar manufacturer permit – \$200.00.
(33) Brew on premises permit – \$400.00.
(34) Wine producer permit – \$300.00.
(35) Wine tasting permit – \$100.00.
(36) ~~Wine shipper permit – \$100.00."~~

SECTION 2. G.S. 18B-1001.1(a) reads as rewritten:

"(a) A winery holding a federal basic wine manufacturing permit located within or outside of the State may apply to the Commission for issuance of a wine shipper permit that shall authorize the shipment of brands of fortified and unfortified wines identified in the application. The applicant shall not be required to pay an application fee for the wine shipper permit. A wine shipper permittee may amend the brands of wines identified in the permit application but shall file any amendment with the Commission. Any winery that applies for a wine shipper permit shall notify in writing any wholesalers that have been authorized to distribute the winery's brands within the State that an application has been filed for a wine shipper permit. A wine shipper permittee may sell and ship not more than two cases of wine per month to any person in North Carolina to whom alcoholic beverages may be lawfully sold. All sales and shipments shall be for personal use only and not for resale. A case of wine shall mean any combination of packages containing not more than nine liters of wine."

SECTION 3. G.S. 18B-203(a) reads as rewritten:

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

- ...
(19) Recognize a wine importer permit holder as a primary American source of supply for the wine of a winery. To be considered a primary American source of supply a wine importer must establish that it has lawfully purchased the wine from the winery, or from an agent of the winery, and by written contract or otherwise has been authorized by the winery to distribute the wine to wholesalers in the United States."

SECTION 4. G.S. 18B-1106 reads as rewritten:

"§ 18B-1106. Authorization of wine importer permit.

(a) Authorization. – The holder of a wine importer permit may:

- (1) Import fortified and unfortified wines from outside the United States in closed containers;
- (2) Store those wines;
- (3) Sell those wines to wine wholesalers for purposes of resale.

(b) Distribution Agreements. – Wine distribution agreements are governed by Article 12 of this Chapter.

(c) The holder of a wine importer permit may import and sell to wholesalers only wine for which it is a primary American source of supply. To be considered a primary American source of supply a wine importer must establish that it has lawfully purchased the wine from the winery, or from an agent of the winery, and by written contract or otherwise has been authorized by the winery to distribute the wine to wholesalers in the United States."

SECTION 5. G.S. 18B-1107 reads as rewritten:

"§ 18B-1107. Authorization of wine wholesaler permit.

(a) Authorization. – The holder of a wine wholesaler permit may:

- (1) Receive, possess and transport shipments of fortified and unfortified ~~wine; wine.~~ The wine must be received from one of the following:

- a. A primary American source of supply for that wine as recognized by the Commission or as verified by the wholesaler.
- b. A licensed North Carolina wholesaler who received the wine from a primary American source of supply and with whom the second wholesaler has a subcontracting agreement for distribution of the wine.
- c. Another wholesaler from whom the purchasing wholesaler is purchasing the wholesaler's business or from whom the wholesaler is purchasing the brand or distribution rights for the wine being received.
- d. Another wholesaler who also has distribution rights for the wine being received and from whom the wholesaler is acquiring the wine in order to address a temporary inventory shortage.

- (2) Sell, deliver and ship wine in closed containers for purposes of resale to wholesalers or retailers licensed under this Chapter as authorized by the ABC ~~laws;~~ laws.
- (3) Furnish and sell wine to its employees, subject to the rules of the Commission and the Department of ~~Revenue;~~ Revenue.
- (4) In locations where the sale is legal, furnish wine to guests and any other person who does not hold an ABC permit, for promotional purposes, subject to rules of the ~~Commission;~~ Commission.
- (5) Sell out-of-date unfortified and fortified wines to holders of cider and vinegar manufacturer permits, provided that each bottle is marked "out-of-date" by the wholesaler.

(b) Distribution Agreements. – Wine distribution agreements are governed by Article 12 of this Chapter."

SECTION 6. G.S. 18B-1114 reads as rewritten:

"§ 18B-1114. Authorization of nonresident wine vendor permit.

The holder of a nonresident wine vendor permit may sell, deliver, and ship unfortified and fortified wine in this State only to wholesalers, importers, and bottlers licensed under this Chapter, as authorized by the ABC laws. The unfortified and fortified wine must come to rest at the licensed premises of a wine wholesaler in this State before being resold to a retailer. A nonresident wine vendor permit may be issued to a winery, a wholesaler, an importer, or a bottler outside North Carolina who desires to sell, deliver, and ship unfortified and fortified wine into this State. The holder of a nonresident wine vendor permit may sell, deliver, and ship into this State only wine for which it is a primary American source of supply. To be considered a primary American source of supply a nonresident wine vendor must establish that it has lawfully purchased the wine from the winery, or from an agent of the winery, and by written contract or otherwise has been authorized by the winery to distribute the wine to wholesalers in the United States."

SECTION 7. G.S. 18B-1116 is amended by adding a new subsection to read:

"(c) As used in this section, the phrase "giving things of value" shall not include the dividing or removing of individual containers of alcohol from larger packages of alcohol or the delivery of such to the retail permittee."

SECTION 8.(a) Article 62 of Chapter 106 of the General Statutes is recodified as Part 2H of Article 10 of Chapter 143B of the General Statutes and reads as rewritten:

~~"Article 62.~~

"Part 2H. Grape Growers Council.

"§ ~~106-750.143B-437.70.~~ North Carolina Grape Growers Council – Creation; powers and duties.

There is created the North Carolina Grape Growers Council of the Department of ~~Agriculture and Consumer Services~~Commerce. The North Carolina Grape Growers Council shall have the following powers and duties:

- (1) To identify and implement methods for improving North Carolina's rank as a wine-producing State;
- (2) To assure orderly growth and development of North Carolina's grape and wine industry;
- (3) To achieve public awareness of the quality of North Carolina grapes and wine;
- (4) To coordinate the interaction of North Carolina's grape and wine industry with other segments of the State's economy such as tourism, retail trade, and horticulture;
- (5) To conduct methods of quality assurance of North Carolina's grape and wine industry to create a sound foundation for further growth;

- (6) To assist in the coordination of the activities of the various State agencies and other organizations contributing to the development of the grape and wine industry;
- (7) To receive and disburse funds;
- (8) To enter into contracts for the purpose of developing new or improved markets or marketing methods for wine and grape products;
- (9) To contract for research services to improve viticultural and enological practices in North Carolina;
- (10) To enter into agreements with any local, state, or national organizations or agency engaged in education for the purpose of disseminating information on wine or other viticultural projects;
- (11) To enter into contracts with commercial entities for the purpose of developing marketing, advertising, and other promotional programs designed to promote the orderly growth of the North Carolina grape and wine industry;
- (12) To acquire any licenses or permits necessary for performance of the duties of the Council; and
- (13) To develop a State Viticulture Plan that identifies problems and constraints of the viticultural industry, proposes solutions to those problems and delineates planning mechanisms for the orderly growth of the industry.

"§ ~~106-751.143B-437.71.~~ North Carolina Grape Growers Council – Composition; terms; reimbursement.

(a) The North Carolina Grape Growers Council shall consist of 11 members appointed by the ~~Commissioner of Agriculture~~Secretary of Commerce in the following manner: seven commercial grape growers; three winery operators; and one retailer of North Carolina grape products. For purposes of this Article, a commercial grape grower is one who has at least three acres of grapes or sells ten thousand dollars (\$10,000) worth of grapes annually. The ~~Commissioner~~Secretary shall ~~appoint, within 30 days of the effective date of this act, four members for three-year terms, four members for two-year terms, and three members for one-year terms. Thereafter, members shall be appointed for~~appoint members for staggered four-year terms and terms. Members shall serve until their successors are appointed and qualified. Any member of the Council may be reappointed for additional terms. Any appointment to fill a vacancy on the Council shall be for the balance of the unexpired term. Any member of the Council may be removed by the ~~Commissioner~~Secretary for misfeasance, malfeasance, or nonfeasance.

(b) Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 from funds appropriated for the operation of the Council.

(c) All clerical and other services required by the Council may be provided by the Department of ~~Agriculture and Consumer Services~~Commerce.

(d) The ~~Commissioner of Agriculture~~Secretary of Commerce shall appoint a ~~chairman~~chair who shall serve at the pleasure of the ~~Commissioner~~Secretary.

1 (e) The Council may select a secretary who need not be a member of the
2 Council.

3 (f) The Council shall meet when necessary as determined by the ~~chairman~~ chair
4 or upon written request of a majority of the members.

5 (g) A majority of the Council shall constitute a quorum for the transaction of
6 business."

7 **SECTION 8.(b)** Persons serving on the North Carolina Grape Growers
8 Council as of the effective date of this section shall continue to serve for the remainder
9 of their unexpired terms. The Secretary of Commerce shall appoint members to the
10 North Carolina Grape Growers Council as current terms expire and as vacancies arise.

11 **SECTION 8.(c)** G.S. 105-113.81A reads as rewritten:

12 **"§ 105-113.81A. Distribution of part of wine taxes attributable to North Carolina**
13 **wine.**

14 The Secretary shall on a quarterly basis credit to the Department of ~~Agriculture and~~
15 ~~Consumer Services~~ Commerce the net proceeds of the excise tax collected on unfortified
16 wine bottled in North Carolina during the previous quarter and the net proceeds of the
17 excise tax collected on fortified wine bottled in North Carolina during the previous
18 quarter, except that the amount credited to the Department of ~~Agriculture and Consumer~~
19 ~~Services~~ Commerce under this section shall not exceed three hundred fifty thousand
20 dollars (\$350,000) per fiscal year. The Department of ~~Agriculture and Consumer~~
21 ~~Services~~ Commerce shall allocate the funds received under this section to the North
22 Carolina Grape Growers Council to be used to promote the North Carolina grape and
23 wine industry and to contract for research and development services to improve
24 viticultural and enological practices in North Carolina. Any funds credited to the
25 Department of ~~Agriculture and Consumer Services~~ Commerce under this section that are
26 not expended by June 30 of any fiscal year may not revert to the General Fund, but shall
27 remain available to the Department for the uses set forth in this section."

28 **SECTION 8.(d)** The Department of Commerce shall consult and coordinate
29 with the Department of Agriculture and Consumer Services and North Carolina State
30 University to serve the needs of North Carolina grape growers.

31 **SECTION 9.** This act is effective when it becomes law, and Sections 1 and
32 2 of this act apply to wine shipper permit applications submitted on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

S

D

SENATE BILL 974
PROPOSED HOUSE COMMITTEE SUBSTITUTE S974-PCS75335-SA-21

Short Title: Alcohol Sales-Campus Arts Centers/AgriCenter.

(Public)

Sponsors:

Referred to:

March 24, 2005

A BILL TO BE ENTITLED
AN ACT TO AUTHORIZE THE SALE OF BEER AND WINE AT CERTAIN
UNIVERSITY FACILITIES AND CERTAIN COUNTY FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-1006(a) reads as rewritten:

"(a) School and College Campuses. – No permit for the sale of malt beverages, unfortified wine, or fortified wine shall be issued to a business on the campus or property of a public school or college, other than at a regional facility as defined by G.S. 160A-480.2 operated by a facility authority under Part 4 of Article 20 of Chapter 160A of the General Statutes except for a public school or college function, unless that business is a hotel or a nonprofit alumni organization with a mixed beverages permit or a special occasion permit. ~~Provided, however, this~~ This subsection shall not apply on property owned by a local board of education which was leased for 99 years or more to a nonprofit auditorium authority created prior to 1991 whose governing board is appointed by a city board of aldermen, a county board of commissioners, or a local school board. This subsection shall also not apply to the constituent institutions of The University of North Carolina with respect to the sale of beer and wine at performing arts centers located on property owned or leased by the institutions if the seating capacity does not exceed 2,000 seats."

SECTION 2. G.S. 18B-1006 is amended by adding a new subsection to read:

"(o) County-Owned Facilities. – Notwithstanding any other provision of this Chapter, the Commission shall issue permits to allow the on-premises sales and consumption of beer and wine at a county-owned facility that is located adjacent to or separated by a road right-of-way from a municipality where mixed beverages, on-premises beer, and on-premises wines sales are authorized by law."

SECTION 3. G.S. 18B-1006(o), as enacted by Section 2 of this act, shall expire on December 31, 2005, and shall apply only to a wine festival where 15 or more

1 wineries will be exhibiting their wines, the event is sponsored by a nonprofit
2 organization, and the event lasts for not more than two days. The permits issued
3 pursuant to G.S. 18B-1006(o) shall be valid only for the two days of the event.

4 **SECTION 4.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 1429
Committee Substitute Favorable 5/18/05
PROPOSED COMMITTEE SUBSTITUTE H1429-PCS10368-RV-21

Short Title: Wine Shipper Fee/Wine Primary Source.

(Public)

Sponsors:

Referred to:

April 21, 2005

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR RECIPROCITY BY ELIMINATING THE APPLICATION FEE FOR A WINE SHIPPER PERMIT, TO REQUIRE THE DESIGNATION OF A PRIMARY SOURCE FOR THE IMPORTATION OF WINE INTO THE STATE, TO CLARIFY THE LAW CONCERNING SPLIT-CASE FEES, AND TO TRANSFER THE NORTH CAROLINA GRAPE GROWERS COUNCIL TO THE DEPARTMENT OF COMMERCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-902(d) reads as rewritten:

"(d) Fees. – An application for an ABC permit shall be accompanied by payment of the following application fee:

- (1) On-premises malt beverage permit – \$400.00.
- (2) Off-premises malt beverage permit – \$400.00.
- (3) On-premises unfortified wine permit – \$400.00.
- (4) Off-premises unfortified wine permit – \$400.00.
- (5) On-premises fortified wine permit – \$400.00.
- (6) Off-premises fortified wine permit – \$400.00.
- (7) Brown-bagging permit – \$400.00, unless the application is for a restaurant seating less than 50, in which case the fee shall be \$200.00.
- (8) Special occasion permit – \$400.00.
- (9) Limited special occasion permit – \$50.00.
- (10) Mixed beverages permit – \$1,000.
- (11) Culinary permit – \$200.00.
- (12) Unfortified winery permit – \$300.00.
- (13) Fortified winery permit – \$300.00.
- (14) Limited winery permit – \$300.00.
- (15) Brewery permit – \$300.00.

- (16) Distillery permit – \$300.00.
- (17) Fuel alcohol permit – \$100.00.
- (18) Wine importer permit – \$300.00.
- (19) Wine wholesaler permit – \$300.00.
- (20) Malt beverage importer permit – \$300.00.
- (21) Malt beverage wholesaler permit – \$300.00.
- (22) Bottler permit – \$300.00.
- (23) Salesman permit – \$100.00.
- (24) Vendor representative permit – \$50.00.
- (25) Nonresident malt beverage vendor permit – \$100.00.
- (26) Nonresident wine vendor permit – \$100.00.
- (27) Any special one-time permit under G.S. 18B-1002 – \$50.00.
- (28) Winery special event permit – \$200.00.
- (29) Mixed beverages catering permit – \$200.00.
- (30) Guest room cabinet permit – \$1,000.
- (31) Liquor importer/bottler permit – \$500.00.
- (32) Cider and vinegar manufacturer permit – \$200.00.
- (33) Brew on premises permit – \$400.00.
- (34) Wine producer permit – \$300.00.
- (35) Wine tasting permit – \$100.00.
- (36) ~~Wine shipper permit – \$100.00.~~

SECTION 2. G.S. 18B-1001.1(a) reads as rewritten:

"(a) A winery holding a federal basic wine manufacturing permit located within or outside of the State may apply to the Commission for issuance of a wine shipper permit that shall authorize the shipment of brands of fortified and unfortified wines identified in the application. The applicant shall not be required to pay an application fee for the wine shipper permit. A wine shipper permittee may amend the brands of wines identified in the permit application but shall file any amendment with the Commission. Any winery that applies for a wine shipper permit shall notify in writing any wholesalers that have been authorized to distribute the winery's brands within the State that an application has been filed for a wine shipper permit. A wine shipper permittee may sell and ship not more than two cases of wine per month to any person in North Carolina to whom alcoholic beverages may be lawfully sold. All sales and shipments shall be for personal use only and not for resale. A case of wine shall mean any combination of packages containing not more than nine liters of wine."

SECTION 3. G.S. 18B-203(a) reads as rewritten:

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

- ...
- (19) Recognize a wine importer permit holder as a primary American source of supply, for the wine of a winery. To be considered a primary American source of supply, a wine importer must establish that it has lawfully purchased the wine from the winery, or from an agent of the winery, and by written contract or otherwise has been authorized by the winery to distribute the wine to wholesalers in the United States."

SECTION 4. G.S. 18B-1106 reads as rewritten:**"§ 18B-1106. Authorization of wine importer permit.**

(a) Authorization. – The holder of a wine importer permit may:

- (1) Import fortified and unfortified wines from outside the United States in closed containers;
- (2) Store those wines;
- (3) Sell those wines to wine wholesalers for purposes of resale.

(b) Distribution Agreements. – Wine distribution agreements are governed by Article 12 of this Chapter.

(c) The holder of a wine importer permit may import and sell to wholesalers only wine for which it is a primary American source of supply. To be considered a primary American source of supply, a wine importer must establish that it has lawfully purchased the wine from the winery, or from an agent of the winery, and by written contract or otherwise has been authorized by the winery to distribute the wine to wholesalers in the United States."

SECTION 5. G.S. 18B-1107 reads as rewritten:**"§ 18B-1107. Authorization of wine wholesaler permit.**

(a) Authorization. – The holder of a wine wholesaler permit may:

- (1) Receive, possess and transport shipments of fortified and unfortified ~~wine;~~wine. The wine must be received from one of the following:
 - a. A primary American source of supply for that wine as recognized by the Commission or as verified by the wholesaler.
 - b. A licensed North Carolina wholesaler who received the wine from a primary American source of supply and with whom the second wholesaler has a subcontracting agreement for distribution of the wine.
 - c. Another wholesaler from whom the purchasing wholesaler is purchasing the wholesaler's business or from whom the wholesaler is purchasing the brand or distribution rights for the wine being received.
 - d. Another wholesaler who also has distribution rights for the wine being received and from whom the wholesaler is acquiring the wine in order to address a temporary inventory shortage.
- (2) Sell, deliver and ship wine in closed containers for purposes of resale to wholesalers or retailers licensed under this Chapter as authorized by the ABC ~~laws;~~laws.
- (3) Furnish and sell wine to its employees, subject to the rules of the Commission and the Department of ~~Revenue;~~Revenue.
- (4) In locations where the sale is legal, furnish wine to guests and any other person who does not hold an ABC permit, for promotional purposes, subject to rules of the ~~Commission;~~Commission.
- (5) Sell out-of-date unfortified and fortified wines to holders of cider and vinegar manufacturer permits, provided that each bottle is marked "out-of-date" by the wholesaler.

(b) Distribution Agreements. – Wine distribution agreements are governed by Article 12 of this Chapter."

SECTION 6. G.S. 18B-1114 reads as rewritten:

"§ 18B-1114. Authorization of nonresident wine vendor permit.

The holder of a nonresident wine vendor permit may sell, deliver, and ship unfortified and fortified wine in this State only to wholesalers, importers, and bottlers licensed under this Chapter, as authorized by the ABC laws. The unfortified and fortified wine must come to rest at the licensed premises of a wine wholesaler in this State before being resold to a retailer. A nonresident wine vendor permit may be issued to a winery, a wholesaler, an importer, or a bottler outside North Carolina who desires to sell, deliver, and ship unfortified and fortified wine into this State. The holder of a nonresident wine vendor permit may sell, deliver, and ship into this State only wine for which it is a primary American source of supply. To be considered a primary American source of supply, a nonresident wine vendor must establish that it has lawfully purchased the wine from the winery, or from an agent of the winery, and by written contract or otherwise has been authorized by the winery to distribute the wine to wholesalers in the United States."

SECTION 7. G.S. 18B-1116 is amended by adding a new subsection to read:

"(c) As used in this section, the phrase "giving things of value" shall not include the dividing or removing of individual containers of alcohol from larger packages of alcohol or the delivery of such to the retail permittee."

SECTION 8.(a) Article 62 of Chapter 106 of the General Statutes is recodified as Part 2H of Article 10 of Chapter 143B of the General Statutes and reads as rewritten:

~~"Article 62.~~

"Part 2H. Grape Growers Council.

"§ ~~106-750.143B-437.70.~~ North Carolina Grape Growers Council – Creation; powers and duties.

There is created the North Carolina Grape Growers Council of the Department of ~~Agriculture and Consumer Services-Commerce.~~ The North Carolina Grape Growers Council shall have the following powers and duties:

- (1) To identify and implement methods for improving North Carolina's rank as a wine-producing State;
- (2) To assure orderly growth and development of North Carolina's grape and wine industry;
- (3) To achieve public awareness of the quality of North Carolina grapes and wine;
- (4) To coordinate the interaction of North Carolina's grape and wine industry with other segments of the State's economy such as tourism, retail trade, and horticulture;
- (5) To conduct methods of quality assurance of North Carolina's grape and wine industry to create a sound foundation for further growth;

- (6) To assist in the coordination of the activities of the various State agencies and other organizations contributing to the development of the grape and wine industry;
- (7) To receive and disburse funds;
- (8) To enter into contracts for the purpose of developing new or improved markets or marketing methods for wine and grape products;
- (9) To contract for research services to improve viticultural and enological practices in North Carolina;
- (10) To enter into agreements with any local, state, or national organizations or agency engaged in education for the purpose of disseminating information on wine or other viticultural projects;
- (11) To enter into contracts with commercial entities for the purpose of developing marketing, advertising, and other promotional programs designed to promote the orderly growth of the North Carolina grape and wine industry;
- (12) To acquire any licenses or permits necessary for performance of the duties of the Council; and
- (13) To develop a State Viticulture Plan that identifies problems and constraints of the viticultural industry, proposes solutions to those problems and delineates planning mechanisms for the orderly growth of the industry.

"§ 106-751.143B-437.71. North Carolina Grape Growers Council – Composition; terms; reimbursement.

(a) The North Carolina Grape Growers Council shall consist of 11 members appointed by the ~~Commissioner of Agriculture~~Secretary of Commerce in the following manner: seven commercial grape growers; three winery operators; and one retailer of North Carolina grape products. For purposes of this Article, a commercial grape grower is one who has at least three acres of grapes or sells ten thousand dollars (\$10,000) worth of grapes annually. The ~~Commissioner~~Secretary shall ~~appoint, within 30 days of the effective date of this act, four members for three-year terms, four members for two-year terms, and three members for one-year terms. Thereafter, members shall be appointed for~~appoint members for staggered four-year terms and terms. Members shall serve until their successors are appointed and qualified. Any member of the Council may be reappointed for additional terms. Any appointment to fill a vacancy on the Council shall be for the balance of the unexpired term. Any member of the Council may be removed by the ~~Commissioner~~Secretary for misfeasance, malfeasance, or nonfeasance.

(b) Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 from funds appropriated for the operation of the Council.

(c) All clerical and other services required by the Council may be provided by the Department of ~~Agriculture and Consumer Services~~Commerce.

(d) The ~~Commissioner of Agriculture~~Secretary of Commerce shall appoint a ~~chairman~~chair who shall serve at the pleasure of the ~~Commissioner~~Secretary.

1 (e) The Council may select a secretary who need not be a member of the
2 Council.

3 (f) The Council shall meet when necessary as determined by the ~~chairman~~chair
4 or upon written request of a majority of the members.

5 (g) A majority of the Council shall constitute a quorum for the transaction of
6 business."

7 **SECTION 8.(b)** Persons serving on the North Carolina Grape Growers
8 Council as of the effective date of this section shall continue to serve for the remainder
9 of their unexpired terms. The Secretary of Commerce shall appoint members to the
10 North Carolina Grape Growers Council as current terms expire and as vacancies arise.

11 **SECTION 8.(c)** G.S. 105-113.81A reads as rewritten:

12 **"§ 105-113.81A. Distribution of part of wine taxes attributable to North Carolina**
13 **wine.**

14 The Secretary shall on a quarterly basis credit to the Department of ~~Agriculture and~~
15 ~~Consumer Services~~Commerce the net proceeds of the excise tax collected on unfortified
16 wine bottled in North Carolina during the previous quarter and the net proceeds of the
17 excise tax collected on fortified wine bottled in North Carolina during the previous
18 quarter, except that the amount credited to the Department of ~~Agriculture and Consumer~~
19 ~~Services~~Commerce under this section shall not exceed three hundred fifty thousand
20 dollars (\$350,000) per fiscal year. The Department of ~~Agriculture and Consumer~~
21 ~~Services~~Commerce shall allocate the funds received under this section to the North
22 Carolina Grape Growers Council to be used to promote the North Carolina grape and
23 wine industry and to contract for research and development services to improve
24 viticultural and enological practices in North Carolina. Any funds credited to the
25 Department of ~~Agriculture and Consumer Services~~Commerce under this section that are
26 not expended by June 30 of any fiscal year may not revert to the General Fund, but shall
27 remain available to the Department for the uses set forth in this section."

28 **SECTION 8.(d)** The Department of Commerce shall consult and coordinate
29 with the Department of Agriculture and Consumer Services and North Carolina State
30 University to serve the needs of North Carolina grape growers.

31 **SECTION 9.** This act is effective when it becomes law, and Sections 1 and
32 2 of this act apply to wine shipper permit applications submitted on or after that date.

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative Gibson (Chair) for the Committee on ALCOHOLIC BEVERAGE CONTROL.

☐ Committee Substitute for

SB 974 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE SALE OF BEER AND WINE AT CERTAIN UNIVERSITY FACILITIES.

☒ With a favorable report as to House committee substitute bill, which changes the title, unfavorable as to the original bill..

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House) committee substitute bill/(joint) resolution (No. _____) is placed on the Calendar of _____. (The original bill resolution No. _____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. _____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. _____) is placed on the Unfavorable Calendar.

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House) committee substitute bill/(joint) resolution (No. _____) is placed on the Calendar of _____. (The original bill resolution No. _____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. _____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. _____) is placed on the Unfavorable Calendar.

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative Gibson (Chair) for the Committee on ALCOHOLIC BEVERAGE CONTROL.

☒ Committee Substitute for

HB 1429

A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR RECIPROCITY BY ELIMINATING THE APPLICATION FEE FOR A WINE SHIPPER PERMIT AND TO REQUIRE THE DESIGNATION OF A PRIMARY SOURCE FOR THE IMPORTATION OF WINE INTO THE STATE.

☒ With a favorable report as to the committee substitute bill 2, which changes the title, unfavorable as to Committee Substitute Bill 1.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House) committee substitute bill/(joint) resolution (No. _____) is placed on the Calendar of _____. (The original bill resolution No. _____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. _____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. _____) is placed on the Unfavorable Calendar.

VISITOR REGISTRATION SHEET

ABC

Name of Committee

June 21, 2005

Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Elizabeth Frock	Nelson Mullins
Gary Harris	NCPIA
Jon Carr	NC Assoc ABC Boards
DBI	NCFB
David McLeod	NCDA & CS
Susannah Gerrald	NCFPC
Matt Gerrald	NCFPC
Tim Hester	NCFPC
John Rustic	NCFPC
Andy Comans	NCLM
Jay Bouse	NCAEC
Chris Killian	Nelson Mullins
Chris B.	NCDA & CS
Mark Harrison	Capital Group
Ryan	KIRA