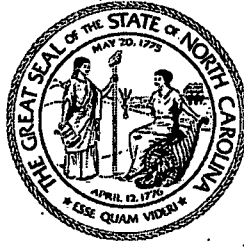


**2009-2010**

**HOUSE  
ALCOHOLIC BEVERAGE  
CONTROL**

**MINUTES**



# **HOUSE COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL**

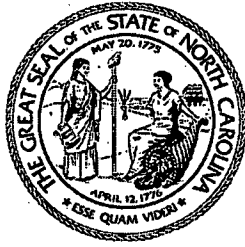
**Representative Ray Warren, Chairman**

**Representative Pryor Gibson III, Vice Chairman**

**Representative Marvin Lucas, Vice Chairman**

**Representative Sandra Spaulding-Hughes,  
Vice Chairman**

**2009-2010 Session**



# **HOUSE COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL**

## **Staff**

**Brenda Carter, Staff Attorney**

**Susan Sitze, Staff Attorney**

**Theresa Lopez, Committee Assistant**

**2009-2010 Session**

## HOUSE COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL

MEMBER	ASSISTANT	PHONE	OFFICE	SEAT
Representative Ray Warren, Chair	Theresa Lopez	715-8361	306C	77
Representative Pryor Gibson III, Vice Chair	Susanna Davis	715-3007	419A	96
Representative Sandra Spaulding-Hughes, Vice Chair	Marilyn Suitt	713-5754	537	89
Representative Marvin Lucas, Vice Chair	Thelma Utley	713-5775	417A	20
Representative Larry Bell	Carolyn Edwards	713-5863	538	12
Representative Larry Brown	Delores Ledford	713-5607	609	73
Representative Lorene Coates	Melissa Lennon	713-5784	633	19
Representative Leo Daughtry	Margaret Dockery	713-5605	1013	40
Representative Robert Grady	Dixie Riehm	715-9644	302	4
Representative Darren Jackson	Cassie Lester	713-5974	301N	92
Representative David Lewis	Grace Rogers	715-3015	533	64
Representative Edgar Starnes	Pattie Fleming	713-5931	602	14
Representative Fred Steen	Chris Floyd	713-5881	514	37
Representative Ronnie Sutton	Jo Bobbitt	715-0875	1321	72



North Carolina General Assembly  
Through House Committee on  
Alcoholic Beverage Control

Date: 09/03/2009  
Time: 10:28  
Page: 001 of 002  
Leg. Day: H-114/S-112

2009-2010 Biennium

Bill	Introducer	Short Title	Latest Action	In Date	Out Date
H0186	Parmon	LOCAL GOVERNMENT OBJECTIONS TO ABC STORES.	*HR Ch. SL 2009-36	02-18-09	03-11-09
H0249	Gibson	ABC RECYCLING TAX CREDIT.	H Re-ref Com On Finance	02-23-09	03-11-09
H0517	Hurley	CHANGE ABC DISTRIBUTIONS FOR RANDLEMAN.	H Ref to the Com on Alcoholic Beverage Control, if favorable, Local Government II	03-10-09	
H0667	Goodwin	2009 VITICULTURE/ ENOLOGY ACT.	*HR Ch. SL 2009-539	03-19-09	05-06-09
H0667	Goodwin	2009 VITICULTURE/ ENOLOGY ACT.	*HR Ch. SL 2009-539	07-20-09	08-06-09
H0731	Starnes	INCREASE EXCISE TAX ON MALT BEVERAGES.	H Ref to the Com on Alcoholic Beverage Control, if favorable, Finance	03-23-09	
H0759	Gibson	ABC RECYCLING STAY EXTENSION.	HR Ch. SL 2009-105	03-25-09	04-07-09
H0768=	Crawford	MODERNIZATION OF THE ABC SYSTEM.	H Ref to the Com on Alcoholic Beverage Control, if favorable, Finance	03-25-09	
H0868=	England	FOREST CITY/LAKE LURE ABC DISTRIBUTIONS.	H Ref To Com On Alcoholic Beverage Control	03-30-09	
0927	Owens	ABC CAPITAL PROJECT/ COUNTY FUNDS.	*HR Ch. SL 2009-69	04-27-09	05-05-09
H1017=	Fisher	INCREASE SMALL BREWERY LIMITS.	H Ref to the Com on Alcoholic Beverage Control, if favorable, Commerce, Small Business, and Entrepreneurship	04-02-09	
H1228	Gibson	ABC RULES/PRIVATE CLUBS.	*HR Ch. SL 2009-381	04-09-09	05-11-09
H1319	Starnes	MERGER REQUIRED- UNPROFITABLE ABC STORES.	H Ref to the Com on Alcoholic Beverage Control, if favorable, Judiciary III	04-09-09	
H1367	Lewis	MODERNIZATION OF THE STATE'S ABC SYSTEM.	H Ref to the Com on Alcoholic Beverage Control, if favorable, Finance	04-09-09	
H1595	Tillis	MALT BEVERAGE SPECIAL PERMIT.	*HR Ch. SL 2009-377	05-06-09	05-20-09
S0006	Julia Boseman	ABC RULES/PRIVATE CLUBS.	*H Re-ref Com On Commerce, Small Business, and	05-18-09	06-02-09

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

A bold line indicates the bill is an appropriation bill.

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

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

North Carolina General Assembly  
Through House Committee on  
Alcoholic Beverage Control

Date: 09/03/2009  
Time: 10:28  
Page: 002 of 002  
Leg. Day: H-114/S-112

2009-2010 Biennium

<u>Bill</u>	<u>Introducer</u>	<u>Short Title</u>	<u>Latest Action</u>	<u>In Date</u>	<u>Out Date</u>
0068	Katie G. Dorsett	ABC STORES/SCHOOL/ GUILFORD.	*HR Ch. SL 2009-295 Entrepreneurship	06-18-09	07-07-09
S0528=	Debbie A. Clary	FOREST CITY/LAKE LURE ABC DISTRIBUTIONS.	*H Re-ref Com On Local Government II	05-06-09	06-02-09

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

A bold line indicates the bill is an appropriation bill.

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

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# **NORTH CAROLINA GENERAL ASSEMBLY**

## **Alcoholic Beverage Control 2009-2010 SESSION**



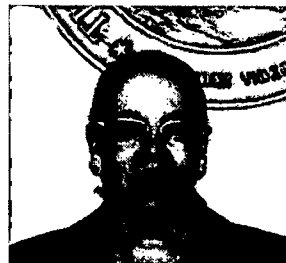
**Rep. Ray Warren**  
Chairman



**Rep. Marvin Lucas**  
Vice chair



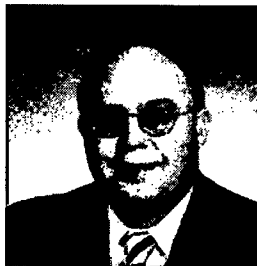
**Rep. Pryor Gibson**  
Vice chair



**Rep. Sandra Spaulding  
Hughes**  
Vice chair



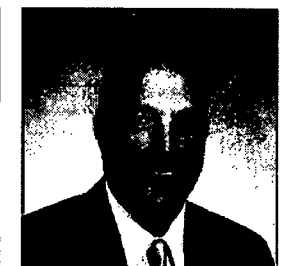
**Rep. Larry Bell**



**Rep. Larry Brown**



**Rep. Lorene Coats**



**Rep. Leo Daughtry**



**Rep. Robert Grady**



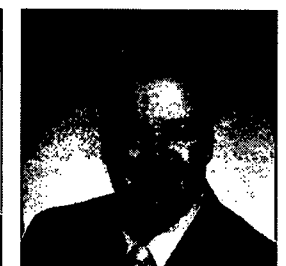
**Rep. Darren Jackson**



**Rep. David Lewis**



**Rep. Edgar Starnes**



**Rep. Fred Steen**



**Rep. Ronnie Sutton**

## ATTENDANCE

## Alcoholic Beverage Control Committee

[illegible]

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
AND  
BILL SPONSOR NOTIFICATION  
2009-2010 SESSION**

You are hereby notified that the Committee on **Alcoholic Beverage Control** will meet as follows:

**DAY & DATE:** Tuesday, February 24, 2009

**TIME:** 1:00 pm

**LOCATION:** 425 LOB

**COMMENTS:**

This will be an organizational and informational meeting. No bills will be discussed.

Respectfully,  
Representative R. Warren, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 11 o'clock on **February 17, 2009**.

- ☐ Principal Clerk
- ☐ Reading Clerk – House Chamber

**Theresa Lopez** (Committee Assistant)

# ALCOHOL BEVERAGE CONTROL COMMITTEE

## AGENDA

February 24, 2009

- A. Welcome to the ABC Committee
- B. Introduction of Committee Co-Chairs and Members, Staff and Committee Clerk
- C. Introduction of Sergeant –At-Arms and Pages
- D. Guest Introductions
- E. Chair to Review Upcoming Meetings
- F. Open for Questions or Comments from the Committee
- G. Adjourn



## Minutes

### Alcoholic Beverage Control Committee

Tuesday, February 24, 2009

1:00 p.m.

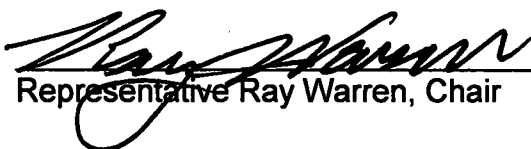
Room 425, Legislative office Building

The Alcoholic Beverage Control Committee met on Tuesday, February 24, 2009, at 1:00 p.m., in Room 425 of the Legislative Office Building. The following members were present: Representative Ray Warren, Chair; Representatives Gibson, Spaulding-Hughes, Vice-Chairs; Representatives Brown, Coates, Daughtry, Grady, Jackson, Starnes, Steen, and Sutton.

Representative Warren, Chair called the meeting to order, and introduced the Committee Co-Chairs, Members, Staff and Committee Clerk. The pages and the Sergeant at Arms staff were also introduced. The visitor registration is attached.

This was an organizational and informational meeting only.

The Committee adjourned at 1:15 p.m.

  
Representative Ray Warren, Chair

  
Theresa Lopez, Committee Assistant

# VISITOR REGISTRATION SHEET

ALCOHOL BEVERAGE CONTROL

Name of Committee

Date

2/24/09

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME

FIRM OR AGENCY AND ADDRESS

Dean Plunkett	NCBWWA
Ken Melton	Ken Melton & Assoc.
Thomas C. Caves, Sr.	NC Dept. of Crime Control & Public Safety
Bill Chmelly	NC Dept CCPS -ALT
Ronnie Kaylor	WCAIF
Jon Carr	NC Assoc ABC Boards
Jon Carr	NC Restaurant + Lodging Assoc
Alicia Davis	MWC
Paul Taylor	TJH
Andy Harris	NC PCM
Michelle Frasier	AES



2/24/09

**Name of Committee****Date**

NAME \_\_\_\_\_

[illegible]

House Pages

Name Of Committee: ABC Date: 2/24/09

1. Name: Fontasia Wade-Blivens

County: Cumberland

Sponsor: Elmer Floyd

2. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

3. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

4. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

5. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

Sgt-At-Arms

1. Name: Tom Wilder

2. Name: Bob Rossi

3. Name: Carleton Adams

4. Name: Martha Madison

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
2009-2010 SESSION**

You are hereby notified that the Committee on **Alcohol Beverage Control** will meet as follows:

**DAY & DATE:**     **March 3, 2009**

**TIME:**             **1:00 PM**

**LOCATION:**         **Room 425 LOB**

**Carol Shaw from the Program Evaluation Division will present a summary of the ABC System.**

Respectfully,

Representative Ray Warren  
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at **February 24, 2009.**

X     \_\_\_ Principal Clerk  
X     \_\_\_ Reading Clerk - House Chamber

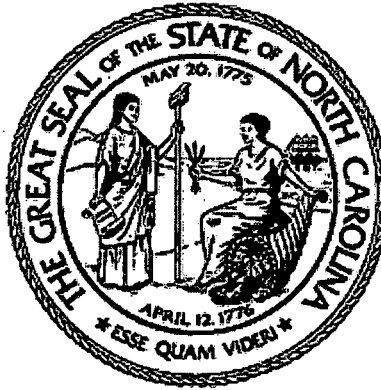
Theresa Lopez (Committee Assistant)

# ALCOHOL BEVERAGE CONTROL COMMITTEE

## AGENDA

March 3, 2009

- A. Welcome to the ABC Committee
- B. Introduction of Sergeant –At-Arms and Pages
- C. Guest Speaker: Carol Shaw from the Program Evaluation Division
- D. Open for Questions or Comments from the Committee
- E. Upcoming Business
- F. Adjourn



## Minutes

### Alcoholic Beverage Control Committee

Tuesday, March 3, 2009

1:00 p.m.


Room 425, Legislative office Building

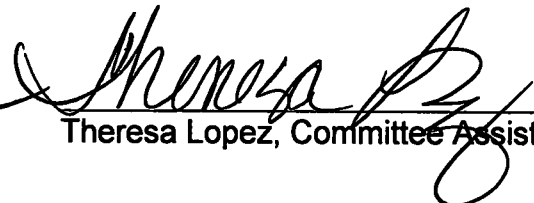
The Alcoholic Beverage Control Committee met on Tuesday, March 3, 2009 at 1:00 p.m., in Room 425 of the Legislative Office Building. The following members were present: Representative Ray Warren, Chair; Representatives Gibson, Lucas, Spaulding-Hughes, Vice-Chairs; Representatives Bell, Brown, Coates, Daughtry, Grady, Jackson, Lewis, Starnes, Steen, and Sutton.

Representative Warren, Chair called the meeting to order, and welcomed the members and guest, introduced the pages and the Sergeant at Arms staff. The visitor registration is attached.

Carol Shaw from the Program Evaluation Committee presented the Report given to the Joint Legislative Oversight Committee on the Modernization of the ABC System. A copy of her presentation is attached.

The meeting adjourned at 1:52

  
Representative Ray Warren, Chair

  
Theresa Lopez, Committee Assistant

# VISITOR REGISTRATION SHEET

ALCOHOL BEVERAGE CONTROL

3-3-09

Name of Committee

Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME

FIRM OR AGENCY AND ADDRESS

Ken Melton	Ken Melton & Assoc.
Dean Plunkett	NCTBWWA
William Riley	Mutual Distributing
Bill Hester	Southern Wine & Spirits
Paul Cuscuolo	Southern WINE & Spirits
Eddie Greene	Alcohol Bev. Council
John Bowditch	Bowditch Consulting
Barbara Casler	B&C
Yana Samberg	PED
Brittany Farrell	NCFPC

# VISITOR REGISTRATION SHEET

ALCOHOL BEVERAGE CONTROL

3-3-09

Name of Committee

**Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

**NAME****FIRM OR AGENCY AND ADDRESS**

Chris Valenti

NCBWW

Erwin Dattin

## Norm A

Wm G. Benson

Keili Kukurra

NC LM

# VISITOR REGISTRATION SHEET

ALCOHOL BEVERAGE CONTROL

3-3-09

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Rev. MARK CREECH	CHRISTIAN ACTION LEAGUE
[Signature]	MW
ED TURLINGTON	BROOKS PIERCE
Roger Hutchins	NCALC
WC Chavely	NCALC
Matt Arnold	TPG
Jon Carr	NC Association ABC Board
Mike Henning	NC ABC COMMISSION
Tommy Rose	Citizen of NC
Jane Rose	Citizen of NC
Alicia [Signature]	MWC



House Pages

Name Of Committee: ABC Date: 3-3-09

1. Name: Blake Ware

County: Harnett

Sponsor: Lewis

2. Name: Ben Lee

County: Pender

Sponsor: Justice

3. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

4. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

5. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

Sgt-At-Arms

1. Name: TOM WILDER

2. Name: Bob Rossi

3. Name: CARLETON ADAMS

4. Name: MARTHA GADISON

# **North Carolina's Alcohol Beverage Control System is Outdated and Needs Modernization**

A presentation to the Joint Legislative  
Program Evaluation Oversight Committee

December 2008

L. Carol Shaw, Principal Program Evaluator



# **Alcohol Beverage Control System Evaluation Team**

**L. Carol Shaw, Project Lead**

**Sean Hamel, Research Assistant**

**Catherine Moga Bryant, Senior Evaluator**

**Carol Ripple, Principal Evaluator**

**Yana Samberg, Senior Evaluator**

**Pamela L. Taylor, Statistician**

**Jeremy Wilson, Intern**



# **Alcohol Beverage Control System Overview**

## **North Carolina's ABC system:**

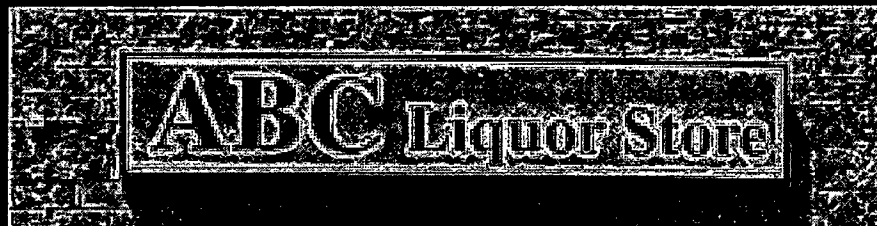
- **has not kept pace with demographic and economic changes in the state;**
- **is governed by statutes that limit system management;**
- **has not clearly defined the mission of local boards; and**
- **regulates the sale of liquor differently than other states.**



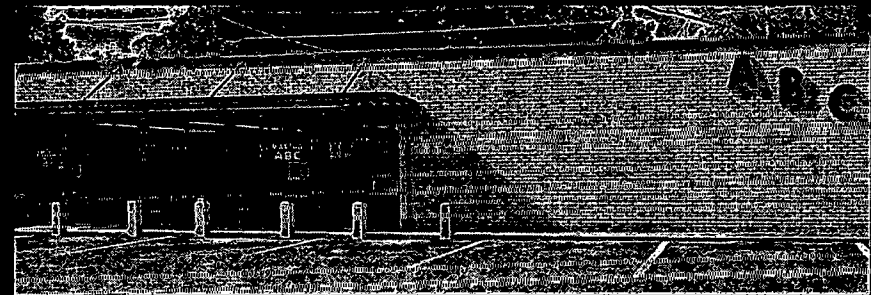
# Alcohol Beverage Control System Overview

**Modernize the current Alcohol Beverage  
Control system by:**

- **defining the mission of local boards;**
- **providing management tools for better oversight of local boards;**
- **modifying outdated statutes for ABC store elections and purchase-transportation permits; and**
- **considering whether other regulatory systems are appropriate for NC.**



# Alcohol Beverage Control System: Background and Scope



# Alcohol Beverage Control System: Evaluation Scope

- **How can the NC Alcohol Beverage Control system be improved?**
- **How does NC's system compare to control and licensing systems in other states?**



*See report p. 2*

# Alcohol Beverage Control System: Data Collection

- Interviews with key stakeholders
- Information from local ABC Boards, including:
  - Fiscal, operations, and survey data from all 158 Boards
  - Site visits to 31 Boards and on-site inspections of 54 stores
- Interviews with representatives from private liquor store chains
- Review of related laws and rules
- Data on alcohol beverage control and licensure in other states



*See report p. 2*





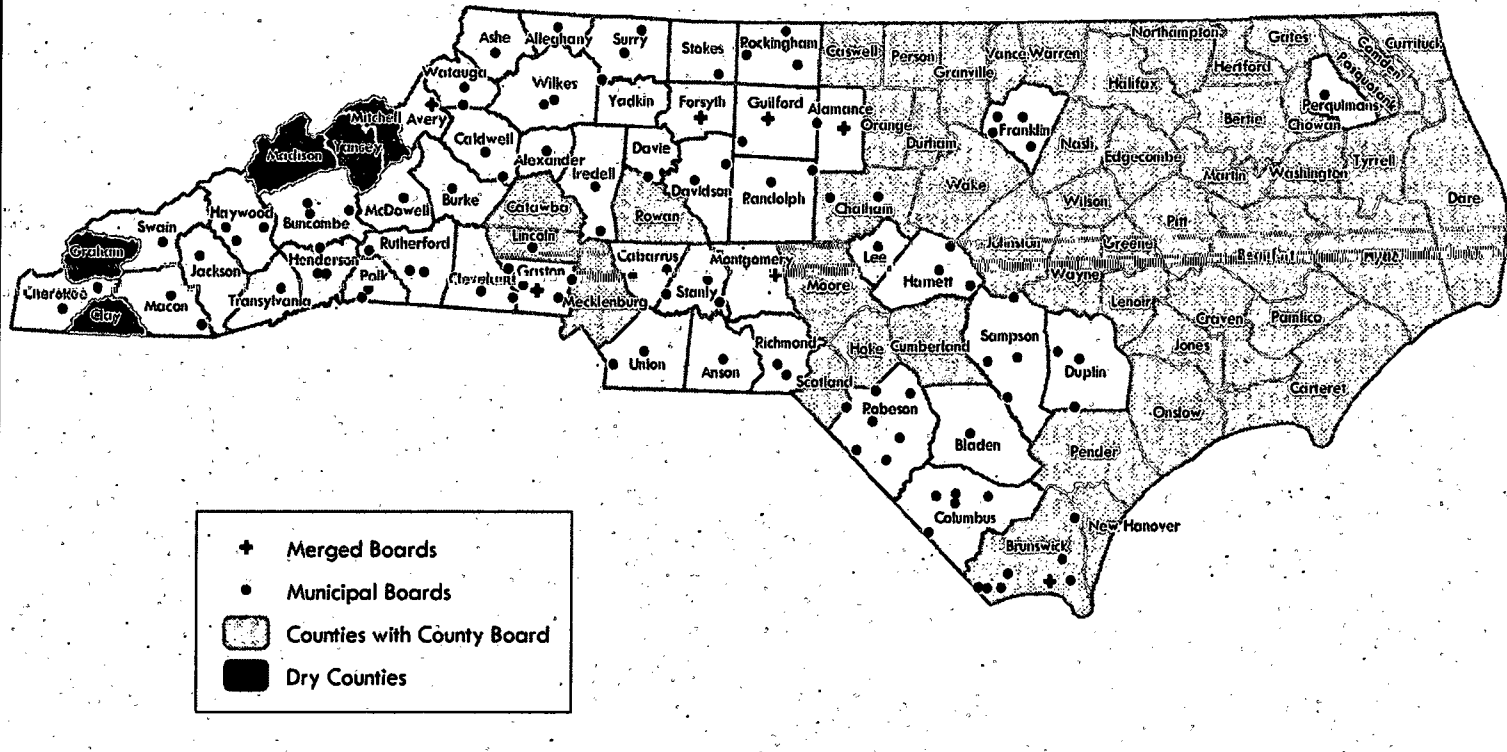
# The NC ABC System Today

- History influences how NC's ABC system has evolved.
- NC ABC Commission oversees the sale of liquor and controls the central liquor warehouse.
- Only local ABC boards are authorized to operate retail stores and sell liquor in NC.



*See report pp. 2-10*

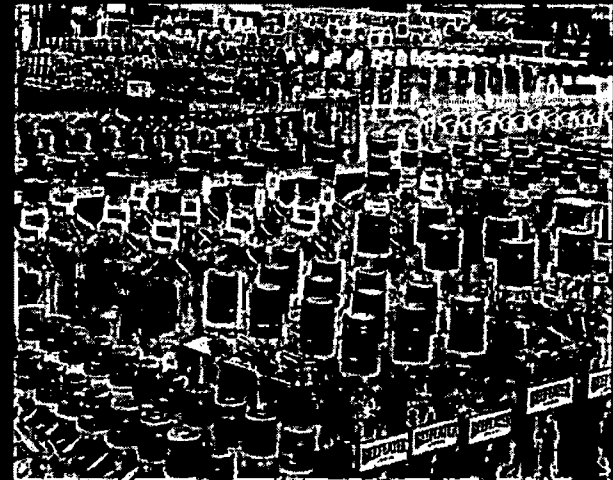
# North Carolina Local ABC Boards



# **Alcohol Beverage Control System: Important to NC's Economy**

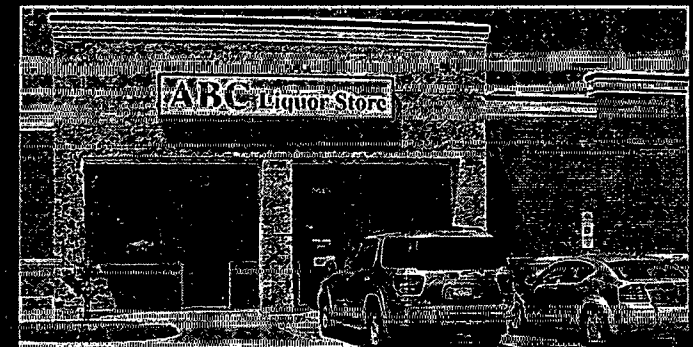
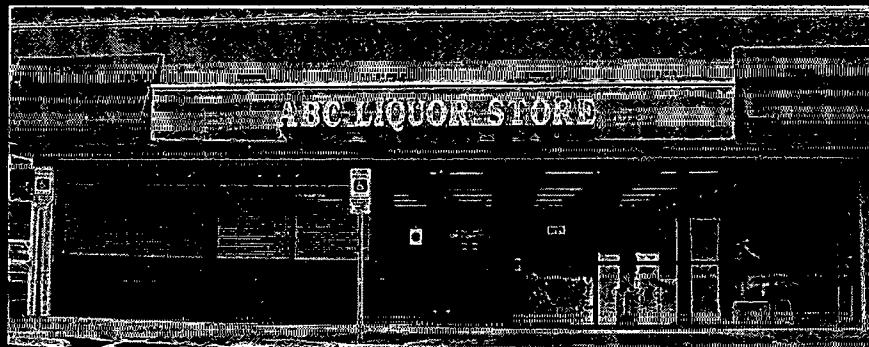
**\$692 million business in FY 2006-07**

- **Important source of revenue**
  - **\$238 million in Fiscal Year 2006-07**
- **The effectiveness and efficiency of the ABC system affects revenue collection**



*See report p. 11*

# Alcohol Beverage Control System Findings



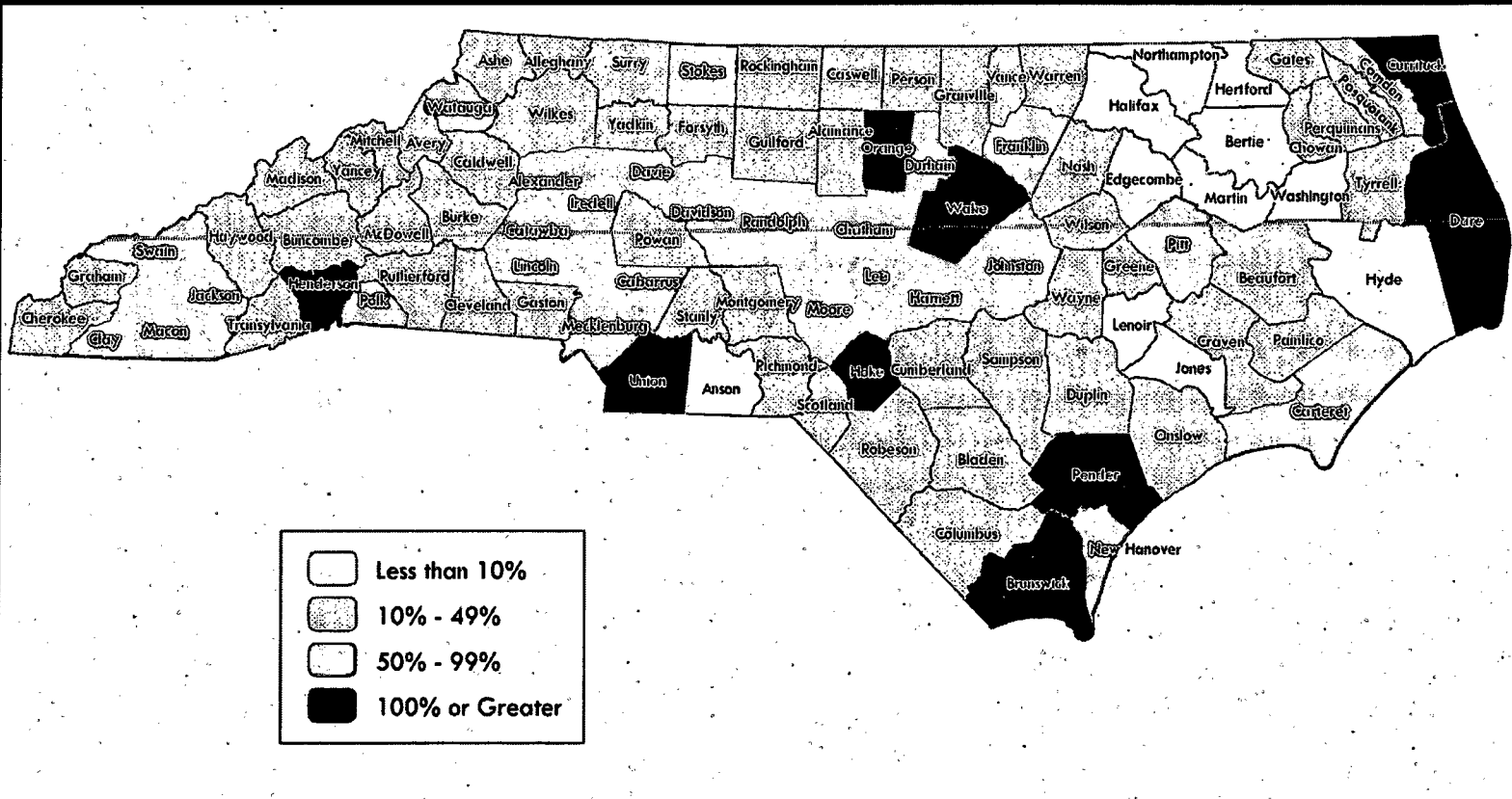
# Finding 1: NC's ABC System Has Not Kept Pace with Demographic and Economic Changes in NC

- NC has changed significantly since the ABC system was created in 1935.
  - No longer dominated by small towns and villages
  - Growth concentrated in urban centers, surrounding counties, and tourist areas
  - Population shifts are affecting local board profitability



*See report pp. 12-17*

# Changes in NC's Total Population 1970 -2000



## Finding 1: NC's ABC System Has Not Kept Pace

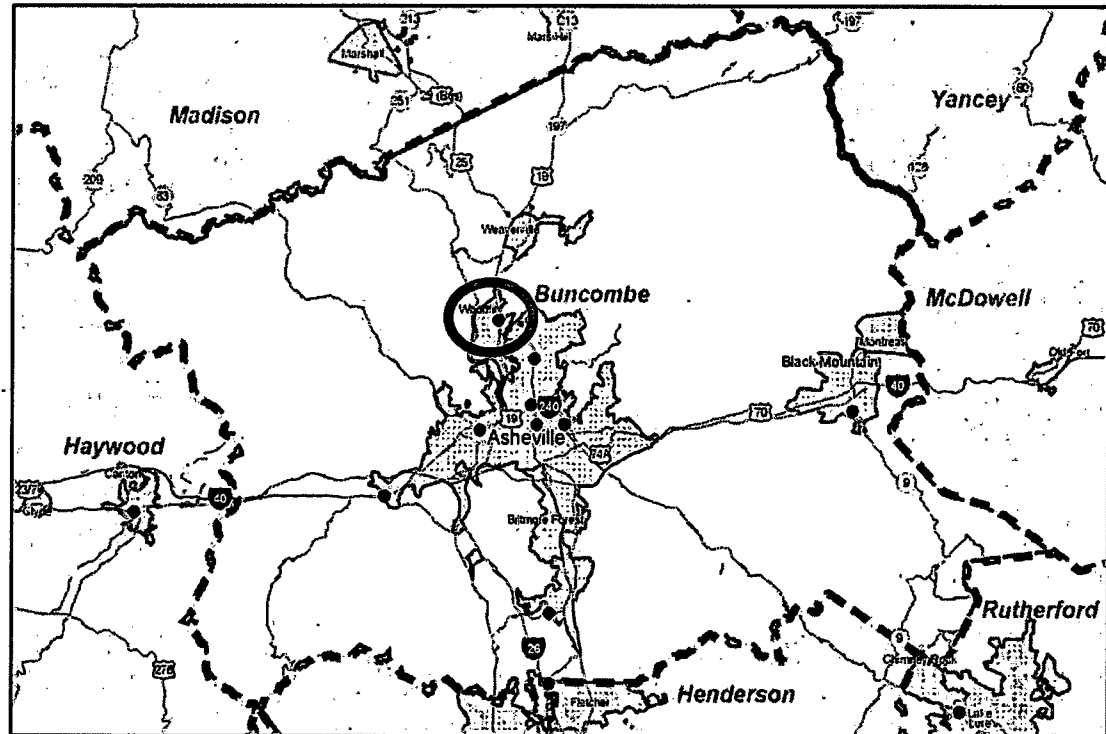
- Equal distribution of retail opportunities no longer exists across counties in NC.
  - People used to shop where they live
  - Increased mobility allows people to shop in areas with large concentration of stores
  - Some counties are losing retail business to other counties
  - Changing shopping patterns affect local board profitability



*See report pp. 12-17*

## Finding 1: NC's ABC System Has Not Kept Pace

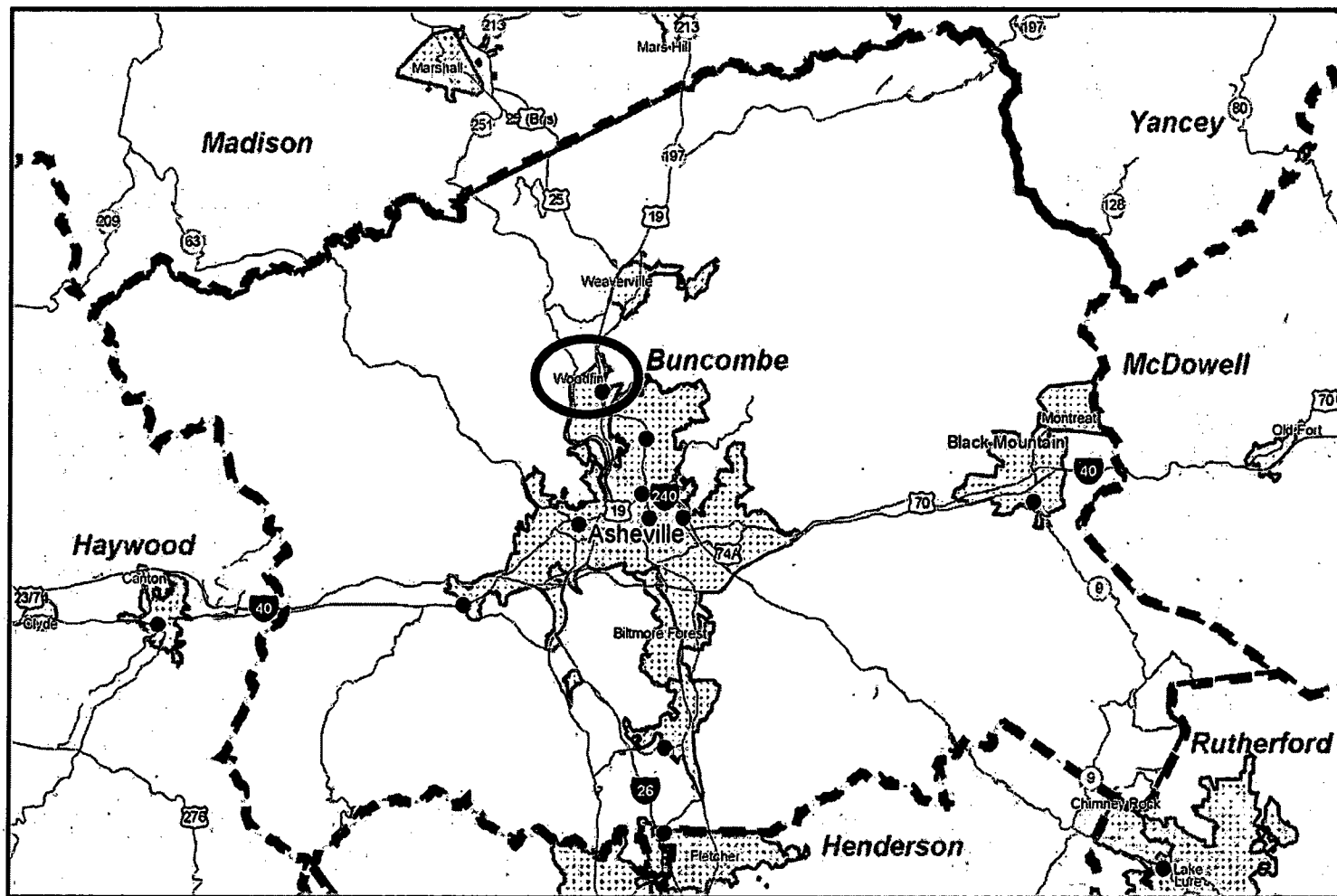
The low threshold for ABC Store elections causes a proliferation of ABC Boards in dry counties.



### Buncombe County Experience

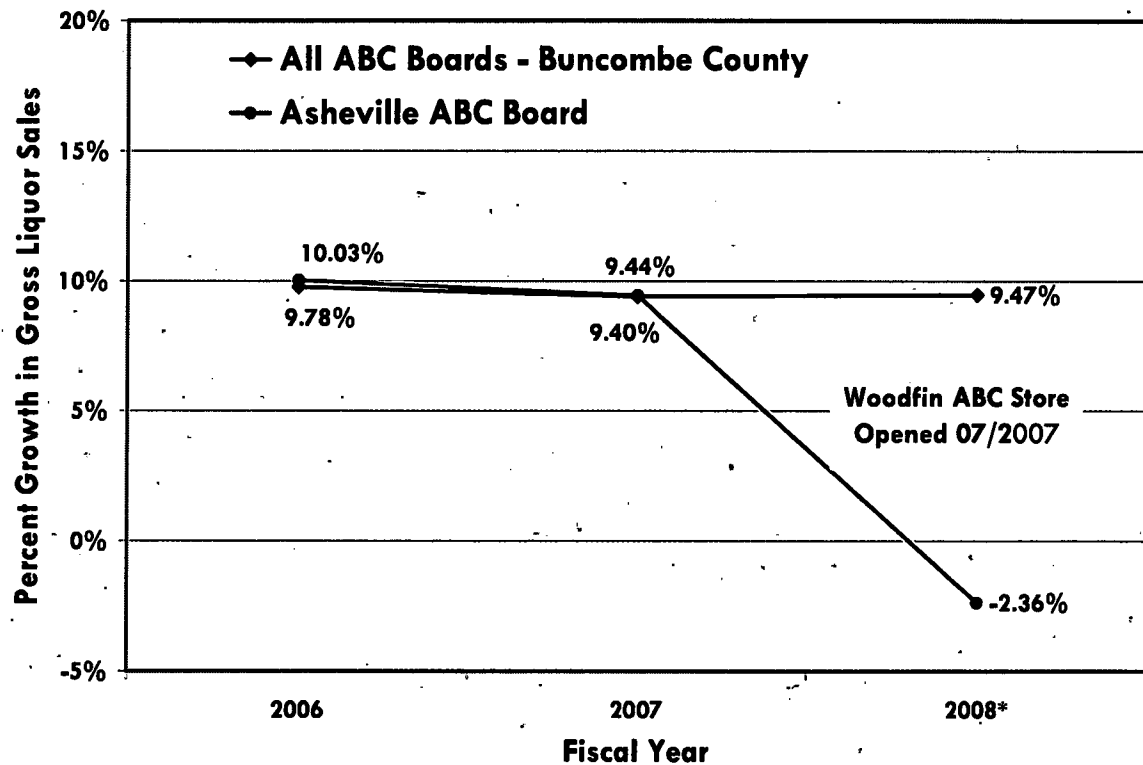
See report pp. 12-17





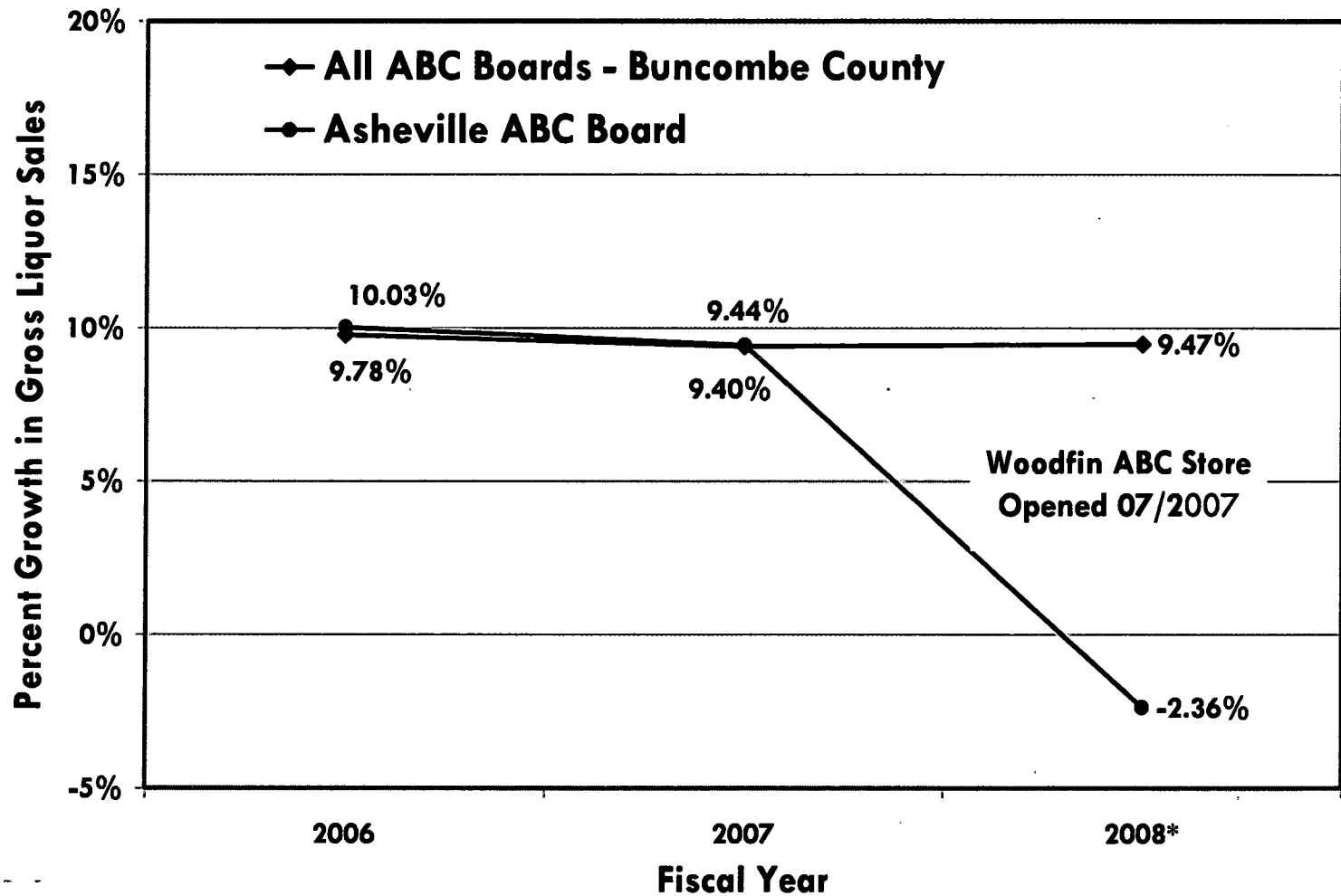
## Finding 1: NC's ABC System Has Not Kept Pace

**Woodfin  
ABC Board  
reduced  
sales for  
Asheville  
ABC Board  
rather than  
generating  
new sales.**



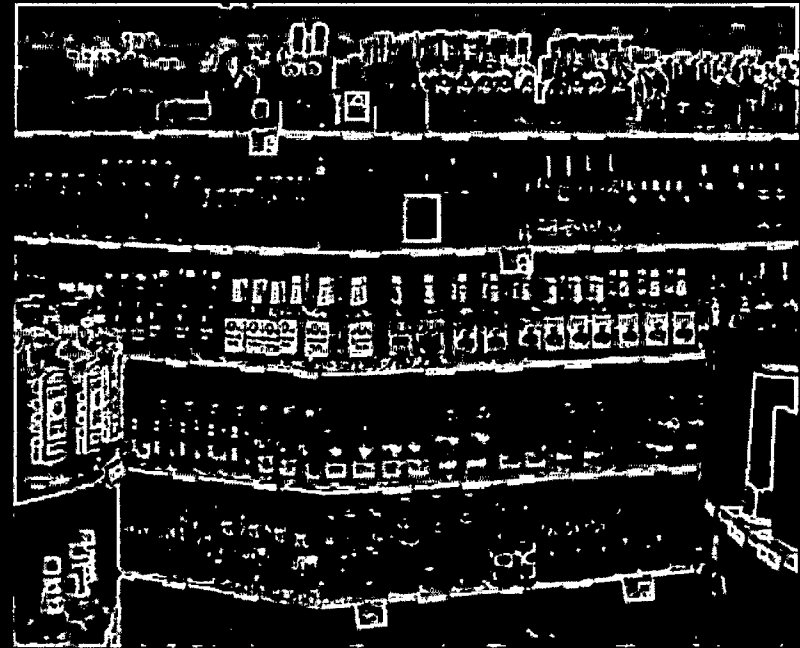
### Buncombe County Experience

*See report pp. 12-17*



## Finding 1: NC's ABC System Has Not Kept Pace

- Outdated statutes do not reflect the changed attitudes about access to alcohol:
  - ABC store requirement for mixed beverage elections
  - Purchase-transportation permits to deter bootlegging



*See report pp. 12-17*

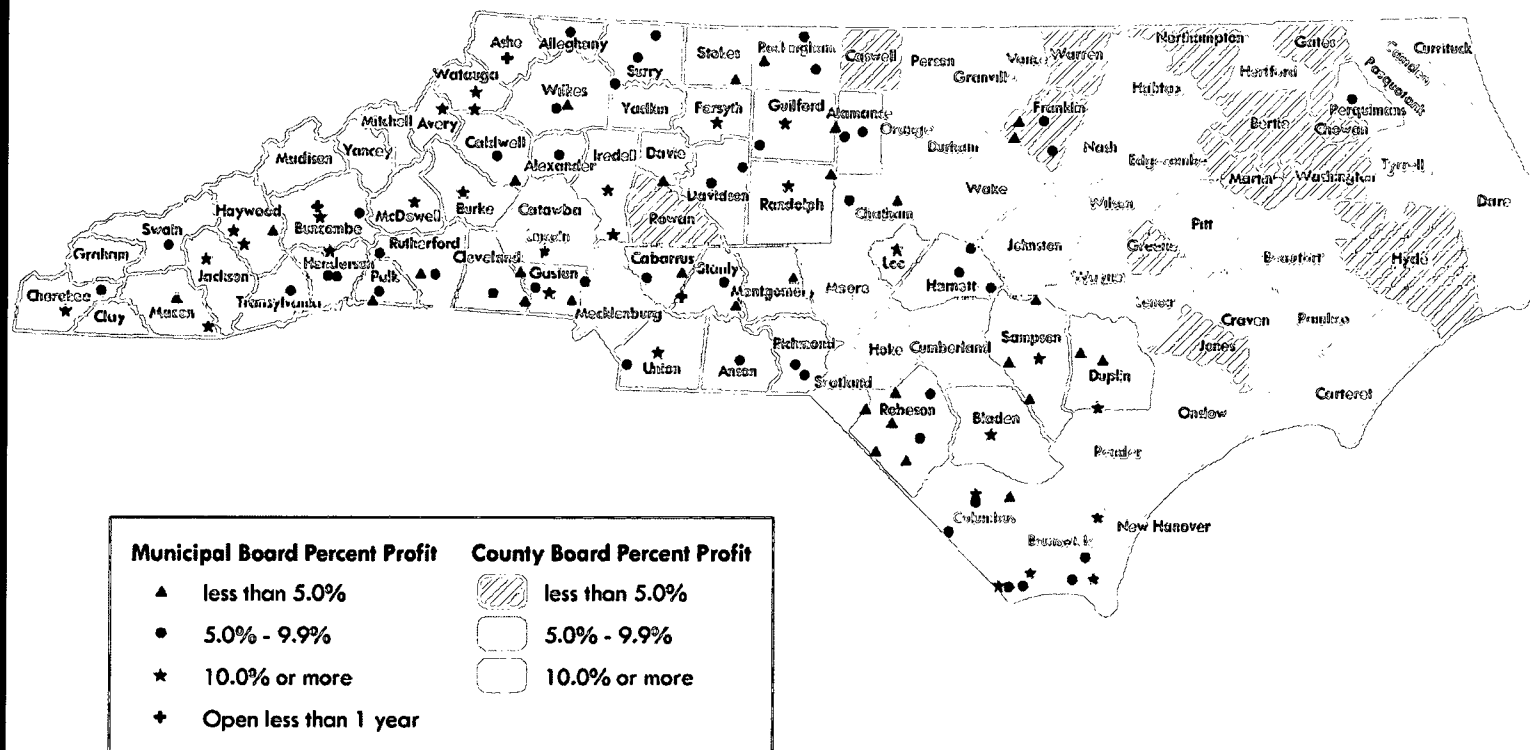
## **Finding 2: Statutes Limit the Ability of the ABC Commission to Effectively and Efficiently Manage the ABC System**

- **Statutes do not allow the ABC Commission to**
  - **enforce minimum standards for operation and profitability of ABC boards;**
  - **effectively assist boards in making changes to improve operations; and**
  - **mandate board consolidations or mergers to improve the ABC system.**

*See report pp. 18-25*

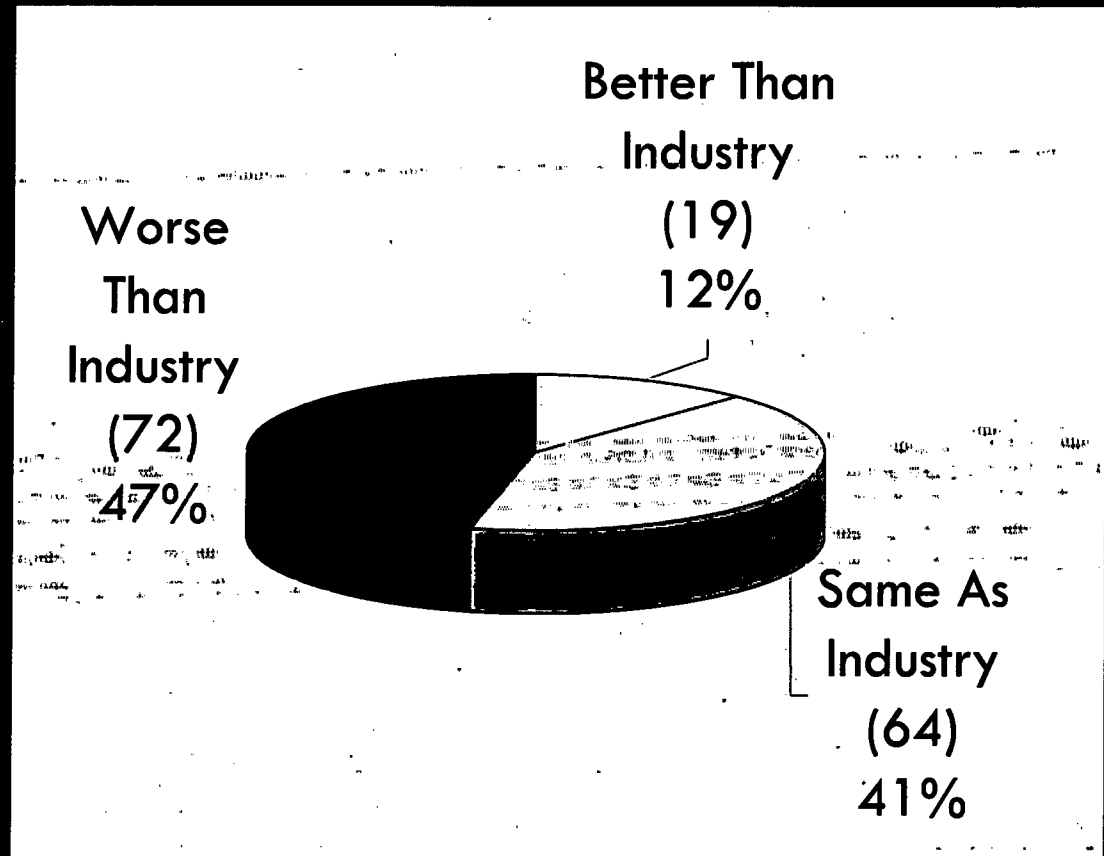


# Local ABC Board Profit Margins for FY 2006-07



## Finding 2: Statutes Limit System Management

**Some ABC boards have higher operation costs when compared to private liquor retailers.**



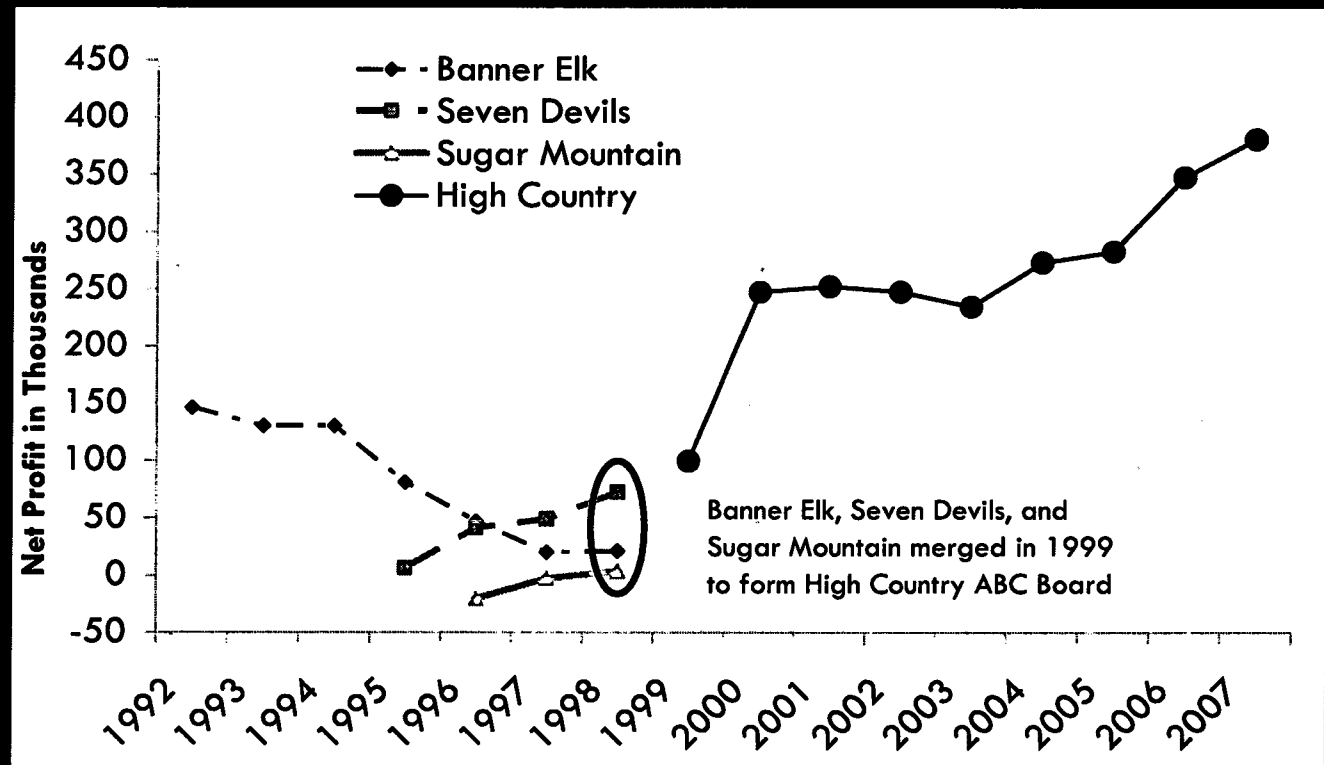
*See report pp. 18-25*



## Finding 2: Statutes Limit System Management

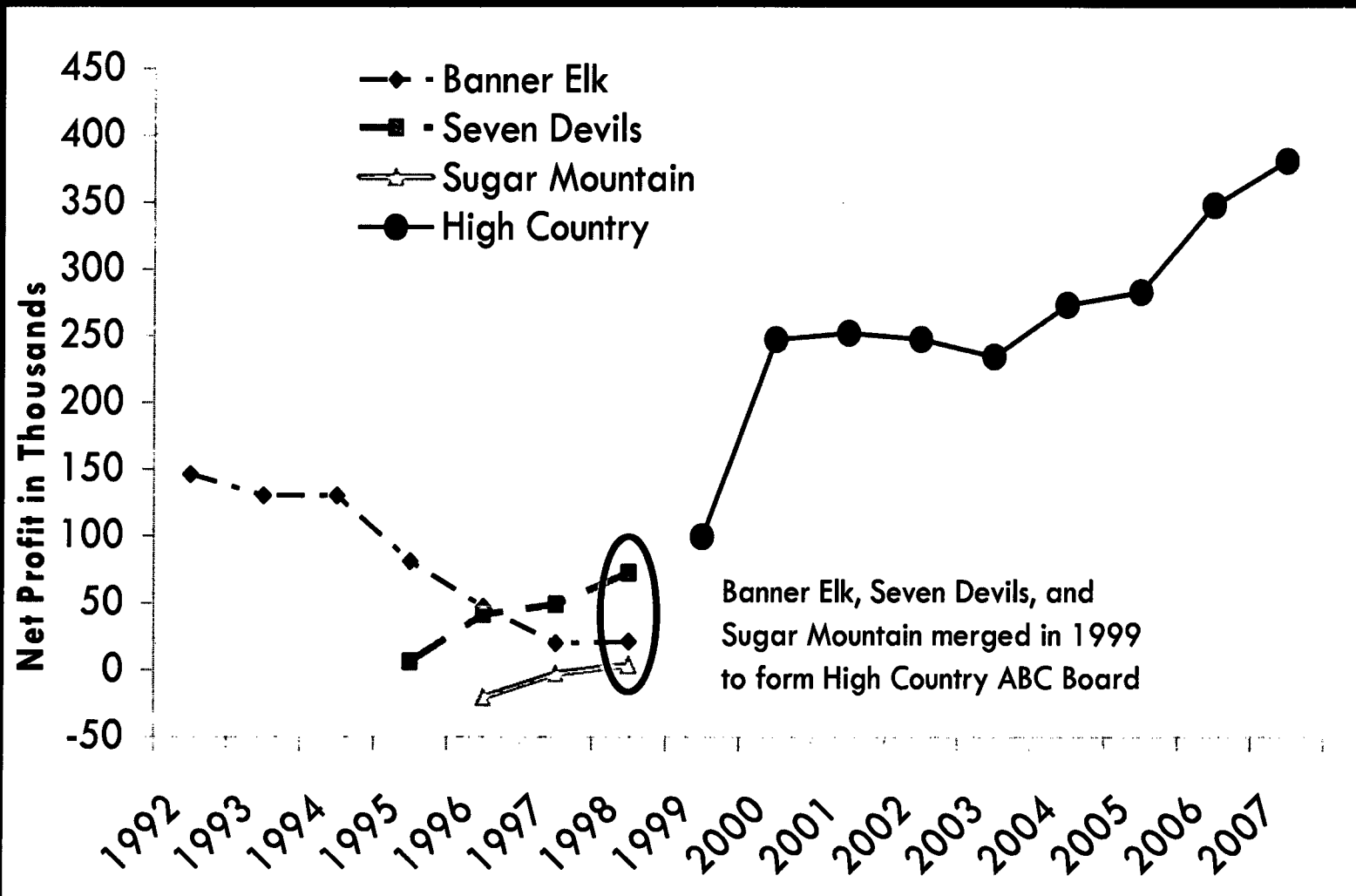
### Merged boards have seen increased profitability.

Example:  
High  
Country  
ABC Board



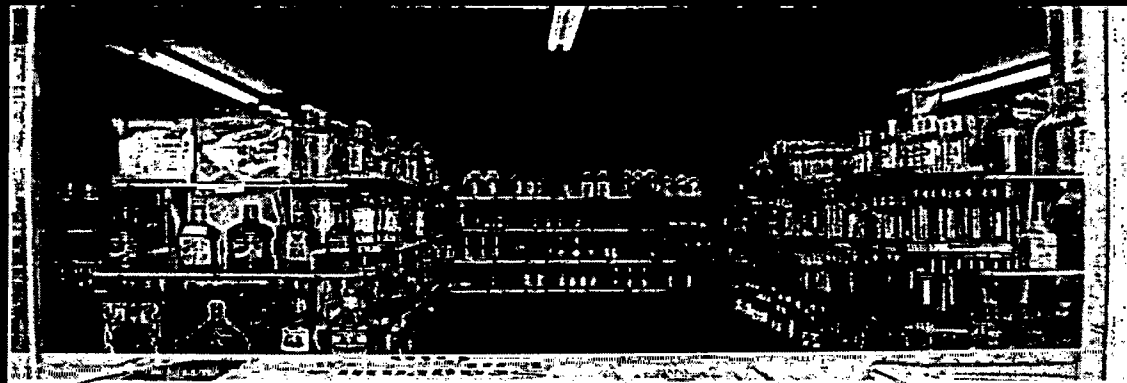
See report pp. 18-25





## **Finding 3: NC Has Not Clearly Defined the Mission of Local Boards**

- **Neither ABC statutes nor administrative rules define the mission or purpose of local boards.**
- **Other control states have clear mission and purpose statements: Virginia and New Hampshire.**
- **The lack of a clear mission allows local boards to justify ineffective and inefficient store operations.**



*See report pp. 25-27*

## Finding 4: NC's System for Regulating the Sale of Liquor Is Different from Other States

- Control states regulate by distributing alcoholic beverages to consumers at state-operated retail stores or as wholesalers through retail establishments.
- Licensing and control states regulate by collecting taxes and licensing suppliers, wholesalers, and retail businesses.

**North Carolina is a control state.**

*See report pp. 27-32*

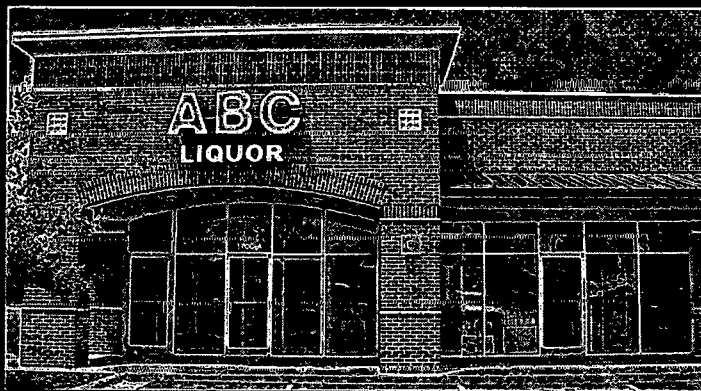
# State Control Models

Retail	Agency
New Hampshire North Carolina Pennsylvania Virginia Montgomery County, Maryland* Worcester County, Maryland*	Maine Montana Ohio Oregon Vermont
Combination	Wholesale
Alabama Idaho Utah* Washington	Iowa Michigan Mississippi West Virginia

Note: Asterisks denote the state or county controls the distribution of wine.

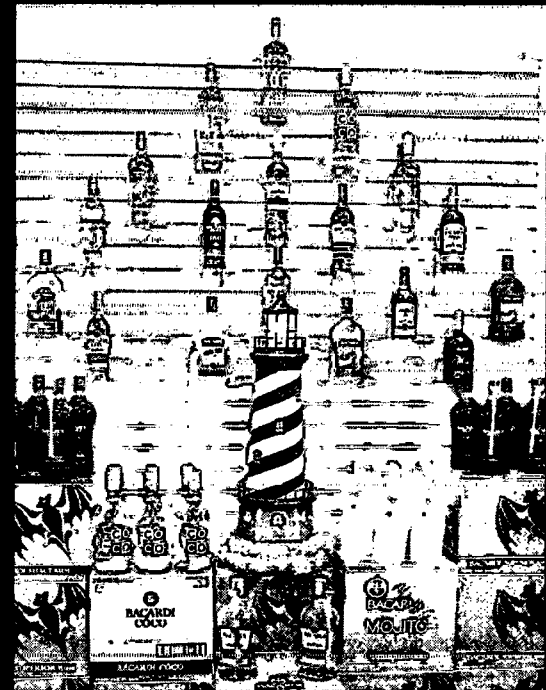


# Alcohol Beverage Control System: Recommendations



## **Recommendation 1-A: Modernize NC's ABC System by Defining the Mission of Local Boards**

- **A mission statement should emphasize the following elements:**
  - Efficient store operation
  - Profitability and revenue
  - Convenient access
  - Excellent customer service
  - Appropriate control



*See report pp. 32-35*

## **Recommendation 1-B: Modernize NC's ABC System by Providing Management Tools for Better Oversight of Local Boards**

**Authorize the ABC Commission to use the following management tools:**

- Performance standards**
- Local board mergers**
- Technical assistance**
- Financial incentives**
- Agency stores**



*See report pp. 32-35*

## **Recommendation 1-C: Modernize NC's ABC System by Modifying Outdated Statutes**

- **Increase registered voter threshold for city ABC store elections from 500 to 5,000**
- **Eliminate ABC store requirement to hold mixed-beverage elections**
- **Eliminate purchase-transportation permit requirement for liquor**



*See report pp. 32-35*





## **Recommendation 2: Consider Whether Other Systems for Alcohol Beverage Control Are Appropriate for North Carolina**

- **Changing the system could affect:**
  - State and local revenues from liquor sales
  - Liquor selection and pricing
  - Warehouse ownership and operation
- **Changing the system would mean local boards no longer own and operate ABC stores.**

*See report pp. 32-35*



# Evaluation Summary

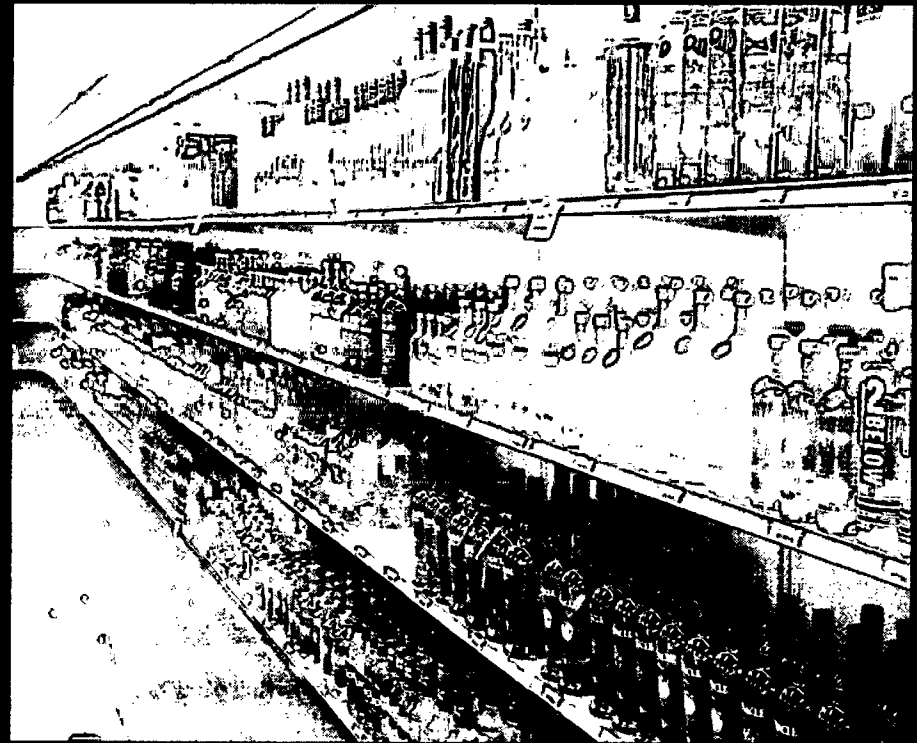
- **NC's Alcohol Beverage Control System is outdated and needs modernization.**
- **Statutory changes will improve the effectiveness and efficiency of the Alcohol Beverage Control system.**
- **A more effective and efficient ABC system may increase revenue for North Carolina and local governments.**
- **The North Carolina ABC Commission concurs with the Program Evaluation Division's recommendations.**

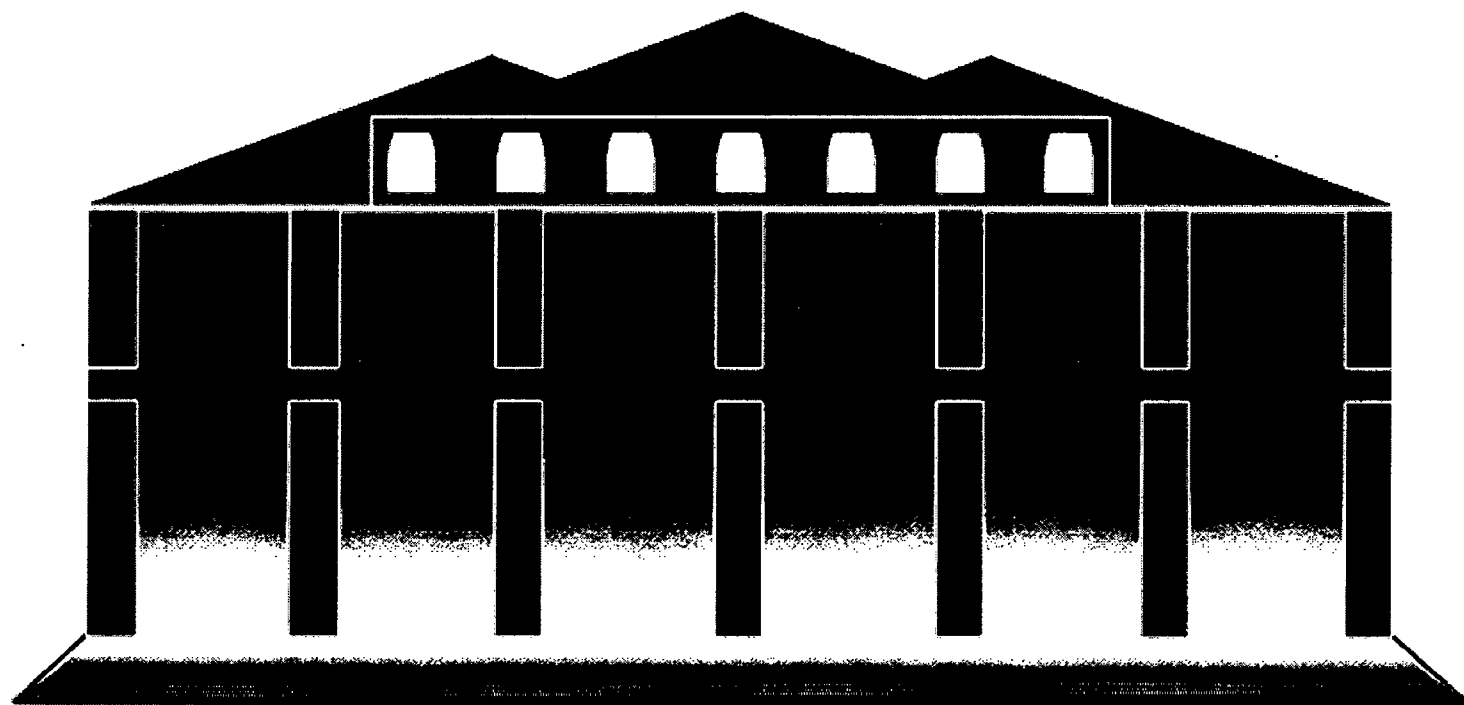


# Report available online

<http://www.ncleg.net/PED/Reports/Topics/GovernmentOperations.html>

Carol Shaw  
carolsh@ncleg.net



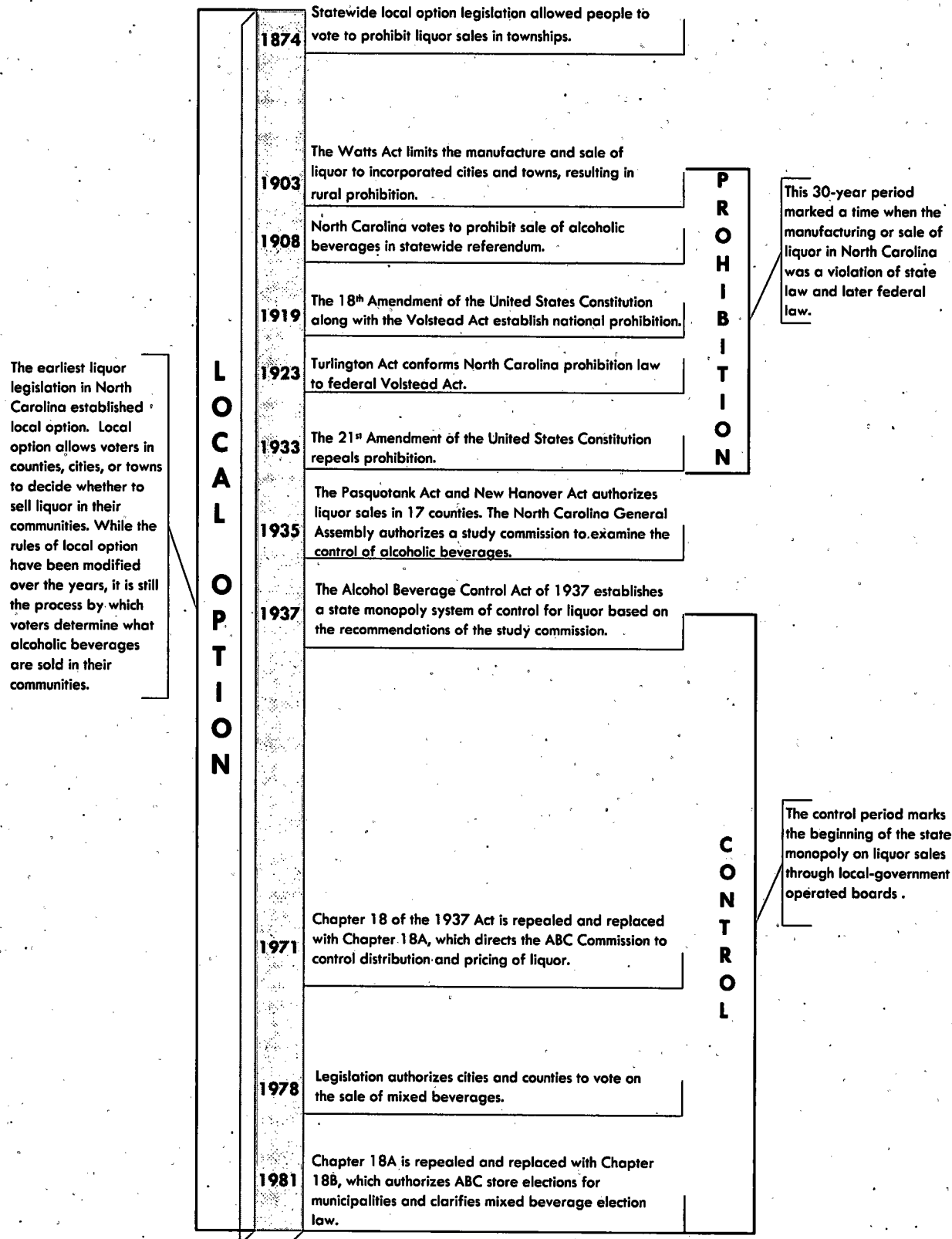


# PROGRAM EVALUATION DIVISION

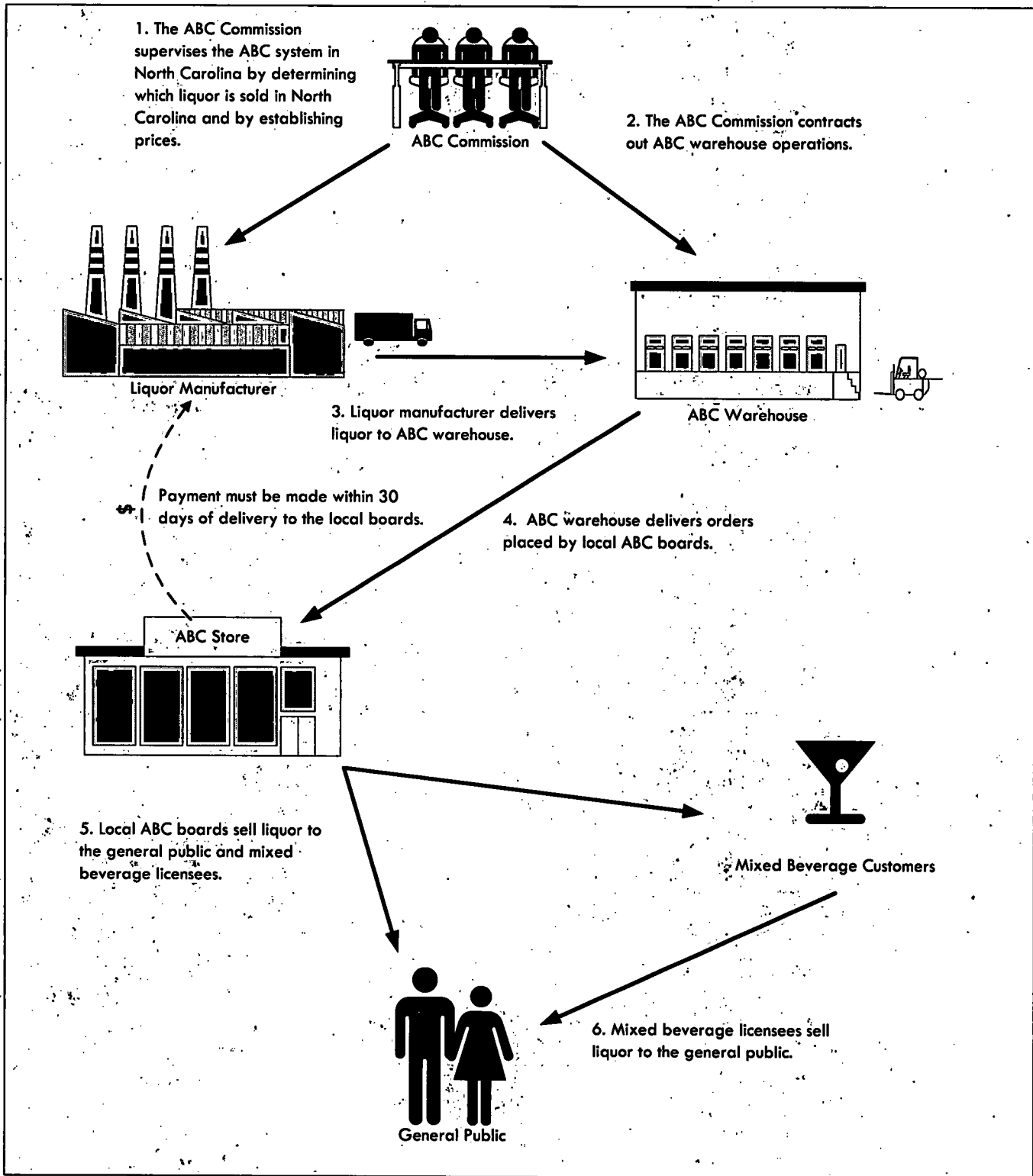
## NORTH CAROLINA GENERAL ASSEMBLY



## Exhibit 1: History of Alcohol Beverage Control in North Carolina

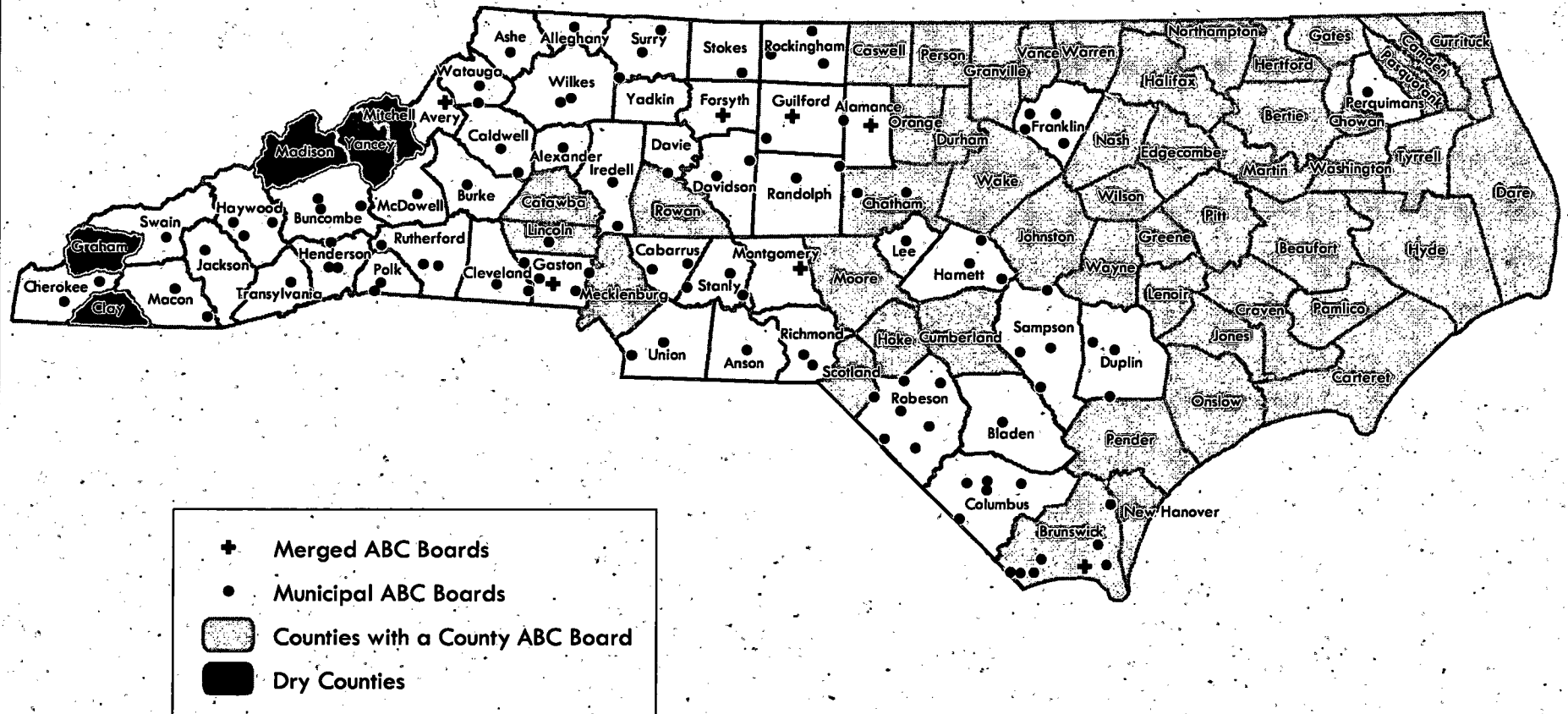


Source: Program Evaluation Division based on North Carolina Session Laws and other historical documents.

**Exhibit 2: North Carolina Alcohol Beverage Control Distribution System**

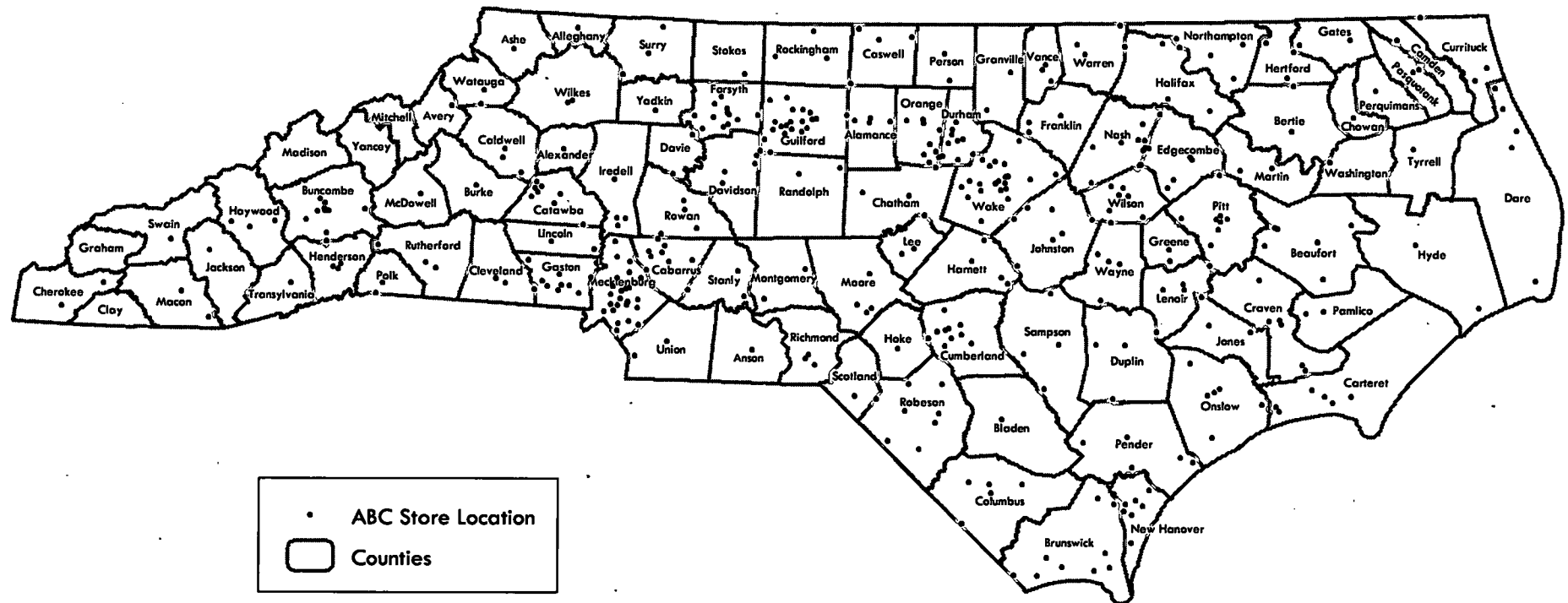
Source: Program Evaluation Division based on ABC Commission information.

### Exhibit 3: North Carolina Local ABC Boards



**Source: Program Evaluation Division and Information Systems Division based on information from the North Carolina ABC Commission.**

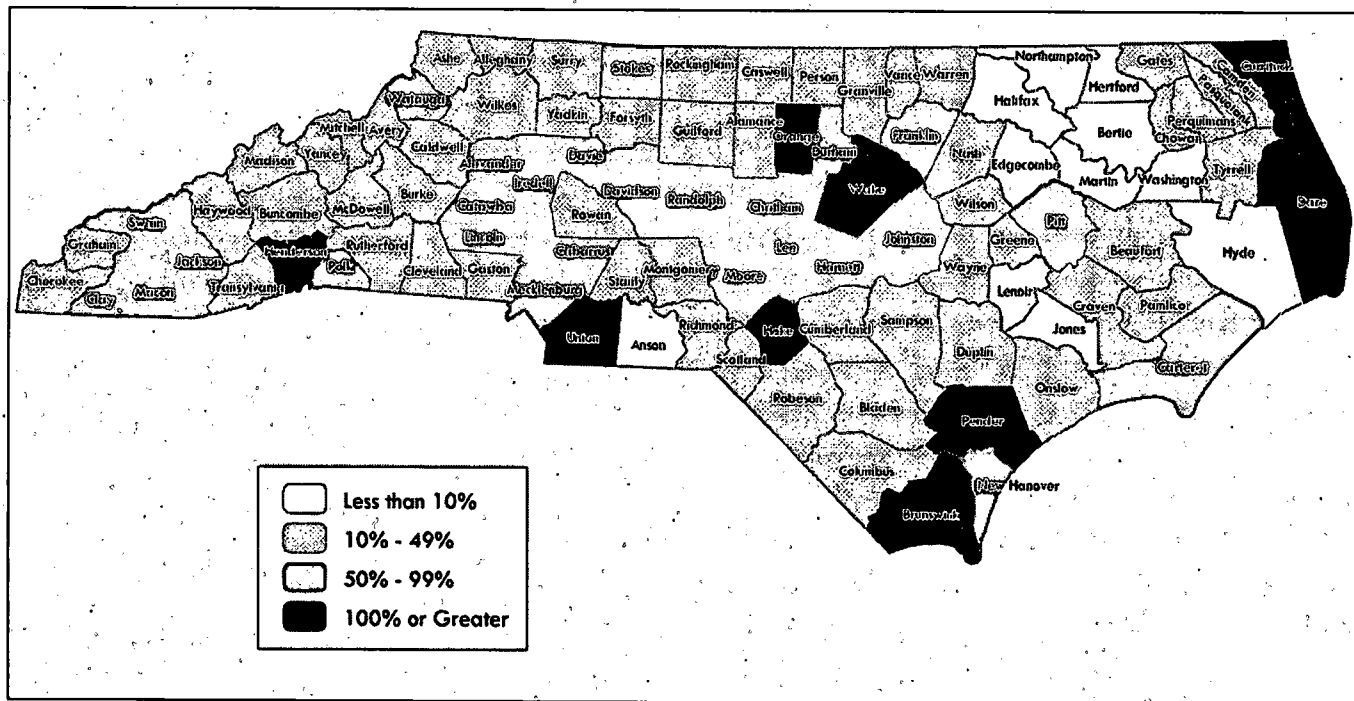
## Exhibit 5: North Carolina ABC Stores



Source: Program Evaluation Division and Information Systems Division based on information from the North Carolina ABC Commission.

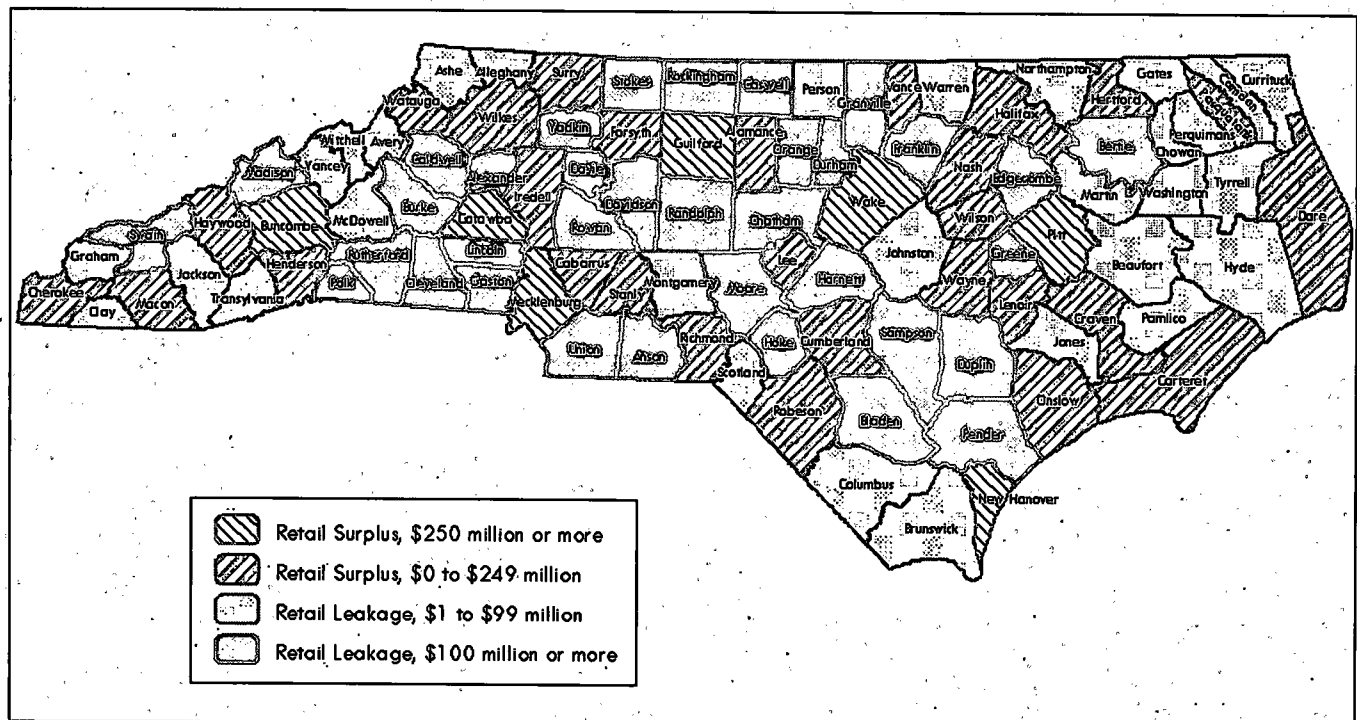


### Exhibit 7: Changes in North Carolina's Total Population, 1970-2000



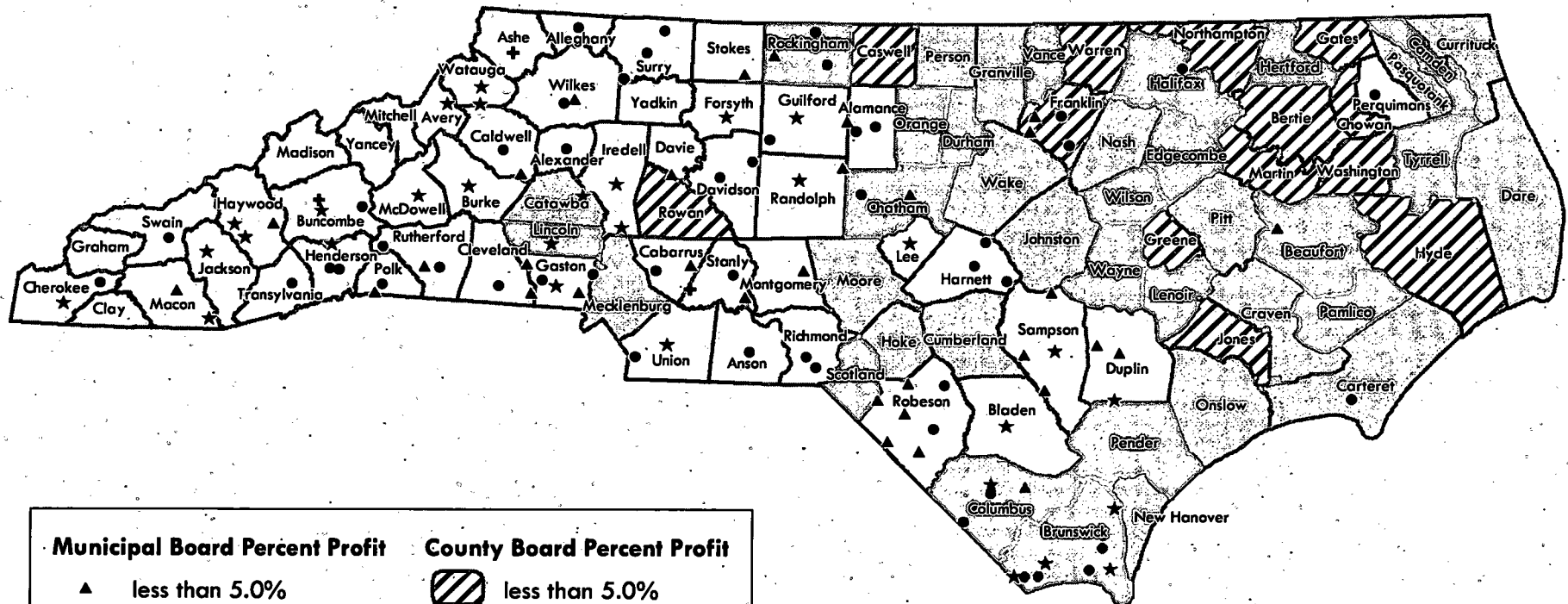
Source: Program Evaluation Division based on the United States Bureau of the Census.

### Exhibit 8: Retail Surpluses and Leakages, 2000-2004



Source: Program Evaluation Division based on data from the Department of Geography and Earth Sciences, The University of North Carolina Retrieved September 1, 2008, from [www.ncatlasrevisited.org](http://www.ncatlasrevisited.org).

## Exhibit 10: North Carolina Local ABC Board Profit Margins for Fiscal Year 2006-07



Source: Program Evaluation Division and Information Systems Division based on information from the North Carolina ABC Commission.

## Exhibit 17: Impact of Control Models on Alcohol Beverage Control

ABC System Operations	North Carolina Today	State Retail Model	Agency Store Model	Warehouse Model	Licensure Model
1. State government controls liquor selection	Yes	Yes	Yes	Yes	No
2. State government controls liquor pricing	Yes	Yes	Yes	Yes	No
3. State government operates a central warehouse	Yes	Yes	Yes	Yes	No
4. Requires creation of licensing standards for sale of liquor by agency/private retailers	No	No	Yes	Yes	Yes
5. State government operates ABC stores	No	Yes	No	No	No
6. Local governments operate ABC stores	Yes	No	No	No	No
ABC System Profitability	North Carolina Today	State Retail Model	Agency Store Model	Warehouse Model	Licensure Model
1. Provides state revenue through excise and sales taxes	Yes	Yes	Yes	Yes	Yes
2. Provides revenue for local governments if revenue sharing is required	Yes	Yes	Yes	Yes	Yes
3. Local governments receive one-time windfall from sale of all ABC stores	No <sup>i</sup>	Yes	Yes	Yes	Yes
4. Increases liquor prices to maintain state and local revenues and allow private business to profit	No	No	No	Yes	Yes
5. Increases excise tax rate to maintain state and local revenues	No	No	No	No	Yes
Note: <sup>i</sup> Under current law, an individual local board can choose to close and sell its store(s) and distribute revenue from the sale.					

Source: Program Evaluation Division.

**State Retail Model.** State government controls the wholesale and retail distribution of liquor, determines brands and pricing of liquor sold in the state; and maintains a warehouse for distribution. The retail sale of alcoholic beverages occurs in stores owned, maintained, and operated by state government.

**Agency Store Model.** State government controls wholesale and retail distribution of liquor, but the retail sale of alcoholic beverages is handled by contracted agency stores selling liquor on behalf of the government. State governments pay agency or contract stores a commission or sell alcoholic beverages to agency stores at a discount. The state determines brands and pricing of liquor sold in the state and maintains a warehouse for distribution to the agency stores.

**Wholesale Model.** State government controls the wholesale distribution of liquor. The retail sale of liquor is handled by private retail businesses licensed by the state. The state determines brands and pricing of liquor sold in the state and maintains a warehouse for distribution to private retail businesses.

**Licensure Model.** State government regulates the distribution of alcoholic beverages by licensing suppliers, wholesalers, and retail business selling alcoholic beverages and collecting taxes on these beverages. These states do not control retail or wholesale distribution of alcoholic beverages.

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
2009-2010 SESSION**

You are hereby notified that the Committee on **ALCOHOL BEVERAGE CONTROL COMMITTEE** will meet as follows:

**DAY & DATE:**     **Tuesday, March 10, 2009**

**TIME:**             **1:00pm**

**LOCATION:**        **Room 425**

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

<b>BILLS</b>	<b>BILL SPONSOR</b>
<b>H186   Local Government Objections to ABC Store</b>	<b>Rep. Parmon Rep. Womble Rep. McGee Rep. Folwell</b>
<b>H249   ABC Recycling Tax Credit</b>	<b>Rep. Gibson</b>

Respectfully,

Representative Ray Warren  
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices  
Tuesday, March 3, 2009

X     \_\_\_ Principal Clerk  
X     \_\_\_ Reading Clerk - House Chamber

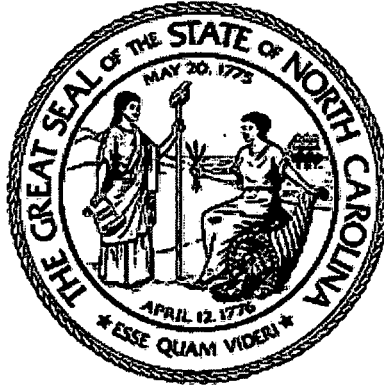
Theresa Lopez (Committee Assistant)

# ALCOHOL BEVERAGE CONTROL COMMITTEE

## AGENDA

March 10, 2009

- A. Welcome Members and guest to the ABC Committee
- B. Introduction of Sergeant –At-Arms and Pages
- C. **House Bill #186 – Local Government Objections to ABC Stores**  
Primary Bill Sponsors – Representatives Parmon, Womble, McGee and Folwell  
  
**House Bill # 249 – ABC Recycling Tax Credit**  
Primary Bill Sponsor – Representatives Gibson
- D. Open for Questions or Comments from the Committee
- E. Upcoming Business
- F. Adjourn



## **Minutes**

### **Alcoholic Beverage Control Committee**

Tuesday, March 10, 2009

1:00 p.m.

Room 425, Legislative office Building

The Alcoholic Beverage Control Committee met on Tuesday, March 10, 2009 at 1:00 p.m., in Room 425 of the Legislative Office Building. The following members were present: Representative Ray Warren, Chair; Representatives Gibson, Spaulding-Hughes, and Lucas, Vice-Chairs; Representatives Brown, Coates, Daughtry, Grady, Lewis, Starnes, Steen, and Sutton.

Representative Warren, Chair called the meeting to order, and welcomed the members and guest, introduced the pages and the Sergeant at Arms staff. The visitor registration is attached.

#### **House Bill 186, Local Government Objections to ABC Stores**

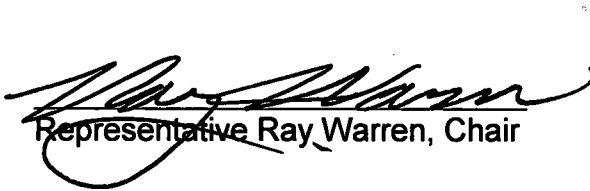
Representative Parmon, the bill sponsor was recognized to explain the bill; it would allow the local government to object to the location of Alcoholic Beverage Control Stores. Representative Sutton sent forth an amendment deleting line 16 through 18. Representative Starnes moved for the adoption of the amendment for the purpose of discussion. The motion carried. Representative Sutton motioned for a favorable report of the Proposed Committee Substitute, unfavorable to the original bill, and re-referred to the committee on Judiciary II.

#### **House Bill 249, ABC Recycling Tax Credit**

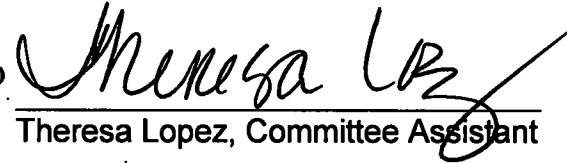
Representative Gibson, the bill sponsor was recognized to explain the bill; it would provide a tax credit to ABC permittees who are required to recycle beverage containers. After brief discussion Representative Lucas motioned for a

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

The meeting adjourned at 1:48.



Representative Ray Warren, Chair



Theresa Lopez, Committee Assistant

Attachments:

Agenda  
House Bills 186, 249  
Amendment-HB186  
Committee Reports  
Visitor Registration Sheet



## HOUSE BILL 186: Local Government Objections to ABC Stores

2009-2010 General Assembly

<b>Committee:</b>	House Alcoholic Beverage Control, if favorable, Judiciary II	<b>Date:</b>	March 10, 2009
<b>Introduced by:</b>	Reps. Parmon, Womble, McGee, Folwell	<b>Prepared by:</b>	Brenda J. Carter
<b>Analysis of:</b>	First Edition		Committee Counsel

**SUMMARY:** *House Bill 186 prevents a local ABC board from establishing an ABC store at a location within a municipality if, based upon evidence taken at a public hearing, the governing body of the municipality has passed a resolution objecting to the location of the ABC store. The ABC Commission would have the final authority to determine if the location is suitable for an ABC store.*

**CURRENT LAW:** Under 18B-801, a local board may choose the location of the ABC stores within its jurisdiction, subject to the approval of the ABC Commission. In making its decision on a location, the Commission may consider:

- (1) Whether the health, safety, or general welfare of the community will be adversely affected; and
- (2) Whether the citizens of the community or city in which the proposed store is to be located voted for or against ABC stores in the last election on the question.

Under rules adopted by the ABC Commission, the opening of a new ABC store will not be approved by the Commission unless at least 30 days notice is given to the Chair of the Commission as to the intended location of the store, and until a public notice has been posted at the intended location for at least 30 days. The Commission will consider objections to the opening of a new ABC store upon a showing that the local board has either considered and overruled or ignored the objections. The rules provide that new stores should not be opened in any area which is principally residential, in unreasonable proximity to any church, school or similar institution, in any slum district or other similarly undesirable area or at any location where there is not sufficient parking to avoid traffic congestion.

**BILL ANALYSIS:** House Bill 186 prohibits an ABC board from establishing an ABC store at a location within a municipality if:

- The governing body of the municipality holds a public hearing and receives information and evidence concerning the suitability of the location; and
- The governing body of the municipality has passed a resolution objecting to the location of the proposed ABC store.

The bill provides that notwithstanding the objection of the municipality the local ABC board may request approval of the ABC Commission for the store. The ABC Commission would have final authority to determine the suitability of the location, and the municipality would have no right of appeal. The bill would provide an additional 45-day period to allow a municipality sufficient time to conduct a public hearing and submit its objection and resolution to the ABC Commission.

**EFFECTIVE DATE:** The bill would become effective October 1, 2009 and apply to any ABC store locations announced on or after that date.

H186-SMRV-7(e1) v1



**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

H

1

**HOUSE BILL 186**

Short Title: Local Government Objections to ABC Stores. (Public)

Sponsors: Representatives Parmon, Womble, McGee, Folwell (Primary Sponsors);  
Harrison, Hughes, Hurley, Starnes, and Tarleton.

Referred to: Alcoholic Beverage Control, if favorable, Judiciary II.

February 18, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW LOCAL GOVERNMENTS TO OBJECT TO THE LOCATION OF  
3 ALCOHOLIC BEVERAGE CONTROL STORES IF THE LOCAL GOVERNMENT HAS  
4 HELD A PUBLIC HEARING, TAKEN EVIDENCE, AND PASSED A RESOLUTION  
5 OBJECTING TO THE LOCATION OF AN ALCOHOLIC BEVERAGE CONTROL  
6 STORE.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. G.S. 18B-801 is amended by adding a new subsection to read:

9 "(b1) Notwithstanding subsection (b) of this section, no local board may establish an ABC  
10 store at any location within the corporate limits of a municipality if the governing body of the  
11 municipality has passed a resolution objecting to the location of the proposed ABC store and  
12 the resolution is based upon information and evidence presented to the governing body of the  
13 municipality at a public hearing. If a municipality objects to the location of a proposed ABC  
14 store, the local board may request the Commission to approve the proposed ABC store location  
15 notwithstanding the objection of the municipality. The Commission shall have final authority to  
16 determine if the operation of an ABC store at the contested proposed location is suitable. The  
17 Commission's decision regarding any location is final, and no municipality may appeal the  
18 Commission's decision to any court.

19 Upon notice given to the Commission by an affected municipality, any statutory and  
20 administrative time limits allowed for objections to, or public hearings concerning the location  
21 of, an ABC store shall be extended by 45 days to allow a municipality sufficient time to  
22 conduct a public hearing and submit its objection and resolution to the Commission."

23 SECTION 2. This act becomes effective October 1, 2009, and applies to ABC store  
24 locations announced on or after that date.



NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 1st

H. B. No. 186

DATE 3-10-09

S. B. No. \_\_\_\_\_

Amendment No. \_\_\_\_\_

COMMITTEE SUBSTITUTE \_\_\_\_\_

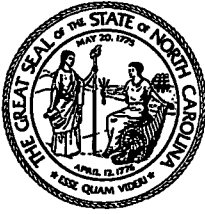
(to be filled in by  
Principal Clerk)

Rep. ) Sutton  
Sen. )

- 1 moves to amend the bill on page 1, line 16 - 18  
2 ( ) WHICH CHANGES THE TITLE after the period  
3 by deleting the sentence that begins on line 16.  
4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_  
7 \_\_\_\_\_  
8 \_\_\_\_\_  
9 \_\_\_\_\_  
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18 \_\_\_\_\_  
19 \_\_\_\_\_

SIGNED [Signature]

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_



## HOUSE BILL 249: ABC Recycling Tax Credit

2009-2010 General Assembly

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<b>Committee:</b>	House Alcoholic Beverage Control, if favorable, Finance	<b>Date:</b>	March 9, 2009
<b>Introduced by:</b>	Rep. Gibson	<b>Prepared by:</b>	Brenda J. Carter
<b>Analysis of:</b>	First Edition		Committee Counsel

---

**SUMMARY:** *House Bill 249 provides a tax credit to ABC permittees who are required to recycle beverage containers.*

**CURRENT LAW:** Under G.S. 18B-1006.1, holders of on-premises ABC permits are required to separate, store, and provide for the collection for recycling of all recyclable beverage containers of beverages sold at retail on the premises.

**BILL ANALYSIS:** House Bill 249 amends the State's Corporation Income Tax Act and the Individual Income Tax Act to provide a tax credit to ABC permittees who are required to recycle beverage containers. (A tax credit reduces tax directly, while a deduction or allowance only reduces taxable income.) The amount of the credit would vary, based on the amount the taxpayer paid during the calendar year for the collection or disposal of beverage containers required by law to be recycled. A taxpayer qualifies for the credit if annual recycling collection costs exceed \$750. Recycling collection costs of \$750-\$1500 qualify for a \$250 credit; recycling costs in excess of \$1500 qualify for a \$500 credit. The taxpayer must file with the tax return any documentation that may be required by the Secretary of Revenue in support of the credit.

**EFFECTIVE DATE:** The bill would become effective for taxable years beginning on or after January 1, 2009. The provision would be repealed January 1, 2013 with regard to the Corporation Income Tax Act, and January 1, 2014 with regard to the Individual Income Tax Act.

H249-SMRV-6(e1) v2

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

H

1

HOUSE BILL 249

Short Title: ABC Recycling Tax Credit.

(Public)

Sponsors: Representatives Gibson; Harrison and Lucas.

Referred to: Alcoholic Beverage Control, if favorable, Finance.

February 23, 2009

A BILL TO BE ENTITLED  
AN ACT TO PROVIDE A TAX CREDIT TO ABC PERMITTEES WHO ARE REQUIRED  
TO RECYCLE BEVERAGE CONTAINERS.

The General Assembly of North Carolina enacts:

SECTION 1. Part 1 of Article 4 of Chapter 105 of the General Statutes is amended  
by adding a new section to read:

**"§ 105-130.49. Credit for recycling beverage containers.**

(a) Credit. – A taxpayer who is required to recycle beverage containers under G.S. 18B-1006.1 is eligible for a credit against the tax imposed by this Part. The amount of the credit varies based upon the taxpayer's recycling collection cost. A taxpayer's recycling collection cost is the amount the taxpayer paid during the calendar year to a public or private entity for the collection or disposal of beverage containers required to be recycled under G.S. 18B-1006.1.

**Annual Recycling Collection Cost**

**Amount of Credit**

Up to \$750

0

\$750-\$1,500

\$250

Over \$1,500

\$500.

(b) Limitation. – The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except tax payment made by or on behalf of the taxpayer.

(c) Documentation of Credit. – Upon request, to support the credit allowed by this section, the taxpayer must file with its income tax return, for the taxable year in which the credit is claimed, any information or records required by the Secretary of Revenue.

(d) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, 2013.

SECTION 2. Part 2 of Article 4 of Chapter 105 of the General Statutes is amended  
by adding a new section to read:

**"§ 105-151.33. Credit for recycling beverage containers.**

(a) Credit. – A taxpayer who is required to recycle beverage containers under G.S. 18B-1006.1 is eligible for a credit against the tax imposed by this Part. The amount of the credit varies based upon the taxpayer's recycling collection cost. A taxpayer's recycling collection cost is the amount the taxpayer paid during the calendar year to a public or private entity for the collection or disposal of beverage containers required to be recycled under G.S. 18B-1006.1.

**Annual Recycling Collection Cost**

**Amount of Credit**

Up to \$750

0

\$750-\$1,500

\$250



1     Over \$1,500

\$500.

2     (b) Limitation. – The credit allowed under this section may not exceed the amount of  
3 tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except  
4 tax payment made by or on behalf of the taxpayer.

5     (c) Documentation of Credit. – Upon request, to support the credit allowed by this  
6 section, the taxpayer must file with its income tax return, for the taxable year in which the  
7 credit is claimed, any information or records required by the Secretary of Revenue.

8     (d) Sunset. – This section is repealed effective for taxable years beginning on or after  
9 January 1, 2014."

10     **SECTION 3.** This act becomes effective for taxable years beginning on or after  
11 January 1, 2009.

**2009 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

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

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

☐ Committee Substitute for

**HB 186** A BILL TO BE ENTITLED AN ACT TO ALLOW LOCAL GOVERNMENTS TO OBJECT TO THE LOCATION OF ALCOHOLIC BEVERAGE CONTROL STORES IF THE LOCAL GOVERNMENT HAS HELD A PUBLIC HEARING, TAKEN EVIDENCE, AND PASSED A RESOLUTION OBJECTING TO THE LOCATION OF AN ALCOHOLIC BEVERAGE CONTROL STORE.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on JUDICIARY II.

**(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.

**2009 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

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

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

---

☐ Committee Substitute for

**HB 249** A BILL TO BE ENTITLED AN ACT TO PROVIDE A TAX CREDIT TO ABC PERMITTEES WHO ARE REQUIRED TO RECYCLE BEVERAGE CONTAINERS.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on FINANCE.

**(FOR JOURNAL USE ONLY)**

---

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

\_\_\_\_\_ The bill/resolution is re-referred to the Committee on \_\_\_\_\_.

**2009 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

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

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

☐ Committee Substitute for

**HB 249** A BILL TO BE ENTITLED AN ACT TO PROVIDE A TAX CREDIT TO ABC PERMITTEES WHO ARE REQUIRED TO RECYCLE BEVERAGE CONTAINERS.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on FINANCE.

**(FOR JOURNAL USE ONLY)**

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

\_\_\_\_\_ The bill/resolution is re-referred to the Committee on \_\_\_\_\_.



# VISITOR REGISTRATION SHEET

ALCOHOL BEVERAGE CONTROL

3/10/2009

Name of Committee

Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME

FIRM OR AGENCY AND ADDRESS

Scott Moww	NC DENR
NC Chronicle	NC ALE
Barbara Caslow	B&G
Elizabeth Biser	DEMR
Pat Hodgman	Truhome Ther
Alvin Dask	MWC
Michael Houser	NC DOR
J. Rancoser	
Dean Plunkett	NCTBWWA
David H	AK PCM
John	N/A

# VISITOR REGISTRATION SHEET

ALCOHOL BEVERAGE CONTROL

Name of Committee

3/10/09

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Rev. MARK CREECH	CAL
TOMMY LARRY	DET HARMON
Mr Marvin Waters	CCPS
Heather Barnett	Horton & Williams
John R. A.	NCFPC
Mark Benson	
Brittany Farrell	NCFPC
W. A. H.	NCFPC
Ken Melton	K.M.A.

House Pages

Name Of Committee: ABC Date: 3/10/09

1. Name: Carson Meyer

County: Forsyth

Sponsor: Dale Folewell

2. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

3. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

4. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

5. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

Sgt-At-Arms

1. Name: Rossi, Bob

2. Name: Adams, Carlton

3. Name: Badeson, Martha

4. Name: \_\_\_\_\_

5. Name: \_\_\_\_\_

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
AND  
BILL SPONSOR NOTIFICATION  
2009-2010 SESSION**

You are hereby notified that the Committee on **Alcoholic Beverage Control** will meet as follows:

**DAY & DATE:** Tuesday, March 24, 2009

**TIME:** 1:00 pm

**LOCATION:** 425 LOB

**COMMENTS:**

The following bills will be considered:

<b>BILL NO.</b>	<b>SHORT TITLE</b>	<b>SPONSOR</b>
HB 517	Change ABC Distributions for Randleman.	Representative Hurley

Respectfully,  
Representative R. Warren, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 8 o'clock on **March 19, 2009**.

- ☐ Principal Clerk  
☐ Reading Clerk – House Chamber

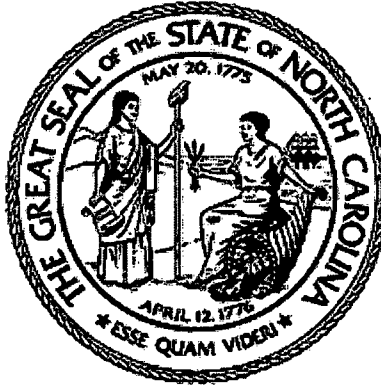
**Theresa Lopez** (Committee Assistant)

# ALCOHOL BEVERAGE CONTROL COMMITTEE

## AGENDA

March 24, 2009

- A. Welcome Members and guest to the ABC Committee
- B. Introduction of Sergeant –At-Arms and Pages
- C. House Bill #517 – **Change ABC Distributions for Randleman**  
Primary Bill Sponsor – Representative Hurley
- D. Open for Questions or Comments from the Committee
- E. Upcoming Business
- F. Adjourn



## Minutes

### Alcoholic Beverage Control Committee

Tuesday, March 24, 2009

1:00 p.m.

Room 425, Legislative office Building

The Alcoholic Beverage Control Committee met on Tuesday, March 24, 2009 at 1:00 p.m., in Room 425 of the Legislative Office Building. The following members were present: Representative Ray Warren, Chair; Representatives Lucas, Vice-Chair; Representatives Bell, Brown, Coates, Daughtry, Grady, Jackson, Starnes, Steen, and Sutton.

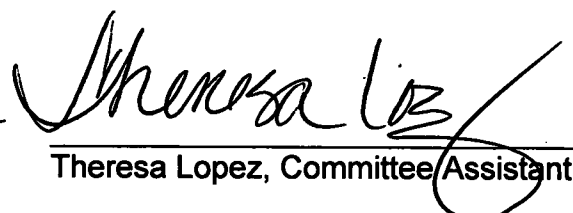
Representative Warren, Chair called the meeting to order, and welcomed the members and guest, introduced the pages and the Sergeant at Arms staff. The visitor registration is attached.

#### House Bill 517, Change ABC Distributions for Randleman

Representative Hurley, the bill sponsor was recognized to explain the bill; it would allow the city of Randleman to change the distribution formula for proceeds from ABC Stores. Upon hearing extensive questions from members of the committee, Representative Hurley made a request to the Chair to remove the bill from the current committee agenda and re-schedule the bill to be heard at a later date.

The meeting adjourned at 1:10

  
Representative Ray Warren, Chair

  
Theresa Lopez, Committee Assistant

**Attachments:**

**Agenda**

**House Bill 517**

**Visitor Registration**



# HOUSE BILL 517: Change ABC Distributions for Randleman

2009-2010 General Assembly

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<b>Committee:</b>	House Alcoholic Beverage Control, if favorable, Local Government II	<b>Date:</b>	March 24, 2009
<b>Introduced by:</b>	Rep. Hurley	<b>Prepared by:</b>	Susan Sitze
<b>Analysis of:</b>	First Edition		Committee Counsel

---

**SUMMARY:** *House Bill 517 allows the City of Randleman to change the distribution formula for proceeds from ABC stores.*

**BILL ANALYSIS:** House Bill 517 amends the distribution formula for proceeds from ABC stores in the City of Randleman as follows:

- Removes the requirement that 15% of the proceeds go to the Randolph County Board of Education
- Removes the requirement that 5% of the proceeds go to Randolph Hospital, Inc.
- Increases the amount of the proceeds going to the City of Randleman General Fund from 70% to 90%.

**EFFECTIVE DATE:** This act is effective when it becomes law.

**BACKGROUND:**

*H517-SMSA-17(e1) v1*



**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

**H**

**1**

**HOUSE BILL 517**

**Short Title:**    Change ABC Distributions for Randleman. (Local)

**Sponsors:**    Representative Hurley.

**Referred to:**   Alcoholic Beverage Control, if favorable, Local Government II.

March 10, 2009

1                                   A BILL TO BE ENTITLED  
2   AN ACT TO ALLOW THE CITY OF RANDLEMAN TO CHANGE THE DISTRIBUTION  
3   FORMULA FOR PROCEEDS FROM ABC STORES.

4   The General Assembly of North Carolina enacts:

5           **SECTION 1.** Section 5 of Chapter 168 of the 1965 Session Laws, as amended by  
6   Section 1 of Chapter 821 of the 1971 Session Laws, reads as rewritten:

7       "Sec. 5. Out of the net revenue remaining after the payment of all costs and operating  
8   expenses, and after retaining a sufficient and proper working capital, the City of Randleman  
9   Board of Alcoholic Control shall, on a quarterly basis, distribute the balance as follows:

10 <del>Randolph County Board of Education</del> .....	15%
11       City of Randleman General Fund, to be used for capital improvements	
12       or operating expenses in connection with the Police Department	
13       of the City of Randleman .....	5%
14 <del>Randolph Hospital, Inc.</del> .....	5%
15       City of Randleman Recreation Program .....	5%
16       City of Randleman General Fund .....	<del>70%</del> 90%
17       Total .....	100%"

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



# VISITOR REGISTRATION SHEET

## ALCOHOLIC BEVERAGE CONTROL

**Name of Committee**

3/24/09  
Date

**Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

**NAME****FIRM OR AGENCY AND ADDRESS**

Rev. MARK SNEED

CAL

Dean Plunkett

NCBWWA.

79mm

X/A

Alicia Baez

MMK

Thomas C. Caves, Jr.

NC Dept. of Crime Control & Public Safety,

Ken Melton

Km.A.

ABC

3/24/09  
Date

Date \_\_\_\_\_

NAME

Barbara Casady

3862

M. J. Searns

B:11 Hester

Southern Wine & Spirits

Jon Carr

NCA 3-52 ABC Bowl

House Pages

Name Of Committee: ABC Date: 3/24/09

1. Name: Destiny Bullock

County: Pitt

Sponsor: Warren D

2. Name: Cheista Taylor

County: Robeson

Sponsor: Rev. pierce

3. Name: Demetrius Tyson

County: moore county

Sponsor: Say 30

4. Name: Hope McPherson

County: Robeson

Sponsor: Pierce

5. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

Sgt-At-Arms

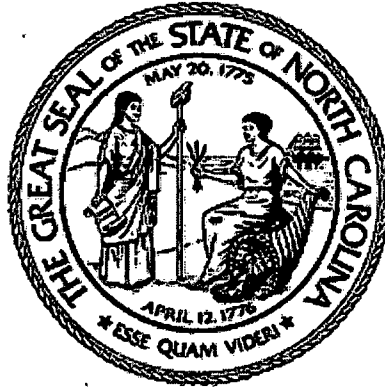
1. Name: Tom Wilder

2. Name: Bob Rossi

3. Name: Rad Finger

4. Name: Martha Madison

5. Name: -



## **Minutes**

### **Alcoholic Beverage Control Committee**

Tuesday, March 24, 2009

1:00 p.m.

Room 425, Legislative office Building

The Alcoholic Beverage Control Committee met on Tuesday, March 24, 2009 at 1:00 p.m., in Room 425 of the Legislative Office Building. The following members were present: Representative Ray Warren, Chair; Representatives Lucas, Vice-Chair; Representatives Bell, Brown, Coates, Daughtry, Grady, Jackson, Starnes, Steen, and Sutton.

Representative Warren, Chair called the meeting to order, and welcomed the members and guest, introduced the pages and the Sergeant at Arms staff. The visitor registration is attached.

#### **House Bill 517, Change ABC Distributions for Randleman**

Representative Hurley, the bill sponsor was recognized to explain the bill; it would allow the city of Randleman to change the distribution formula for proceeds from ABC Stores. Upon hearing extensive questions from members of the committee, Representative Hurley made a request to the Chair to remove the bill from the current committee agenda and re-schedule the bill to be heard at a later date.

The meeting adjourned at 1:10

---

Representative Ray Warren, Chair

---

Theresa Lopez, Committee Assistant

**Attachments:**

**Agenda**

**House Bill 517**

**Visitor Registration**

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
AND  
BILL SPONSOR NOTIFICATION  
2009-2010 SESSION**

You are hereby notified that the Committee on **Alcoholic Beverage Control** will meet as follows:

**DAY & DATE:** Tuesday, March 31, 2009

**TIME:** 1:00 pm

**LOCATION:** 425 LOB

**COMMENTS:** Guest Speaker

Mike Herring – Alcoholic Beverage Control Commission

Respectfully,  
Representative R. Warren, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 10 o'clock on **March 30, 2009**.

- ☐ Principal Clerk
- ☐ Reading Clerk – House Chamber

**Theresa Lopez** (Committee Assistant)

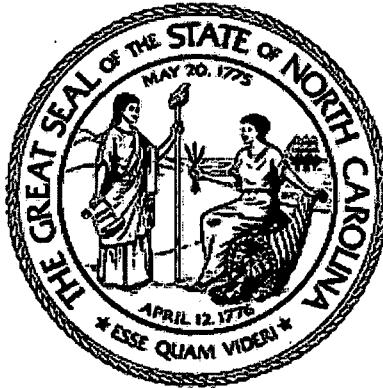
# ALCOHOL BEVERAGE CONTROL COMMITTEE

## AGENDA

March 31, 2009

- A. Welcome Members and guest to the ABC Committee
- B. Introduction of Sergeant –At-Arms and Pages
- C. Guest Speaker: Mike Herring from the Program Evaluation Division.
- D. Open for Questions or Comments from the Committee
- E. Upcoming Business
- F. Adjourn





## Minutes

### Alcoholic Beverage Control Committee

Tuesday, March 31, 2009

1:00 p.m.

Room 425, Legislative office Building


The Alcoholic Beverage Control Committee met on Tuesday, March 31, 2009 at 1:00 p.m., in Room 425 of the Legislative Office Building. The following members were present: Representative Ray Warren, Chair; Representatives Gibson, Spaulding Hughes, Lucas, Co-Chairs; Representatives Bell, Coates, Grady, Jackson, Starnes, Steen, and Sutton.

Representative Warren, Chair called the meeting to order, welcomed the members and guest, introduced the pages and the Sergeant at Arms staff. The visitor registration is attached.

Guest Speaker, Mike Herring from the Alcoholic Beverage Control Commission presented an overview of the commission and its role in overseeing a unique system of Alcoholic Beverage Control in North Carolina. Attached is a copy of his notes.

The meeting adjourned at 1:45 p.m.

  
Representative Ray Warren

  
Theresa Lopez, Committee Assistant

**Attachments:**

**Agenda**

**Mike Herring's Notes**

**Visitor Registration**

Thank you Chairman Warren and committee members,

First, if you haven't been to the ABC office and warehouse complex, I would like to invite each one of you to come visit us. We are just 5 miles south of downtown off Tryon Road.

The ABC Commission operates out of a 20,000 sq. foot office building where on average we have 30 visitors a day mostly to get ABC permits. On property we have a 200,000 square foot warehouse which houses all spirituous liquor in NC before the product is shipped out to the 159 local ABC boards.

Current inventory is approx. 400,000 cases with a wholesale value of \$40 million. Last year, 4.5 million cases were received into the warehouse and shipped out to the ABC Boards. Being a receipt supported agency, there are no general fund dollars used to fund our operation.

As most of you know, the ABC Commission oversees a unique system of alcoholic beverage control in NC that provides for a local option plan under which no county or city in the state can sell alcohol unless first approved by the voters or by special, statewide act of the General Assembly.

Alcohol issues east of Raleigh have been generally approved countywide whereas west of Raleigh they have been approved at city election or by a special act.

The General Assembly has given the Commission the authority to administer the ABC Laws of NC, determine the brands of alcoholic beverages sold in the state, issue ABC permits for the sale of those alcoholic beverages and impose sanctions against ABC permit holders that violate the ABC laws.

The Commission also contracts for the warehousing of spirituous liquor, sets the price of spirituous liquor sold in ABC store and approves or disapproves the location of ABC stores in the state. It is important to note that ABC stores are not state owned or operated and the employees in these ABC stores are not state employees.

Fiscal year ending 2008, the ABC Commission collected \$13 million dollars for the State's General Fund from ABC permit application and renewal fees. We have approximately, 16,000 businesses in the state selling alcoholic beverages at retail and over 40,000 outstanding ABC retail permits.

Another \$1.5 million was collected from these businesses in the form of fines and penalties for ABC law violations

From the sale of all alcoholic beverages ( beer, wine and spirits) at wholesale, NC ranks in the top ten nationwide in excise tax revenue collected.

Last year, Beer and Wine Wholesalers in the state collected over \$116 million in excise tax revenue for the state's general fund of which \$33 million was returned locally to county and municipal governments.

ABC boards collected \$252 million in tax revenue of which \$50 million was retained locally in county and municipal governments where ABC stores operate

Several weeks ago, Carol Shaw of your Program Evaluation Division made a presentation on the operational effectiveness and efficiency of the Local ABC Board system in NC. The PED study along with the proposed legislation in HB 768 presents the opportunity to take a fresh look at a system basically unchanged in 75 years.

As I have touch on, this study found that the current system of control works well for NC by insuring moderate consumption along with a superior revenue stream. And in recent years, much progress has been made to increasing customer service and profitability throughout the local ABC Board system.

However, the study points out that changing attitudes toward alcohol sales along with economic and demographic changes have caused inefficiencies in certain areas of the state and more needs to be done in rural areas and in areas of the state where multiple ABC boards compete for the same customers.

As an example, in the 3 counties of Robeson, Columbus, and Brunswick, 21 ABC boards operate and combined, have 65 ABC board members, 21 general managers, 21 bookkeepers and 21 CPA's doing their annual audits with a total profit margin of just 5%.

In comparison and close proximity, Cumberland county has sales equal to sales in these 3 counties, gets the job done with 5 board members, 1 general manager, and 1 CPA, and has a 12% profit margin.

The ABC Commission is working with all localities to improve ABC services and stands ready to assist you as necessary, in any area, as it pertains to modernizing our ABC laws.

In conclusion, I hope you will find some time to visit and tour the ABC Commission office and warehouse complex.

Thank you,      Questions

**Mike Herring**

**Alcoholic Beverage Control Commission**

**Administrator**

**office: 919-779-0700-247**

**fax: 919-661-5927**

**[Mike.Herring@abc.nc.gov](mailto:Mike.Herring@abc.nc.gov)**

# VISITOR REGISTRATION SHEET

ALCOHOLIC BEVERAGE CONTROL

3-31-09

Name of Committee

Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME

FIRM OR AGENCY AND ADDRESS

Rev. MARK CREECH	CAL
John McMillan	MEDS
Lew Nuckles	WAKE CO. ABC Board
Bill Belvin	CUMBERLAND Co. ABC BOARD
Kelli Kukura	North Carolina League of Women.
Cam Cove	BPM 4 L
Jim Blackburn	NC Association of County Commissioners
Jon Carr	NCAAS, ABC Boards

# VISITOR REGISTRATION SHEET

ALCOHOLIC BEVERAGE CONTROL

3.31.2009

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Barbara Conner	B&G
Andy Eika	NCA
Elizabeth Dalton	NCA
Roger Knight	Wyrick Robbins Yates & Barton Alcohol Bev. Council
Michelle Frazier	MFS
Bill Hester	Southern Wine & Spirits
Paul T. Criscuolo	" " " "
Don Kaylor	NCALE
Matt Farrell	TPG
Don	Misc
Alicia Dan	MNC
Ken Melton	K.M.A.

House Pages

Name Of Committee: ABC Date: 3-31-09

1. Name: Tyler Rogers

County: Pitt

Sponsor: Braxton

2. Name: Myles Swain

County: New Hanover

Sponsor: McComas

3. Name: Carolina Ponce

County: Wayne

Sponsor: Sager

4. Name: Elizabeth Marshall

County: Sumner

Sponsor: Stevens

5. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

Sgt.-At-Arms

1. Name: Carlton Adams

2. Name: Bob Rossi

3. Name: James Worth

4. Name: \_\_\_\_\_



**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
AND  
BILL SPONSOR NOTIFICATION  
2009-2010 SESSION**

You are hereby notified that the Committee on **Alcoholic Beverage Control** will meet as follows:

**DAY & DATE:** Tuesday, April 7, 2009

**TIME:** 1:00 pm

**LOCATION:** 425 LOB

**COMMENTS:** HB 517 & HB 667 mentioned in the last committee meeting will not heard this week.

The following bills will be considered:

<b>BILL NO.</b>	<b>SHORT TITLE</b>	<b>SPONSOR</b>
HB 759	ABC Recycling Stay Extension.	Representative Gibson, III

Respectfully,  
Representative R. Warren, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 8 o'clock on **April 06, 2009**.

- ☐ Principal Clerk
- ☐ Reading Clerk – House Chamber

**Theresa Lopez** (Committee Assistant)

**2009-2010**

**HOUSE  
ALCOHOLIC BEVERAGE  
CONTROL**

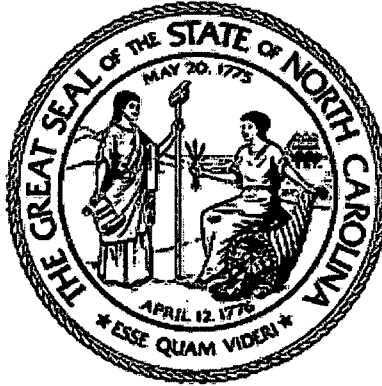
**MINUTES**

# ALCOHOL BEVERAGE CONTROL COMMITTEE

## AGENDA

April 07, 2009

- A. Welcome Members and guest to the ABC Committee
- B. Introduction of Sergeant –At-Arms and Pages
- C. House Bill # 759 – **ABC Recycling Stay Extension**  
Primary Bill Sponsor – Representative Gibson
- D. Open for Questions or Comments from the Committee
- E. Upcoming Business
- F. Adjourn



## **Minutes**

### **Alcoholic Beverage Control Committee**

Tuesday, April 7, 2009

1:00 p.m.

Room 425, Legislative office Building

The Alcoholic Beverage Control Committee met on Tuesday, April 7, 2009, at 1:00 p.m., in Room 425 of the Legislative Office Building. The following members were present: Representative Ray Warren, Chair; Representative Gibson Spaulding-Hughes, Lucas, Co-Chairs; Representatives, Coates, Daughtry, Grady, Jackson, Lewis, Starnes, Steen, and Sutton.

Representative Warren, Chair called the meeting to order, and welcomed the members and guest, and introduced the pages and the Sergeant at Arms' staff. The visitor registration is attached.

#### **House Bill 759, ABC Recycling Stay Extension.**

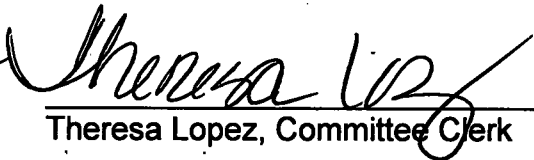
Representative Gibson the bill sponsor was recognized to explain the bill; it would extend the one-year stay of compliance with the mandatory recycling law for ABC Permittees who do not have access to recycling services. Representative Gibson requests from the Chair that Brenda Carter from Staff better to explain the current recycling requirement for all ABC permittees that became effective January 1 2008. All permittees or applicant permits are to submit to the ABC Commission a plan for recycling. When this was implemented there was a provision of a one year stay if the applicant or permittee was not able to identify a recycler. HB 759, will allow applicants to request an additional one year stay to fulfill the requirements. The application of renewal for an additional extension will be submitted to the ABC Commission who will then submit it to the Department of Pollution Control and the Department of Environmental Health and Natural Resources.

Representative Sutton made a motion for a favorable report and recommendation that the bill be re-referred to the Committee on Environment and Natural resources. The motion carried.

The meeting adjourned at 1:45 p.m.



Representative Ray Warren



Theresa Lopez, Committee Clerk

Attachments:

Agenda  
House Bill 759  
Committee Report  
Visitor Registration



## HOUSE BILL 759: ABC Recycling Stay Extension

2009-2010 General Assembly

**Committee:** House Alcoholic Beverage Control, if  
favorable, Environment and Natural  
Resources

**Date:** April 7, 2009

**Introduced by:** Rep. Gibson

**Prepared by:** Brenda J. Carter

**Analysis of:** First Edition

Committee Counsel

**SUMMARY:** *House Bill 759 allows an applicant for the issuance or renewal of an ABC permit to apply for a one-year stay of the requirement to implement a recycling program, if the applicant does not have access to recycling services.*

**CURRENT LAW:** Under G.S. 18B-1006.1, holders of on-premises ABC permits are required to separate, store, and provide for the collection for recycling of all recyclable beverage containers of beverages sold at retail on the premises. Each applicant for the initial issuance or renewal of on-premises ABC permits must submit with the application a plan for the collection and recycling of all recyclable beverage containers. The mandatory recycling requirement became effective January 1, 2008.

**BILL ANALYSIS:** House Bill 759 would allow an applicant for the issuance or renewal of an on-premises ABC permit to apply to the Alcoholic Beverage Control Commission for a one-year stay of the mandatory recycling requirement, if the applicant is not able to find a recycler for its beverage containers. The applicant must detail efforts made to comply with the recycling requirement, and specify any impediments to the implementation of a recycling plan. The Division of Pollution Prevention and Environmental Assistance of the Department of Environment and Natural Resources will investigate each application and submit a summary of its findings to the ABC Commission along with a notation indicating whether the application is certified or denied. If the application is certified, the applicant will not be required to comply with the recycling requirement during the one-year period for which certification is granted.

**EFFECTIVE DATE:** The bill would be effective when it becomes law and apply to applications for permits and for renewal of permits submitted on or after January 1, 2009.

H759-SMRV-29(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

H

D

HOUSE DRH30204-RV-5 (03/02)

Short Title: ABC Recycling Stay Extension.

(Public)

Sponsors: Representative Gibson.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE ONE-YEAR STAY OF COMPLIANCE WITH THE  
MANDATORY RECYCLING LAW FOR ABC PERMITTEES TO ACCOMMODATE  
THOSE PERMITTEES WHO DO NOT HAVE ACCESS TO RECYCLING SERVICES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 18B-902(h) reads as rewritten:

"(h) Recycling Plan Required. – Each applicant for an on-premises malt beverage permit, on-premises unfortified wine permit, on-premises fortified wine permit, or a mixed beverages permit shall prepare and submit with the application a plan for the collection and recycling of all recyclable beverage containers of all beverages to be sold at retail on the premises. A permittee who is not able to find a recycler for its beverage containers may apply to the Alcoholic Beverage Control Commission for a one-year stay of the requirement to implement a recycling program in compliance with G.S. 18B-1006.1. The application shall be made in a form specified by the Commission, shall detail the efforts made by the permittee to provide for the collection and recycling of beverage containers, and shall specify the impediments to implementation of a recycling plan. The Commission shall submit all such applications to the Division of Pollution Prevention and Environmental Assistance of the Department of Environment and Natural Resources for review and certification. The Division of Pollution Prevention and Environmental Assistance shall investigate each application and prepare a summary of its investigation and shall submit the summary to the Commission along with a notation indicating certification or denial of the application. A permittee whose application for a stay is certified by the Division of Pollution Prevention and Environmental Assistance shall not be required to comply with the recycling requirement of the alcoholic beverage laws and regulations during the one-year stay period so certified."

**SECTION 2.** G.S. 18B-903(b2) reads as rewritten:

"(b2) Recycling Plan Required. – Each person holding an on-premises malt beverage permit, on-premises unfortified wine permit, on-premises fortified wine permit, or a mixed beverages permit shall submit, along with the annual registration or renewal application, either a current plan for the collection and recycling of all recyclable beverage containers of all beverages sold at retail on the premises, premises, or an application for a waiver pursuant to G.S. 18B-902(h)."

**SECTION 3.** This act is effective when it becomes law and applies retroactively to applications for permits and for renewal of permits submitted to the ABC Commission on or after January 1, 2009.



**2009 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

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

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

---

☐ Committee Substitute for

**HB 759** A BILL TO BE ENTITLED AN ACT TO EXTEND THE ONE-YEAR STAY OF COMPLIANCE WITH THE MANDATORY RECYCLING LAW FOR ABC PERMITTEES TO ACCOMMODATE THOSE PERMITTEES WHO DO NOT HAVE ACCESS TO RECYCLING SERVICES.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on ENVIRONMENT AND NATURAL RESOURCES.

**(FOR JOURNAL USE ONLY)**

---

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

\_\_\_\_\_ The bill/resolution is re-referred to the Committee on \_\_\_\_\_.



# VISITOR REGISTRATION SHEET

# ALCOHOLIC BEVERAGE CONTROL

**Name of Committee****Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

PLEASE PRINT

**NAME****FIRM OR AGENCY AND ADDRESS**[illegible]

# VISITOR REGISTRATION SHEET

ALCOHOLIC BEVERAGE CONTROL

Name of Committee

4/9/09

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

Please Print

NAME

FIRM OR AGENCY AND ADDRESS

Bill Chandra

NC ALE

Scott Monw

NC DENR

Rev. Mark Creech

CA

M. S. de

BCS

House Pages

Name Of Committee: ABC Date: 4/7/09

1. Name: Morgan Payson Lane

County: Nash

Sponsor: Farmer Butterfield

2. Name: Brooke Weatherspoon

County: Wake

Sponsor: Blue

3. Name: Samantha Stude

County: WHP

Sponsor: Stam

4. Name: Miller Snyder

County: Mecklenburg

Sponsor: Alexander, M.

5. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

Sgt-At-Arms

1. Name: Tom Wilder

2. Name: Bob Rossi

3. Name: Rod Finger

4. Name: Martha Gadsen

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
AND  
BILL SPONSOR NOTIFICATION  
2009-2010 SESSION**

You are hereby notified that the Committee on Alcoholic Beverage Control will meet as follows:

**DAY & DATE:** Tuesday, April 28, 2009

**TIME:** 1:00 pm

**LOCATION:** 425 LOB

**COMMENTS:**

**The following bills will be for discussion only:**

<b>BILL NO.</b>	<b>SHORT TITLE</b>	<b>SPONSOR</b>
HB 768	Modernization of the ABC System.	Representative Crawford, Jr.
HB 1319	Merger Required-Unprofitable ABC Stores.	Representative Starnes
HB 1367	Modernization of the State's ABC System.	Representative Lewis Representative Gibson, III

Respectfully,  
Representative R. Warren, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 11 o'clock on **April 23, 2009**.

- ☐ Principal Clerk  
☐ Reading Clerk – House Chamber

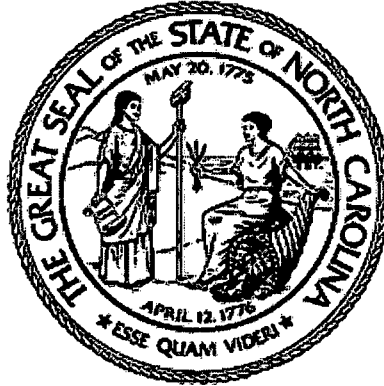
**Theresa Lopez** (Committee Assistant)

# ALCOHOL BEVERAGE CONTROL COMMITTEE

## AGENDA

April 28, 2009

- A. Welcome Members and guest to the ABC Committee
- B. Introduction of Sergeant –At-Arms and Pages
- C. **House Bill #768 – Modernization of the ABC System**  
Primary Sponsor – Representatives Crawford, Hughes and Lucas  
  
**House Bill #1319 – Merger Required-Unprofitable ABC Stores**  
Primary Sponsors – Representative Starnes  
  
**House Bill #1367 – Modernization of the State's ABC System**
- D. Open for Questions or Comments from the Committee
- E. Upcoming Business
- F. Adjourn



## Minutes

### Alcoholic Beverage Control Committee

Tuesday, April 28, 2009

1:00 p.m.

Room 425, Legislative office Building

The Alcoholic Beverage Control Committee met on Tuesday, April 28, 2009, at 1:00 p.m., in Room 425 of the Legislative Office Building. The following members were present: Representative Ray Warren, Chair; Representative Gibson, Spaulding-Hughes, Co-Chairs; Representatives Bell, Brown, Coates, Grady, Jackson, Lewis, Starnes, Steen, and Sutton.

Representative Warren, Chair called the meeting to order, welcomed the members and guest, and introduced the pages and the Sergeant at Arms staff. The visitor registration is attached.

All bills on the agenda this afternoon have similarities and are for discussion only. No vote will be taken.

#### HB 1367 Modernization of the State's ABC System.

Representative Lewis, the bill sponsor was recognized to explain the bill; it would allow modernization of the Alcoholic Beverage Control System. With permission from the Chair, Representative Lewis requested Brenda Crater from staff explain the differences between HB768 and HB 1367. Brenda stated that HB1367 does not contain the provisions related to the merger of ABC Boards and does not authorize the establishment of agencies.

#### HB 768 Modernization of the ABC System.

Because of the similarities in HB768 and HB1367 Representative Warren requested that Brenda Carter from staff speak on the differences. She pointed

out that the summary for HB768 there were two sections, 12 & 15 that were not in HB1367. The attached summary from the Program Evaluation Division notes the corresponding sections of the report. The rational changes proposed in HB768 refer to this report.

**HB 1319 Merger Required-Unprofitable ABC Stores.**

Representative Starnes, the bill sponsor was recognized to explain the bill; the bill is not intended to close ABC stores but to force systems to recognize they are not making a profit primarily because of the store being not managing effectively and efficiently. The only way to change is having a deadline and penalty. Within two years if the store or system is not profitable they would be forced to close or merge with another system that is profitable. Attached is a copy of the NC ABC Boards Profit Percent to Revenue, fiscal year ending June 30, 2008. The Annual Compensation Report for Local Board Members is also attached.

After much discussion, support and controversy of HB768 and HB1367 Representative Warren plan is to send both bills to a sub-committee to be Chaired by Representative Sutton with Representatives Bell, and Grady.

The meeting adjourned at 1:50 p.m.



Representative Ray Warren



Theresa Lopez, Committee Assistant

**Attachments:**

Agenda

House Bill 768, 1319, 1367

Program Evaluation Division Bill Draft: 2009-MA-77(v.7)

NC ABC Profit Percent to Revenue-Fiscal Year Ending June 30, 2008

Annual Compensation for Local ABC Members

Visitor Registration



# HOUSE BILL 768: Modernization of the ABC System

2009-2010 General Assembly

<b>Committee:</b>	House Alcoholic Beverage Control, if favorable, Finance	<b>Date:</b>	April 27, 2009
<b>Introduced by:</b>	Rep. Crawford	<b>Prepared by:</b>	Brenda J. Carter
<b>Analysis of:</b>	First Edition		Committee Counsel

**SUMMARY:** *House Bill 768 would implement numerous recommendations approved by the Joint Legislative Program Evaluation Oversight Committee. The bill would authorize the ABC Commission to establish performance standards for local ABC boards, would require that there be no more than one local ABC Board per county, and would provide for the merger of boards by July 1, 2011. The ABC Commission would be authorized to merge boards across county lines—forming regional boards. The bill would raise the threshold for city ABC store elections from 500 registered voters to 5,000, and would allow any city with at least 500 registered voters to hold a mixed beverage election. The bill would repeal the law concerning the issuance of purchase-transportation permits, and make corresponding changes to statutory limits on the purchase and possession of alcoholic beverages. The bill would allow for the establishment of retail outlets operated pursuant to a contract between a person and a local board or the ABC Commission.*

[As introduced, this bill was identical to S839, as introduced by Sen. Albertson, which is currently in Senate Ref to Commerce. If fav, re-ref to Finance.]

**CURRENT LAW:** Under G.S. 18B-600, any county may hold an ABC store election. A city that has at least 500 registered voters may hold an ABC election if the county in which the city is located does not operate ABC stores. Article 7 of Chapter 18B of the General Statutes provides for the appointment and organization of local ABC boards, which operate the retail stores for North Carolina's ABC system. Each board has the legal authority to operate one ABC store that sells liquor within its jurisdiction; additional stores may be operated with the approval of the ABC Commission. The laws concerning the operation of ABC stores are set out in Article 8 of Chapter 18B of the General Statutes.

**BILL ANALYSIS:** **Section 1** of the bill would authorize the ABC Commission to establish performance standards for local ABC boards, including standards that would address operating efficiency and profitability. **Section 2** of the bill would create a Technical Assistance and Financial Assistance Fund in the Department of the State Treasurer, and authorize the ABC Commission to levy an additional bailment surcharge amount up to 10¢ per case to support the Fund. The Fund would be used by the ABC Commission to issue no-interest loans to local ABC boards for technical assistance and financial incentives that would lead to increased efficiencies in store operations and improved customer satisfaction. **Section 3** of the bill would amend the law concerning the possession and consumption of fortified wine, to increase from 8 liters to 40 liters the amount of fortified wine or spirituous liquor a person can possess for personal use and the use of guests without first obtaining an ABC permit. **Section 4** of the bill would amend the law concerning the amounts of alcoholic beverages that may be purchased at one time without a permit, by increasing the limit on unfortified wine from 50 to 100 liters and increasing the limit on fortified wine or spirituous liquor from 8 to 40 liters. **Section 5** of the bill would amend the law concerning the unlawful sale and possession of alcohol by increasing from 8 to 40 liters the amount of spirituous liquor required as prima facie evidence that a person is possessing liquor for sale. **Section 6** of the bill would repeal the statute that allows a person with a purchase-transportation



# House Bill 768

Page 2

permit to purchase and transport an amount of alcoholic beverages greater than the amount allowed without a permit. **Section 7** of the bill would increase from 500 to 5,000 the number of registered voters a city must have to hold an ABC store election. **Section 8** of the bill would allow any city with at least 500 registered voters to hold a mixed beverage election, eliminating the requirement that a city must operate an ABC store, hold an ABC store election, or be in a county that has an ABC store and has voted against the sale of mixed beverages. **Section 9** of the bill would establish the mission of ABC boards and their employees: to responsibly serve their localities by controlling the sale of spirituous liquor in customer-friendly, modern, and efficient stores in order to optimize revenue distributions. **Section 10** of the bill would provide that no local board member may be compensated for service if the profit margin for the local board falls below 5% in the annual audit. **Section 11** of the bill would specify that the duty of a local board is to comply with directives and standards for performance established by the ABC Commission; it also eliminates the authority of the local board to issue purchase-transportation permits. **Section 12** of the bill would require that there be no more than one local ABC Board per county, and authorize the ABC Commission to develop a plan to merge all assets and operations of each local board and, if necessary, to merge the local boards of any county with more than one board after July 1, 2011; the bill would authorize the Commission to merge boards across county lines—forming regional boards. **Section 13** of the bill would require the ABC Commission to ensure that all local boards comply with performance standards by conducting regular or special audits, conducting performance evaluations, or taking other measures. The bill would require the Commission to create a performance improvement plan for local boards failing to meet performance standards. If, after a performance improvement plan has been implemented and adequate time has been given, the Commission determines the performance standards cannot be met the Commission could seize all assets of the local board and take appropriate action to ensure profitability. This could include closing a board or a store, merging one board with another, or requiring the board to contract with an agency store. **Section 14** of the bill would authorize the ABC Commission, when approving the location of ABC stores, to consider the proximity of the new location to existing ABC stores operated by the local board or any other boards. **Section 15** of the bill would authorize "agency stores", which would be retail outlets operated pursuant to a contract between a person and a local board or the ABC Commission. The stores would be operated under the same conditions and restrictions regarding location and operation that apply to an ABC store. The conviction of a violation of any criminal or ABC law would result in termination of the contract. A person holding a valid ABC permit or a person with a revoked or suspended ABC permit would be ineligible for contracting to be an agency store.

**EFFECTIVE DATE:** The bill would become effective October 1, 2009.

**BACKGROUND:** The Joint Legislative Program Evaluation Oversight Committee directed the General Assembly's Program Evaluation Division to evaluate the effectiveness of the Alcohol Beverage Control (ABC) system and identify improvement options. This study examined how North Carolina's ABC system functions, focusing on the operation of the 158 local boards. This bill would implement the recommendations approved by the Joint Legislative Program Evaluation Oversight Committee based on the report -- "North Carolina's Alcohol Beverage Control System Is Outdated and Needs Modernization" (Report No. 2008-12-01). A copy of the summary prepared by the Program Evaluation Division, noting corresponding sections of its report, is attached for your convenience.

H768-SMRV-48(e1) v3



# HOUSE BILL 1367: Modernization of the State's ABC System

2009-2010 General Assembly

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<b>Committee:</b>	House Alcoholic Beverage Control, if favorable, Finance	<b>Date:</b>	April 27, 2009
<b>Introduced by:</b>	Reps. Lewis, Gibson	<b>Prepared by:</b>	Brenda J. Carter
<b>Analysis of:</b>	First Edition		Committee Counsel

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**SUMMARY:** *House Bill 1367 would implement a number of the recommendations approved by the Joint Legislative Program Evaluation Oversight Committee. The bill would authorize the ABC Commission to establish performance standards for local ABC boards, and require boards to comply with those standards. The bill would raise the threshold for city ABC store elections from 500 registered voters to 5,000, and would allow any city with at least 500 registered voters to hold a mixed beverage election. The bill would repeal the law concerning the issuance of purchase-transportation permits, and make corresponding changes to statutory limits on the purchase and possession of alcoholic beverages.*

**CURRENT LAW:** Under G.S. 18B-600, any county may hold an ABC store election. A city that has at least 500 registered voters may hold an ABC election if the county in which the city is located does not operate ABC stores. Article 7 of Chapter 18B of the General Statutes provides for the appointment and organization of local ABC boards, which operate the retail stores for North Carolina's ABC system. Each board has the legal authority to operate one ABC store that sells liquor within its jurisdiction; additional stores may be operated with the approval of the ABC Commission. The laws concerning the operation of ABC stores are set out in Article 8 of Chapter 18B of the General Statutes.

**BILL ANALYSIS:** **Section 1** of the bill would authorize the ABC Commission to establish performance standards for local ABC boards, including standards that would address operating efficiency and profitability. **Section 2** of the bill would create a Technical Assistance and Financial Assistance Fund in the Department of the State Treasurer, and authorize the ABC Commission to levy an additional bailment surcharge amount up to 10¢ per case to support the Fund. The Fund would be used by the ABC Commission to issue no-interest loans to local ABC boards for technical assistance and financial incentives that would lead to increased efficiencies in store operations and improved customer satisfaction. **Section 3** of the bill would amend the law concerning the possession and consumption of fortified wine, to increase from 8 liters to 40 liters the amount of fortified wine or spirituous liquor a person can possess for personal use and the use of guests without first obtaining an ABC permit. **Section 4** of the bill would amend the law concerning the amounts of alcoholic beverages that may be purchased at one time without a permit, by increasing the limit on unfortified wine from 50 to 100 liters and increasing the limit on fortified wine or spirituous liquor from 8 to 40 liters. **Section 5** of the bill would amend the law concerning the unlawful sale and possession of alcohol by increasing from 8 to 40 liters the amount of spirituous liquor required as prima facie evidence that a person is possessing liquor for sale. **Section 6** of the bill would repeal the statute that allows a person with a purchase-transportation permit to purchase and transport an amount of alcoholic beverages greater than the amount allowed without a permit. **Section 7** of the bill would increase from 500 to 5,000 the number of registered voters a city must have to hold an ABC store election. **Section 8** of the bill would allow any city with at least 500 registered voters to hold a mixed beverage election, eliminating the requirement that a city must operate an ABC store, hold an ABC store election, or be in a county that has an ABC store and has voted against the sale of mixed beverages. **Section 9** of the bill would establish the mission of ABC

# House Bill 1367

Page 2

boards and their employees: to responsibly serve their localities by controlling the sale spirituous liquor in customer-friendly, modern, and efficient stores in order to optimize revenue distributions. **Section 10** of the bill would provide that no local board member may be compensated for service if the profit margin for the local board falls below 5% in the annual audit. **Section 11** of the bill would specify that the duty of a local board is to comply with directives and standards for performance established by the ABC Commission; it also eliminates the authority of the local board to issue purchase-transportation permits. **Section 12** of the bill would require the ABC Commission to ensure that all local boards comply with performance standards by conducting regular or special audits, conducting performance evaluations, or taking other measures. The bill would require the Commission to create a performance improvement plan for local boards failing to meet performance standards. if, after a performance improvement plan has been implemented and adequate time has been given, the Commission determines the performance standards cannot be met the Commission could seize all assets of the local board and take appropriate action to ensure profitability. This could include closing a board or a store, merging one board with another, or requiring the board to contract with an agency store. **Section 13** of the bill would authorize the ABC Commission, when approving the location of ABC stores, to consider the proximity of the new location to existing ABC stores operated by the local board or any other boards.

**EFFECTIVE DATE:** The bill would become effective October 1, 2009.

**BACKGROUND:** The Joint Legislative Program Evaluation Oversight Committee directed the General Assembly's Program Evaluation Division to evaluate the effectiveness of the Alcohol Beverage Control (ABC) system and identify improvement options. This study examined how North Carolina's ABC system functions, focusing on the operation of the 158 local boards. This bill would implement the recommendations approved by the Joint Legislative Program Evaluation Oversight Committee based on the report -- "North Carolina's Alcohol Beverage Control System Is Outdated and Needs Modernization" (Report No. 2008-12-01).

H1367-SMRV-49(e1) v3

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

H

1

HOUSE BILL 768\*

Short Title: Modernization of the ABC System. (Public)

Sponsors: Representatives Crawford; Hughes and Lucas.

Referred to: Alcoholic Beverage Control, if favorable, Finance.

March 25, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE  
3 CONTROL SYSTEM, AS RECOMMENDED BY THE JOINT LEGISLATIVE  
4 PROGRAM EVALUATION OVERSIGHT COMMITTEE.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 18B-203(a) is amended by adding a new subdivision to read:  
7 "§ 18B-203. Powers and duties of the Commission.

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

9 ...

10 (20) Establish performance standards for local ABC boards. Performance  
11 standards established pursuant to this subdivision shall include, but not be  
12 limited to, standards that address store appearance, operating efficiency,  
13 profitability, and customer service."

14 SECTION 2. G.S. 18B-208 is amended by adding a new subsection to read:

15 "(c) Technical Assistance and Financial Incentive Loans. – A special fund in the  
16 Department of the State Treasurer, the Technical Assistance and Financial Assistance Fund, is  
17 created. Funds may be transferred from the ABC Commission Fund to the Technical Assistance  
18 and Financial Assistance Fund to provide needed revenue to carry out the provisions of this  
19 subsection. If additional revenue is needed for the Technical Assistance and Financial  
20 Assistance Fund, the ABC Commission is authorized to levy an additional bailment surcharge  
21 amount not to exceed ten cents (10¢) per case, which shall be deposited in the Technical  
22 Assistance and Financial Assistance Fund for the purpose of carrying out the provisions of this  
23 subsection.

24 The ABC Commission Fund shall be subject to the provisions of the State Budget Act  
25 except that no unexpended surplus of this fund shall revert to the General Fund. The  
26 Commission shall fix the level of the bailment surcharges at an amount calculated to generate a  
27 maximum of two million dollars (\$2,000,000) for the Technical Assistance and Financial  
28 Assistance Fund. Once the Fund has reached the two million dollar (\$2,000,000) maximum, the  
29 Commission shall reduce the bailment surcharge to an amount no greater than necessary to  
30 maintain the balance in the Technical Assistance and Financial Assistance Fund as authorized  
31 by the General Assembly.

32 All moneys credited to the Technical Assistance and Financial Assistance Fund shall be  
33 used by the North Carolina ABC Commission to issue no-interest loans to local ABC boards,  
34 upon application and approval of the full Commission, for technical assistance and financial  
35 incentives that will result in increased efficiencies in store operation and improved customer  
36 service."

37 SECTION 3. G.S. 18B-301(b) reads as rewritten:



"(b) Possession on Other Property. – It shall be lawful, without an ABC permit, for a person to possess for his personal use and the use of his guests not more than ~~eight~~ 40 liters of fortified wine or spirituous liquor, or ~~eight~~ 40 liters of the two combined, at the following places:

- (1) The residence of any other person with that person's consent;
- (2) Any other property not primarily used for commercial purposes and not open to the public at the time the alcoholic beverage is possessed, if the owner or other person in charge of the property consents to that possession and consumption;
- (3) An establishment with a brown-bagging permit as defined in G.S. 18B-1001(7)."

**SECTION 4.** G.S. 18B-303(a) reads as rewritten:

"(a) Purchases Allowed. – Without a permit, a person may purchase at one time:

- (1) Not more than 80 liters of malt beverages, except draft malt beverages in kegs for off-premises consumption. For purchase of a keg or kegs of malt beverages for off-premises consumption, the permit required by G.S. 18B-403.1(a) must first be obtained;
- (2) Any amount of draft malt beverages by a permittee in kegs for on-premise consumption;
- (3) Not more than ~~50~~ 100 liters of unfortified wine;
- (4) Not more than ~~eight~~ 40 liters of either fortified wine or spirituous liquor, or eight liters of the two combined."

**SECTION 5.** G.S. 18B-304 reads as rewritten:

**"§ 18B-304. Sale and possession for sale.**

(a) Offense. – It shall be unlawful for any person to sell any alcoholic beverage, or possess any alcoholic beverage for sale, without first obtaining the applicable ABC permit and revenue licenses.

(b) Prima Facie Evidence. – Possession of the following amounts of alcoholic beverages, without a permit authorizing that possession, shall be prima facie evidence that the possessor is possessing those alcoholic beverages for sale:

- (1) More than 80 liters of malt beverages, other than draft malt beverages in kegs;
- (2) More than ~~eight~~ 40 liters of spirituous liquor; or
- (3) Any amount of nontaxpaid alcoholic beverages."

**SECTION 6.** G.S. 18B-403 is repealed.

**SECTION 7.** G.S. 18B-600(d) reads as rewritten:

"(d) City ABC Store Elections. – A city may hold an ABC store election only if:

- (1) The city has at least ~~500~~ 5,000 registered voters; and
- (2) The county in which the city is located does not operate ABC stores."

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

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

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

(2) ~~Either:~~

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

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

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

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

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

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

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

"(a) Mission. – The mission of ABC boards and their employees shall be to responsibly serve their localities by controlling the sale of spirituous liquor in customer-friendly, modern, and efficient stores in order to optimize revenue distributions."

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

"(g) Salary. – A local board member may be compensated as determined by the appointing authority. No local board member may be compensated for service if the profit margin for the local board falls below five percent (5%) based on information in the annual audit."

**SECTION 11.** G.S. 18B-701 reads as rewritten:

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

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

- (1) Buy, sell, transport, and possess alcoholic beverages as necessary for the operation of its ABC stores;
- (2) Adopt rules for its ABC system, subject to the approval of the Commission;
- (3) Hire and fire employees for the ABC system;
- (4) Designate one employee as manager of the ABC system and determine his responsibilities;
- (5) Require bonds of employees as provided in the rules of the Commission;
- (6) Operate ABC stores as provided in Article 8;
- (7) ~~Issue purchase transportation permits as provided in Article 4;~~
- (8) Employ local ABC officers or make other provision for enforcement of ABC laws as provided in Article 5;
- (9) Borrow money as provided in G.S. 18B-702;
- (10) Buy and lease real and personal property, and receive property bequeathed or given, as necessary for the operation of the ABC system;
- (11) Invest surplus funds as provided in G.S. 18B-702;
- (12) Dispose of property in the same manner as a city council may under Article 12 of Chapter 160A of the General Statutes; and
- (13) Perform any other activity authorized or required by the ABC law.

(b) Duties. – A local board shall have the duty to comply with all directives of the Commission and meet all standards for performance established by the Commission pursuant to G.S. 18B-203(a)(20)."

**SECTION 12.** Chapter 18B of the General Statutes is amended by adding a new section to read:

**"§ 18B-704. Number of local boards; mergers required.**

(a) Number of Local Boards. – There shall be no more than one local ABC board per county. In any county where more than one local ABC board exists, the governing bodies of any city or county having a local board shall meet and develop a plan to consolidate all assets and operations of each board into a merged system as provided for in G.S. 18B-703. Any new board authorized by statute or lawful election after July 1, 2011, shall join an existing local or regional board.

(b) Mergers Required. – If after July 1, 2011, any county still has more than one board in existence, the Commission shall develop a plan pursuant to G.S. 18B-703 merging all assets and operations of each local board into one local board. If the plan is not accepted by the affected governing bodies, the Commission shall merge the local boards.

(c) Regional Boards. – As used in the section, a regional board is an ABC board that crosses county lines. If the Commission determines that the merger of two or more local boards into a regional local ABC board would best serve the needs of the public, increase profitability,

1 enhance revenue distributions to the affected local governments, and streamline the operation  
2 and oversight of the State's ABC System, then the Commission shall merge the boards pursuant  
3 to G.S. 18B-703.

4 (d) Local Acts or Modifications. – Any local act or modification regarding the  
5 establishment and operation of a local ABC board is repealed effective July 1, 2011. On and  
6 after July 1, 2011, every local board shall be subject to the provisions of this Chapter. Any and  
7 all mergers that have been approved by the Commission shall be governed by the provisions of  
8 the merger agreement established pursuant to G.S. 18B-703.

9 (e) Prior Mergers. – This section shall not affect a merger that created a regional board  
10 and was approved by the Commission prior to July 1, 2009."

11 **SECTION 13.** Chapter 18B of the General Statutes is amended by adding a new  
12 section to read:

13 **"§ 18B-705. Compliance with performance standards; remedies.**

14 (a) Local Board Compliance. – The Commission shall ensure that all local boards  
15 comply with performance standards established pursuant to G.S. 18B-203(a)(20) by conducting  
16 regular or special audits, conducting performance evaluations, or taking other measures which  
17 may include inspections by Commission auditors and alcohol law enforcement agents.

18 (b) Performance Improvement Plans. – The Commission, upon determining that a local  
19 board is failing to meet performance standards established pursuant to G.S. 18B-203(a)(20),  
20 shall meet with the chair of the local board, issue a statement of findings, and deliver a  
21 performance improvement plan. The performance improvement plan shall include, but not be  
22 limited to, recommendations for improved performance based on the performance standards  
23 established by the Commission. The plan shall also state a period of time in which the  
24 performance improvements are to occur and what action will be taken by the Commission if  
25 performance standards are not met within the given time limits. The Commission shall allow up  
26 to, but no more than, six months' time to the local board to implement and show improvement  
27 under the performance improvement plan. The Commission, upon good cause shown, may  
28 allow up to an additional six-month period of time for the local board to meet all requirements  
29 in the performance improvement plan and to establish that the performance standards  
30 established by the Commission are met.

31 (c) Remedies. – If the Commission determines that the established performance  
32 standards cannot be met after a performance improvement plan has been implemented and  
33 adequate time has been given, but in no case more than 12 months, the Commission shall seize  
34 all assets of the local board and take appropriate action to ensure profitability. This action may  
35 include closing the board, a store, multiple stores, merging the local board with another local  
36 board, merging the local board with another local board to create a regional board, or requiring  
37 the board to contract with an agency store authorized by the Commission, pursuant to  
38 G.S. 18B-809, in order to maintain solvency and meet community needs."

39 **SECTION 14.** G.S. 18B-801(b) is amended by adding a new subdivision to read:

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

43 (1) Whether the health, safety, or general welfare of the community will be  
44 adversely affected; and

45 (2) Whether the citizens of the community or city in which the proposed store is  
46 to be located voted for or against ABC stores in the last election on the  
47 question.

48 (3) The proximity of the new location to existing ABC stores operated by the  
49 local board or any other boards."

50 **SECTION 15.** Chapter 18B of the General Statutes is amended by adding a new  
51 section to read:

1 **"§ 18B-809. Agency stores.**

2 (a) Agency Store Defined. – An Agency store is a retail outlet, operated pursuant to a  
3 contract between a person and a local board, or the Commission, to provide, under the same  
4 conditions and restrictions regarding location and operation that apply to an ABC store, the  
5 services to a community which would have been provided by an ABC store.

6 (b) Prohibition of Agency Stores. – No Agency store shall be established by any local  
7 board, or the Commission, within the geographic boundaries of a local board where an ABC  
8 store is open and operating.

9 (c) Contracting an Agency Store. – Subject to the provisions of subsection (b) of this  
10 section, a local board may contract with a person, with Commission approval, to operate an  
11 Agency store under the same conditions and restrictions regarding location and operation that  
12 apply to an ABC store. The contract shall include all provisions necessary or required to bind  
13 the parties, delineate compensation of the operator of the Agency store, and shall provide that  
14 the conviction of any violation of a criminal or ABC law shall result in summary termination of  
15 the contract. Compensation of an Agency store operator, pursuant to a contract authorized by  
16 this subsection, shall be established by the Commission and shall not exceed more than one-  
17 third of the markup for local boards as determined by the Commission pursuant to  
18 G.S. 18B-804(b)(3).

19 (d) Property Rights. – No property rights shall be conferred upon the owner or operator  
20 of an Agency store with regards to a right to possess, sell, transport, or deliver any alcoholic  
21 beverages regulated by the Chapter.

22 (e) Retail Permittees Prohibited. – No person holding a valid ABC permit issued under  
23 the provisions of this Chapter, nor any person that has had any ABC permit revoked,  
24 suspended, or that has expired or been revoked as a matter of law for failure to pay a renewal or  
25 registration fee, shall be eligible to contract with a local board or the ABC Commission to be an  
26 Agency store."

27 **SECTION 16.** This act becomes effective October 1, 2009.



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

H

1

HOUSE BILL 1319

Short Title:   Merger Required-Unprofitable ABC Stores. (Public)

Sponsors:   Representative Starnes.

Referred to:   Alcoholic Beverage Control, if favorable, Judiciary III.

April 9, 2009

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO REQUIRE ALCOHOLIC BEVERAGE CONTROL BOARDS THAT ARE  
3 UNPROFITABLE FOR TWO CONSECUTIVE YEARS TO MERGE WITH ANOTHER  
4 ALCOHOLIC BEVERAGE CONTROL BOARD AND REQUIRE ABC STORES THAT  
5 ARE UNPROFITABLE FOR TWO CONSECUTIVE YEARS TO BE CLOSED BY THE  
6 LOCAL BOARD.  
7 The General Assembly of North Carolina enacts:  
8               **SECTION 1.** G.S. 18B-703 is amended by adding a new subsection to read:  
9 "**§ 18B-703. Merger of local ABC operations.**  
10       ...  
11       **(a1) Required Merger.** – Any local board that is not profitable for two consecutive years,  
12 based on information contained in the annual audits, which is not closed pursuant to  
13 G.S. 18B-801, shall be required to merge with another ABC board pursuant to the provisions of  
14 this section. If a merger required by this subsection is not accepted by the city governing body  
15 or board of county commissioners, the Commission shall merge the boards.  
16       ...."  
17               **SECTION 2.** G.S. 18B-801 is amended by adding a new subsection to read:  
18 "**§ 18B-801. Location, opening, and closing of stores.**  
19       ...  
20       **(c1) Mandatory Closing of Stores.** – Notwithstanding the provisions of subsection (a) of  
21 this section, a local board shall close, or the Commission shall order a local board to close, any  
22 store when the local board or the Commission determines that the operation of a store is not  
23 profitable for two consecutive years.  
24       ...."  
25               **SECTION 3.** This act becomes effective October 1, 2009.



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

H

1

HOUSE BILL 1367

Short Title: Modernization of the State's ABC System. (Public)

Sponsors: Representatives Lewis, Gibson (Primary Sponsors); and Brown.

Referred to: Alcoholic Beverage Control, if favorable, Finance.

April 9, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE  
3 CONTROL SYSTEM BASED ON THE PROGRAM EVALUATION DIVISION  
4 REPORT ISSUED DECEMBER 10, 2008.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 18B-203(a) is amended by adding a new subdivision to read:

7 "§ 18B-203. Powers and duties of the Commission.

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

9 ...

10 (20) Establish performance standards for local ABC boards. Performance  
11 standards established pursuant to this subdivision shall include, but not be  
12 limited to, standards that address store appearance, operating efficiency,  
13 profitability, and customer service."

14 SECTION 2. G.S. 18B-208 is amended by adding a new subsection to read:

15 "(c) Technical Assistance and Financial Incentive Loans. – A special fund in the  
16 Department of the State Treasurer, the Technical Assistance and Financial Assistance Fund, is  
17 created. Funds may be transferred from the ABC Commission Fund to the Technical Assistance  
18 and Financial Assistance Fund to provide needed revenue to carry out the provisions of this  
19 subsection. If additional revenue is needed for the Technical Assistance and Financial  
20 Assistance Fund, the ABC Commission is authorized to levy an additional bailment surcharge  
21 amount not to exceed ten cents (10¢) per case, which shall be deposited in the Technical  
22 Assistance and Financial Assistance Fund for the purpose of carrying out the provisions of this  
23 subsection.

24 The ABC Commission Fund shall be subject to the provisions of the State Budget Act  
25 except that no unexpended surplus of this fund shall revert to the General Fund. The  
26 Commission shall fix the level of the bailment surcharges at an amount calculated to generate a  
27 maximum of two million dollars (\$2,000,000) for the Technical Assistance and Financial  
28 Assistance Fund. Once the Fund has reached the two million dollar (\$2,000,000) maximum, the  
29 Commission shall reduce the bailment surcharge to an amount no greater than necessary to  
30 maintain the balance in the Technical Assistance and Financial Assistance Fund as authorized  
31 by the General Assembly.

32 All moneys credited to the Technical Assistance and Financial Assistance Fund shall be  
33 used by the North Carolina ABC Commission to issue no-interest loans to local ABC boards,  
34 upon application and approval of the full Commission, for technical assistance and financial  
35 incentives that will result in increased efficiencies in store operation and improved customer  
36 service."

37 SECTION 3. G.S. 18B-301(b) reads as rewritten:



"(b) Possession on Other Property. – It shall be lawful, without an ABC permit, for a person to possess for his personal use and the use of his guests not more than ~~eight~~ 40 liters of fortified wine or spirituous liquor, or ~~eight~~ 40 liters of the two combined, at the following places:

- (1) The residence of any other person with that person's consent;
- (2) Any other property not primarily used for commercial purposes and not open to the public at the time the alcoholic beverage is possessed, if the owner or other person in charge of the property consents to that possession and consumption;
- (3) An establishment with a brown-bagging permit as defined in G.S. 18B-1001(7)."

**SECTION 4.** G.S. 18B-303(a) reads as rewritten:

"(a) Purchases Allowed. – Without a permit, a person may purchase at one time:

- (1) Not more than 80 liters of malt beverages, except draft malt beverages in kegs for off-premises consumption. For purchase of a keg or kegs of malt beverages for off-premises consumption, the permit required by G.S. 18B-403.1(a) must first be obtained;
- (2) Any amount of draft malt beverages by a permittee in kegs for on-premise consumption;
- (3) Not more than ~~50~~ 100 liters of unfortified wine;
- (4) Not more than ~~eight~~ 40 liters of either fortified wine or spirituous liquor, or ~~eight~~ 40 liters of the two combined."

**SECTION 5.** G.S. 18B-304 reads as rewritten:

**"§ 18B-304. Sale and possession for sale.**

(a) Offense. – It shall be unlawful for any person to sell any alcoholic beverage, or possess any alcoholic beverage for sale, without first obtaining the applicable ABC permit and revenue licenses.

(b) Prima Facie Evidence. – Possession of the following amounts of alcoholic beverages, without a permit authorizing that possession, shall be prima facie evidence that the possessor is possessing those alcoholic beverages for sale:

- (1) More than 80 liters of malt beverages, other than draft malt beverages in kegs;
- (2) More than ~~eight~~ 40 liters of spirituous liquor; or
- (3) Any amount of nontaxpaid alcoholic beverages."

**SECTION 6.** G.S. 18B-403 is repealed.

**SECTION 7.** G.S. 18B-600(d) reads as rewritten:

"(d) City ABC Store Elections. – A city may hold an ABC store election only if:

- (1) The city has at least ~~500~~ 5,000 registered voters; and
- (2) The county in which the city is located does not operate ABC stores."

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

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

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

(2) ~~Either:~~

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

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

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

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

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

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

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

"(a1) Mission. – The mission of ABC boards and their employees shall be to responsibly serve their localities by controlling the sale of spirituous liquor in customer-friendly, modern, and efficient stores in order to optimize revenue distributions."

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

"(g) Salary. – A local board member may be compensated as determined by the appointing authority. No local board member may be compensated for service if the profit margin for the local board falls below five percent (5%) based on information in the annual audit."

SECTION 11. G.S. 18B-701 reads as rewritten:

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

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

- (1) Buy, sell, transport, and possess alcoholic beverages as necessary for the operation of its ABC stores;
- (2) Adopt rules for its ABC system, subject to the approval of the Commission;
- (3) Hire and fire employees for the ABC system;
- (4) Designate one employee as manager of the ABC system and determine his responsibilities;
- (5) Require bonds of employees as provided in the rules of the Commission;
- (6) Operate ABC stores as provided in Article 8;
- (7) ~~Issue purchase transportation permits as provided in Article 4;~~
- (8) Employ local ABC officers or make other provision for enforcement of ABC laws as provided in Article 5;
- (9) Borrow money as provided in G.S. 18B-702;
- (10) Buy and lease real and personal property, and receive property bequeathed or given, as necessary for the operation of the ABC system;
- (11) Invest surplus funds as provided in G.S. 18B-702;
- (12) Dispose of property in the same manner as a city council may under Article 12 of Chapter 160A of the General Statutes; and
- (13) Perform any other activity authorized or required by the ABC law.

(b) Duties. – A local board shall have the duty to comply with all directives of the Commission and meet all standards for performance established by the Commission pursuant to G.S. 18B-203(a)(20)."

SECTION 12. Chapter 18B of the General Statutes is amended by adding a new section to read:

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

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

(b) Performance Improvement Plans. – The Commission, upon determining that a local board is failing to meet performance standards established pursuant to G.S. 18B-203(a)(20), shall meet with the chair of the local board, issue a statement of findings, and deliver a performance improvement plan. The performance improvement plan shall include, but not be limited to, recommendations for improved performance based on the performance standards established by the Commission. The plan shall also state a period of time in which the performance improvements are to occur and what action will be taken by the Commission if performance standards are not met within the given time limits. The Commission shall allow up to, but no more than, six months' time to the local board to implement and show improvement

1 under the performance improvement plan. The Commission, upon good cause shown, may  
2 allow up to an additional six-month period of time for the local board to meet all requirements  
3 in the performance improvement plan and to establish that the performance standards  
4 established by the Commission are met.

5 (c) Remedies. – If the Commission determines that the established performance  
6 standards cannot be met after a performance improvement plan has been implemented and  
7 adequate time has been given, but in no case more than 12 months, the Commission may seize  
8 all assets of the local board and take appropriate action to ensure profitability. This action may  
9 include closing the board, a store, multiple stores, merging the local board with another local  
10 board, or merging the local board with another local board to create a regional board."

11 SECTION 13. G.S. 18B-801(b) is amended by adding a new subdivision to read:

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

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

22 SECTION 14. This act becomes effective October 1, 2009.



# PROGRAM EVALUATION DIVISION

## NORTH CAROLINA GENERAL ASSEMBLY

**Bill Draft Number:** 2009-MA-77 [v.7]

**Subject:** This bill will implement the recommendations approved by the Joint Legislative Program Evaluation Oversight Committee on December 10, 2008 from "North Carolina's Alcohol Beverage Control System Is Outdated and Needs Modernization" (Report No. 2008-12-01).

**Date:** March 18, 2009

**Program Evaluation Division Staff:** Carol Shaw at 301-1216, [carolsh@ncleg.net](mailto:carolsh@ncleg.net)

**Bill Drafting Division Staff:** Mikael Gross at 733-6660, [mikael.gross@ncleg.net](mailto:mikael.gross@ncleg.net)

**Summary:** This bill modernizes the current Alcohol Beverage Control system by defining the mission of local boards, providing the North Carolina ABC Commission with management tools for better oversight of boards, and modifying outdated statutes for ABC store elections and purchase-transportation permits. This bill is based on the following recommendations in the Final Report to the Joint Legislative Program Evaluation Oversight Committee titled "North Carolina's Alcohol Beverage Control System Is Outdated and Needs Modernization" (Report No. 2008-12-01):

- **Recommendation 1.** Modernize the current Alcohol Beverage Control system by defining the mission of local boards, providing the North Carolina ABC Commission with management tools for better oversight of boards, and modifying outdated statutes for ABC store elections and purchase-transportation permits.
  - **1-A.** Clearly define the mission and purpose of local boards.
  - **1-B.** Provide the North Carolina ABC Commission with management tools for better oversight of local boards.
  - **1-C.** Modify outdated statutes.

Bill Section	Purpose of Section	Corresponds to Report
Section 1 amends §18B-203	Authorizes the ABC Commission to establish performance standards for local ABC boards	Recommendation 1-B, Performance standards (p. 33)
Section 2 amends §18B-208	Creates the Technical Assistance and Financial Assistance Fund to issue no-interest loans to local ABC boards for technical assistance and financial incentives that will result in increased efficiencies in store operations and improved customer satisfaction; authorizes the ABC Commission, if needed, to levy an additional bailment surcharge amount not to exceed 10¢ per case to deposit in the Fund	Recommendation 1-B, Technical assistance and financial incentives (p. 33)
Section 3 rewrites §18B-301(b)	Increases the amount of fortified wine or spirituous liquor a person can possess for his personal use and the use of his guests without an ABC permit from 8 to 40 liters (the amount currently allowed with a purchase-transportation permit)	Recommendation 1-C, Purchase-transportation permit (pp. 34-35)
Section 4 rewrites §18B-303(a)	Increases the amount of unfortified wine a person can purchase at one time without a permit from 50 to 100 liters (the amount currently allowed with a purchase-transportation permit); increases the amount of fortified wine or spirituous liquor a person can purchase at one time without a permit from 8 to 40 liters (the amount currently allowed with a purchase-transportation permit)	Recommendation 1-C, Purchase-transportation permit (pp. 34-35)

Section 5 rewrites §18B-304	Increases the amount of spirituous liquor that, without a permit authorizing possession, is prima facie evidence that the possessor is possessing the liquor for sale from 8 to 40 liters (the amount currently allowed with a purchase-transportation permit)	Recommendation 1-C, Purchase-transportation permit (pp. 34-35)
Section 6 repeals §18B-403	Repeals the statute that allows a person with a purchase-transportation permit to purchase and transport an amount of alcoholic beverages greater than the amount allowed without a permit	Recommendation 1-C, Purchase-transportation permit (pp. 34-35)
Section 7 rewrites §18B-600(d)	Increases the number of registered voters a city must have to hold an ABC store election from 500 to 5000	Recommendation 1-C, Voter threshold (p. 34)
Section 8 rewrites §18B-600(e)	Eliminates the requirement that, to hold a mixed beverage election, a city must operate an ABC store, hold an ABC store election, or be in a county with an ABC store that voted against the sale of mixed beverages	Recommendation 1-C, Mixed beverage election (p. 34)
Section 9 amends §18B-700	States the mission of ABC Boards and their employees shall be to responsibly serve their localities by controlling the sale of spirituous liquor in customer friendly, modern, and efficient stores in order to optimize revenue distributions	Recommendation 1-A, Mission of local boards (p. 33)
Section 10 rewrites §18B-700(g)	Adds that no local board member may be compensated for service if the profit margin for the local board falls below 5% in the annual audit	ABC Commission requested this provision, which is related to Recommendation 1-B, Performance standards (p. 33)
Section 11 rewrites §18B-701	Eliminates the power of the local ABC boards to issue purchase- transportation permits; adds the duty of the local ABC boards to comply with all directives of the Commission and meet all standards for performance established by the Commission	Recommendation 1-C, Purchase-transportation permit (pp. 34-35) Recommendation 1-B, Performance standards (p. 33)
Section 12 adds §18B-704	Requires there be no more than one local ABC Board per county; authorizes the Commission to develop a plan to merge all assets and operations of each local board and, if necessary, to merge the local boards of any county with more than one board after July 1, 2011; authorizes the Commission to merge boards across county lines—forming regional boards—in order to best serve the needs of the public, increase profitability, enhance revenue distributions, and streamline the operation and oversight of the State's ABC System; repeals any local act or modification regarding the establishment and operation of a local ABC board effective July 1, 2011; does not affect a merger that creates a regional board and is approved by the Commission prior to July 1, 2009.	Recommendation 1-B, Local board mergers (p. 33)

Section 13 adds §18B-705	Requires the Commission ensure that all local boards comply with performance standards by conducting regular or special audits, conducting performance evaluations, or taking other measures which may include inspections by Commission auditors and alcohol law enforcement agents; requires the Commission to create a performance improvement plan for local boards failing to meet performance standards and allow the local board six months (and another six months if good cause is shown) to implement and show improvement under the performance improvement plan; authorizes the Commission to seize all assets of the local board and take appropriate action to ensure profitability if, after a performance improvement plan has been implemented and adequate time has been given, the Commission determines the performance standards cannot be met	Recommendation 1-B, Performance standards (p. 33)
Section 14 amends §18B-801(b)	Authorizes the Commission, when approving the location of ABC stores, to consider the proximity of the new location to existing ABC stores operated by the local board or any other boards	ABC Commission requested this provision, which is related to Recommendation 1-B, Performance standards (p. 33)
Section 15 adds §18B- 809	Allows agency stores—a retail outlet operated pursuant to a contract between a person and a local board or the Commission to provide the services to a community which would have been provided by an ABC store—in North Carolina; prohibits establishment of an agency store within the geographic boundaries of a local board where an ABC store is open and operating; requires the person under contract to provide services under the same conditions and restrictions regarding location and operation that apply to ABC stores; authorizes the Commission to establish the compensation for agency store operators, not to exceed more than one third of the markup for local boards; states no property rights shall be conferred upon an agency store with regards to a right to possess, sell, transport, or deliver any alcoholic beverages; makes a person holding a valid ABC permit or a person with a revoked or suspended ABC permit ineligible for contracting to be an agency store	Recommendation 1-B, Agency stores (pp. 33-34)
Section 16	Makes the act effective October 1, 2009	



**North Carolina ABC Boards  
Profit Percent to Revenue  
All ABC Boards  
Fiscal Year Ended June 30, 2008**

	ABC Board	Retail Sales	Mixed Beverage Sales	Total Liquor Sales	Profit Before Distributions	Profit Percent	Number of Stores
1	Wake County	51,187,264	21,454,618	72,837,182	13,121,633	17.85%	20
2	Moore County	5,718,833	2,174,884	7,939,060	1,328,545	16.18%	4
3	Southport	1,414,547	390,469	1,816,401	277,458	15.21%	1
4	Sylva	2,078,077	650,362	2,750,918	416,499	15.05%	1
5	Currituck County	3,478,133	361,210	3,894,638	604,413	14.57%	3
6	Blowing Rock	900,163	817,077	1,724,443	251,349	14.46%	1
7	New Hanover County	20,025,599	10,520,639	30,546,238	4,380,748	14.27%	7
8	Dare County	9,428,863	2,954,617	12,541,050	1,783,933	14.15%	5
9	Morganton	2,731,811	336,973	3,080,927	436,072	14.13%	1
10	Mecklenburg County	58,995,211	35,432,794	94,781,814	12,915,052	13.52%	23
11	Pitt County	9,936,302	3,260,825	13,228,754	1,769,051	13.27%	9
12	Monroe	4,166,920	804,215	4,971,135	633,164	12.73%	1
13	High Country	2,169,627	621,484	2,799,738	356,718	12.65%	1
14	Randleman	2,683,960	75,536	2,773,466	351,122	12.61%	1
15	Person County	2,175,294	152,691	2,327,985	287,122	12.31%	2
16	West Jefferson *	821,019	42,957	868,257	105,378	12.30%	1
17	Elizabethtown	1,045,184	22,744	1,071,519	130,227	12.07%	1
18	Greensboro	23,036,998	8,699,349	31,810,939	3,806,456	11.94%	13
19	Marion	1,814,394	177,114	1,999,747	239,685	11.94%	1
20	Mooresville	6,034,844	1,290,740	7,364,448	877,990	11.92%	3
21	Cumberland County	15,997,338	6,036,640	22,101,899	2,661,050	11.89%	10
22	Statesville	3,498,206	642,664	4,152,719	492,814	11.80%	1
23	Pasquotank County	2,081,512	512,915	2,594,427	302,744	11.68%	1
24	Wallace	1,071,022	62,329	1,133,351	131,149	11.57%	1
25	Granville County	2,688,866	97,936	2,786,802	324,154	11.55%	2
26	Onslow County	7,944,477	3,409,127	11,396,710	1,321,267	11.53%	6
27	Clinton	1,331,038	107,734	1,438,772	167,371	11.52%	1
28	Mount Airy	1,898,625	276,153	2,183,554	251,897	11.46%	1
29	Boone	4,055,487	41,484	4,122,009	466,902	11.37%	1
30	Brevard	2,152,218	486,722	2,662,572	301,259	11.31%	1
31	Murphy	3,005,576	57,300	3,094,506	351,277	11.27%	1
32	Waynesville	2,195,339	64,271	2,271,073	252,652	11.05%	1
33	Lincolnton	1,772,037	250,665	2,029,767	219,888	10.78%	1
34	Nash County	6,849,526	965,484	7,833,015	813,008	10.35%	9
35	Johnston County	7,859,948	1,030,359	8,916,852	927,053	10.33%	7
36	Shallotte	1,262,639	157,121	1,419,760	146,677	10.32%	1
37	Sparta	694,506	44,604	741,802	76,666	10.27%	1
38	Vance County	2,715,298	159,173	2,874,471	293,844	10.17%	2
39	Lincoln County	1,488,051	209,599	1,704,688	173,081	10.14%	1
40	Highlands	1,273,087	142,656	1,431,291	145,977	10.14%	1
41	Hoke County	757,448	51,877	809,325	81,602	10.08%	1

**North Carolina ABC Boards  
Profit Percent to Revenue  
All ABC Boards  
Fiscal Year Ended June 30, 2008**

ABC Board	Retail Sales	Mixed Beverage Sales	Total Liquor Sales	Profit Before Distributions	Profit Percent	Number of Stores
42 Lenoir City	2,661,192	234,462	2,907,426	292,262	10.03%	2
43 Craven County	5,732,636	1,319,772	7,081,639	707,171	9.89%	6
44 Forest City	1,439,222	110,239	1,558,358	153,806	9.84%	1
45 Calabash	1,225,269	284,713	1,523,009	147,031	9.57%	1
46 Gastonia	5,787,189	1,507,704	7,324,239	695,068	9.38%	5
47 High Point	9,594,161	1,947,377	11,577,252	1,077,719	9.33%	6
48 Alamance Municipal	6,725,676	1,632,670	8,358,346	784,481	9.29%	4
49 Triad Municipal	24,601,045	5,313,455	30,036,496	2,744,284	9.15%	15
50 Catawba County	11,273,035	2,535,367	13,849,830	1,268,749	9.15%	8
51 Pender County	4,164,520	302,465	4,466,985	408,229	9.13%	5
52 Asheville	13,055,286	6,367,790	19,475,992	1,770,912	9.12%	7
53 Lillington	693,589	62,401	755,990	68,410	9.09%	1
54 Durham County	16,693,442	4,438,566	21,198,026	1,924,655	9.07%	9
55 Belville	1,768,705	0	1,768,705	159,196	8.99%	1
56 Hendersonville	3,910,139	874,431	4,813,780	432,472	8.93%	2
57 Albemarle	2,042,388	254,727	2,308,727	205,154	8.87%	1
58 Dunn	1,801,157	128,569	1,929,726	171,679	8.86%	2
59 Oak Island	1,436,106	344,160	1,780,266	156,665	8.80%	1
60 Woodfin	2,356,100	45,406	2,415,665	210,215	8.70%	1
61 Concord	7,164,793	1,949,147	9,155,426	807,033	8.69%	5
62 Lexington	2,893,050	224,246	3,117,296	268,277	8.58%	2
63 Cooleemee	594,617	17,964	617,609	53,097	8.56%	1
64 Ocean Isle	1,113,937	315,384	1,449,754	123,698	8.54%	1
65 Andrews	589,526	1,212	595,956	50,984	8.53%	1
66 Fletcher	1,931,292	108,191	2,051,052	171,440	8.46%	1
67 Wayne County	5,327,178	755,356	6,094,084	508,849	8.30%	6
68 Elkin	1,099,299	32,406	1,137,999	95,667	8.30%	1
69 Sanford	3,524,788	498,410	4,038,540	336,871	8.27%	2
70 Pittsboro	689,011	0	690,117	56,973	8.25%	1
71 Wilson County	5,260,786	579,177	5,851,828	479,748	8.15%	7
72 Bunn	694,540	0	694,884	56,465	8.13%	1
73 Whiteville	921,878	113,764	1,035,642	80,283	7.72%	1
74 Louisburg	1,039,941	53,367	1,093,308	84,348	7.70%	1
75 Scotland County	1,476,444	70,524	1,546,968	115,806	7.48%	1
76 Chatham County	1,982,408	97,266	2,094,687	152,092	7.25%	3
77 Bryson City	1,414,688	125,556	1,548,047	112,230	7.21%	1
78 Eden	1,370,653	181,531	1,556,813	111,730	7.16%	1
79 Pamlico County	1,022,360	86,322	1,113,800	79,535	7.12%	2
80 Carteret County	8,394,814	2,041,776	10,491,559	743,630	7.09%	6
81 Mount Holly	1,421,500	0	1,426,546	99,665	7.07%	1
82 Orange County	9,552,192	3,505,910	13,098,766	927,884	7.06%	7

**North Carolina ABC Boards  
Profit Percent to Revenue  
All ABC Boards**

**Fiscal Year Ended June 30, 2008**

ABC Board	Retail Sales	Mixed Beverage Sales	Total Liquor Sales	Profit Before Distributions	Profit Percent	Number of Stores
83 Lenoir County	2,673,336	269,781	2,943,117	204,431	6.92%	3
84 Warsaw	457,680	37	457,717	30,781	6.72%	1
85 Brunswick County	1,789,176	376,350	2,165,526	141,602	6.69%	2
86 Wadesboro	1,099,044	20,452	1,121,963	75,541	6.68%	1
87 Hertford	673,010	11,120	684,130	44,419	6.48%	1
88 Angier	892,458	1,908	895,906	57,635	6.42%	1
89 West Columbus	563,644	0	563,644	36,430	6.40%	1
90 Brunswick	440,469	0	440,469	28,062	6.35%	1
91 Beaufort County	3,640,084	292,685	3,945,072	250,424	6.32%	6
92 Saint Pauls	834,656	0	836,289	52,828	6.31%	1
93 Laurel Park	1,012,940	101,014	1,122,494	70,815	6.28%	1
94 Lumberton	2,480,447	442,906	2,933,338	181,806	6.21%	2
95 Halifax County	3,753,021	254,216	4,007,237	247,883	6.16%	5
96 Reidsville	1,738,641	134,267	1,872,908	114,830	6.16%	1
97 Shelby	2,955,243	290,086	3,256,001	199,557	6.13%	2
98 Black Mountain	1,506,421	0	1,506,421	92,197	6.10%	1
99 Maggie Valley	908,186	304,762	1,223,127	74,083	6.05%	1
100 Wilkesboro	1,197,879	149,203	1,352,390	81,717	6.03%	1
101 Edgecombe County	3,524,288	57,748	3,582,036	214,061	5.95%	6
102 Hamlet	710,511	11,390	721,901	42,833	5.92%	1
103 Thomasville	2,276,237	159,019	2,435,256	144,955	5.90%	2
104 Bessemer City	532,277	1,443	536,320	30,701	5.70%	1
105 Taylorsville	892,900	6,338	901,989	50,046	5.55%	1
106 Dobson	526,895	0	527,209	29,308	5.51%	1
107 Tyrrell County	262,156	0	262,156	13,874	5.29%	1
108 Siler City	983,683	10,735	998,559	50,943	5.11%	1
109 Boiling Spring Lakes	484,430	1,978	486,408	24,497	5.04%	1
110 Columbus	493,924	31,580	530,190	26,314	4.96%	1
111 Warren County	1,573,025	48,136	1,621,161	79,381	4.89%	3
112 Franklin	2,173,237	188,900	2,385,786	115,386	4.83%	1
113 Madison	984,978	25,860	1,010,838	48,647	4.79%	1
114 Roseboro	543,060	0	543,060	25,703	4.72%	1
115 Waxhaw	968,152	0	968,152	44,432	4.57%	1
116 Granite Falls	855,153	33,503	888,656	40,311	4.52%	1
117 Camden County	1,004,270	0	1,004,526	45,144	4.48%	2
118 Lake Lure	485,225	178,437	663,662	29,108	4.35%	1
119 Red Springs	516,298	0	516,298	22,096	4.28%	1
120 Hertford County	1,662,321	111,168	1,773,489	74,718	4.20%	3
121 Norwood	423,685	4,442	428,127	17,935	4.19%	1
122 Martin County	1,488,098	49,619	1,537,717	61,620	4.02%	2
123 Rutherfordton	967,555	82,148	1,056,952	42,434	4.00%	1

**North Carolina ABC Boards  
Profit Percent to Revenue  
All ABC Boards  
Fiscal Year Ended June 30, 2008**

ABC Board	Retail Sales	Mixed Beverage Sales	Total Liquor Sales	Profit Before Distributions	Profit Percent	Number of Stores
124 Cramerton	1,107,016	103,641	1,210,822	48,157	3.98%	1
125 Cherryville	790,709	38,571	831,600	32,773	3.92%	1
126 Liberty	715,800	0	715,800	27,819	3.88%	1
127 Rowan/Kannapolis	7,682,639	820,554	8,534,968	317,221	3.72%	7
128 Youngsville	672,133	0	672,133	24,888	3.70%	1
129 Tryon	313,469	73,519	391,192	14,337	3.66%	1
130 Chowan County	1,023,674	74,494	1,102,373	39,714	3.65%	1
131 Newton Grove	360,671	0	360,671	12,207	3.38%	1
132 Caswell County	1,695,334	0	1,695,334	56,771	3.34%	4
133 Fairmont	494,232	0	495,237	16,427	3.30%	1
134 Sunset Beach	906,988	150,462	1,068,157	33,688	3.16%	1
135 Tabor City	578,614	0	579,601	17,740	3.13%	1
136 Walnut Cove	731,541	0	734,393	22,603	3.08%	1
137 Kings Mountain	1,051,096	2,397	1,057,485	30,412	2.87%	1
138 Lake Waccamaw	288,530	0	288,530	8,336	2.85%	1
139 Franklinton	598,387	0	599,990	16,463	2.74%	1
140 Washington County	735,641	6,874	742,515	20,085	2.70%	1
141 Pembroke	569,985	0	569,985	14,106	2.58%	1
142 Greene County	601,673	0	601,734	15,216	2.51%	2
143 North Wilkesboro	978,235	78,976	1,061,402	26,015	2.44%	1
144 Mount Pleasant	519,626	0	519,626	11,950	2.29%	1
145 Gibsonville	622,698	23,503	647,405	14,299	2.20%	1
146 Gates County	481,272	0	481,272	10,355	2.14%	2
147 Canton	987,483	28,047	1,020,943	20,921	2.08%	1
148 Garland	240,722	0	240,722	2,261	0.94%	1
149 Montgomery Municipal	1,292,984	54,897	1,347,881	10,424	0.77%	2
150 Rockingham	1,429,704	122,202	1,551,906	6,108	0.39%	2
151 Northampton County	1,019,183	0	1,019,183	-6,654	-0.65%	4
152 Kenansville	366,198	21,525	387,723	-4,465	-1.14%	1
153 Maxton	384,432	0	384,432	-4,663	-1.21%	1
154 Jones County	849,149	0	849,149	-11,516	-1.36%	3
155 Bertie County	776,060	0	776,060	-22,080	-2.83%	2
156 Hyde County	453,900	115,882	569,782	-17,907	-3.14%	2
157 Rowland	172,386	0	172,386	-6,061	-3.52%	1

\* Opened Nov. 1, 2007

## Annual Compensation for Local ABC Board Members

Board	Chairman	Members	Total Sales	Profit % To Revenue
Wake County ABC Board - 104	\$3000	\$2400	\$72,837,182	17.85%
Moore County ABC Board - 65	1200	1200	7,939,060	16.18%
Southport ABC Board - 95	900	600	1,816,401	15.21%
Sylva ABC Board - 98	4200	1200	2,750,918	15.05%
Currituck County ABC Board - 25	1500	1200	3,894,638	14.57%
Blowing Rock ABC Board - 8	1500	1200	1,724,443	14.46%
New Hanover County ABC Board - 70	2400	2400	30,546,238	14.27%
Dare County ABC Board - 26	4800	3600	12,541,050	14.15%
Morganton ABC Board - 67	1800	1200	3,080,927	14.13%
Mecklenburg County ABC Board - 62	7200	6000	94,781,814	13.52%
Pitt County ABC Board - 83	900	600	13,228,754	13.27%
Monroe ABC Board - 63	900	599	4,971,135	12.73%
High Country ABC Board - 165	1200	1200	2,799,738	12.65%
Randleman ABC Board - 85	1800	1200	2,773,466	12.61%
Person County ABC Board - 82	600	600	2,327,985	12.31%
West Jefferson ABC Board - 161	2400	2400	868,257	12.30%
Elizabethtown ABC Board - 144	2100	1200	1,071,519	12.07%
Greensboro ABC Board - 40	0	0	31,810,939	11.94%
Marion ABC Board - 150	3000	3000	1,999,747	11.94%
Mooresville ABC Board - 66	3600	2400	7,364,448	11.92%
Cumberland County ABC Board - 24	3000	2400	22,101,899	11.89%
Statesville ABC Board - 120	1800	1800	4,152,719	11.80%
Pasquotank County ABC Board - 79	1200	600	2,594,427	11.68%
Wallace ABC Board - 105	600	600	1,133,351	11.57%
Granville County ABC Board - 38	1800	360	2,786,802	11.55%
Onslow County ABC Board - 76	1500	1200	11,396,710	11.53%
Clinton ABC Board - 20	2400	1200	1,438,772	11.52%
Mount Airy ABC Board - 131	2400	1200	2,183,554	11.46%
Boone ABC Board - 152	2400	1800	4,122,009	11.37%
Brevard ABC Board - 10	720	600	2,662,572	11.31%
Murphy ABC Board - 138	300	300	3,094,506	11.27%
Waynesville ABC Board - 111	2400	2400	2,271,073	11.05%
Lincolnton ABC Board - 56	1500	1200	2,029,767	10.78%
Nash County ABC Board - 69	2100	1500	7,833,015	10.35%
Johnston County ABC Board - 49	300	300	8,916,852	10.33%
Shallotte ABC Board - 94	900	600	1,419,760	10.32%
Sparta ABC Board - 96	2400	1800	741,802	10.27%
Vance County ABC Board - 102	2700	1500	2,874,471	10.17%
Lincoln County ABC Board - 169	0	0	1,704,688	10.14%
Highlands ABC Board - 126	1800	900	1,431,291	10.14%

## Annual Compensation for Local ABC Board Members

Board	Chairman	Members	Total Sales	Profit % To Revenue
Hoke County ABC Board - 46	\$1200	\$600	\$809,325	10.08%
Lenoir City ABC Board - 125	2400	1500	2,907,426	10.03%
Craven County ABC Board - 23	3432	2280	7,081,639	9.89%
Forest City ABC Board - 168	1200	1200	1,558,358	9.84%
Calabash ABC Board - 129	1296	972	1,523,009	9.57%
Gastonia ABC Board - 35	1800	1200	7,324,239	9.38%
High Point ABC Board - 123	2400	1200	11,577,252	9.33%
Alamance Municipal ABC Board 13	2160	900	8,358,346	9.29%
Triad Municipal ABC Board - 115	0	0	30,036,496	9.15%
Catawba County ABC Board - 17	900	600	13,849,830	9.15%
Pender County ABC Board - 81	900	720	4,466,985	9.13%
Asheville ABC Board - 3	3600	3000	19,475,992	9.12%
Lillington ABC Board - 55	1800	1200	755,990	9.09%
Durham County ABC Board - 28	3000	2400	21,198,026	9.07%
Belville ABC Board - 132	2700	1200	1,768,705	8.99%
Hendersonville ABC Board - 43	6000	1800	4,813,780	8.93%
Albemarle ABC Board - 164	2000	1500	2,308,727	8.87%
Dunn ABC Board - 27	1200	960	1,929,726	8.86%
Oak Island ABC Board - 166	600	300	1,780,266	8.80%
Woodfin ABC Board - 171	1800	1800	2,415,665	8.70%
Concord ABC Board - 22	2400	1800	9,155,426	8.69%
Lexington ABC Board - 54	1200	720	3,117,296	8.58%
Cooleemee ABC Board - 155	90 Per Diem	90 Per Diem	617,609	8.56%
Ocean Isle ABC Board - 75	1800	1200	1,449,754	8.54%
Andrews ABC Board - 1	1200	1188	595,956	8.53%
Fletcher ABC Board - 159	1800	1800	2,051,052	8.46%
Wayne County ABC Board - 110	1500	900	6,094,084	8.30%
Elkin ABC Board - 146	2400	1800	1,137,999	8.30%
Sanford ABC Board - 92	4800	3000	4,038,540	8.27%
Pittsboro ABC Board - 84	840	600	690,117	8.25%
Wilson County ABC Board - 114	1300	700	5,851,828	8.15%
Bunn ABC Board - 12	720	120	694,884	8.13%
Whiteville ABC Board - 112	2100	900	1,035,642	7.72%
Louisburg ABC Board - 58	410	370	1,093,308	7.70%
Scotland County ABC Board - 93	1200	600	1,546,968	7.48%
Chatham County ABC Board - 151	1620	1020	2,094,687	7.25%
Bryson City ABC Board - 133	1200	600	1,548,047	7.21%
Eden ABC Board - 148	900	800	1,556,813	7.16%
Pamlico County ABC Board - 78	2100	888	1,113,800	7.12%
Carteret County ABC Board - 15	0	0/130	10,491,559	7.09%

## Annual Compensation for Local ABC Board Members

Board	Chairman	Members	Total Sales	Profit % To Revenue
Mount Holly ABC Board - 170	\$1200	\$1200	\$1,426,546	7.07%
Orange County ABC Board - 77	1500	900	13,098,766	7.06%
Lenoir County ABC Board - 53	2400	600	2,943,117	6.92%
Warsaw ABC Board - 108	1225	825	457,717	6.72%
Brunswick County ABC Board - 158	60 Per Diem	60 Per Diem	2,165,526	6.69%
Wadesboro ABC Board - 103	1800	900	1,121,963	6.68%
Hertford ABC Board - 45	900	600	684,130	6.48%
Angier ABC Board - 2	350 Per Qtr	320 Per Qtr	895,906	6.42%
West Columbus ABC Board - 18	900	600	563,644	6.40%
Brunswick ABC Board - 11	900	600	440,469	6.35%
Beaufort County ABC Board - 4	1800	1200	3,945,072	6.32%
Saint Pauls ABC Board - 91	900	720	836,289	6.31%
Laurel Park ABC Board - 141	1800	1200	1,122,494	6.28%
Lumberton ABC Board - 153	1380	690	2,933,338	6.21%
Halifax County ABC Board - 41	1500	750	4,007,237	6.16%
Reidsville ABC Board - 86	750	675	1,872,908	6.16%
Shelby ABC Board - 122	2700	1800	3,256,001	6.13%
Black Mountain ABC Board - 7	900	600	1,506,421	6.10%
Maggie Valley ABC Board - 134	0	0	1,223,127	6.05%
Wilkesboro ABC Board - 113	2100	1200	1,352,390	6.03%
Edgecombe County ABC Board - 29	1800	900	3,582,036	5.95%
Hamlet ABC Board - 42	1200	600	721,901	5.92%
Thomasville ABC Board - 167	1800	1200	2,435,256	5.90%
Bessemer City ABC Board - 6	900	600	536,320	5.70%
Taylorsville ABC Board - 99	1200	900	901,989	5.55%
Dobson ABC Board - 121	700	500	527,209	5.51%
Tyrrell County ABC Board - 101	150 Per Diem	50 Per Diem	262,156	5.29%
Siler City ABC Board - 149	1080	720	998,559	5.11%
Boiling Spring Lakes ABC Board - 137	900	300	486,408	5.04%
Columbus ABC Board - 157	75 Per Diem	50 Per Diem	530,190	4.96%
Warren County ABC Board - 107	1500	780	1,621,161	4.89%
Franklin ABC Board - 160	1800	1500	2,385,786	4.83%
Madison ABC Board - 59	1000	600	1,010,838	4.79%
Roseboro ABC Board - 88	900	588	543,060	4.72%
Waxhaw ABC Board - 124	600	300	968,152	4.57%
Granite Falls ABC Board - 37	600	300	888,656	4.52%
Camden County ABC Board - 14	75 Per Diem	75 Per Diem	1,004,526	4.48%
Lake Lure ABC Board - 136	1800	900	663,662	4.35%
Red Springs ABC Board - 119	75 Per Diem	50 Per Diem	516,298	4.28%
Hertford County ABC Board - 44	3300	2700	1,773,489	4.20%

## Annual Compensation for Local ABC Board Members

Board	Chairman	Members	Total Sales	Profit % To Revenue
Norwood ABC Board - 74	\$960	\$480	\$428,127	4.19%
Martin County ABC Board - 60	282 Per Diem	140 PerDiem	1,537,717	4.02%
Rutherfordton ABC Board - 135	1800	900	1,056,952	4.00%
Cramerton ABC Board - 172	1200	1200	1,210,822	3.98%
Cherryville ABC Board - 145	1200	900	831,600	3.92%
Liberty ABC Board - 128	600	0	715,800	3.88%
Rowan/Kannapolis ABC Board - 89	1800	1200	8,534,968	3.72%
Youngsville ABC Board - 117	0	0	672,133	3.70%
Tryon ABC Board - 100	0	0	391,192	3.66%
Chowan County ABC Board - 19	6000	600	1,102,373	3.65%
Newton Grove ABC Board - 71	420	360	360,671	3.38%
Caswell County ABC Board - 16	960	900	1,695,334	3.34%
Fairmont ABC Board - 31	105 Per Diem	80 Per Diem	495,237	3.30%
Sunset Beach ABC Board - 97	800	600	1,068,157	3.16%
Tabor City ABC Board - 139	2000	1000	579,601	3.13%
Walnut Cove ABC Board - 106	1000	200	734,393	3.08%
Kings Mountain ABC Board - 154	580	580	1,057,485	2.87%
Lake Waccamaw ABC Board - 52	360	360	288,530	2.85%
Franklinton ABC Board - 33	300	200	599,990	2.74%
Washington County ABC Board - 109	1500	900	742,515	2.70%
Pembroke - 80	1080	660	569,985	2.58%
Greene County ABC Board - 39	400	400	601,734	2.51%
North Wilkesboro ABC Board - 72	1200	600	1,061,402	2.44%
Mount Pleasant ABC Board - 68	960	720	519,626	2.29%
Gibsonville ABC Board - 156	0	0	647,405	2.20%
Gates County ABC Board - 36	1000	500	481,272	2.14%
Canton ABC Board - 140	1800	900	1,020,943	2.08%
Garland ABC Board - 34	480	480	240,722	0.94%
Montgomery Municipal ABC Board - 64	1200	900	1,347,881	0.77%
Rockingham ABC Board - 87	2100	1200	1,551,906	0.39%
Northampton County ABC Board - 73	30 Per Diem	30 Per Diem	1,019,183	-0.65%
Kenansville ABC Board - 51	700	600	387,723	-1.14%
Maxton ABC Board - 61	720	540	384,432	-1.21%
Jones County ABC Board - 50	960	600	849,149	-1.36%
Bertie County ABC Board - 5	1200	1200	776,060	-2.83%
Hyde County ABC Board - 130	0	0	569,782	-3.14%
Rowland ABC Board - 90	880	480	172,386	-3.52%
Asheboro ABC Board - 174*	1200	1200		
Locust ABC Board - 173*	0	0		

\* Opened after close of FY 2008



# VISITOR REGISTRATION SHEET

Name of Committee

Date <sup>14</sup>

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME \_\_\_\_\_

**FIRM OR AGENCY AND ADDRESS**

Es die Grenze

# Alcohol Bev. Council

Jim Blackburn

NC Association of  
County Commissioners

Ken Melton

K. M. A.

Elizabeth Dalton

NCPMA

Andy Ellen

N dent

Dean Plunkett

NCTBwwA..

# VISITOR REGISTRATION SHEET

ABC

Name of Committee

4/28/09  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
CALVIN W McDOUGAL	MICKLEBURG Co. ABC Bd. 3333 N. TRYON ST., CHAS.
SAM CRITZ Betty Hamm	MT Airy ABC Bd 226 starlite Rd. MT Airy, NC
Mallory Hatcher	MWC
Roger Hutchings	CCPS-ALE
Thomas C. Cooch, Jr.	CCPS - OFF SEC
Ron Kaylor	NCALE
Bill Chindler	NC ALE
Bill Hester	S.W.S.
Mike Henning	NCABC
KATIE ALLEN	GREENSBORO ABC BOARD
MARVINA QUEEN	GREENSBORO ABC BOARD

## VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

David Wojnar	Distilled Spirits Cnl
Lew Nuckles	Wake Co. ABC Board
Bill Belvin	Cumberland ABC Board
Barbara Canale	BSA
David O'zgo	Distilled Spirits Council
Heather Barnett	Huntan & Williams
Bill Brooks	NC FPC
Brittney Farrell	NC FPC
Rev. Mary Creed	CAC
Jon Carr	NC ASDC ABC Board
Barry Becton	DIAGEO

House Pages

Name of Committee: ABC Date: 4/28/09

1. Name: Reese Miller  
County: Wake  
Sponsor: Rep. Paul Stam
2. Name: Charles Marsh  
County: Cabarrus  
Sponsor: Rep Jeff Barnhart
3. Name: \_\_\_\_\_  
County: \_\_\_\_\_  
Sponsor: \_\_\_\_\_
4. Name: \_\_\_\_\_  
County: \_\_\_\_\_  
Sponsor: \_\_\_\_\_
5. Name: \_\_\_\_\_  
County: \_\_\_\_\_  
Sponsor: \_\_\_\_\_

Sgt-At-Arms

1. Name: Wieder Thomas
2. Name: Rassi Bob
3. Name: Madison, Martha
4. Name: \_\_\_\_\_

# CORRECTED NOTICE

Guest Speaker - Jim Petro has been removed

## NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2009-2010 SESSION

You are hereby notified that the Committee on **Alcoholic Beverage Control** will meet as follows:

**DAY & DATE:** Tuesday, May 5, 2009

**TIME:** 1:00 pm

**LOCATION:** 425 LOB

**COMMENTS:**

The following bills will be considered:

<b>BILL NO.</b>	<b>SHORT TITLE</b>	<b>SPONSOR</b>
HB 667	Winery Sales Changes.	Representative Goodwin
HB 927	ABC Capital Project/County Funds.	Representative Gibson, III
HB 1017	Increase Small Brewery Limits.	Representative Owens, Jr.
		Representative Fisher
		Representative Faison
		Representative Harrison
		Representative Earle
HB 1228	ABC Rules/Private Clubs.	Representative Gibson, III

Respectfully,  
Representative R. Warren, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 12 o'clock on **May 4, 2009**.

- ☐ Principal Clerk  
☐ Reading Clerk – House Chamber

**Theresa Lopez** (Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
AND  
BILL SPONSOR NOTIFICATION  
2009-2010 SESSION**

You are hereby notified that the Committee on **Alcoholic Beverage Control** will meet as follows:

**DAY & DATE:** Tuesday, May 5, 2009

**TIME:** 1:00 pm

**LOCATION:** 425 LOB

**COMMENTS:**

Speaker : Jim Petro – 3 Tier Distribution System

The following bills will be considered:

<b>BILL NO.</b>	<b>SHORT TITLE</b>	<b>SPONSOR</b>
HB 667	Winery Sales Changes.	Representative Goodwin Representative Gibson, III
HB 927	ABC Capital Project/County Funds.	Representative Owens, Jr.
HB 1017	Increase Small Brewery Limits.	Representative Fisher Representative Faison Representative Harrison Representative Earle
HB 1228	ABC Rules/Private Clubs.	Representative Gibson, III

Respectfully,  
Representative R. Warren, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 11 o'clock on **April 29, 2009**.

- ☐ Principal Clerk  
☐ Reading Clerk – House Chamber

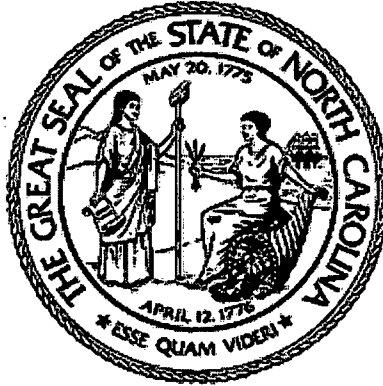
**Theresa Lopez** (Committee Assistant)

# ALCOHOL BEVERAGE CONTROL COMMITTEE

## AGENDA

May 05, 2009

- A. Welcome Members and guest to the ABC Committee
- B. Introduction of Sergeant –At-Arms and Pages
- C. **House Bill #667 Winery Sales Changes**  
Primary Sponsor – Representatives Goodwin and Gibson  
  
**House Bill # 927 ABC Capital project/County Funds**  
Primary Sponsors – Representative Owens  
  
**House Bill # 1228 ABC Rules/Private Clubs**  
Primary Sponsor – Gibson  
  
**House Bill # 1017 Increase Small Brewery Limits**  
Primary Sponsors – Fisher, Faison, Harrison and Earle
- D. Open for Questions or Comments from the Committee
- E. Upcoming Business
- F. Adjourn



## Minutes

### Alcoholic Beverage Control Committee

Tuesday, May 5, 2009

1:00 p.m.

Room 425, Legislative office Building

The Alcoholic Beverage Control Committee met on Tuesday, May 5, 2009, at 1:00 p.m., in Room 425 of the Legislative Office Building. The following members were present: Representative Ray Warren, Chair; Representative Gibson, Spaulding-Hughes, Co-Chairs; Representatives Bell, Brown, Coates, Daughtry, Grady, Jackson, Lewis, Starnes, Steen, and Sutton.

Representative Warren, Chair called the meeting to order, welcomed the members and guest, introduced the pages and the Sergeant at Arms staff. The visitor registration is attached.

### **House Bill 667, Winery Sales Changes**

Representative Goodwin, the bill sponsor was recognized to speak on the bill; it would allow wineries to sell wine for consumption on or off premises where no ABC Election has authorized the sale of wine. Representative Starnes sent forth an amendment on page 1 line 25 deleting the word "State" and substituting "County". Representative Daughtry moved for the adoption of the amendment for the purpose of discussion. The motion carried. Representative Sutton motioned for a favorable report as to the proposed committee substitute bill, which changes the title, unfavorable to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on Finance. The motioned carried.

### **House Bill 927, ABC Capital Project/County Funds**



Representative Owens, the bill sponsor was recognized to explain the bill; it would permit Tyrell County to transfer back to the local ABC Board funds previously paid by the ABC Board to the County to be held in trust for the building of a new ABC Store. After brief discussion Representative Grady motioned for a favorable report. The motion carried.

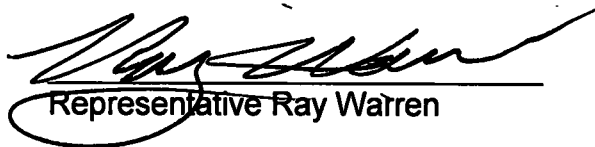
#### **House Bill 1017, Increase Small Brewery Limits**

There was a PCS on HB1017 that was explained by Brenda Carter from staff. The change was a technical change replacing the wording of twenty-five thousand gallons and replacing it with twenty-five thousand barrels which was reflected in the body of the bill. Representative Harrison the bill sponsor was recognized to go on and explain the bill. She made the request not to have the bill voted on today. This bill would allow a Small Brewery brewing limit to increase from twenty-five thousand gallons, to sixty thousand gallons before they must see a Wholesale Distributor to distribute for them. After extensive discussion, Representative Warren moved on to the next bill on the agenda.

#### **House Bill 1228, ABC Rules/Private Clubs**

Representative Gibson, the bill sponsor was recognized to explain the bill; it would clarify the authority of the ABC Commission to adopt rules concerning private clubs. After several questions and comments and time allowance Representative Gibson requested from the Chair to continue the discussions on this bill at a later date.

The meeting adjourned at 1:55 p.m.

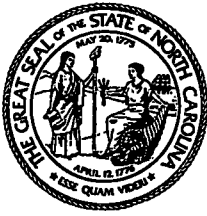


Representative Ray Warren

Theresa Lopez, Committee Assistant

#### **Attachments:**

Agenda  
House Bill 667, 927, 1017, 1228  
Amendment – HB667  
Committee Reports  
Visitor Registration



## HOUSE BILL 667: Winery Sales Changes

2009-2010 General Assembly

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<b>Committee:</b>	House Alcoholic Beverage Control, if favorable, Finance	<b>Date:</b>	May 4, 2009
<b>Introduced by:</b>	Reps. Goodwin, Gibson	<b>Prepared by:</b>	Brenda J. Carter
<b>Analysis of:</b>	PCS to First Edition H667-CSR-25		Committee Counsel

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**SUMMARY:** *This proposed committee substitute for House Bill 667 would amend the law concerning the issuance of an off-premises unfortified wine permit to allow a winery to sell its own unfortified wine during hours when the winery is open to the public, subject to any local ordinance that might apply. The permit would also allow a winery to sell its wine at one additional location in the State under the same conditions specified for the sale of wine at the winery. The bill would also create an exemption from the ABC laws for colleges and universities conducting various types of research.*

**CURRENT LAW:** G.S. 18B-102 provides that it is unlawful for any person to manufacture, sell, transport, import, deliver, furnish, purchase, consume, or possess any alcoholic beverages except as authorized by the ABC law. A number of specific exemptions apply, and include various uses of ethyl alcohol, and various uses of alcoholic beverages for scientific, medical, pharmaceutical, and educational purposes.

G.S. 18B-1101 authorizes the issuance of an unfortified winery permit. A holder of the permit may manufacture unfortified wine, which is "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." Regardless of the results of any local wine election, the holder of an unfortified winery permit may sell the wine owned by the winery at the winery for on- or off-premise consumption upon obtaining the appropriate permit, a winery may sell wine manufactured by the winery or produced under the winery's label for on- or off-premise consumption at no more than three other locations in the State upon obtaining the appropriate permit.

G.S. 18B-1001 provides for the issuance of various retail permits. An off-premises unfortified wine permit authorizes the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises, and authorizes the holder to ship unfortified wine in closed to individual purchasers inside and outside the state. The permit may be issued for retail businesses, and may be issued for a winery for sale of its own unfortified wine.

**BILL ANALYSIS:** Section 1 of the bill would amend the law concerning the issuance of an off-premises unfortified wine permit. The permit, when issued to a winery, would allow the winery to sell its own unfortified wine during hours when the winery is open to the public, subject to any local ordinance that might apply. (Generally, unfortified wine and other alcoholic beverages cannot be sold between the hours of 2:00 a.m. and 12:00 noon on Sunday; a city or county may adopt an ordinance prohibiting the sale of malt beverages and wine from 12:00 noon on Sunday until 7:00 a.m. on the following Monday.) The permit would also allow a winery to sell its wine at one additional location in the State under the same conditions specified for the sale of wine at the winery.

# House Bill 667

*Page 2*

**Section 2** of the bill would create an exemption from the ABC laws for accredited community colleges, colleges and universities for the manufacture, possession and consumption of alcoholic beverages for the purpose of conducting various types of research in connection with programs conducted by or under the supervision of a college instructor or an agent of the NC Cooperative Extension Service.

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

*H667-SMRV-60(CSRV-25) v1*

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

**H**

**1**

**HOUSE BILL 667**

**Short Title:** Winery Sales Changes. (Public)

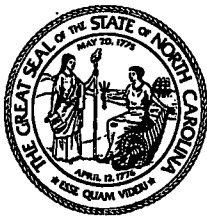
**Sponsors:** Representatives Goodwin, Gibson (Primary Sponsors); Earle, Harrison, and McCormick.

**Referred to:** Alcoholic Beverage Control, if favorable, Finance.

March 19, 2009

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW WINERIES TO SELL WINE, FOR CONSUMPTION ON OR OFF  
3 PREMISES, IN LOCALITIES WHERE NO ABC ELECTION HAS AUTHORIZED THE  
4 SALE OF WINE.  
5 The General Assembly of North Carolina enacts:  
6       **SECTION 1.** G.S. 18B-1101(6) reads as rewritten:  
7       "(6) ~~Sell~~ Regardless of the results of any local wine election, sell the wine  
8       manufactured by the winery or produced under the winery's label under  
9       subdivision (2a) of this section for on- or off-premise consumption at no  
10      more than three other locations in the State, upon obtaining the appropriate  
11      permit under G.S. 18B-1001;".  
12      **SECTION 2.** This act is effective when it becomes law.





## HOUSE BILL 927: ABC Capital Project/County Funds

2009-2010 General Assembly

**Committee:** House Alcoholic Beverage Control  
**Introduced by:** Rep. Owens  
**Analysis of:** Second Edition

**Date:** May 4, 2009  
**Prepared by:** Brenda J. Carter  
Committee Counsel

**SUMMARY:** *House Bill 927 is a local act that would permit Tyrrell County to transfer back to the local Alcoholic Beverage Control Board funds previously paid by the ABC Board to the County to be held in trust for the purpose of building a new ABC store.*

**CURRENT LAW:** Under G.S. 18B-805, local ABC boards are required to distribute their gross receipts in a certain order among various classes of expenses. Under G.S. 18B-805, subsections (b) and (c), the local ABC Board is required to first pay operating expenses, taxes, and make various other quarterly distributions. Under G.S. 18B-805(d), any gross receipts remaining after these prior distributions have been made can be set aside, with approval of the County Board of Commissioners, for the purpose of funding capital projects.

**BILL ANALYSIS:** For a number of years, the Tyrrell County ABC Board has paid Tyrrell County surplus funds remaining after making other required distributions of its gross receipts, and the County has held these funds in trust for use in constructing a new ABC store. House Bill 927 would authorize Tyrrell County to return those funds to the local ABC Board and would authorize the local ABC Board to use those funds to build a new ABC store.

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

*Bill Patterson, Counsel for House Local Government II, substantially contributed to this summary.*

*H927-SMRV-61(e2) v1*

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

**H**

**2**

**HOUSE BILL 927  
Committee Substitute Favorable 4/27/09**

Short Title:   ABC Capital Project/County Funds.

(Local)

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Sponsors:

---

Referred to:

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April 1, 2009

- 1                                   A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW TYRRELL COUNTY TO TRANSFER FUNDS BACK TO THE  
3       LOCAL ALCOHOLIC BEVERAGE CONTROL BOARD THAT HAD BEEN HELD BY  
4       THE COUNTY IN TRUST TO BE USED TO BUILD A NEW ALCOHOLIC  
5       BEVERAGE CONTROL STORE.  
6 The General Assembly of North Carolina enacts:  
7       **SECTION 1.** Notwithstanding the provisions of G.S. 18B-805, or any other law to  
8 the contrary, Tyrrell County is authorized to make a onetime transfer to the Tyrrell County  
9 Alcoholic Beverage Control Board of funds previously paid by the Tyrrell County Alcoholic  
10 Beverage Control Board to Tyrrell County and held in trust by Tyrrell County for the  
11 construction of a new ABC store within Tyrrell County. The Tyrrell County Alcoholic  
12 Beverage Control Board is authorized to use the funds returned to it by Tyrrell County pursuant  
13 to this act for the construction of a new ABC store within Tyrrell County.  
14       **SECTION 2.** This act is effective when it becomes law.





## HOUSE BILL 1017: Increase Small Brewery Limits

2009-2010 General Assembly

<b>Committee:</b>	House Alcoholic Beverage Control, if favorable, Commerce, Small Business, and Entrepreneurship	<b>Date:</b>	May 5, 2009
<b>Introduced by:</b>	Reps. Fisher, Faison, Harrison, Earle	<b>Prepared by:</b>	Brenda J. Carter
<b>Analysis of:</b>	PCS to First Edition H1017-CSMA-13		Committee Counsel

**SUMMARY:** *House Bill 1017 would increase the sales limit that defines a brewery's eligibility to obtain a permit to act as a wholesale distributor to distribute its products; raising the limit from 25,000 barrels to 60,000 barrels. This proposed committee substitute makes a technical change that corrects the title of the bill.*

[As introduced, this bill was identical to S918, as introduced by Sen. Dorsett, which is currently in Senate Commerce.]

**CURRENT LAW:** A malt beverages wholesaler permit issued pursuant to G.S. 18B-1109 authorizes the holder of the permit to sell, deliver and ship, malt beverages to wholesalers or retailers licensed under Chapter 18B of the General Statutes. Under G.S. 18B-1104(7), a brewery may obtain a malt beverage wholesaler permit to sell, deliver, and ship at wholesale malt beverages manufactured by the brewery. This authorization to obtain a wholesaler permit applies only to breweries that sell, to consumers at the brewery, to wholesalers, to retailers, and to exporters, fewer than 25,000 barrels of malt beverages produced by it per year. Breweries that fall in this category may also sell the malt beverages manufactured by the brewery at up to three other locations in the State upon obtaining the appropriate retail permits. A brewery operating additional retail locations may also offer for sale a reasonable selection of competitive malt beverage products.

Under G.S. 81-A, which is incorporated by reference in G.S. 18B-1104(7), the term "barrel," when used in connection with beer, ale, porter, and other similar fermented liquor is a unit of 31 liquid gallons.

**BILL ANALYSIS:** House Bill 1017 would increase the sales limit that defines a brewery's eligibility to obtain a permit to act as a wholesale distributor to distribute its products; raising the limit from 25,000 barrels to 60,000 barrels.

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

**BACKGROUND:** The Three-tier system of alcohol distribution is the system for distributing alcoholic beverages set up in the United States after the repeal of Prohibition. The three tiers are producers, distributors, and retailers. A producer must sell to a distributor who must then sell to a retailer. States have various exceptions to this rule, the most prevalent one being the case of a brewpub, which is simultaneously a producer and retailer, and has no requirement to sell to a distributor. Some states allow an entity to have a part in two of the tiers, letting small breweries act as their own distributor, for example. Some constitutional questions are being raised with regard to self-distribution exceptions.

H1017-SMRV-63(CSMA-13) v2

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

**H**

**1**

**HOUSE BILL 1017**

**Short Title:** Increase Small Brewery Limits. (Public)

**Sponsors:** Representatives Fisher, Faison, Harrison, Earle (Primary Sponsors); K. Alexander, Allred, Carney, Cotham, Crawford, Goforth, Haire, Jeffus, Luebke, and Ross.

**Referred to:** Alcoholic Beverage Control, if favorable, Commerce, Small Business, and Entrepreneurship.

April 2, 2009

A BILL TO BE ENTITLED  
AN ACT TO INCREASE THE SMALL BREWERY BREWING LIMIT FROM  
TWENTY-FIVE THOUSAND GALLONS TO SIXTY THOUSAND GALLONS  
BEFORE THE BREWERY MUST USE A WHOLESALE DISTRIBUTOR TO  
DISTRIBUTE ITS PRODUCTS.

The General Assembly of North Carolina enacts:

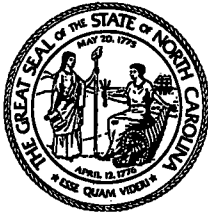
**SECTION 1.** G.S. 18B-1104(7) reads as rewritten:

"(7) In areas where the sale is legal, sell the brewery's malt beverages at the brewery upon receiving a permit under G.S. 18B-1001(1). The brewery also may obtain a malt beverage wholesaler permit to sell, deliver, and ship at wholesale only malt beverages manufactured by the brewery. The authorization of this subdivision applies to a brewery that sells, to consumers at the brewery, to wholesalers, to retailers, and to exporters, fewer than ~~25,000~~60,000 barrels, as defined in G.S. 81A-9, of malt beverages produced by it per year. A brewery not exceeding the sales quantity limitations in this subdivision may also sell the malt beverages manufactured by the brewery at not more than three other locations in the State upon obtaining the appropriate permits under G.S. 18B-1001. A brewery operating any additional retail location pursuant to this subdivision shall also offer for sale at that location a reasonable selection of competitive malt beverage products."

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







## HOUSE BILL 1228: ABC Rules/Private Clubs

2009-2010 General Assembly

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<b>Committee:</b>	House Alcoholic Beverage Control, if favorable, Commerce, Small Business, and Entrepreneurship	<b>Date:</b>	May 4, 2009
<b>Introduced by:</b>	Rep. Gibson	<b>Prepared by:</b>	Brenda J. Carter
<b>Analysis of:</b>	First Edition		Committee Counsel

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**SUMMARY:** *House Bill 1228 would amend G.S. 18B-1008 concerning the authority of the ABC Commission to adopt rules concerning private clubs, by deleting the specific grant of authority to adopt a rule requiring that a private club have a waiting period for membership.*

**CURRENT LAW:** G.S. 18B-1000(5) defines a private club as "An establishment that is organized and operated solely for a social, recreational, patriotic, or fraternal purpose and that is not open to the general public, but is open only to the members of the organization and their bona fide guests." Under 18B-1001, when the issuance of the permit is lawful in the jurisdiction in which the premises are located, private clubs are eligible for on-premises beer and wine permits and mixed beverage or brown bagging permits.

G.S. 18B-1008 grants the ABC Commission "broad discretion in further defining the kinds of places eligible for permits." Rules concerning private clubs may also include, but need not be limited to, requirements that the club have a membership committee to review all applications for membership, that the club charge membership dues substantially greater than what would be paid by a one-time or casual user, that the club restrict use by nonmembers, that the club provide facilities or activities other than those directly related to the use of alcoholic beverages, and that the club have a waiting period for membership, not exceed 30 days. Pursuant to this statutory authority, the ABC Commission adopted Rule 2S.0107, which sets out special requirements for private clubs. The rule expands upon the definition of a private club by setting out "typical characteristics" that the Commission will consider in determining whether an establishment is indeed a private club -- such as whether membership is subject to clearly stated requirements, whether members can and do participate in its organizational affairs, and whether membership entitles a person to significant privileges other than the consumption of alcoholic beverages. In addition, the rule sets forth a number of mandatory requirements that an establishment must comply with in order to qualify as a private club -- including collection of an annual membership fee, requiring each prospective member to complete a written application, and a requirement that the establishment grant no membership sooner than three days after receipt of application.

**BILL ANALYSIS:** House Bill 1228 would amend G.S. 18B-1008 concerning the authority of the ABC Commission to adopt rules concerning private clubs, by deleting the specific grant of authority to adopt a rule requiring that a private club have a waiting period for membership.

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

11228-SMRV-62(e1) v1

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

**H**

**1**

**HOUSE BILL 1228**

Short Title:	ABC Rules/Private Clubs.	(Public)
<hr/>		
Sponsors:	Representative Gibson.	
<hr/>		
Referred to:	Alcoholic Beverage Control, if favorable, Commerce, Small Business, and Entrepreneurship.	
<hr/>		

April 9, 2009

A BILL TO BE ENTITLED  
AN ACT TO CLARIFY THE AUTHORITY OF THE ABC COMMISSION TO ADOPT  
RULES CONCERNING PRIVATE CLUBS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 18B-1008 reads as rewritten:

**"§ 18B-1008. Rules concerning retail permits.**

The Commission is authorized to use broad discretion in further defining the kinds of places eligible for permits under this Article. The rules may state the kind and amount of food that shall be sold to qualify in each category, the relationship between food sales and other receipts, the size of the establishment required for each category, the kinds of facilities needed to qualify, the kinds of activities at which alcoholic beverages may not be sold, and any other matters which are necessary to determine which businesses are bona fide establishments of the kinds listed in G.S. 18B-1000. Rules concerning private clubs may also include, but need not be limited to, requirements that the club have a membership committee to review all applications for membership, that the club charge membership dues substantially greater than what would be paid by a one-time or casual user, that the club restrict use by nonmembers, that the club provide facilities or activities other than those directly related to the use of alcoholic ~~beverages. beverages, and that the club have a waiting period for membership. A waiting period required by the Commission shall not exceed 30 days.~~"

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



NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. \_\_\_\_\_

H. B. No. 667

DATE 5-5-09

S. B. No. \_\_\_\_\_

Amendment No. \_\_\_\_\_

COMMITTEE SUBSTITUTE \_\_\_\_\_

(to be filled in by  
Principal Clerk)

Rep. )

Sen. )

Starnes

1 moves to amend the bill on page 1, line 25

2 ( ) WHICH CHANGES THE TITLE

3 by deleting "State" and substituting

4 the word "county"

5 \_\_\_\_\_

6 \_\_\_\_\_

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SIGNED

E. Starnes

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

**2009 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

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

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

☐ Committee Substitute for

**HB 667.** A BILL TO BE ENTITLED AN ACT TO ALLOW WINERIES TO SELL WINE, FOR CONSUMPTION ON OR OFF PREMISES, IN LOCALITIES WHERE NO ABC ELECTION HAS AUTHORIZED THE SALE OF WINE.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on FINANCE.

**(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.

**2009 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

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

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

☐ Committee Substitute for

**HB 927** A BILL TO BE ENTITLED AN ACT TO ALLOW TYRRELL COUNTY TO TRANSFER FUNDS BACK TO THE LOCAL ALCOHOLIC BEVERAGE CONTROL BOARD THAT HAD BEEN HELD BY THE COUNTY IN TRUST TO BE USED TO BUILD A NEW ALCOHOLIC BEVERAGE CONTROL STORE.

☒ 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 \_\_\_\_\_.

# VISITOR REGISTRATION SHEET

ABC  
Name of Committee

5/5/09  
Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME	FIRM OR AGENCY AND ADDRESS
ROBB BARK	TEAMSTERS
Rev. MACE CREECH	CAL
Matt Hanel	Town of Woodfin
Ken Kaurer	NCALE
Bill Church	ALE
Roger Hutchings	NCALE
Elizabeth Duncan	WCSR
Dennis Edwards	Greene Raleigh CU03
KRIS GARDNER	NCBWWA
Will Culpepper	Moore + Van Allen
John Hinnant	Wilmington Downtown, Inc

## VISITOR REGISTRATION SHEET

Name of Committee

Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME

FIRM OR AGENCY AND ADDRESS

Gene Merritt	Wilmington Downtown, Inc
Dean Plunkett	NCTBOWA.
William Riley	Mutual Distributing
Bell Sherrill	Red Oak
Mr L Leggett	Red Oak
Michelle Frazier	MF+S
Chris Valauri	NC Beer & Wine Wholesalers Assn
Juan Valauri	Valauri Group, LLC
Lane Power	<del>Red</del> American Prose Br.
Paul CB	R. H. BARRINGER DIST.
Don Proctor	United Beverage of NC

## VISITOR REGISTRATION SHEET

ABC

5/5/09

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Alicia De	MWC
Amy Childer	MWC
Fred Gregory	ABC
Mike Henning	NLABC
Lew Nuckles	Wake Co. ABC Board
Jon Carr	NC Assoc. ABC Board NC Restaurant + Lodging Assoc
Bryd Gable	City of Charlotte
Ken Melton	K.M.A.
Anita "Rocko" W.	UNC-Bowles
Erin Schoellkopf	"
Mary E. Kury	NC State Univ - Raleigh
Zeh Allay	NMRS
Paul Wooten	Fay Observer



House Pages

Name of Committee: ABC Date: May - 5 - 2009

1. Name: Carol De Byrd  
County: Lenoir  
Sponsor: Van Braxton
2. Name: Brittany Brisson  
County: Bladen  
Sponsor: William Brisson
3. Name: \_\_\_\_\_  
County: \_\_\_\_\_  
Sponsor: \_\_\_\_\_
4. Name: \_\_\_\_\_  
County: \_\_\_\_\_  
Sponsor: \_\_\_\_\_
5. Name: \_\_\_\_\_  
County: \_\_\_\_\_  
Sponsor: \_\_\_\_\_

Sgt-At-Arms

1. Name: Bob Rossi
2. Name: MARTHA GADISON
3. Name: \_\_\_\_\_
4. Name: \_\_\_\_\_

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
AND  
BILL SPONSOR NOTIFICATION  
2009-2010 SESSION**

You are hereby notified that the Committee on **Alcoholic Beverage Control** will meet as follows:

**DAY & DATE:** Thursday, May 7, 2009

**TIME:** 15 minutes after session

**LOCATION:** 425 LOB

**COMMENTS:**

The following bills will be considered:

<b>BILL NO.</b>	<b>SHORT TITLE</b>
HB 1228	ABC Rules/Private Clubs.

<b>SPONSOR</b>
Representative Gibson, III

Respectfully,  
Representative R. Warren, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 18 o'clock on May 06, 2009.

- ☐ Principal Clerk  
☐ Reading Clerk – House Chamber

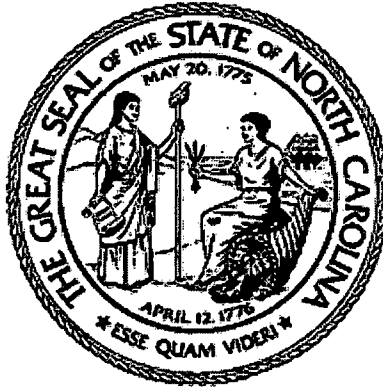
**Theresa Lopez** (Committee Assistant)

# ALCOHOL BEVERAGE CONTROL COMMITTEE

## AGENDA

May 7, 2009

- A. Welcome Members and guest to the ABC Committee
- B. Introduction of Sergeant –At-Arms and Pages  
**House Bill # 1228 ABC Rules/Private Clubs**  
Primary Sponsor – Representative Gibson
- C. Open for Questions or Comments from the Committee
- D. Upcoming Business
- E. Adjourn



## Minutes

### Alcoholic Beverage Control Committee

Thursday, May 7, 2009

3:40 p.m.

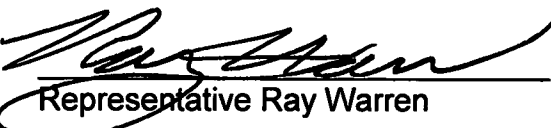
Room 425, Legislative office Building

The Alcoholic Beverage Control Committee met on Thursday, May 7, 2009, at 1:00 p.m., in Room 425 of the Legislative Office Building. The following members were present: Representative Ray Warren, Chair; Representative Gibson, Co-Chair; Representatives Bell, Coates, Jackson, Lewis, and Steen.

Representative Warren, Chair called the meeting to order, welcomed the members and guest, introduced the pages and the Sergeant at Arms staff. The visitor registration is attached.

**HB 1228, ABC Private Rules/Private Clubs.** Representative Gibson, the bill sponsor requested from the Chair to permit Brenda Carter from staff to explain the current law. The statue is being amended gives the ABC Commission the authority to define the types of places eligible for the various permits in the retail portion of the ABC Law. After extensive conversation, Representative Gibson would like to amend the bill clarifying the distinction of private clubs and membership. Representative Lewis motioned for a favorable report and re-referred to Commerce and be amended there. The motion carried.

The meeting adjourned 4:00 p.m.

  
Representative Ray Warren

  
Theresa Lopez, Committee Assistant

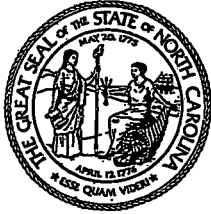
**Attachments:**

**Agenda**

**House Bill 1228**

**Committee Report**

**Visitor Registration**



## HOUSE BILL 1228: ABC Rules/Private Clubs

2009-2010 General Assembly

<b>Committee:</b>	House Alcoholic Beverage Control, if favorable, Commerce, Small Business, and Entrepreneurship	<b>Date:</b>	May 4, 2009
<b>Introduced by:</b>	Rep. Gibson	<b>Prepared by:</b>	Brenda J. Carter
<b>Analysis of:</b>	First Edition		Committee Counsel

**SUMMARY:** *House Bill 1228 would amend G.S. 18B-1008 concerning the authority of the ABC Commission to adopt rules concerning private clubs, by deleting the specific grant of authority to adopt a rule requiring that a private club have a waiting period for membership.*

**CURRENT LAW:** G.S. 18B-1000(5) defines a private club as "An establishment that is organized and operated solely for a social, recreational, patriotic, or fraternal purpose and that is not open to the general public, but is open only to the members of the organization and their bona fide guests." Under 18B-1001, when the issuance of the permit is lawful in the jurisdiction in which the premises are located, private clubs are eligible for on-premises beer and wine permits and mixed beverage or brown bagging permits.

G.S. 18B-1008 grants the ABC Commission "broad discretion in further defining the kinds of places eligible for permits." Rules concerning private clubs may also include, but need not be limited to, requirements that the club have a membership committee to review all applications for membership, that the club charge membership dues substantially greater than what would be paid by a one-time or casual user, that the club restrict use by nonmembers, that the club provide facilities or activities other than those directly related to the use of alcoholic beverages, and that the club have a waiting period for membership, not exceed 30 days. Pursuant to this statutory authority, the ABC Commission adopted Rule 2S.0107, which sets out special requirements for private clubs. The rule expands upon the definition of a private club by setting out "typical characteristics" that the Commission will consider in determining whether an establishment is indeed a private club -- such as whether membership is subject to clearly stated requirements, whether members can and do participate in its organizational affairs, and whether membership entitles a person to significant privileges other than the consumption of alcoholic beverages. In addition, the rule sets forth a number of mandatory requirements that an establishment must comply with in order to qualify as a private club -- including collection of an annual membership fee, requiring each prospective member to complete a written application, and a requirement that the establishment grant no membership sooner than three days after receipt of application.

**BILL ANALYSIS:** House Bill 1228 would amend G.S. 18B-1008 concerning the authority of the ABC Commission to adopt rules concerning private clubs, by deleting the specific grant of authority to adopt a rule requiring that a private club have a waiting period for membership.

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

1228-SMRV-62(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

H

1

HOUSE BILL 1228

---

Short Title: ABC Rules/Private Clubs. (Public)

---

Sponsors: Representative Gibson.

---

Referred to: Alcoholic Beverage Control, if favorable, Commerce, Small Business, and Entrepreneurship.

---

April 9, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO CLARIFY THE AUTHORITY OF THE ABC COMMISSION TO ADOPT  
3 RULES CONCERNING PRIVATE CLUBS.  
4 The General Assembly of North Carolina enacts:  
5 SECTION 1. G.S. 18B-1008 reads as rewritten:  
6 "§ 18B-1008. Rules concerning retail permits.  
7 The Commission is authorized to use broad discretion in further defining the kinds of places  
8 eligible for permits under this Article. The rules may state the kind and amount of food that  
9 shall be sold to qualify in each category, the relationship between food sales and other receipts,  
10 the size of the establishment required for each category, the kinds of facilities needed to  
11 qualify, the kinds of activities at which alcoholic beverages may not be sold, and any other  
12 matters which are necessary to determine which businesses are bona fide establishments of the  
13 kinds listed in G.S. 18B-1000. Rules concerning private clubs may also include, but need not  
14 be limited to, requirements that the club have a membership committee to review all  
15 applications for membership, that the club charge membership dues substantially greater than  
16 what would be paid by a one-time or casual user, that the club restrict use by nonmembers, that  
17 the club provide facilities or activities other than those directly related to the use of alcoholic  
18 ~~beverages. beverages, and that the club have a waiting period for membership. A waiting~~  
19 ~~period required by the Commission shall not exceed 30 days."~~  
20 SECTION 2. This act is effective when it becomes law.



**2009 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

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

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

☐ Committee Substitute for

**HB 1228** A BILL TO BE ENTITLED AN ACT TO CLARIFY THE  
AUTHORITY OF THE ABC COMMISSION TO ADOPT RULES CONCERNING PRIVATE  
CLUBS.

☒ 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 \_\_\_\_\_.



# VISITOR REGISTRATION SHEET

ABC  
Name of Committee

4-7-09  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Lew Nuckles

Wake Co. ABC Board

Alicia Davis

MWC

Bill Chandler

NLE

Jon Carr

NC Restaurant + Lodging Assoc.

Rev. MANA Cheek

CAL

John Allen

NMR

Patrick Buffkin

"

Paul Workman

Fay Osborn

Roger Hutchings

NCALE

Amy Schilder

MWC

Denny Edwards

Greater Raleigh  
LVO

Dan

St. Andrew

House Pages

Name of Committee: ABC Date: 5-17-89

1. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

2. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

3. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

4. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

5. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

Sgt.-At-Arms

1. Name: Toussaint L. Avert

2. Name: Tom Wilder

3. Name: Henry Worth

4. Name: \_\_\_\_\_

# CORRECTED NOTICE

## NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2009-2010 SESSION

You are hereby notified that the Committee on Alcoholic Beverage Control will meet as follows:

**DAY & DATE:** Tuesday, May 12, 2009

**TIME:** 1:00 pm

**LOCATION:** 425 LOB

**COMMENTS:** REMOVE HB 1595

The following bills will be considered:

<b>BILL NO.</b>	<b>SHORT TITLE</b>	<b>SPONSOR</b>
HB 1595	Malt Beverage Special Permit.	Representative Tillis Representative Ross
SB 528	Forest City/Lake Lure ABC Distributions.	Senator Clary

Respectfully,  
Representative R. Warren, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 13 o'clock on May 11, 2009.

- ☐ Principal Clerk  
☐ Reading Clerk – House Chamber

**Theresa Lopez** (Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
AND  
BILL SPONSOR NOTIFICATION  
2009-2010 SESSION**

You are hereby notified that the Committee on Alcoholic Beverage Control will meet as follows:

**DAY & DATE:** Tuesday, May 12, 2009

**TIME:** 1:00 pm

**LOCATION:** 425 LOB

**COMMENTS:**

The following bills will be considered:

<b>BILL NO.</b>	<b>SHORT TITLE</b>	<b>SPONSOR</b>
HB 1595	Malt Beverage Special Permit.	Representative Tillis Representative Ross
SB 528	Forest City/Lake Lure ABC Distributions.	Senator Clary

Respectfully,  
Representative R. Warren, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 13 o'clock on May 11, 2009.

- ☐ Principal Clerk  
☐ Reading Clerk – House Chamber

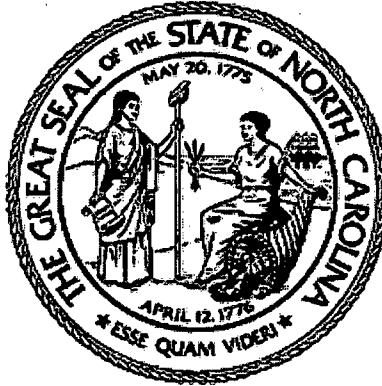
**Theresa Lopez** (Committee Assistant)

# ALCOHOL BEVERAGE CONTROL COMMITTEE

## AGENDA

May 12, 2009

- A. Welcome Members and guest to the ABC Committee
- B. Introduction of Sergeant –At-Arms and Pages
- C. **Senate Bill #528 – Forest City/Lake Lure ABC Distributions**  
Primary Bill Sponsor – Senator Clary
- D. Open for Questions or Comments from the Committee
- E. Upcoming Business
- F. Adjourn



## Minutes

### Alcoholic Beverage Control Committee

Tuesday, May 12, 2009

1:00 p.m.

Room 425, Legislative office Building

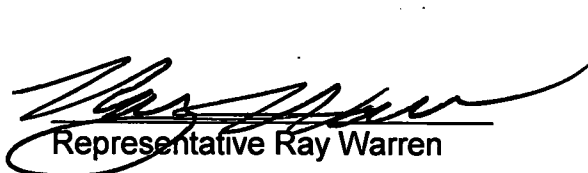
The Alcoholic Beverage Control Committee met on Tuesday, May 12, 2009, at 1:00 p.m., in Room 425 of the Legislative Office Building. The following members were present: Representative Ray Warren, Chair; Representative Gibson, Spaulding-Hughes, Co-Chairs; Representatives, Brown, Daughtry, Jackson, Lewis, and Steen.

Representative Warren, Chair called the meeting to order, welcomed the members and guest, and introduced the pages and the Sergeant at Arms staff. The visitor registration is attached.

### **Senate Bill 528, Forest City/Lake Lure ABC Distributions**

Senator Clary was recognized to explain the bill; it would allow the towns of Lake Lure and Forest City to utilize their ABC Distribution to the schools in their region. Representative Daughtry motions for a favorable report and the bill is re-referred to the Committee on Local Government II. The motion carried.

The meeting adjourned at 1:08

  
Representative Ray Warren

  
Theresa Lopez, Committee Assistant

**Attachments:**

**Agenda**

**House Bill 528**

**Committee Report**

**Visitor Registration**



## SENATE BILL 528: Forest City/Lake Lure ABC Distributions

2009-2010 General Assembly

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<b>Committee:</b>	House Alcoholic Beverage Control, if favorable, Local Government II	<b>Date:</b>	May 11, 2009
<b>Introduced by:</b>	Sen. Clary	<b>Prepared by:</b>	Brenda J. Carter
<b>Analysis of:</b>	Third Edition		Committee Counsel

---

**SUMMARY:** *Senate Bill 528 would authorize the Towns of Forest City and Lake Lure to allocate Alcoholic Beverage Control revenues to schools within the towns.*

[This edition of the bill is identical to H868, introduced by Rep. England, which is now in the House ABC Committee.]

**CURRENT LAW:** G.S. 18B-805 governs the distribution of revenue of a local ABC board. After making the required statutory distributions, the local board is required to pay each quarter the remaining gross receipts to the general fund of the city or county for which the board is established, unless some other distribution or some other schedule is provided for by law.

There have been court decisions saying that a municipality or county requires specific statutory authority to distribute money to individual schools within a school system. *Hughey v. Cloninger*, 297 N.C. 86 (1979). *Watauga County Board of Education v. Town of Boone*, 106 N.C. App. 270 (1992).

**BILL ANALYSIS:** Senate Bill 528 would grant to the towns of Forest City and Lake Lure the authority to allocate any General Fund proceeds distributed to the town from a local ABC Board to schools within their respective municipalities.

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

**BACKGROUND:** Forest City and Lake Lure are both municipalities in Rutherford County. Each has a separate ABC system. The public schools within those municipalities are all part of the Rutherford County School System, governed by the Rutherford County Board of Education.

*Bill Gilkeson, Staff Attorney, substantially contributed to this summary.*

S528-SMRV-74(e3) v1



**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

**S**

**3**

**SENATE BILL 528\*  
Corrected Copy 3/17/09  
State and Local Government Committee Substitute Adopted 4/30/09**

Short Title: Forest City/Lake Lure ABC Distributions. (Local)

Sponsors:

Referred to:

March 12, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW THE TOWNS OF FOREST CITY AND LAKE LURE TO  
3 ALLOCATE GENERAL FUND PROCEEDS DISTRIBUTED TO THE TOWN FROM A  
4 LOCAL ABC BOARD TO SCHOOLS WITHIN THE MUNICIPALITY.  
5 The General Assembly of North Carolina enacts:  
6 SECTION 1. Notwithstanding the provisions of G.S. 18B-805, or any other law to  
7 the contrary, the Towns of Forest City and Lake Lure may allocate any General Fund proceeds  
8 distributed to the town from a local ABC Board to schools within their respective  
9 municipalities.  
10 SECTION 2. This act is effective when it becomes law.



**2009 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

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

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

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☐ Committee Substitute for

**SB 528** A BILL TO BE ENTITLED AN ACT TO ALLOW THE TOWNS OF FOREST CITY AND LAKE LURE TO ALLOCATE GENERAL FUND PROCEEDS DISTRIBUTED TO THE TOWN FROM A LOCAL ABC BOARD TO SCHOOLS WITHIN THE MUNICIPALITY.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on LOCAL GOVERNMENT II.

**(FOR JOURNAL USE ONLY)**

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

\_\_\_\_\_ The bill/resolution is re-referred to the Committee on \_\_\_\_\_.

# VISITOR REGISTRATION SHEET

Name of Committee

**Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

**FIRM OR AGENCY AND ADDRESS**

$N \subset A \subset \mathbb{R} \quad A \subset B \subset \mathbb{R}$

Bo Co

MFTS

CHL

NCBWWA.

House Pages

Name of Committee: ABC Date: 5-12-09

1. Name: Christian Shelton

County: Guilford

Sponsor: Joe Hackney

2. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

3. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

4. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

5. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

Sgt-At-Arms

1. Name: MARTHA GADISON

2. Name: BOB ROSS

3. Name: \_\_\_\_\_

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
AND  
BILL SPONSOR NOTIFICATION  
2009-2010 SESSION**

You are hereby notified that the Committee on Alcoholic Beverage Control will meet as follows:

**DAY & DATE:** Tuesday, May 19, 2009

**TIME:** 1:00 pm

**LOCATION:** 425 LOB

**COMMENTS:**

The following bills will be considered:

<b>BILL NO.</b>	<b>SHORT TITLE</b>	<b>SPONSOR</b>
HB 1595	Malt Beverage Special Permit.	Representative Tillis Representative Ross

Respectfully,  
Representative R. Warren, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 14 o'clock on **May 12, 2009.**

- ☐ Principal Clerk
- ☐ Reading Clerk – House Chamber

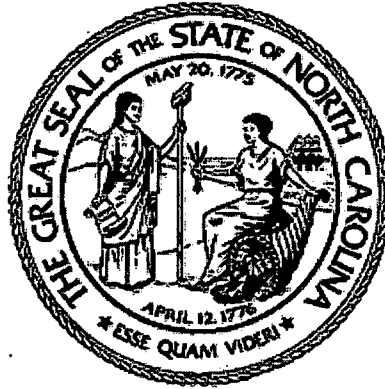
**Theresa Lopez** (Committee Assistant)

# ALCOHOL BEVERAGE CONTROL COMMITTEE

## AGENDA

May 19, 2009

- A. Welcome Members and guest to the ABC Committee
- B. Introduction of Sergeant –At-Arms and Pages  
  
House Bill # **1595 Malt Beverage Special Permit**  
Primary Sponsor – Representatives Tillis and Ross
- C. Open for Questions or Comments from the Committee
- D. Upcoming Business
- E. Adjourn



## Minutes

### Alcoholic Beverage Control Committee

Tuesday, May 19, 2009

1:00 p.m.

Room 425, Legislative office Building

The Alcoholic Beverage Control Committee met on Tuesday, May 19, 2009, at 1:00 p.m., in Room 425 of the Legislative Office Building. The following members were present: Representative Ray Warren, Chair; Representative Gibson, Spaulding-Hughes, Lucas, Co-Chairs; Representatives Bell, Brown, Coates, Daughtry, Grady, Jackson, Steen and Sutton.

Representative Warren, Chair called the meeting to order, welcomed the members and guest, and introduced the pages and the Sergeant at Arms staff. The visitor registration is attached.

### **House Bill 1595, Malt Beverage Special Permit**

Representative Coates moved for the Proposed Committee Substitute H1595-CSMA-17(v.3) to be before the committee. The motion carried. Representative Tillis, the bill sponsor was recognized to explain the bill; it would authorize the ABC Committee Commission to issue permit for beverage tasting at grocery stores and other food businesses and a malt beverage special event permit. An additional Proposed Committee Substitute H1595-CSMA-17(v.4) was before the committee, Representative Lucas motioned to be heard and the motion carried. The only change was on page 4, adding malt beverage imported, or nonresident malt beverage vendor. Representative Ross added additional comments. After several questions and comments from the members and visitors Representative Coates motioned for a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill re-referred to the Committee on Finance.

The meeting adjourned at 1:20 p.m.



Representative Ray Warren

Theresa Lopez, Committee Assistant

Attachments:

Agenda  
House Bill 1595  
Committee Report  
Visitor Log





## HOUSE BILL 1595: Malt Beverage Special Permit

2009-2010 General Assembly

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<b>Committee:</b>	House Alcoholic Beverage Control, if favorable, Finance	<b>Date:</b>	May 18, 2009
<b>Introduced by:</b>	Reps. Tillis, Ross	<b>Prepared by:</b>	Brenda J. Carter
<b>Analysis of:</b>	PCS to First Edition H1595-CSMA-17		Committee Counsel

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**SUMMARY:** *House Bill 1595 would authorize the ABC Commission to issue two new permits: a malt beverage tasting permit that would allow malt beverage tastings at grocery stores and other food businesses, and a malt beverage special event permit that would authorize a brewery to give free samples and to sell its products by at trade shows, conventions, shopping malls, various festivals & other similar events approved by the ABC Commission.*

**CURRENT LAW:** For the sale and on premises consumption of malt beverages, an establishment must have an on-premises malt beverages permit. The permit may be issued to restaurants, hotels, eating establishments, food businesses, retail businesses, private clubs, community theatres, convention centers, and certain breweries in areas where the sale of the beverage is lawful. The holder of a brewery permit may give its products to its employees and guests for consumption on the premises of the brewery. There are no provisions for retail permittees to hold malt beverage tastings. However, with the proper permit wine tastings are allowed at food businesses and wine shops. Wine tastings may also be held at special events for which a winery special event permit has been issued.

**BILL ANALYSIS:** House Bill 1595 would authorize the ABC Commission to issue two new permits:

- A malt beverage tasting permit that would allow malt beverage tastings at grocery stores and other food businesses
- A malt beverage special event permit that would authorize a brewery to give free samples and to sell its products by at trade shows, conventions, shopping malls, various festivals & other similar events approved by the ABC Commission

### **Malt Beverage Tasting Permit**

**Section 2** of the bill would create a malt beverage tasting permit that would be issuable to any food business holding an ABC permit for the retail sale of malt beverages. The relevant statutory definition of a food business is "*an 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 such as variety stores or drugstores, where food is regularly sold. A malt beverage tasting permit would authorize tastings on the premises, conducted and supervised by the holder of the permit. The bill would require that a representative of the brewery whose beverages are featured at the tasting be present, unless the wholesaler or a wholesaler's employee determined that no brewery representative is necessary. Wholesalers and representatives of the brewery that produced the malt beverage would be authorized to assist with the tastings by pouring samples and by checking identification. A malt beverage tasting is defined as the offering of a sample of one or more malt beverage products, without charge and in amounts of no more than two ounces for each sample, to customers of the business.

# House Bill 1595

Page 2

The bill specifies other conditions for malt beverage tastings, including the following:

- Retail permit holder would be required to designate an employee to actively supervise the tasting, and the employee would not be allowed to supervise more than three tasting areas
- No more than 6 malt beverages could be tasted at any one tasting area
- The tasting could not last longer than 4 hours from the designate starting time

The holder of the retail permit would be liable for any violations of ABC law in connection with the tasting. **Section 1** of the bill provides that the application fee for the malt beverage tasting permit would be \$100.00.

## **Malt Beverage Special Event Permit**

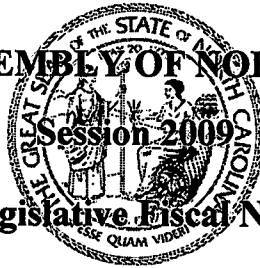
**Section 3** of the bill would authorize the ABC Commission to issue a malt beverage special event permit; **Section 4** would authorize the holder of a brewery permit to obtain a special event permit allowing the brewery to give free tastings of its malt beverages and to sell its malt beverages by the glass or in closed containers at trade shows, conventions, shopping malls, and various festivals, local fundraisers and other similar events approved by the ABC Commission. The permit would only be issuable in jurisdictions that have approved the sale of malt beverages. **Section 1** of the bill provides that the application fee for the malt beverage special event permit would be \$200.00.

Under G.S. 18B-903, the permits would be valid for one year; the renewal application fee would be 25% of the original application fee.

**EFFECTIVE DATE:** The bill would become effective October 1, 2009.

*H1595-SMRV-81(CSMA-17) v1*

# GENERAL ASSEMBLY OF NORTH CAROLINA



## Legislative Fiscal Note

**BILL NUMBER:** House Bill 1595 (First Edition)

**SHORT TITLE:** Malt Beverage Special Permit.

**SPONSOR(S):** Representatives Ross and Tillis

### FISCAL IMPACT

	Yes (X)	No ( )	No Estimate Available ( )		
	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>
<b>REVENUES</b>	\$95,700	\$43,125	\$52,525	\$64,000	\$78,100
<b>EXPENDITURES</b>	0	0	0	0	0

**POSITIONS (cumulative):**

**PRINCIPAL DEPARTMENT(S) &  
PROGRAM(S) AFFECTED:** ABC Commission

**EFFECTIVE DATE:** October 1, 2009

### BILL SUMMARY:

H.B. 1595 amends G.S. 18B-902(d) to establish an application fee for a new malt beverage special event permit (\$200) and a malt beverage tasting permit (\$100). The bill adds a new section G.S. 18B-1001(18) defining the conditions for a malt beverage tasting permit, which involve providing samples of beverages in amounts of no more than two ounces each, without charge. It establishes further guidelines for the tasting and includes liability provisions. H.B. 1595 also amends G.S. 18B-1100 to authorize the Alcoholic Beverage Control (ABC) Commission to issue a malt beverage special event permit and adds a new section G.S. 18B-1114.5 defining the conditions for such an event, which involves providing free tastings and selling beverages at trade shows, conventions, festivals, and other similar events approved by the Commission. Finally, the bill provides that such permits are valid only in jurisdictions that have approved the establishment of ABC stores or have approved the sale of malt beverages.

Source: *Adapted from the Bill Digest H.B. 1595 (05/05/2000).*

### Background

The Alcoholic Beverage Control Commission issues over 62 different types of permits, all established in statute. There are two main types of permits – retail permits for establishments selling alcohol to the general public (this would include restaurants and bars, as well as grocery stores and corner markets) and commercial permits for establishments either making alcohol

products (wineries, breweries, or distilleries) or selling those products to retail outlets for resale to the general public (liquor importers, malt beverage wholesalers, etc.). Commercial permits require a one-time initial license fee and remain valid indefinitely. Retail permits require an initial license fee, and in most cases require an annual renewal or registration fee. Proceeds from the sale of permits go to the General Fund.

#### **ASSUMPTIONS AND METHODOLOGY:**

This bill creates two new retail permits in G.S. 18B-902(d), a malt beverage special event permit and a malt beverage tasting permit.

#### **Malt Beverage Special Event Permit**

The malt beverage special event permit would be available to brewery permit holders. This permit is identical to the permit available for wine special events. Winery special events permits are available to holders of unfortified and limited winery permits, wine producer permits, and viticulture or enology course permits. In order to estimate the number of breweries that would apply for special events permits, the ratio of unfortified and limited winery permit holders, wine producers permit holders, and viticulture/enology course permit holders to winery special event permits was calculated. In 2009, there are 88 unfortified winery permits, no limited winery permits, 17 wine producer permits, and one viticulture/enology course permit, for a total of 106 permit holders eligible for the special event permit. However, only 86 winery special event permits have been issued in 2009. Therefore, based on current permit holders, 81% of those eligible for a wine special event permit applied for one.

There are currently 40 brewery permit holders in the State. If 81% of those breweries applied for a special event permit, 32 permits might be issued. The bill establishes a permit fee of \$200 for the malt beverage special event permit. Therefore, the new permit will generate \$6,400 in permit fees. (\$200 multiplied by 32 permits equals \$6,400.) To the extent that the number of special event permit holders estimated is incorrect, this figure may be over- or underestimated. Since the malt beverage special event permit is a commercial permit, there is no renewal or registration fee associated with it. Therefore, no permit fees will be generated in addition to the initial permit fee.

To determine the rate at which the number of permit holders might increase over the next five years, a history of winery special event permits was examined. The table below provides the number of winery special event permits held each year, along with the percent increase in number of permit holders over the prior year. The average percent increase over this five year period was 19%.

<b>Winery Special Event Permits Since FY 2004-05</b>					
<b>Fiscal Year</b>	<b>2004-05</b>	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>	<b>2008-09</b>
<b>Winery Special Event Permits</b>	43	54	67	80	86
<b>Increase Over Prior Year</b>		26%	24%	19%	8%

The following table shows the number of new permits that would be issued each year if the malt beverage special event permits increased at the same average rate as the winery special event permits. This table also provides the estimated revenue that would be generated from those new permits assuming the fee remained \$200.

<b>Estimated Malt Beverage Special Event Permits</b>					
<b>Fiscal Year</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>
<b>Malt Beverage Special Event Permits</b>	32	6	7	9	10
<b>New Permit Revenue Generated</b>	\$6,400	\$1,200	\$1,400	\$1,600	\$2,000

#### **Malt Beverage Tasting Permits**

The tasting permit would be available to holders of malt beverage off-premise permits. In order to estimate the number of malt beverage off-premise permit holders that would apply for tasting permits, the ratio of off-premise unfortified wine permit holders to wine tasting permits was calculated. (Both unfortified and fortified wine permit holders are eligible to obtain a wine tasting permit. However, in many cases, establishments hold both types of permits. In order to avoid double counting, for the purposes of this note, only unfortified wine permits were used to determine the rate of wine tasting permits issued.) In 2009, there are 6,074 establishments with off-premise unfortified wine permits, and 747 with wine tasting permits. Therefore, based on current permit holders, 12% of those eligible for a wine tasting permit applied for one.

There are currently 7,449 off-premise malt beverage permit holders in the State. If 12% of those establishments applied for a malt beverage tasting permit, 893 permits might be issued. The bill establishes a permit fee of \$100 for the malt beverage tasting permit. Therefore, the new permit will generate \$89,300 in initial permit fees. (\$100 multiplied by 893 permits equals \$89,300.) To the extent that the number of tasting permit holders estimated is incorrect, this figure may be over- or underestimated. Since the malt beverage tasting permit is a retail permit, the renewal fee each year will be 25% of the initial permit fee, or \$25.

To determine the rate at which the number of permit holders might increase over the next five years, a history of wine tasting permits was examined. The table below provides the number of wine tasting permits held each year, along with the percent increase in number of permit holders over the prior year. The average percent increase over this five year period was 22%.

<b>Wine Tasting Permits Since FY 2004-05</b>					
<b>Fiscal Year</b>	<b>2004-05</b>	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>	<b>2008-09</b>
<b>Wine Tasting Permits</b>	344	411	460	566	747
<b>Increase Over Prior Year</b>		19%	12%	23%	32%

The following table shows the number of new permits that would be issued each year if the malt beverage tasting permits increased at the same average rate as the wine tasting permits. This table also provides the estimated revenue that would be generated from those new permits assuming the fee remained \$100, and the amount generated by permit renewals, assuming a 100% renewal rate.

<b>Estimated Malt Beverage Tasting Permits Since FY 2004-05</b>					
<b>Fiscal Year</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>
<b>Malt Beverage Tasting Permits</b>	893	196	240	292	357
<b>New Permit Revenue Generated</b>	\$89,300	\$19,600	\$23,900	\$29,200	\$35,600
<b>Permit Renewal Revenue Generated</b>	\$0	\$22,325	\$27,225	\$33,200	\$40,500

The following table shows the total estimated revenue that will be generated by the two new permits authorized by H.B. 1595. The total estimated revenue in the first year will be \$95,700. This estimate assumes the permit fees will remain the same for the next five years and that all tasting permit holders will renew their permits. To the extent that these assumptions are incorrect, this revenue estimate may be over- or underestimated.

<b>Total Estimated Revenue Resulting from H.B. 1595</b>					
<b>Fiscal Year</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>
<b>Malt Beverage Special Events Permits</b>	\$6,400	\$1,200	\$1,400	\$1,600	\$2,000
<b>Malt Beverage Tasting Initial Permits</b>	\$89,300	\$19,600	\$23,900	\$29,200	\$35,600
<b>Malt Beverage Tasting Permit Renewal</b>	\$0	\$22,325	\$27,225	\$33,200	\$40,500
<b>Total</b>	<b>\$95,700</b>	<b>\$43,125</b>	<b>\$52,525</b>	<b>\$64,000</b>	<b>\$78,100</b>

All ABC permits are issued by the Alcoholic Beverage Control (ABC) Commission. The Commission has indicated that there will be no additional operating expenses resulting from this bill. Therefore, no expenditures are anticipated.

**SOURCES OF DATA:** ABC Commission

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION:** (919) 733-4910

**PREPARED BY:** Kristine Leggett

**APPROVED BY:** Marilyn Chism, Director  
Fiscal Research Division

**DATE:** May 12, 2009



Signed Copy Located in the NCGA Principal Clerk's Offices

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

**H**

**D**

**HOUSE BILL 1595  
PROPOSED COMMITTEE SUBSTITUTE H1595-CSMA-17 [v.4]**

5/19/2009 12:50:46 PM

Short Title: Malt Beverage Special Permit.

(Public)

Sponsors:

Referred to:

May 6, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE  
CONTROL COMMISSION TO ISSUE MALT BEVERAGE SPECIAL EVENT  
PERMITS AND MALT BEVERAGE TASTING PERMITS IN THE SAME OR SIMILAR  
MANNER AS WINE.

Whereas, in 2001 the North Carolina General Assembly approved wine tasting  
permits and winery special event permits and affirmed and clarified these permits in 2005; and

Whereas, North Carolina's wineries have blossomed into a \$1,000,000,000 industry  
in North Carolina creating jobs and furthering North Carolina's visibility as a tourism  
destination; and

Whereas, North Carolina wineries have helped transform communities and served  
as an economic engine; and

Whereas, North Carolina's craft brewers are also a growing industry in North  
Carolina with more than 20 craft breweries located in North Carolina; and

Whereas, North Carolina's craft brewers could also serve as an economic engine  
throughout North Carolina and create jobs and serve as a tourist draw; and

Whereas, North Carolina is now being recognized as a highly respected State for  
specialty malt beverages; and

Whereas, the creation of a malt beverage special event permit and a malt beverage  
tasting permit will help grow this industry in a similar fashion as similar actions taken by the  
North Carolina General Assembly have helped grow North Carolina's wine industry; Now,  
therefore,

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.



\* H 1 5 9 5 - C S M A - 1 7 - V - 4 \*

- (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) Repealed by Session Laws 2005-380, s. 1, effective September 8, 2005, and applicable to wine shipper permit applications submitted on or after that date.
- (37) Wine shop permit – \$100.00.
- (38) Winemaking on premises permit – \$400.00.
- (39) Wine shipper packager permit – \$100.00.
- (40) Malt beverage special event permit – \$200.00.
- (41) Malt beverage tasting permit – \$100.00."

SECTION 2. G.S. 18B-1001 is amended by adding a new subdivision to read:

"(18) Malt Beverage Tasting Permit. – A malt beverage tasting permit authorizes malt beverage tastings on a premises holding a retail permit, by the retail permit holder or his employee. A representative of the brewery whose beverages are being featured at the tasting shall be present at the tasting unless the wholesaler, or a wholesaler's employee, determines that no representative of the brewery needs to be present. A malt beverage tasting consists of the offering of a sample of one or more malt beverage products, in amounts of no more than two ounces for each sample, without charge, to customers of the business. Any persons pouring malt beverage at a malt beverage tasting shall be at least 21 years of age.

a. Representatives of the brewery which produced the malt beverage, a wholesaler, or a wholesaler's employee may assist with the tasting. Assisting with a malt beverage tasting includes:

1. Pouring samples for customers.



2. Checking the identification of patrons being served at the malt beverage tasting.

b. When a representative of the brewery that produced the malt beverage, a malt beverage wholesaler, or a malt beverage wholesaler's employee assists in a malt beverage tasting conducted by a retail permit holder:

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

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

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

4. The malt beverage 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 this Chapter occurring in connection with the malt beverage 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 malt beverages, and that the tastings are not used by industry members for unlawful inducements to retail permit holders. Except for purposes of this subdivision, the holder of a malt beverage 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 malt beverage tasting permit."

SECTION 3. G.S. 18B-1100 reads as rewritten:

"§ 18B-1100. Commercial permits.

The Commission may issue the following commercial permits:

- (1) Unfortified winery
- (2) Fortified winery
- (3) Limited winery
- (4) Brewery
- (5) Distillery
- (6) Fuel alcohol
- (7) Wine importer
- (8) Wine wholesaler
- (9) Malt beverages importer
- (10) Malt beverages wholesaler
- (11) Bottler
- (12) Salesman
- (13) Vendor representative
- (14) Nonresident malt beverage vendor
- (15) Nonresident wine vendor
- (16) Winery special show
- (17) Liquor importer/bottler permit
- (18) Cider and vinegar ~~manufacturer~~ manufacturer
- (19) Wine producer ~~permit~~ permit
- (20) Malt beverage special event permit."

SECTION 4. Article 11 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-1114.5. Authorization of malt beverage special event permit.

1       (a) Authorization. – The holder of a brewery, malt beverage importer, or nonresident  
2 malt beverage vendor permit may obtain a malt beverage special event permit allowing the  
3 brewery to give free tastings of its malt beverages and to sell its malt beverages by the glass or  
4 in closed containers at trade shows, conventions, shopping malls, malt beverage festivals, street  
5 festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other  
6 similar events approved by the Commission.

7       (b) Limitation. – A malt beverage special event permit is valid only in a jurisdiction that  
8 has approved the establishment of ABC stores or has approved the sale of malt beverages. A  
9 malt beverage special event shall not be used as subterfuge for malt beverages suppliers to ship  
10 directly to retail permittees unless otherwise authorized by law."

11       **SECTION 6.** This act becomes effective October 1, 2009.

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

**H**

**D**

**HOUSE BILL 1595  
PROPOSED COMMITTEE SUBSTITUTE H1595-CSMA-17 [v.3]**

5/11/2009 2:13:38 PM

Short Title: Malt Beverage Special Permit.

(Public)

Sponsors:

Referred to:

May 6, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO AUTHORIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE  
3 CONTROL COMMISSION TO ISSUE MALT BEVERAGE SPECIAL EVENT  
4 PERMITS AND MALT BEVERAGE TASTING PERMITS IN THE SAME OR SIMILAR  
5 MANNER AS WINE.

6 Whereas, in 2001 the North Carolina General Assembly approved wine tasting  
7 permits and winery special event permits and affirmed and clarified these permits in 2005; and

8 Whereas, North Carolina's wineries have blossomed into a \$1,000,000,000 industry  
9 in North Carolina creating jobs and furthering North Carolina's visibility as a tourism  
10 destination; and

11 Whereas, North Carolina wineries have helped transform communities and served  
12 as an economic engine; and

13 Whereas, North Carolina's craft brewers are also a growing industry in North  
14 Carolina with more than 20 craft breweries located in North Carolina; and

15 Whereas, North Carolina's craft brewers could also serve as an economic engine  
16 throughout North Carolina and create jobs and serve as a tourist draw; and

17 Whereas, North Carolina is now being recognized as a highly respected State for  
18 specialty malt beverages; and

19 Whereas, the creation of a malt beverage special event permit and a malt beverage  
20 tasting permit will help grow this industry in a similar fashion as similar actions taken by the  
21 North Carolina General Assembly have helped grow North Carolina's wine industry; Now,  
22 therefore,

23 The General Assembly of North Carolina enacts:

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- 30 (4) Off-premises unfortified wine permit - \$400.00.
- 31 (5) On-premises fortified wine permit - \$400.00.
- 32 (6) Off-premises fortified wine permit - \$400.00.
- 33 (7) Brown-bagging permit - \$400.00, unless the application is for a restaurant  
34 seating less than 50, in which case the fee shall be \$200.00.

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1. Pouring samples for customers.

2. Checking the identification of patrons being served at the malt beverage tasting.
- b. When a representative of the brewery that produced the malt beverage, a malt beverage wholesaler, or a malt beverage wholesaler's employee assists in a malt beverage tasting conducted by a retail permit holder:
  1. The retail permit holder shall designate an employee to actively supervise the malt beverage tasting.
  2. A retail permit holder's employee shall not supervise more than three malt beverage tasting areas.
  3. No more than six malt beverages may be tasted at any one tasting area.
  4. The malt beverage 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 this Chapter occurring in connection with the malt beverage 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 malt beverages, and that the tastings are not used by industry members for unlawful inducements to retail permit holders. Except for purposes of this subdivision, the holder of a malt beverage 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 malt beverage tasting permit."

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1       (a)   Authorization. – The holder of a brewery permit may obtain a malt beverage special  
2   event permit allowing the brewery to give free tastings of its malt beverages and to sell its malt  
3   beverages by the glass or in closed containers at trade shows, conventions, shopping malls,  
4   malt beverage festivals, street festivals, holiday festivals, agricultural festivals, balloon races,  
5   local fund-raisers, and other similar events approved by the Commission.

6       (b)   Limitation. – A malt beverage special event permit is valid only in a jurisdiction that  
7   has approved the establishment of ABC stores or has approved the sale of malt beverages. A  
8   malt beverage special event shall not be used as subterfuge for malt beverages suppliers to ship  
9   directly to retail permittees unless otherwise authorized by law."

10       **SECTION 6.** This act becomes effective October 1, 2009.

**2009 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

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

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

---

☐ Committee Substitute for

**HB 1595** A BILL TO BE ENTITLED AN ACT TO AUTHORIZE A MALT BEVERAGE SPECIAL EVENT PERMIT AND A MALT BEVERAGE TASTING PERMIT.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on FINANCE.

**(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

ABC

5.19.2009

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Kevin Davis	F-11/steam
Dean Plunkett	NCBWWA.
Jon Carr	NCLLA
Bob Kaulon	NCAU=
Fred Gregory	ABC
Mike Henning	NCLABC
Andy Ellen	NCLPWA
Elizabeth Dalton	NCLPWA
BILL HESTER	SW51
Bob	BCS
Alvin Davis	MNC



## VISITOR REGISTRATION SHEET

ABC

5.19.2009

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Barbara Condon	B&B
Garry Bewley	LBA
Orin Carlton	atly
Roger Knight	Alcohol Bev. Council
SEBASTIAN WOLFRUM	MATTY GREENE'S BREWING CO.
Sean Wilson	Fullsteam Brewery
John McMillan	WFS

## VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Ken Melton

Ken Melton & Assoc.

Tom Sri

Welle

Thomas C. Caves, Jr.

NC Dept. of Crime Control & Public Safety

Spaul Spaul

WCSTR

House Pages

Name of Committee: ABC Date: 5.19.2009

1. Name: Tim Costen  
County: Wake  
Sponsor: Darren Jackson
2. Name: Travis Newton  
County: Wake  
Sponsor: Speaker Hickley
3. Name: Drew Lopez  
County: Wake  
Sponsor: Ray Warren
4. Name: \_\_\_\_\_  
County: \_\_\_\_\_  
Sponsor: \_\_\_\_\_
5. Name: \_\_\_\_\_  
County: \_\_\_\_\_  
Sponsor: \_\_\_\_\_

Sgt.-At-Arms

- Name: Carlton Adams
1. Name: Mike Martin
  2. Name: \_\_\_\_\_
  3. Name: \_\_\_\_\_

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
AND  
BILL SPONSOR NOTIFICATION  
2009-2010 SESSION**

You are hereby notified that the Committee on Alcoholic Beverage Control will meet as follows:

**DAY & DATE:** Tuesday, June 2, 2009

**TIME:** 1:00 pm

**LOCATION:** 425 LOB

**COMMENTS:**

The following bills will be considered:

<b>BILL NO.</b>	<b>SHORT TITLE</b>	<b>SPONSOR</b>
SB 6	ABC Rules/Private Clubs.	Senator Boseman

Respectfully,  
Representative R. Warren, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 12 o'clock on **May 28, 2009**.

- ☐ Principal Clerk
- ☐ Reading Clerk – House Chamber

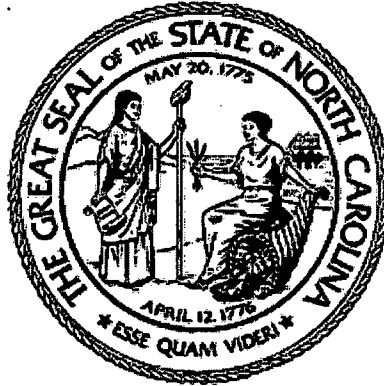
**Theresa Lopez** (Committee Assistant)

# ALCOHOL BEVERAGE CONTROL COMMITTEE

## AGENDA

June 2, 2009

- A. Welcome Members and guest to the ABC Committee
- B. Introduction of Sergeant –At-Arms and Pages
- C. **Senate Bill #6, ABC RULES/Private Clubs**  
Primary Bill Sponsor – Senator Boseman
- D. Open for Questions or Comments from the Committee
- E. Upcoming Business
- F. Adjourn



## Minutes

### Alcoholic Beverage Control Committee

Tuesday, June 2, 2009

1:00 p.m.

Room 425, Legislative office Building

The Alcoholic Beverage Control Committee met on Tuesday, June 2, 2009, at 1:00 p.m., in Room 425 of the Legislative Office Building. The following members were present: Representative Ray Warren, Chair; Representative Gibson, Spaulding-Hughes, Lucas, Co-Chairs; Representatives Bell, Coates, Daughtry, Grady, Jackson, Starnes, Steen, and Sutton.


Representative Warren, Chair called the meeting to order, welcomed the members and guest, and introduced the pages and the Sergeant at Arms staff. The visitor registration is attached.

#### **SB 6, ABC Rules/Private Clubs**

Senator Boseman, the bill sponsor was recognized to explain the bill; it would eliminate the waiting period for private clubs. The current law states the waiting period for membership to private clubs shall not exceed thirty days. Previously Representative Gibson presented HB1228 which is similar. Representative Sutton would like to know the difference in HB1228 and S6. Brenda Carter from staff was recognized to explain the difference. There is a provision in Representative Gibson's bill that would require the ABC Commission to examine the records of all violations for non-compliance for commission rules for ABC establishments operating as private clubs from July 1, 2009 to December 31, 2010 and report their findings in the 2011 regular session. Representative Sutton asked Senator Boseman if she would agree to the PCS that passed the House on May 14, 2009, she had no problem with that. Representative Lucas motioned for a favorable report as to the House Committee Substitute bill, unfavorable to the Senate Committee Substitute and recommendation that the

House Committee Substitute be re-referred to the Committee on Commerce,  
Small Business, and Entrepreneurship.

The meeting adjourned at 1:25 p.m.

  
Representative Ray Warren  
Theresa Lopez, Committee Assistant

**Attachments:**

Agenda  
Senate Bill 6  
Committee Report  
Visitor Registration



## SENATE BILL 6: ABC Rules/Private Clubs

2009-2010 General Assembly

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<b>Committee:</b>	House Alcoholic Beverage Control, if favorable, Commerce, Small Business, and Entrepreneurship	<b>Date:</b>	June 2, 2009
<b>Introduced by:</b>	Sen. Boseman	<b>Prepared by:</b>	Brenda J. Carter
<b>Analysis of:</b>	Second Edition		Committee Counsel

---

**SUMMARY:** *Senate Bill 6 would amend G.S. 18B-1008 concerning the authority of the ABC Commission to adopt rules concerning private clubs, by deleting the specific grant of authority to adopt a rule requiring that a private club have a waiting period for membership.*

**CURRENT LAW:** G.S. 18B-1000(5) defines a private club as "An establishment that is organized and operated solely for a social, recreational, patriotic, or fraternal purpose and that is not open to the general public, but is open only to the members of the organization and their bona fide guests." Under 18B-1001, when the issuance of the permit is lawful in the jurisdiction in which the premises are located, private clubs are eligible for on-premises beer and wine permits and mixed beverage or brown bagging permits.

G.S. 18B-1008 grants the ABC Commission "broad discretion in further defining the kinds of places eligible for permits." Rules may state the kind and amount of food that must be sold to qualify for a permit, the size of the establishment, the type of facilities, and other factors necessary to determine whether a business is a bona fide establishment of the type that is eligible for a permit. Rules concerning private clubs may also include, but need not be limited to, requirements that the club have a membership committee to review all applications for membership, that the club charge membership dues substantially greater than what would be paid by a one-time or casual user, that the club restrict use by nonmembers, that the club provide facilities or activities other than those directly related to the use of alcoholic beverages, and that the club have a waiting period for membership, not exceed 30 days. Pursuant to this statutory authority, the ABC Commission adopted Rule 2S.0107, which sets out special requirements for private clubs. The rule expands upon the definition of a private club by setting out "typical characteristics" that the Commission will consider in determining whether an establishment is indeed a private club -- such as whether membership is subject to clearly stated requirements, whether members can and do participate in its organizational affairs, and whether membership entitles a person to significant privileges other than the consumption of alcoholic beverages. In addition, the rule sets forth a number of mandatory requirements that an establishment must comply with in order to qualify as a private club -- including collection of an annual membership fee, requiring each prospective member to complete a written application, and a requirement that the establishment grant no membership sooner than three days after receipt of application.

**BILL ANALYSIS:** Senate Bill 6 would amend G.S. 18B-1008 concerning the authority of the ABC Commission to adopt rules concerning private clubs, by deleting the specific grant of authority to adopt a rule requiring that a private club have a waiting period for membership. This bill is substantially similar to House Bill 1228, which was passed by the House on May 14, 2009 and is now pending in the Senate Commerce Committee.

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

S6-SMRV-89(e2) v1



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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D

SENATE BILL 6  
Commerce Committee Substitute Adopted 5/12/09  
PROPOSED HOUSE COMMITTEE SUBSTITUTE S6-CSR-V-45 [v.1]

6/2/2009 12:27:00 PM

Short Title: ABC Rules/Private Clubs.

(Public)

Sponsors:

Referred to:

January 29, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO CLARIFY THE AUTHORITY OF THE ABC COMMISSION TO ADOPT  
3 RULES CONCERNING PRIVATE CLUBS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 18B-1008 reads as rewritten:

6 "**§ 18B-1008. Rules concerning retail permits.**

7 The Commission is authorized to use broad discretion in further defining the kinds of places  
8 eligible for permits under this Article. The rules may state the kind and amount of food that  
9 shall be sold to qualify in each category, the relationship between food sales and other receipts,  
10 the size of the establishment required for each category, the kinds of facilities needed to  
11 qualify, the kinds of activities at which alcoholic beverages may not be sold, and any other  
12 matters which are necessary to determine which businesses are bona fide establishments of the  
13 kinds listed in G.S. 18B-1000. Rules concerning private clubs may also ~~include, but need not~~  
14 ~~be limited to, include~~ requirements that the club have a membership committee to review all  
15 applications for membership, that the club charge membership dues substantially greater than  
16 what would be paid by a one-time or casual user, that the club restrict use by nonmembers, and  
17 that the club provide facilities or activities other than those directly related to the use of  
18 alcoholic beverages. ~~beverages, and that the club have a waiting period for membership. A~~  
19 ~~waiting period required by the Commission shall not exceed 30 days."~~

20 SECTION 2. The Alcoholic Beverage Control Commission shall examine on a  
21 continuing basis the record of violations and noncompliance with Commission rules for ABC  
22 establishments operating as private clubs, and shall report its findings to the Joint Legislative  
23 Corrections, Crime Control, and Juvenile Justice Oversight Committee. The report shall be  
24 submitted prior to the convening of the 2011 Regular Session of the General Assembly, and  
25 shall include the period from July 1, 2009, through December 31, 2010.

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



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

S

2

SENATE BILL 6  
Commerce Committee Substitute Adopted 5/12/09

Short Title: ABC Rules/Private Clubs.

(Public)

Sponsors:

Referred to:

January 29, 2009

1

A BILL TO BE ENTITLED

2

AN ACT TO CLARIFY THE AUTHORITY OF THE ABC COMMISSION TO ADOPT  
RULES CONCERNING PRIVATE CLUBS.

3

4

The General Assembly of North Carolina enacts:

5

**SECTION 1. G.S. 18B-1008 reads as rewritten:**

6

**"§ 18B-1008. Rules concerning retail permits.**

7

The Commission is authorized to use broad discretion in further defining the kinds of places eligible for permits under this Article. The rules may state the kind and amount of food that shall be sold to qualify in each category, the relationship between food sales and other receipts, the size of the establishment required for each category, the kinds of facilities needed to qualify, the kinds of activities at which alcoholic beverages may not be sold, and any other matters which are necessary to determine which businesses are bona fide establishments of the kinds listed in G.S. 18B-1000. Rules concerning private clubs may also include, but need not be limited to, requirements that the club have a membership committee to review all applications for membership, that the club charge membership dues substantially greater than what would be paid by a one-time or casual user, that the club restrict use by nonmembers, and that the club provide facilities or activities other than those directly related to the use of alcoholic beverages. ~~beverages, and that the club have a waiting period for membership. A waiting period required by the Commission shall not exceed 30 days.~~"

18

19

20

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



**2009 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

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

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

---

☒ Committee Substitute for

**SB 6** A BILL TO BE ENTITLED AN ACT TO CLARIFY THE AUTHORITY OF THE ABC COMMISSION TO ADOPT RULES CONCERNING PRIVATE CLUBS.

☒ With a favorable report as to the House committee substitute bill, unfavorable as to Senate Committee Substitute Bill and recommendation that the House committee substitute bill be re-referred to the Committee on COMMERCE, SMALL BUSINESS, AND ENTREPRENEURSHIP.

**(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

ABC  
Name of Committee

6/2/09  
Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME	FIRM OR AGENCY AND ADDRESS
Rev. Mark Crichton	CAL
Bill Chandler	ALE
Don Taylor	ALE
John Allen	NMRS
Patricia Barker	
Seth Palmer	Rep. Holliman
Jon Carr	NZRLA
Ashley Bell	American Cancer Society
Allison Waller	Charlotte Chamber
Ken Melton	K. M. A.

House Pages

Name of Committee: ABC

Date: 6/2/09

1. Name: Bonnie Blackburn

County: Forsyth

Sponsor: Bill Mctee

2. Name: Rogers Clark

County: Bladen

Sponsor: Brisson

3. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

4. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

5. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

Sgt-At-Arms

1. Name: Tom Wiedn

2. Name: David Shearon

3. Name: Martha Gadison

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
AND  
BILL SPONSOR NOTIFICATION  
2009-2010 SESSION**

You are hereby notified that the Committee on **Alcoholic Beverage Control** will meet as follows:

**DAY & DATE:** Tuesday, July 7, 2009

**TIME:** 1:00 pm

**LOCATION:** 425 LOB

**COMMENTS:**

The following bills will be considered:

<b>BILL NO.</b>	<b>SHORT TITLE</b>	<b>SPONSOR</b>
SB 68	ABC Stores/School/Guilford.	Senator Dorsett

Respectfully,  
Representative R. Warren, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 9 o'clock on **July 01, 2009**.

- ☐ Principal Clerk
- ☐ Reading Clerk – House Chamber

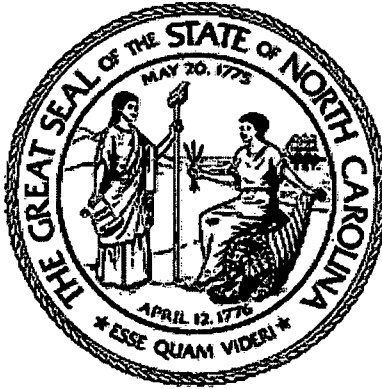
**Theresa Lopez** (Committee Assistant)

# ALCOHOL BEVERAGE CONTROL COMMITTEE

## AGENDA

July 7, 2009

- A. Welcome Members and guest to the ABC Committee
- B. Introduction of Sergeant –At-Arms and Pages
- C. Senate Bill #68 ABC Stores/School/Guilford  
Primary Bill Sponsor – Senator Dorsett
- D. Open for Questions or Comments from the Committee
- E. Upcoming Business
- F. Adjourn



## Minutes

### Alcoholic Beverage Control Committee

Tuesday, July 7, 2009

1:00 p.m.

Room 425, Legislative office Building

The Alcoholic Beverage Control Committee met on Tuesday, July 7, 2009, at 1:00 p.m., in Room 425 of the Legislative Office Building. The following members were present: Representative Ray Warren, Chair; Representative Gibson, Lucas, Spaulding-Hughes, Co-Chairs; Representatives Bell, Brown, Coates, Daughtry, Starnes, Steen, and Sutton.

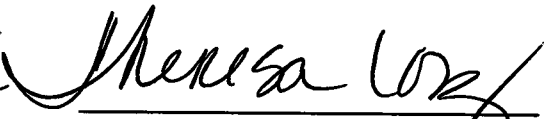
Representative Warren, Chair called the meeting to order, and welcomed the members and guest, and introduced the pages and the Sergeant at Arms staff. The visitor registration is attached.

#### **SB 68, ABC Stores/School/Guilford**

Senator Dorsett, the bill sponsor was recognized to explain the bill; it would authorize the ABC Commission to approve the location of an ABC Store that has been approved by the local ABC Board, not to be located within 1000 feet of Church, Public School, or Non-Public School. Representative Bell motioned for a favorable report. The motion was carried.

The meeting adjourned at 1:10 p.m.

  
Representative Ray Warren

  
Theresa Lopez, Committee Clerk



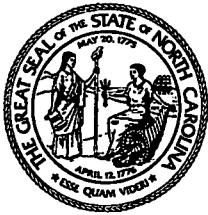
**Attachments:**

**Agenda**

**Senate Bill 68**

**Committee Report**

**Visitor Registration**



## SENATE BILL 68: ABC Stores/School/Guilford

2009-2010 General Assembly

**Committee:** House Alcoholic Beverage Control  
**Introduced by:** Sen. Dorsett  
**Analysis of:** Third Edition

**Date:** July 7, 2009  
**Prepared by:** Brenda J. Carter  
Committee Counsel

**SUMMARY:** *Senate Bill 68 would allow the State Alcoholic Beverage Commission, in deciding where to allow an ABC store in Guilford County, to consider whether the store is within 1,000 feet of a church, public school, or nonpublic school.*

**CURRENT LAW:** Under 18B-801, a local board may choose the location of the ABC stores within its jurisdiction, subject to the approval of the ABC Commission. In making its decision on a location, the Commission may consider:

- (1) Whether the health, safety, or general welfare of the community will be adversely affected; and
- (2) Whether the citizens of the community or city in which the proposed store is to be located voted for or against ABC stores in the last election on the question.

Under rules adopted by the ABC Commission, the opening of a new ABC store will not be approved by the Commission unless at least 30 days notice is given to the Chair of the Commission as to the intended location of the store, and until a public notice has been posted at the intended location for at least 30 days. The Commission will consider objections to the opening of a new ABC store upon a showing that the local board has either considered and overruled or ignored the objections. The rules provide that new stores should not be opened in any area which is principally residential, in unreasonable proximity to any church, school or similar institution, in any slum district or other similarly undesirable area or at any location where there is not sufficient parking to avoid traffic congestion.

**BILL ANALYSIS:** Senate Bill 68 would amend the law to authorize the State ABC Commission to consider whether a proposed ABC store is located within 1,000 feet of a church or school, before approving the location of the store. The bill is a local act that would apply to Guilford County only.

**EFFECTIVE DATE:** The bill would become effective December 1, 2009, and would apply to ABC permits issued in Guilford County on or after that date.

S68-SMRV-112(e3) v1

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

S

3

SENATE BILL 68  
Commerce Committee Substitute Adopted 4/29/09  
House Committee Substitute Favorable 6/18/09

Short Title: ABC Stores/School/Guilford.

(Local)

Sponsors:

Referred to:

February 5, 2009

1

A BILL TO BE ENTITLED

2

AN ACT TO ALLOW THE ALCOHOLIC BEVERAGE CONTROL COMMISSION, IN  
DECIDING ON THE LOCATION OF AN ABC STORE IN GUILFORD COUNTY, TO  
CONSIDER WHETHER IT IS WITHIN ONE THOUSAND FEET OF A CHURCH,  
PUBLIC SCHOOL, OR A NONPUBLIC SCHOOL, AS DEFINED IN PART 1 OR PART  
2 OF ARTICLE 39 OF CHAPTER 115C OF THE GENERAL STATUTES.

6

The General Assembly of North Carolina enacts:

8

SECTION 1. G.S. 18B-801(b) reads as rewritten:

9

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

12

(1) Whether the health, safety, or general welfare of the community will be  
adversely affected; ~~and affected;~~

13

14

(2) Whether the citizens of the community or city in which the proposed store is  
to be located voted for or against ABC stores in the last election on the  
~~question-question; and~~

15

16

17

(3) Whether the proposed ABC store is located within 1,000 feet of a church,  
public school, or any nonpublic school under Part 1 or Part 2 of Article 39 of  
Chapter 115C of the General Statutes."

18

19

20

SECTION 2. This act applies only to Guilford County.

21

22

SECTION 3. This act becomes effective December 1, 2009, and applies to ABC  
permits issued in Guilford County on or after that date.



**2009 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

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

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

☒ Committee Substitute for

**SB 68** A BILL TO BE ENTITLED AN ACT TO ALLOW THE ALCOHOLIC BEVERAGE CONTROL COMMISSION, IN DECIDING ON THE LOCATION OF AN ABC STORE IN GUILFORD COUNTY, TO CONSIDER WHETHER IT IS WITHIN ONE THOUSAND FEET OF A CHURCH, PUBLIC SCHOOL, OR A NONPUBLIC SCHOOL, AS DEFINED IN PART 1 OR PART 2 OF ARTICLE 39 OF CHAPTER 115C OF THE GENERAL STATUTES.

☒ 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 \_\_\_\_\_.

## VISITOR REGISTRATION SHEET

Name of Committee

**Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

**NAME****FIRM OR AGENCY AND ADDRESS**[illegible]

# VISITOR REGISTRATION SHEET

Name of Committee

**Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

**NAME****FIRM OR AGENCY AND ADDRESS**

Jon Carr

## NK Act of ABZ Board

# Emily Wilbourne

TPG

Elizabeth Dalton

NCRWA

Gary Harris

NCPCM

Dong Hwong

NCPWM

306c  
9/5-8361

25

HOUSE PAGES

NAME OF COMMITTEE ABC DATE 7-7-09

1. Name: Daniel Adams

County: Wake

Sponsor: McComas

2. Name: Bradley James

County: New Hanover

Sponsor: McComas

3. Name: Andri Harrison

County: Guilford

Sponsor: Harrison

4. Name: Sarah Farland

County: Guilford

Sponsor: Harrison

5. Name: Jay/Marcus Mitchell - Honoring Page

County: Shandra Spaulding Hughes  
Centerville, Va

Sponsor: \_\_\_\_\_

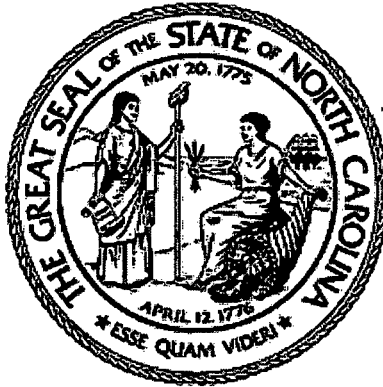
SGT-AT-ARM

1. Name: MARVIN LEE

2. Name: KEN Burrough

3. Name: MARTHA PARRISH

4. Name: \_\_\_\_\_



## **Minutes**

### **Alcoholic Beverage Control Committee**

Thursday August 6, 2009


7:25 p.m.

Room 425, Legislative office Building

The Alcoholic Beverage Control Committee met on Thursday, August 6, 2009 @ 7:25 p.m., in Room 425 of the Legislative Office Building. The following members were present: Representative Ray Warren, Chair; Representatives Gibson, Spaulding-Hughes, Lucas, Vice-Chairs; Representatives Coates, Jackson, Lewis, Starnes, and Steen.

Representative Warren, Chair called the meeting to order, **HB 667, 2009 Viticulture/Enology Act** was on the agenda for concurrence with the Senate. Representative Lucas motioned to concur with the Senate and the motioned carried.

The Committee adjourned at 7:28 p.m.

  
Representative Ray Warren, Chair

  
Theresa Lopez, Committee Assistant



**2009 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

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

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

☒ Committee Substitute for

**HB 667** A BILL TO BE ENTITLED AN ACT TO AMEND THE STATE'S ABC LAWS TO CREATE AN EXEMPTION FOR ACCREDITED COMMUNITY COLLEGES, COLLEGES, AND UNIVERSITIES FOR THE MANUFACTURE, POSSESSION, AND CONSUMPTION OF ALCOHOLIC BEVERAGES FOR THE PURPOSE OF CONDUCTING SCIENTIFIC, CHEMICAL, PHARMACEUTICAL, MECHANICAL, INDUSTRIAL, AND EDUCATIONAL RESEARCH, TO ALLOW THE HOLDER OF A VITICULTURE/ENOLOGY COURSE AUTHORIZATION TO SELL UNFORTIFIED WINE AT A NON-CAMPUS LOCATION, TO ALLOW WINE PRODUCERS AND WINERIES HOLDING AN OFF-PREMISES UNFORTIFIED WINERY PERMIT TO SELL UNFORTIFIED WINE AT THEIR PREMISES DURING BUSINESS HOURS AND TO ALLOW WINERIES TO SELL THEIR WINE AT AN ADDITIONAL LOCATION IN THE COUNTY UNDER SPECIFIED CONDITIONS, AND TO AMEND THE DEFINITION OF SPORTS CLUB TO INCLUDE CERTAIN EQUESTRIAN CENTERS.

☒ With recommendation that the House concur.

**(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 \_\_\_\_\_.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

H

4

**HOUSE BILL 667**  
**Committee Substitute Favorable 5/6/09**  
**Senate Commerce Committee Substitute Adopted 7/14/09**  
**Fourth Edition Engrossed 7/15/09**

Short Title: 2009 Viticulture/Enology Act.

(Public)

Sponsors:

Referred to:

March 19, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE STATE'S ABC LAWS TO CREATE AN EXEMPTION FOR  
3 ACCREDITED COMMUNITY COLLEGES, COLLEGES, AND UNIVERSITIES FOR  
4 THE MANUFACTURE, POSSESSION, AND CONSUMPTION OF ALCOHOLIC  
5 BEVERAGES FOR THE PURPOSE OF CONDUCTING SCIENTIFIC, CHEMICAL,  
6 PHARMACEUTICAL, MECHANICAL, INDUSTRIAL, AND EDUCATIONAL  
7 RESEARCH, TO ALLOW THE HOLDER OF A VITICULTURE/ENOLOGY COURSE  
8 AUTHORIZATION TO SELL UNFORTIFIED WINE AT A NON-CAMPUS  
9 LOCATION, TO ALLOW WINE PRODUCERS AND WINERIES HOLDING AN  
10 OFF-PREMISES UNFORTIFIED WINERY PERMIT TO SELL UNFORTIFIED WINE  
11 AT THEIR PREMISES DURING BUSINESS HOURS AND TO ALLOW WINERIES TO  
12 SELL THEIR WINE AT AN ADDITIONAL LOCATION IN THE COUNTY UNDER  
13 SPECIFIED CONDITIONS, AND TO AMEND THE DEFINITION OF SPORTS CLUB  
14 TO INCLUDE CERTAIN EQUESTRIAN CENTERS.

15 The General Assembly of North Carolina enacts:

16 **SECTION 1.** G.S. 18B-103 is amended by adding a new subdivision to read:

17 "(5a) The manufacture, possession, and consumption of alcoholic beverages for  
18 the purpose of conducting scientific, chemical, pharmaceutical, mechanical,  
19 industrial, and educational research in connection with teaching, research, or  
20 extension programs conducted by, or under the supervision of, an instructor  
21 at an accredited community college, public or private college or university,  
22 or an extension agent in connection with educational programs and activities  
23 offered by the North Carolina Cooperative Extension Service."

24 **SECTION 2.** G.S. 18B-1114.4(a) reads as rewritten:

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

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



(4) Sell wines produced during the course, upon obtaining a permit under G.S. 18B-1001(4)."

SECTION 3. G.S. 18B-1001(4) reads as rewritten:

"(4) Off-Premises Unfortified Wine Permit. – An off-premises unfortified wine permit authorizes the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises and it authorizes the holder of the permit to ship unfortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for retail businesses. The permit may be issued to the holder of a viticulture/enology course authorization under G.S. 18B-1114.4. A school obtaining a permit under this subdivision is authorized to sell wines manufactured during its viticulture/enology program at one non-campus location in a county where the permittee holds and offers classes on a regular full-time basis in a facility owned by the permittee. The permit may also be issued for a winery or a wine producer for sale of its own unfortified wine. wine during hours when the winery or wine producer's premises is open to the public, subject to any local ordinance adopted pursuant to G.S. 18B-1004(d) concerning hours for the retail sale of unfortified wine. A winery obtaining a permit under this subdivision is authorized to sell wine manufactured by the winery at one additional location in the county under the same conditions specified in G.S. 18B-1101(5) for the sale of wine at the winery; provided, however, that no other alcohol sales shall be authorized at the additional location. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision."

SECTION 4. G.S. 18B-1000(8) reads as rewritten:

"(8) Sports club. – An establishment that meets either of the following requirements:

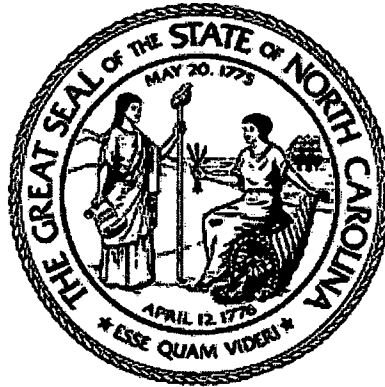
a. The establishment is substantially engaged in the business of providing equine boarding, training, and coaching services, and the establishment offers on-site dining, lodging, and meeting facilities and hosts horse trials and other events sanctioned or endorsed by the United States Equestrian Federation, Inc.; or

b. The establishment is substantially engaged in the business of providing an 18-hole golf course, two or more tennis courts, or both.

The sports club can either be open to the general public or to members and their guests. To qualify as a sports club, an establishment's gross receipts for club activities shall be greater than its gross receipts for alcoholic beverages. This provision does not prohibit a sports club from operating a restaurant. Receipts for food shall be included in with the club activity fee."

SECTION 5. Notwithstanding any other provision of law, funds appropriated to Bladen Community College for the renovation of the College's physical plant may also be used to cover a portion of the capital facilities costs of new construction projects at the College.

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



## **HOUSE COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL**

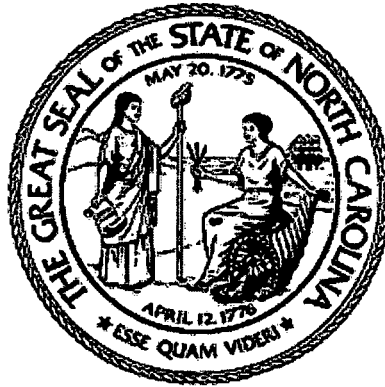
**Representative Ray Warren, Chairman**

**Representative Pryor Gibson, Vice-Chair**

**Representative Marvin Lucas, Vice-Chair**

**Representative Sandra Spaulding Hughes, Vice-Chair**

**2009-2010 Session**



# **HOUSE COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL**

## **Staff**

**Brenda Carter, Staff Attorney**

**Susan Sitze, Staff Attorney**

**Theresa Lopez, Committee Assistant**

**2009-2010 Session**

# ALCOHOLIC BEVERAGE CONTROL COMMITTEE

## Membership List 2009/2010

The Honorable Ray Warren – Co-Chair North Carolina House of Representatives 306C Legislative Office Building Raleigh, NC 27603	Email/Telephone Ray.Warren@ncleg.net Tel: 919-715-8361	The Honorable Sandra Spaulding Hughes North Carolina House of Representatives 537 Legislative office Building Raleigh, NC 27603	Email/Telephone Sandra.Hughes@ncleg.net Tel: 919-733-5754
The Honorable Larry M. Bell North Carolina House of Representatives 538 Legislative Office Building Raleigh, NC 27603	Email/Telephone Larry.Bell@ncleg.net Tel: 919-733-5863	The Honorable Darren G. Jackson North Carolina House of Representatives 301N Legislative Office Building Raleigh, NC 27603	Email/Telephone Darren.Jackson@ncleg.net Tel: 919-733-5974
The Honorable Larry R. Brown North Carolina House of Representatives 609 Legislative Office Building Raleigh, NC 27603	Email/Telephone Larry.Brown@ncleg.net Tel: 733-5607	The Honorable David R. Lewis North Carolina House of Representatives 533 Legislative Office Building Raleigh, NC 27603	Email/Telephone David.Lewis@ncleg.net Tel: 919-715-3015
The Honorable Lorene T. Coates North Carolina House of Representatives 633 Legislative Office Building Raleigh, NC 27603	Email/Telephone Lorene.Coats@ncleg.net Tel: 733-5784	The Honorable Marvin W. Lucas North Carolina House of Representatives 417A Legislative Office Building Raleigh, NC 27603	Email/Telephone Marvin.Lucas@ncleg.net Tel: 919- 733-5775
The Honorable N. Leo Daughtry North Carolina House of Representatives 1013 Legislative Building Raleigh, NC 27603	Email/Telephone Leo.Daughtry@ncleg.net Tel: 733-5605	The Honorable Edgar V. Starnes North Carolina House of Representatives 602 Legislative Office Building Raleigh, NC 27603	Email/Telephone Edgar.Starnes@ncleg.net Tel: 919- 733-5931
The Honorable Pryor Allan Gibson, III North Carolina House of Representatives 419A Legislative Office Building Raleigh, NC 27603	Email/Telephone Pryor.Gibson@ncleg.net Tel: 715-3007	The Honorable Fred F. Steen, II North Carolina House of Representatives 514 Legislative Office Building Raleigh, NC 27603	Email/Telephone Fred.Steen@ncleg.net Tel: 919- 733-5881
The Honorable Robert Grady North Carolina House of Representatives 302 Legislative Office Building Raleigh, NC 27603	Email/Telephone Robert.Grady@ncleg.net Tel: 715-9644	The Honorable Ronnie N. Sutton North Carolina House of Representatives 1321 Legislative Building Raleigh, NC 27603	Email/Telephone Ronnie.Sutton@ncleg.net Tel: 715-0875
Brenda Carter - Research Division Email - Brendac@ncleg.net	Telephone 919-733-2578	Susan Sitze - Research Division Email - Susans@ncleg.net	Telephone 919-733-2578

**NORTH CAROLINA GENERAL ASSEMBLY**

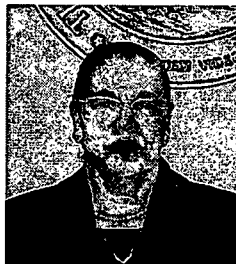
**ALCOHOLIC BEVERAGE CONTROL  
2009-2010 SESSION**



**Rep. Ray Warren**  
Chair



**Rep. Pryor Gibson**  
Vice Chair



**Rep. Sandra Spaulding  
Hughes**  
Vice Chair



**Rep. Marvin Lucas**  
Vice Chair



**Rep. Larry Bell**



**Rep. Larry Brown**



**Rep. Lorene Coates**



**Rep. Leo Daughtry**



**Rep. Robert Grady**



**Rep. Darren Jackson**



**Rep. David Lewis**



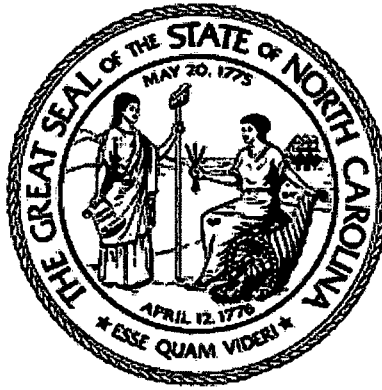
**Rep. Edgar Starnes**



**Rep. Fred Steen**



**Rep. Ronnie Sutton**



**ATTENDANCE**  
**ALCOHOLIC BEVERAGE CONTROL COMMITTEE**

[illegible]



# ROOM CHANGE

## **NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2009-2010 SESSION**

You are hereby notified that the Committee on Alcoholic Beverage Control will meet as follows:

**DAY & DATE:** Tuesday, June 8, 2010

**TIME:** 1:00 pm

**LOCATION:** 544-LOB

**COMMENTS:**

The following bills will be considered:

<b>BILL NO.</b>	<b>SHORT TITLE</b>	<b>SPONSOR</b>
HB 1717	Modernization of the State ABC System.	Representative Warren Representative Bell Representative Lucas

Respectfully,  
Representative R. Warren, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 1:00 o'clock on **June 07, 2009**.

- ☐ Principal Clerk
- ☐ Reading Clerk – House Chamber

**Theresa Lopez** (Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
AND  
BILL SPONSOR NOTIFICATION  
2009-2010 SESSION**

You are hereby notified that the Committee on **Alcoholic Beverage Control** will meet as follows:

**DAY & DATE:** Tuesday, June 8, 2010

**TIME:** 1:00 pm

**LOCATION:** 425 LOB

**COMMENTS:**

The following bills will be considered:

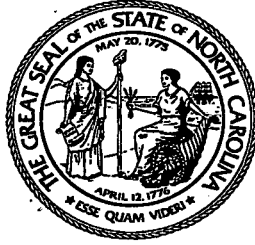
<b>BILL NO.</b>	<b>SHORT TITLE</b>	<b>SPONSOR</b>
HB 1717	Modernization of the State ABC System.	Representative Warren Representative Bell Representative Lucas

Respectfully,  
Representative R. Warren, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 12 o'clock on **June 03, 2009**.

Principal Clerk  
Reading Clerk – House Chamber

**Theresa Lopez** (Committee Assistant)



## **Alcoholic Beverage Control Committee**

---

### **AGENDA**

**June 8, 2010  
Room 544, Legislative Office Building  
1:00 PM**

### **WELCOME AND INTRODUCTORY REMARKS**

**Representative Ray Warren, Chairman**

**Representative Marvin Lucas, Vice-Chair**

### **INTRODUCTION**

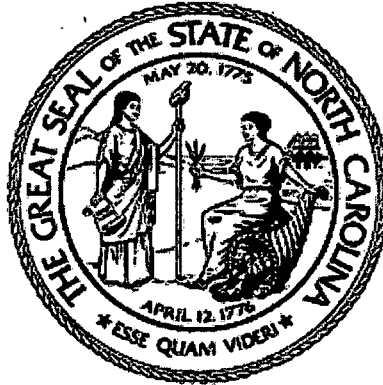
**HB #1717 – Modernization of the States ABC System**

#### **Sponsors**

**Representative Ray Warren  
Representative Larry Bell  
Representative Marvin Lucas**

### **COMMITTEE DISCUSSION**

### **ADJOURNMENT**



Minutes  
Alcoholic Beverage Control Committee

Tuesday, June 8, 2010  
1:00 p.m.  
Room 544, Legislative Office Building

The Alcoholic Beverage Control Committee met on Tuesday, June 8, 2010, at 1:00 p.m., in Room 544 of the Legislative Office Building. The following members were present: Representative Ray Warren, Chair; Representative Gibson, Spaulding-Hughes, Representative Lucas, Co-Chairs; Representatives Bell, Brown, Coates, Daughtry, Grady, Jackson, Lewis, Starnes, Steen, and Sutton. Senator Vaughan was also present.

Representative Warren, Chair called the meeting to order, and introduced the Committee Co-Chairs, Members, Staff and Committee Clerk. The pages and the Sergeant at Arms staff were also introduced. The visitor registration is attached.

Representative Warren requested Representative Lucas to the podium to chair the committee while he, Representative Warren moves to introduce a Proposed Committee Substitute for:

**HB 1717 Modernization of the State ABC System.**

After the introduction and explanation of the bill, at the direction of the chair Representative Warren asked for questions or comments.

Representative Lucas then recognized the committee member's who had amendments for HB1717.

The following amendments were sent forth for discussion.

Representative Hughes introduced amendment **H1717-ASA-61 [v.1]**. Motion passed.

Representative Gibson introduced amendment **H1717-ASA-60 [v.1]** Motion passed.

Representative Starnes introduced amendment **H1717-ARV-36 [v.2]**. Motion failed.

Representative Lewis motions to suspend the rules to continue the discussion of HB 1717 to 2:00 pm. The chair calls a vote, 5 no and 5 ayes. The chair voted aye to break the tie and the discussion continued till 2:00 p.m.

Representative Starnes introduced **H1717-ARV-35 [v.1]**. Representative Starnes requested the amendment be withdrawn.

Representative Lewis introduced amendment **H1717-ARV-34 [v.2]**. Motion passes.

Before the final vote on HB 1717, Representative Daughtry stated pursuant to the rules he would have a conflict of interest and requested to be excused from voting. Representative Lucas granted the request.

Representative Lewis motioned for a favorable report to the proposed committee substitute bill, unfavorable to the original bill and be re-referred to the committee on State Government and State Personnel. The motion passed.

The meeting adjourned at 2:01 pm.

---

Representative Ray Warren



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Theresa Lopez – Committee Assistant

**Attachments:**

Agenda

Visitor's Registration

House Bill 1717 & Summary

Amendments

H1717-ASA-61 [v.1] \* Representative Spaulding-Hughes

H1717-ASA-60 [v.1] \* Representative Pryor Gibson

H1717-ARV-35 [v.1] \* Representative Edgar Starnes

H1717-ARV-36 [v.2] \* Representative Edgar Starnes

Committee Report

## VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE  
CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Matt. Farrell	TPG
Terry Lopez	MWC
Lois Piercey	Ragdale Regelt
John Havelin	MF+S
Michelle Frazier	MF+S
John McMillan	MF+S
KRIS GARDNER	NCBWWA THARRINGTON SMITH, LLP
BRIAN AUSTIN	TRIANGLE BUSINESS JOURNAL
Gary Harris	NC Petroleum & C-Stores

# VISITOR REGISTRATION SHEET

ALCOHOLIC BEVERAGE CONTROL COMMITTEE JUNE 8, 2010

Name of Committee

Date.

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Wendy Kelly	POLICY GROUP
Emile Welbore	Policy Group
Nick Tesco	NCLM
DANIEL BIRN	TROUTMAN SANDERS
<del>BO. HENTZ</del>	malc
DICK CULTON	alleg.
Colleen Kochanek	Kochanek law Group
Angie Harris	Williams Mullen
Penny Griffin	School of Bar.
Brittany Farrell	NCFRC
DAVID BARNES	Payne Smull

## VISITOR REGISTRATION SHEET

ALCOHOLIC BEVERAGE CONTROL COMMITTEE JUNE 8, 2010

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Walter Harris	Chatham Co. ABC, 4515-501 Chapel Hill, NC
Kellie Stappes	Johnnie Locke Foundation
Rev. Marna Creech	CAZ
Jillie Greene	Alcohol Beverage Council
James [Signature]	Civitas
Gene Webb	CUMBERLAND COUNTY ABC
Bruce Shell	NEW HANOVER County MANAGER
Joe Wynn	NC ASSOC of ABC Bds
Weatherly Rose	Huntton + Williams
Thomas C. Caves, Jr.	NC Dept. of Crime Control & Public Safety
MARK SENTER	NC ALCOHOL LAW ENFORCEMENT

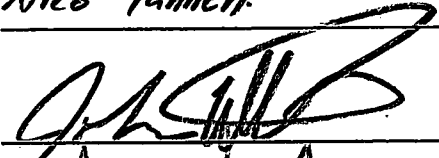

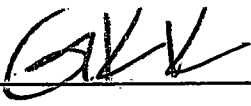


## VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE  
CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kelly Gmb	Leadership Union - Monroe, NC
Chad Hannon	Leadership Union County, Monroe, NC
Nico Lannell	LEADERSHIP Union County
	MWC
	NSS
	NSS
Amy McConkey	Nc Bev Assoc
Becki Gray	g & g
Amy Hobbs	MWC
John Merritt	MWC
Karen Leonard	NCACC

# VISITOR REGISTRATION SHEET

ALCOHOLIC BEVERAGE CONTROL COMMITTEE JUNE 8, 2010

Name of Committee

Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME	FIRM OR AGENCY AND ADDRESS
Lawless, Ryan	City of Wilmington
Amanda Corriker	City of Charlotte 6221 Lake Rd Charlotte NC.
Deborah Craig Ray	Durham County
Anthony Allen	meac
Susan Valami	NC
Phil Feagun	Gov's Office
Alice Garland	NCEL
Mike Henning	NC ABC Commission
William Riley	Vicki King
Paul Powell	APB Distr.
Agnes Stevens	NC ABC Commission

# VISITOR REGISTRATION SHEET

ALCOHOLIC BEVERAGE CONTROL COMMITTEE JUNE 8, 2010

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Jon Carr	NC Assoc ABC Boards
Steve McFay	Wine Distrib
Whitney Lundy	Whitney Lundy
Sharon Scudder	Sharon Scudder
Abraham Tark	NCACC
Thomas Jones	NCACC
Whitney Campbell	Jordan Price
Piggie Potter Jr.	NCBS/NAFTA -
Paul Hollman	Telam
John Allmy	NMRS
George Miller	Visitor

# VISITOR REGISTRATION SHEET

ALCOHOLIC BEVERAGE CONTROL COMMITTEE JUNE 8, 2010

Name of Committee

Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME	FIRM OR AGENCY AND ADDRESS
Kim Wolfe	Leadership Union
Susan Osma	" "
Nector Verma	" "
Dee Otte	" "
Kim Karpovich	" "
BRIAN J BORNE	" "
Maria Lander	" "
Andy Eller	NC RMVA
Ken Melton	K.M.A.
Elizabeth Dobson	NORMA

HOUSE PAGES

NAME OF COMMITTEE ABC DATE 6/8/10

1. Name: Julie Grabowski

County: Wake

Sponsor: Paul Stam

2. Name: Lizzy Sirkin

County: Craven

Sponsor: Underhill

3. Name: Bodderick Mallory

County: Halifax

Sponsor: May

4. Name: Fields Pierce

County: New Hanover

Sponsor: McCommas

5. Name: John Squire

County: New Hanover

Sponsor: McCommas

SGT-AT-ARM

1. Name: Thomas Wilder

2. Name: Bob Rossi

3. Name: Ken Burroughs

4. Name: Martha Madison

**2009 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

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

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

☐ Committee Substitute for

**HB 1717**

A BILL TO BE ENTITLED AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL SYSTEM, AS RECOMMENDED BY THE JOINT STUDY COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL.

☒ With a favorable report as to the committee substitute bill, *which changes the title,* unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on STATE GOVERNMENT/STATE PERSONNEL.

**(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.

PUBLIC BILL

H.B. 1717

SESSION LAW

A BILL TO BE ENTITLED

AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL SYSTEM, AS  
RECOMMENDED BY THE JOINT STUDY COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL.

Introduced by Representative(s): R. Warren. <sup>RRN</sup> Z. Bell, m.w. Lucas (Primary Sponsors)

• Harrison

For a complete list of cosponsors for this bill, please see the report inside the bill jacket.

Principal Clerk's Use Only

ISED 1st READING

MAY 17 2010

AND REFERRED TO COMMITTEE  
ON

ABC, D. Bow

at Government  
at Personnel



NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 1717\*

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

Page 1 of 1

H1717-ASA-61 [v.1]

Comm. Sub. [YES]  
Amends Title [NO]  
H1717-CSMA-32[v.9]

Date \_\_\_\_\_, 2010

Representative Hughes

- 1 moves to amend the bill on page 14, line 44
- 2 by deleting "Sections 8 and 10" and inserting "Sections 11 and 14";
- 3
- 4 and on page 14, line 46
- 5 by deleting "Section 13" and inserting "Section 17".
- 6
- 7

SIGNED *Samuel L. Hughes*  
Amendment Sponsor

SIGNED \_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_



\* H 1 7 1 7 - A S A - 6 1 - V - 1 \*





NORTH CAROLINA GENERAL ASSEMBLY

AMENDMENT

House Bill 1717\*

ABC Commission  
Chairman John Williams

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

H1717-ASA-60 [v.1]

Page 1 of 2

Comm. Sub. [YES]

Amends Title [NO]

H1717-CSMA-32[v.9]

Date \_\_\_\_\_, 2010

Representative

Gibson

1 moves to amend the bill on page 4, lines 15-18 by rewriting those lines to read:

2       "(20) Promulgate rules to establish performance standards for local boards.  
3       Performance standards established pursuant to this subdivision shall include,  
4       but not be limited to, standards that address enforcement of ABC laws, store  
5       appearance, operating efficiency, solvency, and customer service."  
6

7 and on page 12, line 37 through page 13 line 14 by rewriting those lines to read:

8       "**§ 18B-705. Compliance with performance standards; remedies.**

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

14       (b) Performance Improvement Plans. – The Commission, upon determining that a local  
15       board is failing to meet performance standards established pursuant to G.S. 18B-203(a)(20),  
16       shall meet with the chair of the local board and the appointing authority and issue a statement  
17       of findings. The appointing authority, in consultation with the Commission and the local board,  
18       shall develop for and deliver a performance improvement plan to the local board within 60 days  
19       of the meeting with the Commission. The performance improvement plan shall include, but not  
20       be limited to, recommendations for improved performance based on the performance standards  
21       established by the Commission. The plan shall also state a period of time in which the  
22       performance improvements are to occur and what action will be taken by the Commission if  
23       performance standards are not met within the given time limits. The appointing authority shall  
24       allow up to, but no more than, 12 months' time to the local board to implement and show  
25       improvement under the performance improvement plan. The local appointing authority, in  
26       consultation with the Commission and upon good cause shown, may allow up to an additional  
27       six-month period of time for the local board to meet all requirements in the performance  
28       improvement plan and to establish that the performance standards established by the  
29       Commission are met.

30       (c) Remedies. – If the Commission determines that the established performance  
31       standards identified in the statement of findings cannot be met after a performance  
32       improvement plan has been implemented and adequate time has been given, but in no case less  
33       than 12 months, the Commission shall take appropriate action to avoid insolvency. This action



\* H 1 7 1 7 - A S A - 6 0 - V - 1 \*

NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 1717\*

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

H1717-ASA-60 [v.1]

Page 2 of 2

1 may include closing the board pursuant to G.S. 18B-801(d), closing a store or multiple stores,  
2 or merging the local board with another local board in order to maintain solvency. The  
3 Commission may also seize the assets of the local board and liquidate any assets necessary to  
4 satisfy any debt in order to maintain the solvency of the local board. Prior to taking action  
5 pursuant to this subsection, the Commission shall issue a notice of intent to take such action to  
6 the appointing authority and the local board.";  
7

8 and on page 13, line 51, by inserting after that line the following:

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

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

13 (1) ~~The operation of the store is not sufficiently profitable to justify its~~  
14 ~~continuation;~~

15 (2) The store is not operated in accordance with the ABC law; or

16 (3) The continued operation of that store will adversely affect the health, safety,  
17 or general welfare of the community in which the store operates."

SIGNED \_\_\_\_\_

Amendment Sponsor

SIGNED \_\_\_\_\_

Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_

FAILED \_\_\_\_\_

TABLED \_\_\_\_\_



**NORTH CAROLINA GENERAL ASSEMBLY**  
**AMENDMENT**  
House Bill 1717\*

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

H1717-ARV-36 [v.2]

Page 1 of 1

Comm. Sub. [YES]  
Amends Title [NO]  
H1717-CSMA-32[v.9]

Date \_\_\_\_\_, 2010

Representative Starnes

- 1 moves to amend the bill on page 5, lines 6-7 by inserting between those lines the following:  
2       **SECTION 7.1.** G.S. 18B-600(d) reads as rewritten:  
3       "(d) City ABC Store Elections. – A city may hold an ABC store election only if:  
4       (1) The city has at least ~~500~~ 1,500 registered voters; and  
5       (2) The county in which the city is located does not operate ABC stores."

SIGNED E. Starnes  
Amendment Sponsor

SIGNED \_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_ FAILED ☒ TABLED \_\_\_\_\_



\* H 1 7 1 7 - A R V - 3 6 - V - 2 \*



NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 1717\*

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

H1717-ARV-35 [v.1]

Page 1 of 1

Comm. Sub. [YES]  
Amends Title [NO]  
H1717-CSMA-32[v.9]

Date \_\_\_\_\_, 2010

Representative Starnes

- 1 moves to amend the bill on page 14, lines 18-31 by deleting those lines in their entirety;
- 2 and on page 14, lines 39-43 by rewriting those lines to read:
- 3 "SECTION 25. Section 24 of this act is effective when it"

SIGNED E. Starnes  
Amendment Sponsor

SIGNED \_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_

withdrawn



\* H 1 7 1 7 - A R V - 3 5 - V - 1 \*



**NORTH CAROLINA GENERAL ASSEMBLY**  
**AMENDMENT**  
House Bill 1717\*

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

H1717-ARV-34 [v.2]

Page 1 of 2

Comm. Sub. [YES]  
Amends Title [NO]  
H1717-CSMA-32[v.9.]

Date \_\_\_\_\_, 2010

Representative Lewis

1 moves to amend the bill on page 4, lines 19-20 by rewriting those lines to read:

2       "(21) Promulgate rules to establish mandatory training requirements for local  
3       board members, finance officers, and general managers. The Commission  
4       shall not require more than four hours of training, and shall provide up to  
5       two hours of training at convenient locations around the State in conjunction  
6       with ethics training if personal attendance is required.";  
7

8 and on page 8, lines 6-8 by rewriting those lines to read:

9       "(3) Working capital funds set aside pursuant to G.S. 18B-805 shall be  
10       established by rule of the Commission. 'Working capital'";  
11

12 and on page 8, lines 48-50 by rewriting those lines to read:

13       "(j) Finance Officer. – The local board shall designate (i) a part-time or full-time employee  
14       of the board other than the general manager, or (ii) the finance officer of the appointing  
15       authority with consent of the appointing authority, to be the finance officer for the local board.  
16       The Commission, for good cause shown, may allow the general manager of a board to also be  
17       the finance officer. Good cause includes, but is not limited to, the fact that the board operates  
18       no more than two stores, and any approval for the general manager to also be the finance  
19       officer shall apply until the board operates more than two stores; in any event, the approval  
20       shall be effective for 36 months.";  
21

22 and on page 13, lines 40 and 41 by inserting between those lines the following:

23       "(c) The Commission shall develop a model ethics policy that local ABC boards may adopt  
24       to be in compliance with this section.";  
25

26 and on page 14, line 46 by inserting after the second period and before the word "The" the  
27 following: "Section 15 of this act becomes effective October 1, 2011. Section 17 of this act  
28 becomes effective for the fiscal year of local boards beginning July 1, 2011. The ABC  
29 Commission shall offer training and education to local boards to assist local boards in  
30 complying with Section 17 of this act, and such training and education shall be offered at least  
31 once annually after the effective date of this act; however, the Commission shall have no  
32 obligation to provide such training and education after December 31, 2013."  
33



\* H 1 7 1 7 - A R V - 3 4 - V - 2 \*

NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 1717\*

H1717-ARV-34 [v.2]

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

Page 2 of 2

1

SIGNED

  
Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED



FAILED

TABLED



## HOUSE BILL 1717: Modernization of the State ABC System

2009-2010 General Assembly

<b>Committee:</b>	House Alcoholic Beverage Control, if favorable, State Government/State Personnel	<b>Date:</b>	June 7, 2010
<b>Introduced by:</b>	Reps. R. Warren, Bell, Lucas	<b>Prepared by:</b>	Brenda J. Carter
<b>Analysis of:</b>	H1717-CSMA-32[v.9]		Committee Counsel

**SUMMARY:** *This proposed committee substitute for House Bill 1717 makes a number of changes to the State's ABC laws, many of which were recommended by a joint legislative study committee on Alcoholic Beverage Control issues.*

[As introduced, this bill was identical to S1112, as introduced by Sen. Vaughan, which is currently in Senate Judiciary II.]

**BILL ANALYSIS:** Section 1 of the bill would provide definitions for the finance officer and the general manager of local ABC boards. The finance officer is the person responsible for keeping the accounts of the local board, including receiving and depositing receipts and disbursing funds. The general manager is the person responsible for the oversight of daily operations of the ABC system. (Note: Section 17 of the bill requires the local board to designate an employee other than the general manager to be the finance officer of the local board. For good cause, the Commission may allow the board's general manager to also be the finance officer.)

Section 2 of the bill would amend the law pertaining to conflicts of interest and gifts. Current law prohibits a person who has a financial interest in a commercial ABC enterprise from being appointed to or employed by the State ABC Commission, a local board, or the Alcohol Law Enforcement (ALE) Division, and current criminal prohibitions against public officers or employees benefiting from public contracts apply to the ABC Commission and local ABC boards. The bill would apply the provisions of G.S. 133-32 to the ABC Commission and local ABC boards, making it unlawful for contractors or suppliers who have or seek to have a contract with the Commission or local board to make gifts or to give favors to any Commission or local board officers or employees; it would also be unlawful for an officer or employee to accept such gifts. The bill would make the ABC Commission subject to the Ethical Standards of the State Ethics Acts, which prohibits the use of public position for private gain, prohibits certain gifts and other compensation, prohibits the use of information for private gain, and sets other rules of conduct for public servants. The bill would provide specific guidelines pertaining to conflicts of interest for local ABC boards, prohibiting a local board member from knowingly using his or her position in a manner that would result in financial benefit to the local board member, to his or her spouse or near relative, or to any business with which the local board member is associated. The bill would prohibit a local board member from improperly using or disclosing any confidential information, and would impose an affirmative duty on every local board member to promptly disclose in writing to the local board any actual or potential conflict of interest.

Section 3 of the bill would amend the law concerning judicial authority to remove from office or discharge from employment any Commission or local board member or employee, or any ALE agent who violates the State's alcohol laws or commits any felony. The bill would make the discharge provision applicable to local law enforcement officers who serve as the designated officer of an agency which holds a contract to enforce the ABC laws for a local board, giving the judge authority to prohibit the officer from being designated as an officer that enforces the ABC law, for a period up to 3 years.

Section 4 of the bill would give the ABC Commission authority to adopt rules to establish performance standards for local boards, including standards that address enforcement of ABC laws, store appearance,

# House Bill 1717

Page 2

operating efficiency, and customer service. The Commission would also have authority to adopt rules setting mandatory training requirements for local board members, managers, and employees.

**Section 5** of the bill would provide that not more than five officers may be designated by a contracting law enforcement agency to conduct inspections of ABC-licensed premises. Under current law, inspections conducted by designated officers may include viewing the entire premises and examining the books and records of the permittee.

**Section 6** of the bill would require local board ABC officers and law enforcement agencies subject to enforcement agreements with a local board to provide monthly reports to the local board, including information on the number of arrests made for ABC law and controlled substance violations and other violations at ABC-permitted outlets and other locations, the number of agencies assisted with ABC law or controlled substance related matters, and the number of alcohol education and responsible server programs presented. The local board would be required to submit a copy of the report to its appointing authority and to the ABC Commission; and the ABC Commission would be required to publish the information on a public Internet website. This section would become effective January 1, 2011.

**Section 7** of the bill would make a conforming change to the statute pertaining to local ABC officers, making it clear that designated officers of agencies that contract with local boards for enforcement of the ABC laws are subject to statutory provisions concerning discharge from those duties.

**Section 8** of the bill would allow any city that has at least 500 registered voters to hold a mixed beverage election. It would eliminate the current requirement that the city already operate a city ABC store in order to hold the mixed beverage election or if not, the county either operates an ABC store or has already held a mixed beverage election and the vote was against the sale of mixed beverages.

**Section 9** of the bill would define the mission of local ABC boards and their employees: controlling the sale of spirituous liquor and promoting customer-friendly, modern, and efficient stores.

**Section 10** of the bill would limit the compensation of local ABC board members to not more than \$150 per meeting, unless a different level of monetary compensation is approved by the board's appointing authority. If a different level of compensation is approved, the appointing authority would be required to provide written notice to the ABC Commission.

**Section 11** of the bill would limit the compensation of general managers of local ABC boards. The salary authorized for the board's general manager could not exceed the salary authorized by the General Assembly for the clerk of superior court of the county in which the appointing authority was originally incorporated. Under G.S. 7A-101, the salaries of clerks of superior court are based on the population of the county, according to the following schedule:

Population	Annual Salary
Less than 100,000	\$ 82,401
100,000 to 149,999	92,468
150,000 to 249,999	102,536
250,000 and above	112,607

The bill provides that a different level of monetary compensation may be approved by the board's appointing authority. If a different level of compensation is approved, the appointing authority would be required to provide written notice to the ABC Commission. The bill provides that no employee of a local board may receive a salary in excess of the amount authorized for the salary of the general manager. This section would become effective October 1, 2010 and apply to general managers and employees hired on or after that date.

**Section 12** of the bill provides for members and employees of local ABC boards to be reimbursed for travel on official business in accordance with the statutory travel allowances of State officers and employees. With approval of the appointing authority, a local board may adopt a travel policy that conforms to the travel policy of the appointing authority. The local board would be required to annually provide to the Commission a copy of its travel policy along with the appointing authority's written



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confirmation of its approval. Excess expenses not covered by the local board's travel policy would be paid only with written authorization of the appointing authority's finance officer, and the local board would be required to submit a copy of the authorization to the ABC Commission within 30 days of approval.

**Section 13** of the bill would increase the minimum amount of the bond required for local ABC board members and for the employees designated as the general manager or finance officer of the local board, raising it from \$5,000 to \$50,000. No board member would be exempt from the requirement, and the appointing authority could require a higher bond amount for any board member or employee who handles board funds.

**Section 14** of the bill would prohibit members of an immediate family or members of the same household from being employed within a local board if the employment would result in one family or household member supervising another, or if one family or household member would occupy a position that has influence over the employment, promotion, or salary administration of another. The provision would apply to local board members and employees. This section would become effective October 1, 2010 and apply to employees hired on or after that date.

**Section 15** of the bill would make the provisions of G.S. 18B-700 regarding the appointment and organization of local ABC boards applicable to all local ABC boards, notwithstanding any local acts that may provide otherwise.

**Section 16** of the bill would require a local ABC board to comply with all rules adopted by the ABC Commission pursuant to its authority under the State's ABC laws, and to meet all standards set by the Commission for performance and training. Failure to comply with Commission rules would be grounds for removal.

**Section 17** of the bill would amend the statute pertaining to the financial operations of local boards. A local board would be required to operate under an annual balanced budget in accordance with provisions in the bill. All monies received and expended by a local board would be included in the budget, and no local board could expend any monies except in accordance with the budget. The general manager of the local board, as budget officer, would prepare a budget for consideration by the local board. The proposed budget would be submitted to the local board, its appointing authority, and the ABC Commission by June 1; and a copy would be made available for public inspection. Before adopting the budget, the board would be required to hold a public hearing. This section of the bill would establish specific directions and limitations that a local board must comply with in adopting its budget. Once the budget is adopted, it must be filed with the board's finance officer and budget officer, the board's appointing authority, and the ABC Commission. The bill provides for amendments to an adopted budget and for an interim budget in case adoption of the budget is delayed until after the start of the fiscal year. The bill requires the local board to designate an employee other than the general manager to be the finance officer of the local board, and sets out the duties and powers of the finance officer. For good cause, the Commission may allow the board's general manager to also be the finance officer. Each local board would be required to establish and maintain an accounting system designed to show in detail its assets, liabilities, revenues, and expenditures. The bill contains specific provisions relative to incurring obligations, disbursements, and local board approval of bills, invoices, or claims. All checks or drafts must be signed by the finance officer or a properly designated deputy finance officer, and countersigned by the chair of the local board or the general manager, except where the requirement for dual signatures is waived by the Commission. Audits and reports currently required to be submitted to the ABC Commission must also be submitted to the local board's appointing authority. The bill would give the ABC Commission specific authority to inquire into and investigate the internal control procedures of a local board, and to require any modifications necessary or desirable to prevent the embezzlement or mishandling of public monies. The finance officer and sureties on the official bond would be liable for any sums committed or disbursed in violation of the law. The provisions pertaining to financial

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operations of local boards would apply to all local boards, notwithstanding any local acts. This section would become effective May 1, 2011.

Section 18 of the bill would prohibit the ABC Commission or its individual members from attempting to coerce any appointing authority to appoint a particular person as a member of a local board, or attempting to coerce a local board to employ a particular applicant. It would give the ABC Commission authority to remove any member or employee of a local board for disqualification under the law, violation of the ABC laws, failure to complete required training, or engaging in conduct constituting moral turpitude or which brings the local board of the ABC system into disrepute. The bill sets out a removal process that requires written findings of fact upon which the decision for removal is based, and provides for an informal removal hearing before the ABC Commission. The Commission would have authority to discharge the board member or employee if two-thirds of the Commission's members vote for removal. The Commission would have the sole power, in its discretion, to determine if cause exists for removal of a local board member or employee who has requested a hearing before the Commission, and the Commission's decision would be final. The local board member or employee could appeal the Commission's final decision to the Court of Appeals. The standard of review is abuse of discretion, and the sole remedy would be reinstatement with back pay. Awards for back pay would be paid by the local board from which the board member or employee was removed. These provisions would apply to all local boards.

Section 19 of the bill would require the ABC Commission to establish performance standards, and to ensure that all local boards comply with those standards by conducting regular or special audits, performance evaluations, monitoring ABC law enforcement efforts, or taking other measures including inspections by Commission auditors or alcohol law enforcement agents. When a local board fails to meet established performance standards, the Commission would be required to meet with the chair of the local board and the appointing authority and issue a statement of findings. The appointing authority would, in consultation with the Commission, develop and deliver a performance improvement plan to the local board. The plan would include recommendations for improved performance, and state a period of time in which improvements are to occur and what actions will be taken by the Commission if performance standards are not met within the prescribed time limits. The appointing authority may allow no more than 6 months for the local board to implement and show improvement under the plan; however, upon a showing of good cause and in consultation with the ABC Commission, the appointing authority may allow up to an additional 6 month period of time for the local board to meet all requirements in the improvement plan and to establish that performance standards are met. If the Commission determines that the established performance standards cannot be met after a performance improvement plan has been implemented and adequate time has been given, the Commission would be required to take appropriate action to ensure profitability. The Commission would have authority to close the local board or one or more of its stores, or to merge the local board with another local board in order to maintain solvency and meet community needs. The Commission would also have authority to seize the assets of the local board and liquidate assets necessary to satisfy debt and maintain solvency of the local board.

Section 20 of the bill would require each local ABC board to adopt a policy containing a code of ethics consistent with statutory provisions concerning conflicts of interests and gifts. *(See Section 2 of the bill.)* Each member of a local board would be required to receive a minimum of 2 hours of ethics education within 12 months after initial appointment to the board, and again within 12 months after each subsequent appointment to the office. The education may be provided by the ABC Commission or by some other qualified source approved by the Commission. A local board may require appropriate ethics training and education for its employees.

Section 21 of the bill would authorize the ABC Commission to consider the proximity of a new ABC store location to existing ABC stores when making its decision regarding approval of the new location.

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Section 22 of the bill would increase the minimum amount of the bond required for ABC store managers, raising it from \$5,000 to \$50,000. An appointing authority may require a bond that exceeds the minimum amount.

Section 23 of the bill would amend G.S. 18B-1213 concerning the obligations of the purchaser of a winery, making it clear that the purchaser as well as *any successor to the rights of a winery* is obligated to all the terms and conditions of an agreement in effect on the date of the purchase *or other acquisition of the right to distribute a brand*. This section would be effective when it becomes law and apply to all existing franchise agreements. A supplier's shipment of wine to a wholesaler in this State following the effective date would constitute acceptance by the supplier of the terms of the bill and be incorporated into the agreement between the supplier and wholesaler.

Section 24 of the bill would create an exception to the law that prohibits occupational licensing boards from requiring that an individual be more than 18 years of age as a requirement for receiving a license. The exception would apply to certifications issued by the Criminal Justice Education and Training Standards Commission and the North Carolina Sheriff's Education and Training Standards Commission. This section would be effective when it becomes law.

**EFFECTIVE DATE:** Except as otherwise specified, the bill would become effective October 1, 2010. An amendment is necessary to correct the effective dates as reflected in this summary.

H1717-SMRV-123(H1717-CSMA-3) v3

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

H

D

HOUSE BILL 1717\*  
PROPOSED COMMITTEE SUBSTITUTE H1717-PCSS0933-RV-64

Short Title: Modernization of the State ABC System.

(Public)

Sponsors:

Referred to:

May 17, 2010

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

The General Assembly of North Carolina enacts:

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

"§ 18B-101. Definitions.

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

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

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

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

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

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



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

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

...."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) The financial benefit that accrues to the local ABC board member, the local ABC board member's spouse or any person related to the local ABC board member by blood to a degree of first cousin or closer, or a business with which the local ABC board member is associated is one that is accrued as a member of a profession, occupation, or general class and is no greater than that which could reasonably be foreseen to accrue to all members of that profession, occupation, or general class.
- (2) The financial benefit derived by a local ABC board member, the local ABC board member's spouse or any person related to the local ABC board member by blood to a degree of first cousin or closer, or a business with which the local ABC board member is associated is one that would be enjoyed to an extent no greater than that which other citizens of the State would or could enjoy.
- (3) The financial benefit derived by a local ABC board member, the local ABC board member's spouse or any person related to the local ABC board member by blood to a degree of first cousin or closer, or a business with which the local ABC board member is so remote, tenuous, insignificant, or speculative that a reasonable person would conclude under the circumstances that the local ABC board member's ability to protect the public interest and perform the local ABC board member's duties would not be compromised.
- (4) When an action affects or would affect the local ABC board member's compensation as a local ABC board member.
- (5) Before the local ABC board member participated in the action, the board member requested and received from the ABC Commission a written advisory opinion that authorized the participation. In authorizing the participation under this subdivision, the ABC Commission shall consider the need for the local ABC board member's particular contribution, such as special knowledge of the subject matter and the effective functioning of the local ABC board.
- (6) When action is ministerial only and does not require the exercise of discretion.
- (7) When the local ABC board records in its minutes that it cannot obtain a quorum in order to take the action because the local ABC board member is disqualified from acting, the local ABC board member may be counted for purposes of a quorum but shall otherwise abstain from taking any further action.

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

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

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

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

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

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

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

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

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

- ...
- (20) Promulgate rules to establish performance standards for local boards. Performance standards established pursuant to this subdivision shall include, but not be limited to, standards that address enforcement of ABC laws, store appearance, operating efficiency, solvency, and customer service.
- (21) Promulgate rules to establish mandatory training requirements for local board members, finance officers, and general managers. The Commission shall not require more than four hours of training and shall provide up to two hours of training at convenient locations around the State in conjunction with ethics training if personal attendance is required."

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

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

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

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

- (1) The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at ABC permitted outlets.
- (2) The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at other locations.
- (3) The number of agencies assisted with ABC law or controlled substance related matters.

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

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

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

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

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

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

(2) ~~Either:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Keep the accounts of the local board in accordance with generally accepted principles of governmental accounting and the rules and regulations of the Commission.
- (2) Disburse all funds of the local board in strict compliance with this Chapter, the budget, and preaudit obligations, and disbursements as required by this section.
- (3) As often as may be requested by the local board or the general manager, prepare and file with the board a statement of the financial condition of the local board.
- (4) Receive and deposit all monies accruing to the local board, or supervise the receipt and deposit of money by other duly authorized employees.
- (5) Maintain all records concerning the debt and other obligations of the local board, determine the amount of money that will be required for debt service or the payment of other obligations during each fiscal year, and maintain all funds.
- (6) Supervise the investment of idle funds of the local board pursuant to subsection (t) of this section.

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

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

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

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

(Signature of finance officer)."

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

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

- (1) The finance officer determines the amount to be payable; and  
(2) The budget includes an appropriation authorizing the expenditure and either (i) an encumbrance has been previously created for the transaction or (ii) an unencumbered balance remains in the appropriation sufficient to pay the amount to be disbursed.

A bill, invoice, or other claim may not be paid unless it has been approved by the finance officer or, under subsection (o) of this section, by the local board. The finance officer shall establish procedures to assure compliance with this subsection.

(o) Local Board Approval of Bills, Invoices, or Claims. – The local board may, as permitted by this subsection, approve a bill, invoice, or other claim against the local board that has been disapproved by the finance officer. It may not approve a claim for which no appropriation appears in the budget, or for which the appropriation contains no encumbrance and the unencumbered balance is less than the amount to be paid. The local board shall approve payment by formal resolution stating the board's reasons for allowing the bill, invoice, or other claim. The resolution shall be entered in the minutes together with the names of those voting in the affirmative. The chairman of the board or some other member designated for this purpose shall sign the certificate on the check or draft given in payment of the bill, invoice, or other claim. If payment results in a violation of law, each member of the board voting to allow payment is jointly and severally liable for the full amount of the check or draft given in payment.

(p) Checks or Drafts Signed by Finance Officer. – Except as otherwise provided by law, all checks or drafts on an official depository shall be signed by the finance officer or a properly designated deputy finance officer. The chairman of the local board or general manager of the local board shall countersign these checks and drafts. The Commission may waive the requirements of this subsection if the board determines that the internal control procedures of the unit or authority will be satisfactory in the absence of dual signatures.

(q) Payment of a Bill, Invoice, Salary, or Claim. – A local board may not pay a bill, invoice, salary, or other claim except by a check or draft on an official depository or by a bank wire transfer from an official depository. Except as provided in this subsection, each check or draft on an official depository shall bear on its face a certificate signed by the finance officer or a deputy finance officer approved for this purpose by the local board (or signed by the chairman or some other member of the board pursuant to subsection (o) of this section). The certificate shall take substantially the following form:

"This disbursement has been approved in the manner required by G.S. 18B-702.

(Signature of finance officer)."

No certificate is required on payroll checks or drafts on an imprest account in an official depository if the check or draft depositing the funds in the imprest account carried a signed certificate. No certificate is required for expenditures of fifty dollars (\$50.00) or less from a petty cash fund, provided the expenditure is accounted for by a receipt for the expended item.

(b)(r) Borrowing Money. – A local board may borrow money only for the purchase of land, buildings, equipment and stock needed for the operation of its ABC system. A local board may pledge a security interest in any real or personal property it owns other than alcoholic beverages. A city or county whose governing body appoints a local board shall not in any way be held responsible for the debts of that board.

(e)(s) Audits. – A local board shall submit to the appointing authority and Commission an annual independent audit of its operations, performed in accordance with generally accepted accounting standards and in compliance with a chart of accounts prescribed by the Commission. The audit report shall contain a summary of the requirements of this Chapter, or of any local act applicable to that local board, concerning the distribution of profits of that board and a description of how those distributions have been made, including the names of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

"§ 18B-803. Store management.

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

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

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

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

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

"§ 18B-1213. Obligations of purchaser.

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

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

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

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

"§ 93B-9. Age requirements.

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

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

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

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

H

D

HOUSE BILL 1717\*  
PROPOSED COMMITTEE SUBSTITUTE H1717-CSMA-32 [v.9]

6/1/2010 4:31:20 PM

Short Title: Modernization of the State ABC System.

(Public)

Sponsors:

Referred to:

May 17, 2010

1 A BILL TO BE ENTITLED  
2 AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE  
3 CONTROL SYSTEM, TO ENSURE THE INTEGRITY OF THE THREE TIER SYSTEM,  
4 AND TO REQUIRE MINIMUM STANDARDS AGE STANDARDS LAW  
5 ENFORCEMENT.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 18B-101 reads as rewritten:

8 "§ 18B-101. Definitions.

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

10 ...  
11 (6f)

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

15 (7)

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

21 (7d)

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

25 (7a)(7g)

"Historic ABC establishment" means a restaurant or hotel that meets all of the following requirements:

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

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

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

...."

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

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

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

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

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

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

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

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

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

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

(e) Conflicts of interest for the Commission. – The provisions of Article 4 of Chapter 138A shall apply to the Commission.

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

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

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

- 4         (1) The financial benefit that accrues to the local ABC board member, the local  
5 ABC board member's spouse or any person related to the local ABC board  
6 member by blood to a degree of first cousin or closer, or a business with  
7 which the local ABC board member is associated is one that is accrued as a  
8 member of a profession, occupation, or general class and is no greater than  
9 that which could reasonably be foreseen to accrue to all members of that  
10 profession, occupation, or general class.
- 11         (2) The financial benefit derived by a local ABC board member, the local ABC  
12 board member's spouse or any person related to the local ABC board  
13 member by blood to a degree of first cousin or closer, or a business with  
14 which the local ABC board member is associated is one that would be  
15 enjoyed to an extent no greater than that which other citizens of the State  
16 would or could enjoy.
- 17         (3) The financial benefit derived by a local ABC board member, the local ABC  
18 board member's spouse or any person related to the local ABC board  
19 member by blood to a degree of first cousin or closer, or a business with  
20 which the local ABC board member is so remote, tenuous, insignificant, or  
21 speculative that a reasonable person would conclude under the  
22 circumstances that the local ABC board member's ability to protect the  
23 public interest and perform the local ABC board member's duties would not  
24 be compromised.
- 25         (4) When an action affects or would affect the local ABC board member's  
26 compensation as a local ABC board member.
- 27         (5) Before the local ABC board member participated in the action, the board  
28 member requested and received from the ABC Commission a written  
29 advisory opinion that authorized the participation. In authorizing the  
30 participation under this subdivision, the ABC Commission shall consider the  
31 need for the local ABC board member's particular contribution, such as  
32 special knowledge of the subject matter and the effective functioning of the  
33 local ABC board.
- 34         (6) When action is ministerial only and does not require the exercise of  
35 discretion.
- 36         (7) When the local ABC board records in its minutes that it cannot obtain a  
37 quorum in order to take the action because the local ABC board member is  
38 disqualified from acting, the local ABC board member may be counted for  
39 purposes of a quorum, but shall otherwise abstain from taking any further  
40 action.

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

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

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

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

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

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

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

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

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

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

(21) Promulgate rules to establish mandatory training requirements for local board members, managers, and employees."

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

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

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

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

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

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

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

(4) The number of alcohol education and responsible server programs presented.

The local board shall submit a copy of the enforcement report to the appointing authority and the Commission not later than five business days after receipt of the enforcement report by

1 the local board. The Commission shall publish this information, by local board and  
2 enforcement agency, on a public Internet Web site maintained by the Commission."

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

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

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

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

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

11 (2) ~~Either:~~

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

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

15 c. ~~The city does not operate a city ABC store but:~~

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

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

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

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

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

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

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

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

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

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

46 "(g2) Travel Allowance and Per Diem Rates. – Approved travel on official business by  
47 the members and employees of local boards shall be reimbursed pursuant to G.S. 138-6 unless  
48 the local board adopts a travel policy that conforms to the travel policy of the appointing  
49 authority and such policy is approved by the appointing authority. The local board shall  
50 annually provide the appointing authority's written confirmation of such approval to the  
51 Commission and a copy of the travel policy authorized by the appointing authority. Any excess

1 expenses not covered by the local board's travel policy shall only be paid with the written  
2 authorization of the appointing authority's finance officer. A copy of the written authorization  
3 for excess expenses shall be submitted to the Commission by the local board within thirty days  
4 of approval."

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

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

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

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

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

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

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

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

32 **"§ 18B-701. Powers and duties of local ABC boards.**

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

- 34 (1) Buy, sell, transport, and possess alcoholic beverages as necessary for the  
35 operation of its ABC stores;
- 36 (2) Adopt rules for its ABC system, subject to the approval of the Commission;
- 37 (3) Hire and fire employees for the ABC system;
- 38 (4) Designate one employee as manager of the ABC system and determine his  
39 responsibilities;
- 40 (5) Require bonds of employees as provided in the rules of the Commission;
- 41 (6) Operate ABC stores as provided in Article 8;
- 42 (7) Issue purchase-transportation permits as provided in Article 4;
- 43 (8) Employ local ABC officers or make other provision for enforcement of ABC  
44 laws as provided in Article 5;
- 45 (9) Borrow money as provided in G.S. 18B-702;
- 46 (10) Buy and lease real and personal property, and receive property bequeathed  
47 or given, as necessary for the operation of the ABC system;
- 48 (11) Invest surplus funds as provided in G.S. 18B-702;
- 49 (12) Dispose of property in the same manner as a city council may under Article  
50 12 of Chapter 160A of the General Statutes; and
- 51 (13) Perform any other activity authorized or required by the ABC law.



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

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

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

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

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

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

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

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

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

(g) Adoption of Budget. – Not earlier than 10 days after the day the budget is presented to the board and not later than July 1, the local board shall adopt a budget making appropriations for the budget year in such sums as the board may consider sufficient and proper, whether greater or less than the sums recommended in the budget. The budget shall authorize all financial transactions of the local board. The budget may be in any form that the board considers most efficient in enabling it to make the fiscal policy decisions embodied therein, but it shall make appropriations by department, function, or project and show revenues

by major source. The following directions and limitations shall bind the local board in adopting the budget:

- (1) The full amount estimated by the finance officer to be required for debt service during the budget year shall be appropriated.
- (2) The full amount of any deficit in each fund shall be appropriated.
- (3) Working capital funds set aside pursuant to G.S. 18B-805 shall be no less than two weeks' average gross sales of the latest fiscal year or greater than two months' average gross sales of the latest fiscal year. "Working capital" means the total of cash, investments, and inventory less all unsecured liabilities. Gross sales means gross receipts from the sale of alcoholic beverages less distributions as defined in G.S. 18B-805(b)(2), (3), (4), and (5). Any expenditure to be charged against working capital funds shall be authorized by resolution of the local board, which resolution shall be deemed an amendment to the budget setting up an appropriation for the object of expenditure authorized. The local board may authorize the budget officer to authorize expenditures from working capital funds subject to such limitations and procedures as it may prescribe. Any such expenditure shall be deemed an amendment and reported to the board at its next regular meeting and recorded in the minutes.
- (4) Estimated revenues shall include only those revenues reasonably expected to be realized in the budget year.
- (5) Sufficient funds to meet the amounts to be paid during the fiscal year under continuing contracts previously entered into shall be appropriated unless such contract reserves to the local board the right to limit or not to make such appropriation.
- (6) The sum of estimated net revenues and appropriated fund balance in each fund shall be equal to appropriations in that fund. Appropriated fund balance in a fund shall not exceed the sum of cash and investments minus the sum of liabilities, encumbrances, and deferred revenues arising from cash receipts, as those figures stand at the close of the fiscal year next preceding the budget year.

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

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

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

(j) Finance Officer. – The local board shall designate an employee of the board, other than the general manager, to be the finance officer for the local board. The Commission, for good cause shown, may allow the general manager of a board to also be the finance officer.

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

- (1) Keep the accounts of the local board in accordance with generally accepted principles of governmental accounting and the rules and regulations of the Commission.
- (2) Disburse all funds of the local board in strict compliance with this Chapter, the budget, and preaudit obligations, and disbursements as required by this section.
- (3) As often as may be requested by the local board or the general manager, prepare and file with the board a statement of the financial condition of the local board.
- (4) Receive and deposit all monies accruing to the local board, or supervise the receipt and deposit of money by other duly authorized employees.
- (5) Maintain all records concerning the debt and other obligations of the local board, determine the amount of money that will be required for debt service or the payment of other obligations during each fiscal year, and maintain all funds.
- (6) Supervise the investment of idle funds of the local board pursuant to subsection (t) of this section.

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

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

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

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

(Signature of finance officer)."

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

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

- (1) The finance officer determines the amount to be payable; and
- (2) The budget includes an appropriation authorizing the expenditure and either (i) an encumbrance has been previously created for the transaction or (ii) an

A bill, invoice, or other claim may not be paid unless it has been approved by the finance officer or, under subsection (o) of this section, by the local board. The finance officer shall establish procedures to assure compliance with this subsection.

(p) Checks or Drafts Signed by Finance Officer. – Except as otherwise provided by law, all checks or drafts on an official depository shall be signed by the finance officer or a properly designated deputy finance officer. The chairman of the local board or general manager of the local board shall countersign these checks and drafts. The Commission may waive the requirements of this subsection if the board determines that the internal control procedures of the unit or authority will be satisfactory in the absence of dual signatures.

"This disbursement has been approved in the manner required by G.S. 18B-702.

No certificate is required on payroll checks or drafts on an imprest account in an official depository if the check or draft depositing the funds in the imprest account carried a signed certificate. No certificate is required for expenditures of fifty dollars (\$50.00) or less from a petty cash fund provided the expenditure is accounted for by a receipt for the expended item.

(e)(s) Audits. – A local board shall submit to the appointing authority and Commission an annual independent audit of its operations, performed in accordance with generally accepted accounting standards and in compliance with a chart of accounts prescribed by the Commission. The audit report shall contain a summary of the requirements of this Chapter, or of any local act applicable to that local board, concerning the distribution of profits of that board and a description of how those distributions have been made, including the names of recipients of the profits and the activities for which the funds were distributed. A local board shall also submit to any other audits and submit any reports demanded by the appointing authority or the Commission.

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

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

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

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

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

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

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

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

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

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

(d) Removal Process. – The Commission or appointing authority shall provide, in writing, to the local board member or employee the findings of fact upon which the decision for removal is based. The Commission or appointing authority shall also provide the local board member or employee with notice of the availability of a hearing before the Commission to review the removal.

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

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

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

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

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

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

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

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

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

(b) Performance Improvement Plans. – The Commission, upon determining that a local board is failing to meet performance standards established pursuant to G.S. 18B-203(a)(20), shall meet with the chair of the local board and the appointing authority and issue a statement of findings. The appointing authority, in consultation with the Commission, shall develop for and deliver a performance improvement plan to the local board within 30 days of the meeting with the Commission. The performance improvement plan shall include, but not be limited to, recommendations for improved performance based on the performance standards established by the Commission. The plan shall also state a period of time in which the performance improvements are to occur and what action will be taken by the Commission if performance

standards are not met within the given time limits. The appointing authority shall allow up to, but no more than, six months' time to the local board to implement and show improvement under the performance improvement plan. The local appointing authority, in consultation with the Commission and upon good cause shown, may allow up to an additional six-month period of time for the local board to meet all requirements in the performance improvement plan and to establish that the performance standards established by the Commission are met.

(c) Remedies. – If the Commission determines that the established performance standards cannot be met after a performance improvement plan has been implemented and adequate time has been given, but in no case more than 12 months, the Commission shall take appropriate action to ensure profitability. This action may include closing the board, a store, multiple stores, or merging the local board with another local board in order to maintain solvency and meet community needs. The Commission may also seize the assets of the local board and liquidate any assets necessary to satisfy any debt and maintain the solvency of the local board.

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

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

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

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

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

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

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

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

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

**SECTION 22. G.S. 18B-803 reads as rewritten:****"§ 18B-803. Store management.**

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

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

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

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

**SECTION 23. G.S. 18B-1213 reads as rewritten:****"§ 18B-1213. Obligations of purchaser.**

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

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

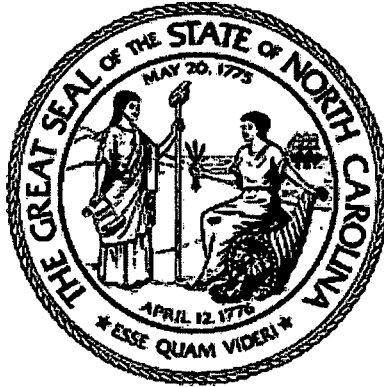
As used in this Article, "purchase" includes the sale of stock, sale of assets, merger, lease, transfer, or consolidation."

**SECTION 24. G.S. 93B-9 reads as rewritten:****"§ 93B-9. Age requirements.**

Any other provision notwithstanding, except certifications issued by the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriff's Education and Training Standards Commission pursuant to Chapters 17C, 17D, 74E, and 74G of the North Carolina General Statutes, no occupational licensing board may require that an individual be more than 18 years of age as a requirement for receiving a license."

**SECTION 25.** Section 23 of this act is effective when it becomes law and its provision shall apply to all existing franchise agreements. A supplier's shipment of wine to a wholesaler in North Carolina following the effective date of Section 23 of this act shall constitute acceptance by the supplier of the terms of this act and shall be incorporated into the agreement between the supplier and wholesaler. Section 24 of this act is effective when it becomes law. Sections 8 and 10 of this act become effective October 1, 2010, and applies to general managers and employees hired on or after that date. Section 6 of this act becomes effective January 1, 2011. Section 13 of this act becomes effective May 1, 2011. The remainder of this act becomes effective October 1, 2010.





Minutes  
Alcoholic Beverage Control Committee  
Thursday July 8, 2010  
House Chamber, Legislative Building

The Alcoholic Beverage Control Committee met on Thursday July 8, 2010 in the House Chamber. The following members were present: Representative Ray Warren, Chair; Spaulding-Hughes, Representative Lucas, Co-Chairs; Representatives Bell, Brown, Coates, Grady, Jackson, Lewis, Starnes, and Steen.

House Bill 1717 was returned from the Senate for concurrence. Representative Coates made the motion to concur, without objection the motion passes and will be ratified and sent to the Governor for signature.

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Representative Ray Warren

  
Theresa Lopez – Committee Assistant

**2009 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

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

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

☒ Senate Committee Substitute for

**HB 1717**

A BILL TO BE ENTITLED AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL SYSTEM, TO ENSURE THE INTEGRITY OF THE THREE-TIER SYSTEM, TO REQUIRE MINIMUM AGE STANDARDS FOR LAW ENFORCEMENT, AND TO REQUIRE THAT THE CITY OF KANNAPOLIS, THE CITY OF SALISBURY, AND ROWAN COUNTY HAVE EQUAL REPRESENTATION ON THE ROWAN/KANNAPOLIS ABC BOARD.

☒ With recommendation that the House concur.

**(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 \_\_\_\_\_.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

H

6

HOUSE BILL 1717\*  
Committee Substitute Favorable 6/9/10  
Committee Substitute #2 Favorable 6/16/10  
Fourth Edition Engrossed 6/22/10  
Senate Judiciary II Committee Substitute Adopted 6/29/10  
Senate Finance Committee Substitute Adopted 7/7/10

Short Title: Modernization of the State ABC System.

(Public)

Sponsors:

Referred to:

May 17, 2010

A BILL TO BE ENTITLED  
AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE  
CONTROL SYSTEM, TO ENSURE THE INTEGRITY OF THE THREE-TIER SYSTEM,  
TO REQUIRE MINIMUM AGE STANDARDS FOR LAW ENFORCEMENT, AND TO  
REQUIRE THAT THE CITY OF KANNAPOLIS, THE CITY OF SALISBURY, AND  
ROWAN COUNTY HAVE EQUAL REPRESENTATION ON THE  
ROWAN/KANNAPOLIS ABC BOARD.

The General Assembly of North Carolina enacts:

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

"§ 18B-101. Definitions.

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

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

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

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

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

- a. Is on the national register of historic places or located within a State historic district.
- b. Is a property designed to attract local, State, national, and international tourists located on a State Route (SR) and with a property line located within 1.5 miles of the intersection of a



\* H 1 7 1 7 - V - 6 \*

designated North Carolina scenic byway as defined in G.S. 136-18(31).

c. Is located within 15 miles of a national scenic highway.

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

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

...."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

51       **"§ 18B-202. Discharge upon conviction.**

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

15 **SECTION 4.** G.S. 18B-203(a) is amended by adding new subdivisions to read:

16 **"§ 18B-203. Powers and duties of the Commission.**

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

18 ...

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

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

28 (22) Provide for the purchase of spirituous liquor from another ABC board by  
29 mixed beverage permittees when an ABC system becomes insolvent, closes,  
30 or is closed by the Commission and the county or municipality in which the  
31 system is located has approved the sale of mixed beverages."

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

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

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

49 "(f1) Accountability; Enforcement Reports. – To ensure accountability to the appointing  
50 authority and the Commission, every local board's ABC officers and those law enforcement  
51 agencies subject to an enforcement agreement entered into pursuant to subsection (f) of this

section shall report to the local board, by the fifth business day of each month, on a form developed by the Commission, the following:

- (1) The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at ABC permitted outlets.
- (2) The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at other locations.
- (3) The number of agencies assisted with ABC law or controlled substance related matters.
- (4) The number of alcohol education and responsible server programs presented.

The local board shall submit a copy of the enforcement report to the appointing authority and the Commission not later than five business days after receipt of the enforcement report by the local board. The Commission shall publish this information, by local board and enforcement agency, on a public Internet Web site maintained by the Commission."

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

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

SECTION 7.(b) G.S. 18B-600(d) reads as rewritten:

"(d) City ABC Store Elections. – A city may hold an ABC store election only if:

- (1) The city has at least 500-1,000 registered voters; and
- (2) The county in which the city is located does not operate ABC stores."

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

"(e) City Mixed Beverage Elections. – A city may hold a mixed beverage election only if: if the city has at least 500 registered voters. Provided, that if a city that qualifies for an election under this subsection approves the sale of mixed beverages, mixed beverages permittees in the city may purchase liquor from the ABC store designated by the local ABC board that has been approved by the Commission for this purpose.

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

(2) Either:

- a. The city already operates a city ABC store; or
- b. A city ABC store election is to be held at the same time as the mixed beverage election; or
- c. The city does not operate a city ABC store but:
  1. The county operates an ABC store;
  2. The county has already held a mixed beverage election; and
  3. The vote in the last county election was against the sale of mixed beverages."

SECTION 9. G.S. 18B-700(a) reads as rewritten:

"(a) Membership. – A local ABC board shall consist of three or 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 terms 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-If the board is a three-member board, 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. If the board is a five-member board, one member of the initial board of a newly created ABC system shall be appointed for a three-year term, two members for two-year terms, and two members for one-year terms. As the terms of initial board members expire, their successors shall each be appointed for three-year terms. If a board is initially a three-member board and the appointing authority determines a five-member board is preferable, the terms of the two new members shall be for three years. If a local board has five members and the appointing authority determines a three-member board is preferable,

1 the appointing authority shall not reduce the size of the board except upon the expiration of a  
2 member's term and only with the approval of the Commission. The appointing authority shall  
3 designate one member of the local board as chairman."

4 **SECTION 10.** G.S. 18B-700 is amended by adding a new subsection to read:

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

8 **SECTION 11.** G.S. 18B-700(g) reads as rewritten:

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

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

19 "(g1) Compensation of General Managers of Local Boards. – The salary authorized for  
20 the general manager, as defined in G.S. 18B-101, of a local board shall not exceed the salary  
21 authorized by the General Assembly for the clerk of superior court of the county in which the  
22 appointing authority was originally incorporated unless such compensation is otherwise  
23 approved by the appointing authority. The local board shall provide the appointing authority's  
24 written confirmation of such approval to the Commission. Any change in compensation  
25 approved by the appointing authority shall be reported to the Commission in writing within 30  
26 days of the effective date of the change. The general manager of a local board may receive any  
27 other benefits to which all employees of the local board are entitled. The salary authorized for  
28 other employees of a local board may not exceed that of the general manager."

29 **SECTION 13.** G.S. 18B-700 is amended by adding a new subsection to read:

30 "(g2) Travel Allowance and Per Diem Rates. – Approved travel on official business by  
31 the members and employees of local boards shall be reimbursed pursuant to G.S. 138-6 unless  
32 the local board adopts a travel policy that conforms to the travel policy of the appointing  
33 authority and such policy is approved by the appointing authority. The local board shall  
34 annually provide the appointing authority's written confirmation of such approval to the  
35 Commission and a copy of the travel policy authorized by the appointing authority. Any excess  
36 expenses not covered by the local board's travel policy shall only be paid with the written  
37 authorization of the appointing authority's finance officer. A copy of the written authorization  
38 for excess expenses shall be submitted to the Commission by the local board within 30 days of  
39 approval."

40 **SECTION 14.** G.S. 18B-700(i) reads as rewritten:

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

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



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

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

13       **SECTION 16.** G.S. 18B-700 is amended by adding a new subsection to read:

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

16       **SECTION 17.** G.S. 18B-701 reads as rewritten:

17       "**§ 18B-701. Powers and duties of local ABC boards.**

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

- 19           (1) Buy, sell, transport, and possess alcoholic beverages as necessary for the
- 20           operation of its ABC stores;
- 21           (2) Adopt rules for its ABC system, subject to the approval of the Commission;
- 22           (3) Hire and fire employees for the ABC system;
- 23           (4) Designate one employee as manager of the ABC system and determine his
- 24           responsibilities;
- 25           (5) Require bonds of employees as provided in the rules of the Commission;
- 26           (6) Operate ABC stores as provided in Article 8;
- 27           (7) Issue purchase-transportation permits as provided in Article 4;
- 28           (8) Employ local ABC officers or make other provision for enforcement of ABC
- 29           laws as provided in Article 5;
- 30           (9) Borrow money as provided in G.S. 18B-702;
- 31           (10) Buy and lease real and personal property, and receive property bequeathed
- 32           or given, as necessary for the operation of the ABC system;
- 33           (11) Invest surplus funds as provided in G.S. 18B-702;
- 34           (12) Dispose of property in the same manner as a city council may under Article
- 35           12 of Chapter 160A of the General Statutes; and
- 36           (13) Perform any other activity authorized or required by the ABC law.

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

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

42       "**§ 18B-702. Financial operations of local boards.**

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

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

50       (c) Annual Balanced Budget. – Each local board shall operate under an annual balanced  
51 budget administered in accordance with this section. A budget is balanced when the sum of

estimated gross revenues and both restricted and unrestricted funds are equal to appropriations. Expenditures shall not exceed the amount of funds received or in reserve for the purpose to which the funds are appropriated. It is the intent of this section that all monies received and expended by a local board should be included in the budget. Therefore, notwithstanding any other provision of law, no local board may expend any monies, regardless of their source, except in accordance with a budget adopted under this section. The budget of a local board shall cover a fiscal year beginning July 1 and ending June 30.

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

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

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

(g) Adoption of Budget. – Not earlier than 10 days after the day the budget is presented to the board and not later than July 1, the local board shall adopt a budget making appropriations for the budget year in such sums as the board may consider sufficient and proper, whether greater or less than the sums recommended in the budget. The budget shall authorize all financial transactions of the local board. The budget may be in any form that the board considers most efficient in enabling it to make the fiscal policy decisions embodied therein, but it shall make appropriations by department, function, or project and show revenues by major source. The following directions and limitations shall bind the local board in adopting the budget:

- (1) The full amount estimated by the finance officer to be required for debt service during the budget year shall be appropriated.
- (2) The full amount of any deficit in each fund shall be appropriated.
- (3) Working capital funds set aside pursuant to G.S. 18B-805 shall be established by rule of the Commission. "Working capital" means the total of cash, investments, and inventory less all unsecured liabilities. Gross sales means gross receipts from the sale of alcoholic beverages less distributions as defined in G.S. 18B-805(b)(2), (3), (4), and (5). Any expenditure to be charged against working capital funds shall be authorized by resolution of the local board, which resolution shall be deemed an amendment to the budget setting up an appropriation for the object of expenditure authorized. The local board may authorize the budget officer to authorize expenditures from working capital funds subject to such limitations and procedures as it

- 1                   may prescribe. Any such expenditure shall be deemed an amendment and  
2                   reported to the board at its next regular meeting and recorded in the minutes.  
3           (4)       Estimated revenues shall include only those revenues reasonably expected to  
4                   be realized in the budget year.  
5           (5)       Sufficient funds to meet the amounts to be paid during the fiscal year under  
6                   continuing contracts previously entered into shall be appropriated unless  
7                   such contract reserves to the local board the right to limit or not to make  
8                   such appropriation.  
9           (6)       The sum of estimated net revenues and appropriated fund balance in each  
10                   fund shall be equal to appropriations in that fund. Appropriated fund balance  
11                   in a fund shall not exceed the sum of cash and investments minus the sum of  
12                   liabilities, encumbrances, and deferred revenues arising from cash receipts,  
13                   as those figures stand at the close of the fiscal year next preceding the budget  
14                   year.

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

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

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

31       (j)       Finance Officer. – Except as otherwise provided, the local board shall designate (i) a  
32       part-time or full-time employee of the board other than the general manager or (ii) the finance  
33       officer of the appointing authority with consent of the appointing authority to be the finance  
34       officer for the local board. The Commission, for good cause shown, may allow the general  
35       manager of a board also to be the finance officer. Good cause includes, but is not limited to, the  
36       fact that the board operates no more than two stores, and any approval for the general manager  
37       also to be the finance officer shall apply until the board operates more than two stores; in any  
38       event, the approval shall be effective for 36 months.

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

- 41           (1)       Keep the accounts of the local board in accordance with generally accepted  
42                   principles of governmental accounting and the rules and regulations of the  
43                   Commission.  
44           (2)       Disburse all funds of the local board in strict compliance with this Chapter,  
45                   the budget, preaudit obligations, and disbursements as required by this  
46                   section.  
47           (3)       As often as may be requested by the local board or the general manager,  
48                   prepare and file with the board a statement of the financial condition of the  
49                   local board.  
50           (4)       Receive and deposit all monies accruing to the local board, or supervise the  
51                   receipt and deposit of money by other duly authorized employees.

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

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

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

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

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

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

(Signature of finance officer)."

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

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

(1) The finance officer determines the amount to be payable; and

(2) The budget includes an appropriation authorizing the expenditure and either (i) an encumbrance has been previously created for the transaction or (ii) an unencumbered balance remains in the appropriation sufficient to pay the amount to be disbursed.

A bill, invoice, or other claim may not be paid unless it has been approved by the finance officer or, under subsection (o) of this section, by the local board. The finance officer shall establish procedures to assure compliance with this subsection.

(o) Local Board Approval of Bills, Invoices, or Claims. – The local board may, as permitted by this subsection, approve a bill, invoice, or other claim against the local board that has been disapproved by the finance officer. It may not approve a claim for which no appropriation appears in the budget, or for which the appropriation contains no encumbrance and the unencumbered balance is less than the amount to be paid. The local board shall approve payment by formal resolution stating the board's reasons for allowing the bill, invoice, or other claim. The resolution shall be entered in the minutes together with the names of those voting in the affirmative. The chairman of the board or some other member designated for this purpose shall sign the certificate on the check or draft given in payment of the bill, invoice, or other

1 claim. If payment results in a violation of law, each member of the board voting to allow  
2 payment is jointly and severally liable for the full amount of the check or draft given in  
3 payment.

4 (p) Checks or Drafts Signed by Finance Officer. – Except as otherwise provided by law,  
5 all checks or drafts on an official depository shall be signed by the finance officer or a properly  
6 designated deputy finance officer. The chairman of the local board or general manager of the  
7 local board shall countersign these checks and drafts. The Commission may waive the  
8 requirements of this subsection if the board determines that the internal control procedures of  
9 the unit or authority will be satisfactory in the absence of dual signatures.

10 (q) Payment of a Bill, Invoice, Salary, or Claim. – A local board may not pay a bill,  
11 invoice, salary, or other claim except by a check or draft on an official depository or by a bank  
12 wire transfer from an official depository. Except as provided in this subsection, each check or  
13 draft on an official depository shall bear on its face a certificate signed by the finance officer or  
14 a deputy finance officer approved for this purpose by the local board (or signed by the  
15 chairman or some other member of the board pursuant to subsection (o) of this section). The  
16 certificate shall take substantially the following form:

17 "This disbursement has been approved in the manner required by G.S. 18B-702.  
18

19 (Signature of finance officer)."

20 No certificate is required on payroll checks or drafts on an imprest account in an official  
21 depository if the check or draft depositing the funds in the imprest account carried a signed  
22 certificate. No certificate is required for expenditures of fifty dollars (\$50.00) or less from a  
23 petty cash fund, provided the expenditure is accounted for by a receipt for the expended item.

24 (b)(r) Borrowing Money. – A local board may borrow money only for the purchase of  
25 land, buildings, equipment and stock needed for the operation of its ABC system. A local board  
26 may pledge a security interest in any real or personal property it owns other than alcoholic  
27 beverages. A city or county whose governing body appoints a local board shall not in any way  
28 be held responsible for the debts of that board.

29 (e)(s) Audits. – A local board shall submit to the appointing authority and Commission an  
30 annual independent audit of its operations, performed in accordance with generally accepted  
31 accounting standards and in compliance with a chart of accounts prescribed by the  
32 Commission. The audit report shall contain a summary of the requirements of this Chapter, or  
33 of any local act applicable to that local board, concerning the distribution of profits of that  
34 board and a description of how those distributions have been made, including the names of  
35 recipients of the profits and the activities for which the funds were distributed. A local board  
36 shall also submit to any other audits and submit any reports demanded by the appointing  
37 authority or the Commission.

38 (d)(t) Deposits and Investments. – A local board may deposit moneysmonies at interest in  
39 any bank or trust company in this State in the form of savings accounts or certificates of  
40 deposit. Investment deposits shall be secured as provided in G.S. 159-31(b) and the reports  
41 required by G.S. 159-33 shall be submitted. A local board may invest all or part of the cash  
42 balance of any fund as provided in G.S. 159-30(c) and (d), and may deposit any portion of  
43 those funds for investment with the State Treasurer in the same manner as State boards and  
44 commissions under G.S. 147-69.3.

45 (e)(u) Compliance with Commission Rules. – The Commission shall adopt, and each local  
46 board shall comply with, fiscal control rules concerning the borrowing of money, maintenance  
47 of working capital, investments, appointment of a budget officer, appointment of a financial  
48 officer, daily deposit of funds, bonding of employees, auditing of operations, and the schedule,  
49 manner and other procedures for distribution of profits. The Commission may also adopt any  
50 other rules concerning the financial operations of local boards which are needed to assure the  
51 proper accountability of public funds. The Commission may vary these rules and regulations

1 according to any other criteria reasonably related to the purpose or complexity of the financial  
2 operations involved. The Commission has the authority to inquire into and investigate the  
3 internal control procedures of a local board and may require any modifications in internal  
4 control procedures which, in the opinion of the Commission, are necessary or desirable to  
5 prevent embezzlements or mishandling of public monies.

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

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

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

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

19 **"§ 18B-704. Removal of local board members and employees.**

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

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

25 (c) Cause for Removal. – (i) Disqualification of a local board member or employee  
26 under the law, (ii) a violation of the ABC laws, (iii) failure to complete training required by this  
27 Chapter or the Commission, or (iv) engaging in any conduct constituting moral turpitude or  
28 which brings the local board or the ABC system into disrepute is cause for the Commission to  
29 remove any member or employee of a local board. The employment or retention of any  
30 employee who is known to be disqualified under the law to hold a position with a local board is  
31 cause for the Commission to remove the board members involved.

32 (d) Removal Process. – The Commission or appointing authority shall provide, in  
33 writing, to the local board member or employee the findings of fact upon which the decision for  
34 removal is based. The Commission or appointing authority shall also provide the local board  
35 member or employee with notice of the availability of a hearing before the Commission to  
36 review the removal.

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

46 (f) Hearing Procedure. – The Commission shall hold the hearing required by subsection  
47 (e) of this section within 15 days of the member's or employee's request for a hearing. The  
48 standard of review by the Commission is de novo. The Commission or appointing authority  
49 shall be represented by a Commission hearing officer. The Commission shall discharge the  
50 member or employee if two-thirds of the Commission's members vote for removal. The  
51 Commission shall make findings of fact. The Commission may adopt the findings of fact of the

Commission or the appointing authority, may add new findings of fact to the original findings of fact, or may substitute new findings of fact for the original findings of fact. The Commission shall make conclusions of law and shall issue a written decision to the member or employee of the local board, and to the appointing authority, within 15 days of the hearing.

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

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

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

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

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

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

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

(b) Performance Improvement Plans. – The Commission, upon determining that a local board is failing to meet performance standards established pursuant to G.S. 18B-203(a)(20), shall meet with the chair of the local board and the appointing authority and issue a statement of findings. The appointing authority, in consultation with the Commission and the local board, shall develop and deliver a performance improvement plan to the local board within 60 days of the meeting with the Commission. The performance improvement plan shall include, but not be limited to, recommendations for improved performance based on the performance standards established by the Commission. The plan shall also state a period of time in which the performance improvements are to occur and what action will be taken by the Commission if performance standards are not met within the given time limits. The appointing authority shall allow up to, but no more than, 12 months' time to the local board to implement and show improvement under the performance improvement plan. The local appointing authority, in consultation with the Commission and upon good cause shown, may allow up to an additional six-month period of time for the local board to meet all requirements in the performance improvement plan and to establish that the performance standards established by the Commission are met.

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

1 pursuant to this subsection, the Commission shall issue a notice of intent to take such action to  
2 the appointing authority and the local board.

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

5 SECTION 21. Chapter 18B of the General Statutes is amended by adding a new  
6 section to read:

7 "§ 18B-706. Ethics requirements for local boards.

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

- 12 (1) The need to obey all applicable laws regarding official actions taken as a  
13 local board member or employee.
- 14 (2) The need to uphold the integrity and independence of the local board  
15 member or employee's position.
- 16 (3) The need to avoid impropriety in the exercise of official duties.
- 17 (4) The need to faithfully perform the duties of the position.
- 18 (5) The need to conduct the affairs of the board in an open and public manner,  
19 including complying with all applicable laws governing open meetings and  
20 public records.

21 (b) Each member of a local board shall receive a minimum of two hours of ethics  
22 education within 12 months after initial appointment to the office and again within 12 months  
23 after each subsequent appointment to the office. The ethics education shall cover laws and  
24 principles that govern conflicts of interest and ethical standards of conduct for local ABC  
25 boards. The education may be provided by the Commission or another qualified source  
26 approved by the Commission. The local board shall maintain a record verifying receipt of the  
27 ethics education by each member of the local board. The local board may require appropriate  
28 ethics training and education for employees of the local ABC board.

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

31 SECTION 22. G.S. 18B-801(b) reads as rewritten:

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

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

42 SECTION 23. G.S. 18B-801(c) reads as rewritten:

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

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

51 SECTION 24. G.S. 18B-803 reads as rewritten:



**"§ 18B-803. Store management.**

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

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

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

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

**SECTION 25. G.S. 18B-1213 reads as rewritten:**

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

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

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

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

**SECTION 26. G.S. 18B-1201(4) reads as rewritten:**

- "(4) "Winery" means any holder of an unfortified winery permit, fortified winery permit, limited winery permit, or nonresident wine vendor permit issued under the authority of this Chapter who sells at least ~~1,000~~ 1,250 cases of wine in North Carolina per year."

**SECTION 27. G.S. 93B-9 reads as rewritten:**

**"§ 93B-9. Age requirements.**

Any other provision notwithstanding, except certifications issued by the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission pursuant to Chapters 17C, 17E, 74E, and 74G of the General Statutes, no occupational licensing board may require that an individual be more than 18 years of age as a requirement for receiving a license."

**SECTION 28. Section 4 of S.L. 2004-92 reads as rewritten:**

~~"SECTION 4. If an election is held pursuant to this act and the operation of ABC stores in the City of Kannapolis is approved, the~~ The Rowan County ABC Board shall be renamed the Rowan/Kannapolis ABC Board. The terms of the current members of the Rowan County ABC Board shall not be affected by this act, and the Rowan County Board of Commissioners shall continue to appoint three members for staggered, three-year terms on the same schedule as is now followed. There shall be three board members appointed for staggered three-year terms. One member shall be appointed by each of the following governing bodies: Rowan County

1 Board of Commissioners, Kannapolis City Council, and the Salisbury City Council.  
2 Appointments shall be made in the following order as current board member terms expire:  
3 Salisbury City Council, Kannapolis City Council, and the Rowan County Board of  
4 Commissioners. The chair of the Rowan/Kannapolis ABC Board shall be determined by a vote  
5 of the members of the Rowan/Kannapolis ABC Board. A member of the Rowan/Kannapolis  
6 ABC Board may be removed for cause at anytime by the appointing authority. Members and  
7 employees of the Rowan/Kannapolis ABC Board are subject to the removal provisions of  
8 G.S. 18B-202."

9       **SECTION 29.** Section 6 of this act becomes effective January 1, 2011. Sections 12  
10 and 15 of this act become effective October 1, 2010, and apply to general managers and  
11 employees hired on or after that date. Section 16 of this act becomes effective October 1, 2011.  
12 Section 18 of this act becomes effective May 1, 2011, and is applicable for local board fiscal  
13 years beginning July 1, 2011. The ABC Commission shall offer training and education to local  
14 boards to assist local boards in complying with Section 18 of this act, and such training and  
15 education shall be offered at least once annually after the effective date of this act; however, the  
16 Commission shall have no obligation to provide such training and education after December  
17 31, 2013. Section 25 of this act is effective September 15, 2010, and its provisions shall apply  
18 to all existing wine distribution agreements. A supplier's shipment of wine to a wholesaler in  
19 North Carolina following the effective date of Section 25 of this act shall constitute acceptance  
20 by the supplier of the terms of this act and shall be incorporated into the distribution agreement  
21 between the supplier and wholesaler. Section 25 of this act shall be effective prospectively only  
22 and shall not apply to any administrative action pending before the ABC Commission or to  
23 pending litigation or claims that accrued before the effective date of this act. Section 26 of this  
24 act is effective September 15, 2010. Section 27 of this act is effective when it becomes law.  
25 Section 28 of this act is effective when it becomes law and applies to appointments and  
26 vacancies that occur on or after that date. The remainder of this act becomes effective October  
27 1, 2010. Nothing in this act shall be deemed to repeal or amend S.L. 1997-224 applicable to  
28 Mecklenburg County. Nothing in this act shall be deemed to repeal or amend Chapter 886 of  
29 the 1985 Session Laws applicable to the Greensboro ABC Board.

**Box Contents for 2009-2010 Standing Committee Minutes (Item 25894)**

[illegible]