

2015

**HOUSE
ALCOHOLIC BEVERAGE
CONTROL**

MINUTES



House Committee on Alcoholic Beverage Control
2015 Long Session

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HOUSE COMMERCE ON ALCOHOLIC BEVERAGE CONTROL

Rev. 2.5.2015

MEMBER	ASSISTANT	PHONE	OFFICE	SEAT
Rep. Jamie Boles, Chair	Kerry Guice, Clerk	3-5903	528	25
Rep. Jon Hardister, Chair	Jayne Nelson	3-5191	632	78
Rep. Kelly Alexander, Vice-Chair	Marjorie Conner	3-5778	404	35
Rep. Kelly Hastings, Vice-Chair	James Jenkins	5-2002	1206	20
Rep. Charles Jeter, Vice-Chair	Britt Eller	3-5654	2226	113
Rep. Marvin Lucas, Vice-Chair	Thelma Utley	3-5775	509	22
Rep. Jeff Collins	Wes Householder	3-5802	1106	29
Rep. Leo Daughtry	Jan Copeland	3-5605	2207	2
Rep. Josh Dobson	Julie Ryan	3-5862	301N	114
Rep. Beverly Earle	Ann Raeford	5-2530	514	60
Rep. Susan Fisher	Cindy Garrison	5-2013	504	81
Rep. Rosa Gill	Lisa Ray	3-5880	1303	58
Rep. Yvonne Holley	Lee Lewis	3-5758	1213	95
Rep. Chris Malone	Wanda Benson	5-3010	603	64
Rep. Chuck McGrady	Laura Bone	3-5956	304	28
Rep. Jason Saine	Laura Puryear	3-5782	1326	26
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Rep. Larry Yarborough	Leslie Murray	5-0850	1301	101
Rep. Lee Zachary	Haley Kitts	5-8361	1002	110



HOUSE COMMITTEE ON ALCOHOL BEVERAGE CONTROL
2015 SESSION

Clerks: Kerry Guice, Jayne Nelson



Rep. Jamie Boles, Chair



Rep. John Hardister, Chair



**Rep. Kelly Alexander
Vice-Chair**



**Rep. Kelly Hastings
Vice-Chair**



**Rep. Charles Jeter
Vice-Chair**



**Rep. Marvin Lucas
Vice-Chair**



Rep. Jeff Collins



Rep. Leo Daughtry



Rep. Josh Dobson



Rep. Beverly Earle



Rep. Susan Fisher



Rep. Rosa Gill



Rep. Yvonne Holley



Rep. Chris Malone



Rep. Chuck McGrady



Rep. Jason Saine



Rep. Roger West



Rep. Shelly Willingham



Rep. Larry Yarborough



Rep. Lee Zachary







Cancelled Notice

NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTIFICATION 2015-2016 SESSION

You are hereby notified that the **House Committee on Alcoholic Beverage Control** will **NOT** meet as follows:

DAY & DATE: Wednesday, February 18, 2015

TIME: 11:00 AM

LOCATION: 423 LOB

COMMENTS: Mike Crowell from the UNC School of Government will be making a presentation on the history of Alcoholic Beverage Control in North Carolina. No bills will be heard.

Respectfully,

Representative James L. Boles, Jr., Co-Chair
Representative Jon Hardister, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 2:49 PM on Tuesday, February 17, 2015.

___ Principal Clerk
___ Reading Clerk – House Chamber

Kerry Guice (Committee Assistant)



**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2015-2016 SESSION**

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Respectfully,

Representative James L. Boles, Jr., Co-Chair
Representative Jon Hardister, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 10:21 AM on Thursday, February 12, 2015.

___ Principal Clerk
___ Reading Clerk – House Chamber

Kerry Guice (Committee Assistant)



House Committee on Alcoholic Beverage Control
Wednesday, March 4, 2015 at 11:00 AM
Room 423 of the Legislative Office Building

MINUTES

The House Committee on Alcoholic Beverage Control met at 11:00 AM on March 4, 2015 in Room 423 of the Legislative Office Building. Representatives Alexander, Boles, Collins, Daughtry, Dobson, Gill, Hardister, Hastings, Holley, Jeter, Lucas, Malone, McGrady, West, Willingham, Yarborough, and Zachary attended.

Rep. Jamie Boles, Chair, presided and called the meeting to order at 11:13 a.m.

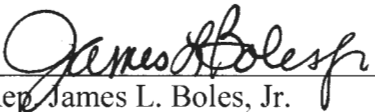
Chairman Boles introduced the Pages and Sergeant at Arms then introduced staff members and asked each member of the committee to introduce themselves.

Chairman Boles recognized Mike Crowell from the University of North Carolina School of Government to give a History of Alcoholic Beverage Control in North Carolina. A copy of Mr. Crowell's notes are attached as Attachment '1' for a more complete reference to his presentation. Additionally, Mr. Crowell handed out documentation for the committee members to review which is attached as Attachment '2'.


Following Mr. Crowell's presentation, Chairman Boles recognized Robert Hamilton, Administrator of the North Carolina ABC Commission to give an overview of the ABC Commission in North Carolina, a copy of which is attached as Attachment '3' for a more complete reference. At the conclusion of his presentation, Mr. Hamilton requested permission of the Chair to allow Mr. Luther Snyder, Executive Director, NC Initiative to Reduce Underage Drinking to come forward and offer a few brief words on the new NC Initiative to Reduce Underage Drinking and show two commercials which are currently being aired as part of the initiative. These commercials may be viewed online at www.talkitoutnc.org. See Attachment '4' to review Mr. Snyder's notes.

No bills were considered during this meeting.

The meeting adjourned at 12:57 p.m.



Rep. James L. Boles, Jr.
Presiding



Kerry Guice, Committee Clerk



Corrected #1: The meeting is Wednesday, March 4th

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
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2015-2016 SESSION**

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Respectfully,

Representative James L. Boles, Jr., Co-Chair
Representative Jon Hardister, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 10:20 AM on Friday, February 27, 2015.

___ Principal Clerk
___ Reading Clerk – House Chamber

Kerry Guice (Committee Assistant)



**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
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2015-2016 SESSION**

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Representative Jon Hardister, Co-Chair

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___ Principal Clerk
___ Reading Clerk – House Chamber

Kerry Guice (Committee Assistant)



House Committee on Alcoholic Beverage Control

Wednesday, March 4, 2015, 11:00 a.m.

Room 423, Legislative Office Building

AGENDA

Welcome and Opening Remarks

Chairman James L. Boles, Jr.

Introduction of Pages and Sergeant-at-Arms

Introduction of Committee Members and Staff

Presentations

Michael Crowell, UNC School of Government
History of ABC in North Carolina

Bob Hamilton, NC ABC Commission
Overview of the ABC Commission in North Carolina

Other Business

Adjournment







NORTH CAROLINA ABC LAW
Notes for House ABC Committee, 3/4/15

NORTH CAROLINA ALWAYS CONSERVATIVE ABOUT ALCOHOL

STARTED PROHIBITION SOONER THAN OTHERS, CAME OUT LATER
NEXT TO LAST TO HAVE LIQUOR BY THE DRINK
STILL HAVE STATE-OPERATED STORES

ALCOHOL AVAILABLE BUT NOT ALWAYS CONVENIENT

ABC SYSTEM DEVELOPED 1930S, BASICS SAME, STARTING TO CHANGE

HARD LIQUOR SOLD IN STATE STORES, BEER AND WINE PRIVATE RETAILERS
LOCAL VOTERS DECIDE WHERE ALCOHOL CAN BE SOLD
SALES THROUGH LOCAL STORES THAT KEEP PROFITS
TAXED HEAVILY, STATE GETS MOST OF MONEY

STATE STATUTES CONTROL ESSENTIAL REGULATIONS
WHO GETS PERMIT
WHERE BUSINESS LOCATED
HOURS OF OPERATION

CENTRALIZED SYSTEM OF ADMINISTRATION
ABC COMMISSION LOT OF CONTROL
ABC COMMISSION ISSUES, REVOKES PERMITS
ABC COMM'N MONITORS LOCAL FINANCE
COMM'N CHOOSES LIQUOR TO SELL

THOUGH SOLD PRIVATELY, SALE BEER AND WINE CLOSELY REGULATED
STATE LAW SETS REQUIREMENTS FOR PERMITS
LOCATION
HOURS

RELATIONSHIPS WITHIN PRIVATE SECTOR CLOSELY REGULATED
POST PROHIBITION VIEW INDUSTRY RIPE FOR ABUSE
PROHIBITION ON SINGLE OWNERSHIP DIFFERENT LEVELS
REGULATION RELATIONSHIP BETWEEN SUPPLIERS, WHOLESALERS
REGULATION WHAT CAN BE PROVIDED TO RETAILERS

STATE CHOSE OPERATE ABC STORES IN 1937
RESULT STUDY COMMISSION
REASONING:

STATE NO MOTIVE TO INCREASE SALES
ABC REVENUE SHOULD NOT BE DEDICATED
LOWER PRICES TO COMPETE WITH BOOTLEGGERS
STATE MORE LIKELY TO ENFORCE AGE, OTHER RESTRICTIONS
IF NO PRIVATE OPERATORS, NO ONE TO LOBBY FOR LOOSER REGULATION



ALL LAW IN CHAPTER 18B
REWRITTEN IN 1981
RESULT OF LIQUOR BY THE DRINK
TIDY, CLEAN STATUTES
UNIFORMITY

NO NEED LOCAL ACTS FOR CITY ABC SYSTEMS
UNIFORM PERCENTAGE TO LAW ENFORCEMENT, TREATMENT

CHANGES IN LANDSCAPE IN RECENT YEARS, PROMPTING LEGISLATION ACTION

SALE, CONSUMPTION MORE SOCIALLY ACCEPTABLE
LIQUOR BY DRINK BREAKTHROUGH
URBANIZATION OF STATE
IMPORTANT SOURCE OF REVENUE FOR LOCAL GOVERNMENTS
CONFLICTS COMM'RS, COUNCIL AND ABC BOARD OVER REVENUE
COMM'RS, COUNCIL MEMBERS APPOINTED TO BOARD
WINERIES, BREWERIES, DISTILLERIES BECOME IMPORTANT BUSINESSES
CONSOLIDATION OF BEER BUSINESS NATIONALLY
FEWER FAMILY BUSINESSES
INTERNET PRESSURE FOR DIRECT SALES, ACCESS TO MORE BRANDS

ACCEPTABILITY, IMPORTANT OF BUSINESS MEAN SLIPPAGE LOCAL APPROVAL
SALES PERMITTED IN LOCATIONS WITHOUT LOCAL VOTE
AREAS OTHER THAN CITIES, COUNTIES ALLOWED TO VOTE (ABC GERRYMANDERING)
BIGGEST SOURCE OF CONFUSION IN LAW

READ GS 18B-603(f)(7) ON TOURISM ABC ESTABLISHMENT
PERMIT NOT REQUIRING LOCAL ELECTION

READ 18B-101(14a) ON DEFINITION TOURISM ABC ESTABLISHMENT

READ 18B-600(e3) ON SMALL TOWN MIXED DRINK ELECTION

ARTICLE II, SEC 24 OF CONSTITUTION
LOCAL ACT REGULATING TRADE
CAN HAVE LOCAL ACT ON ABC STORES, NOT ON PRIVATE SALE
CAN CLASSIFY RATHER THAN NAME LOCALITY
USEFUL HYPROCRISY

PART GREATER ACCEPTABILITY OF ALCOHOL, IMPORTANCE AS BUSINESS
BUSINESSES WANT IT AVAILABLE THOUGH MIGHT NOT WIN ELECTION
EFFECT IS TO CREATE CONFUSION, REDUCE UNIFORMITY

CAN EXPECT MORE SUCH LOCAL BILLS DISGUISED AS SOMETHING ELSE
BILLS RELATED TO BUSINESS OPERATIONS OF WINERIES, DISTILLERIES, ETC.
PERHAPS LEGISLATION ABOUT LOCAL REGULATION
IN ADDITION TO ISSUES LOCAL REVENUE, LOCAL GOV'T CONTROL ABC
NC HAS BARS, NIGHT CLUBS
LOCAL AUTHORITY TO DEAL WITH NOISE, UNLAWFUL ACTIVITY



COUNTY AND MUNICIPAL GOVERNMENT IN NORTH CAROLINA

Chapter 37

Alcoholic Beverage Control

Michael Crowell

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North Carolina long has had a conservative approach to the sale of alcohol. The state was dry well before national Prohibition and waited longer than many other states to open up sales after alcohol became legal again. Ever since the end of Prohibition, hard liquor has been available in North Carolina only through government alcoholic beverage control (ABC) stores, and it was not until 1978 that the state became the next to last state to allow the sale of mixed drinks. Today North Carolina still has fewer outlets for alcohol than most other states, but those sales generate more revenue per capita than in most other jurisdictions.

The basic scheme of alcohol regulation in effect today was established in the 1930s after the repeal of Prohibition. Hard liquor is sold through ABC stores operated by local boards whose members are appointed by counties and cities after approval of stores by the voters.¹ All ABC store inventory comes through a state warehouse run by the state Alcoholic Beverage Control (ABC) Commission. Taxes on hard liquor generate hundreds of millions of dollars for the state each year, and local governments reap profits from their ABC stores.

Beer and wine are sold by private retailers—grocery stores, convenience stores, restaurants, bars—in communities where voters have approved such sales. All retailers must have permits from the ABC Commission, which also has authority to suspend or revoke the permission to sell. The ABC Commission will listen to local governments' concerns about permits, but final decisions are made at the state level. Local governments that operate convention centers,

1. North Carolina is one of seventeen states in which liquor sales go through government wholesalers or retailers.

ballparks, and theaters may themselves get in the business of selling alcohol. The state and local governments share revenue from beer and wine taxes.

While the basic structure of the ABC system has remained the same for eighty years, there have been changes on the edges. In recent years in particular it has become more common for the General Assembly to allow sales of alcohol, including mixed drinks, in certain specified communities or particular kinds of businesses, without the need for a local election. As will be discussed below, many of these legislative acts are legally suspect, but they continue to flourish.

Kinds of Alcohol

The state alcoholic beverage control (ABC) laws are found in Chapter 18B of the North Carolina General Statutes (hereinafter G.S.), which was rewritten most recently in 1981. The law's catchall term for all kinds of alcohol is "alcoholic beverage."² The term "spirituous liquor" refers to distilled spirits such as whiskey, rum, vodka, brandy, and gin, all of which typically are around 40 percent (80 proof) alcohol, plus liqueurs. "Hard liquor" is used here to mean the same thing.

"Malt beverages," which include beer, lager, porter, ale, and other fermented beverages, range from half a percent of alcohol to about 15 percent, but most are around 5 percent. This chapter uses "beer" as synonymous with malt beverage. The sale of beer with more than 6 percent alcohol was authorized only in recent years. Most of those products are expensive specialty beers, and their labels have to say that they are more than 6 percent alcohol.

"Unfortified wine" refers to wine produced by natural fermentation from grapes, fruits, berries, rice, or honey, and it is not more than 16 percent alcohol. When brandy is added to boost the alcohol content, the result is "fortified wine," which ranges from 16 to 24 percent alcohol. Wine labels indicate the alcohol percentage.

As a general rule, spirituous liquor and fortified wine may be possessed and consumed only where state law specifies.³ Beer and unfortified wine, on the other hand, may be possessed and consumed anywhere, unless specifically prohibited by the statutes.⁴ No alcohol may be sold except with a permit from the ABC Commission. Depending on what kinds of sales have been approved for a given community, some permits may allow sale for consumption at a business ("on-premises" permits) and some may allow only take-out sales ("off-premises" permits). The kinds of places that can get permits, and the kinds of permits allowed, are discussed below.

State Administration

The state Alcoholic Beverage Control (ABC) Commission is made up of three members who are appointed by and serve at the pleasure of the governor.⁵ The appointments usually but not always are based on political connections. The chair is paid a full-time salary, while the other two members are paid on a per diem basis. Commission members are subject to the State Government Ethics Act.⁶

The ABC Commission operates the state warehouse and distributes liquor to local ABC boards.⁷ It decides what brands of liquor, beer, and wine may be sold in the state and issues all permits to wineries, breweries, distilleries, wholesalers, restaurants, hotels, grocery stores, and so on. The commission also may revoke and suspend permits and levy fines against permit holders for selling to minors, staying open after legal hours, allowing fights on premises, and

2. The definitions of the different kinds of alcohol are found in Section 18B-101 of the North Carolina General Statutes (hereinafter G.S.).

3. G.S. 18B-102, -301.

4. G.S. 18B-300.

5. G.S. 18B-200.

6. The act is codified at G.S. Chapter 138A.

7. The commission's duties and powers are described in Article 2 of G.S. Chapter 18B.

other violations of the ABC statutes and regulations. To investigate complaints the commission relies on state Alcohol Law Enforcement (ALE) officers and on local ABC officers. Commission lawyers handle hearings on violations of the law by permit holders.

Although the commission does not appoint local ABC board members or employees, it has general supervisory authority over all local ABC systems. It also issues regulations that local boards must follow, conducts mandatory training for local board members, audits local boards' finances and general operations, and in some circumstances may remove local board members and employees. The location of all ABC stores has to be approved by the commission. When a local ABC system is losing money, the commission may step in and close stores or require the system to merge with another to maintain solvency.

Local ABC Systems

Alcoholic beverage control (ABC) stores sell only hard liquor and fortified wine.⁸ They are operated by units of local governments, not by private businesses, and provide significant revenue to those governments. When a referendum passes to establish ABC stores, the operation of the ABC system is turned over to a local ABC board. The ABC board operates independently of the given county or city, but the relationship is close and interactive.

Elections

Any county may hold a referendum on whether to establish a local ABC system to operate ABC stores.⁹ A city may hold an ABC store election only if it has at least 1,000 registered voters and the county does not already have an ABC system.¹⁰

A referendum may be called by the board of county commissioners or the city council.¹¹ If the governing body does not want to call a referendum, the ABC system election may be forced by a petition submitted to the county board of elections by 35 percent of the registered voters in the jurisdiction. Petitioners have ninety days from the time they register the petition with the board of elections to get the required signatures. Elections officials then have thirty days to verify the signatures.

Whether the election is called by the local government or by petition, the actual date for voting is set by the board of elections. All ABC elections must be held at the same time as the state and county general election in even-numbered years or at the time of the spring primary preceding that election, or at the same time as a city general election in odd-numbered years.¹² The election procedures are the same as for any other election.¹³ A county or city may not hold an election on ABC stores within three years of a previous election on the same issue.¹⁴ Other alcohol issues, such as the approval of mixed drinks, may be voted upon at the same time as the referendum on ABC stores.

All elections are conducted by the county board of elections. A city is required to reimburse the county for the cost of a municipal ABC election.¹⁵

8. G.S. 18B-800.

9. G.S. 18B-600.

10. G.S. 18B-600(d). When a county approves ABC stores after a city has already established its own ABC system, the city continues to operate its separate stores. There may be pressure to merge the two systems, however.

11. G.S. 18B-601.

12. G.S. 18B-601(f) and G.S. 163-287.

13. For example, just as with any other municipal election, the use of absentee ballots has to be approved by the city council. G.S. 163-302(a). Once approved, the use of absentee ballots remains in effect until rescinded by the city.

14. A city could hold an election on off-premises sale of beer one year, for example, and then vote on on-premises sale of beer and wine the next year, but it could not have another referendum on off-premises beer for three years.

15. G.S. 163-284.

Number of Local ABC Systems

In 2014 there were 168 active local ABC systems in North Carolina, operating more than 420 stores. About half of the counties, mostly in the eastern part of the state, have county ABC systems; municipal systems operate in the other counties. In only one county, Graham, was there no ABC system at all.

The number of ABC systems in the state proliferated after the enactment of liquor-by-the-drink in the late 1970s. To be eligible to have a mixed drink election, a community had to have its own ABC stores to sell the liquor to permit holders, prompting a number of places to approve ABC stores so that a few local restaurants could serve mixed drinks. As a consequence, the number of small ABC systems grew, and some of them had difficulty making money. It was not unusual for new, small municipal systems to take business from neighboring towns, putting their long-term profitability into question. In 2010 the legislature rewrote the ABC laws to increase the population required to have a city ABC store election and, more importantly, to eliminate the requirement that a municipality have ABC stores before it can approve mixed drinks.

Board Size, Members¹⁶

A county ABC system is governed by an ABC board appointed by the county commissioners; a city ABC board is appointed by the city council. Under state law the board may have either three or five members. Members serve staggered, three-year terms. The size of the board is set by the appointing authority—the county commissioners or city council—when the ABC system is established. If an existing board has three members, the appointing authority may increase it to five by adding two new members with three-year terms. If the commissioners or council want to reduce the ABC board from five to three members, they can do so only when terms expire and only with the agreement of the state ABC Commission. The appointing authority designates one ABC board member to be the chair.

State law says that ABC board members should be appointed on the basis of their “interest in public affairs, good judgment, knowledge, ability, and good moral character.”¹⁷ Otherwise, there are no specific qualifications for the job, although conviction of a felony or a violation of the ABC law disqualifies a person from serving on or being employed by an ABC board for three years from the time of conviction.¹⁸ The law does not require that an ABC board member be a resident of the community, but counties and cities usually will not appoint nonresidents.

Occasionally, a board of county commissioners or city council will appoint one or more of its own members to the ABC board, usually in response to troubles in the ABC system. Such appointments are allowed, and the ABC board position does not count as a separate office for purposes of the state dual office-holding law.¹⁹ The commissioners or council might even appoint their manager, attorney, or finance officer. The ABC board is intended to be an independent entity, however, and typically those appointments last only until the ABC board’s problems are straightened out.

Duties

The ABC board is responsible for running the local ABC system. The board hires and fires employees and selects one employee to be the manager of the system. The board also designates someone other than this general manager as the system’s finance officer, or it may use the finance officer of its county or city appointing authority.²⁰ The board is required by the state ABC Commission to establish personnel policies and is encouraged to model these after the policies and procedures of the county or city in which the ABC board operates.²¹ The ABC board sets employees’ salaries but may not pay the general manager more than the salary set by the legislature for the county clerk of court, unless

16. G.S. 18B-700.

17. G.S. 18B-700(d).

18. G.S. 18B-202.

19. See G.S. 128-1.2. “Except when the resolution of appointment provides otherwise, whenever the governing body of a county or city appoints one of its own members or officials to another board or commission, the individual so appointed is considered to be serving on the other board or commission as a part of the individual’s duties of office and shall not be considered to be serving in a separate office.”

20. G.S. 18B-702(j).

21. Title 4, Subchapter 2R, Section .1009(b), of the North Carolina Administrative Code (hereinafter N.C.A.C.).

the board of county commissioners or city council which appointed the ABC board agrees to the higher salary.²² The general manager may not be given any benefits not offered to all other employees, and no other employee may be paid more than the general manager.

The ABC board decides what products to buy for its ABC stores; buys and leases property as necessary to operate the ABC system; decides where to locate ABC stores (with the approval of the ABC Commission); and oversees the finances of the system. Retail prices for products sold in ABC stores are set by distillers using a statutory markup formula²³ that is to be uniform throughout the state. The local ABC board may dispose of surplus property the same as a city council.²⁴

All local ABC board members, general managers, and finance officers are required to complete a training course offered by the state ABC Commission within the first year of being appointed or employed.²⁵ Board members, the general manager, and the finance officer also are required to be bonded for at least \$50,000.²⁶ The county commissioners or city council may increase the required bond for any member or employee handling ABC board funds.

Compensation

Compensation to local ABC board members is limited to \$150 per meeting, unless a different amount is approved by the appointing board of commissioners or city council.²⁷ Any higher amount has to be reported to the ABC Commission. Travel reimbursement is to be at the same rate as for state government generally, unless the appointing authority has a different policy and the ABC board adopts that policy, with the approval of the board of commissioners or city council.²⁸ Expenses not covered by the travel policy may be paid only with the written authorization of the county or city's finance officer, and the authorization has to be copied to the ABC Commission.

Ethics

Like other local government officials, local ABC board members are not subject to the financial disclosure laws and other provisions of the State Government Ethics Act,²⁹ but the ABC statutes regulate the ethical conduct of local board members and subject them to several other important general state laws concerning ethics.³⁰ The ABC statutes restrict the employment of relatives; require board members to report and refrain from participating in decisions that may benefit certain relatives financially; prohibit board members from using their position to financially benefit themselves or family members; and subject board members to general state law provisions about self-dealing and acceptance of gifts. Board members are obligated to disclose in writing any conflict or potential conflict of interest that might affect their participation in a board action. Each local ABC board is to adopt a code of ethics, which can mirror the model ethics policy prepared by the ABC Commission, and members must complete ethics training within a year of appointment or reappointment.³¹

Removal of Board Members

Local ABC board members serve set terms of three years but may be removed from office sooner under some circumstances. For instance, any board member or employee may be removed from office or discharged from board employment by a judge upon the person's conviction of a felony or any violation of the ABC laws.³² The board of county commissioners or city council that appointed an ABC board member may remove the member "for cause," but the

22. G.S. 18B-700(g1).

23. G.S. 18B-804; *see also* 4 N.C.A.C. 2R, § .1502.

24. G.S. 18B-701(a)(12). The statutes on disposal of property are found in Article 12 of G.S. Chapter 160A, §§ 160A-265 *et seq.*

25. 4 N.C.A.C. 2R, § .2001.

26. G.S. 18B-700(i).

27. G.S. 18B-700(g).

28. G.S. 18B-700(g2).

29. *See* G.S. Chapter 138A.

30. *See, in particular,* G.S. 18B-201 & -700(h), (k).

31. G.S. 18B-706.

32. G.S. 18B-202.

statute does not specify what “cause” means.³³ A more useful statute allows either the appointing authority or the ABC Commission to remove a local ABC board member or employee for any violation of the ABC laws, for failing to complete any training required by law or by the commission (e.g., ethics training), and for “any conduct constituting moral turpitude or which brings the local board or the ABC system into disrepute.”³⁴ G.S. 18B-704 sets out a specific procedure for removal, including notice in writing of the grounds for removal and a hearing before the commission. The statute also says that the ABC Commission’s decision on removal is final, but it allows an appeal to the North Carolina Court of Appeals.

Open Meetings and Public Records

Local ABC boards are governmental bodies subject to the state open meetings and public records laws.³⁵ Like all other governmental bodies, ABC boards must give notice of each meeting to be held; may call special meetings only on forty-eight hours’ notice, unless there is an emergency; may go into closed session only for one of the reasons listed in the open meetings law; must specify the reason for the closed session; must keep minutes of the closed session; and must make its records available to the public. Local ABC boards that have only three members must remember that any meeting of a majority of the board to discuss board business is a meeting requiring notice and public access. Thus, two members of a three-member board may not talk on the telephone about ABC business without taking all of the steps required of an official board meeting.

Mergers and Dissolution of Local Systems

A board of county commissioners or city council may merge its ABC system with that of any other neighboring county or city, with the approval of the state ABC Commission.³⁶ The appointing authorities have to agree on a joint ABC board and on the distribution of profits.

County commissioners and city councils with ABC systems also may agree to have one of those governmental unit’s ABC board operate a store or stores for the other.³⁷ Again, such an agreement has to be approved by the ABC Commission.

A local ABC system may be shut down if it is not operating profitably. The local ABC board may apply to the state ABC Commission to close the system; the commission may investigate; and if the commission finds that the system cannot be operated profitably, it may order it closed.³⁸ When that happens, the ABC Commission schedules a phase-out of the system’s business and from that point on represents the local board in negotiations with creditors and other interested parties.

Another circumstance in which a local ABC system may be closed or merged is when it fails to meet the performance standards that the ABC Commission sets for all local ABC systems. When this happens, the commission may require the board of commissioners or city council operating the failing system to develop and implement an improvement plan.³⁹ The plan developed by the commissioners or city council is to set a deadline of not more than twelve months for the specified improvement; the deadline may be extended six months. If at that time the ABC Commission determines that the performance standards cannot be met, the commission may close stores, shut down the system, or merge it with another local ABC system. As part of that process, the ABC Commission may seize the assets of the local ABC board and liquidate any assets to satisfy debt.

33. G.S. 18B-700(f).

34. G.S. 18B-704(c).

35. See generally G.S. Chapter 143, Article 33C, and G.S. Chapter 132.

36. G.S. 18B-703.

37. G.S. 18B-703(h).

38. G.S. 18B-801(d).

39. G.S. 18B-705.

ABC Finances

Alcohol is taxed heavily by both the federal and state governments. Hard liquor is the source for most of the alcohol revenue that goes to state and local governments. The state receives the excise tax proceeds from the sale of liquor in alcoholic beverage control (ABC) stores; a markup in the price is designed to cover the operating expenses of the stores; and local governments receive the stores' profits. Beer and wine wholesalers collect and pay to the state the excise taxes on beer and wine, and a portion of those moneys is shared with counties and cities where the beer and wine are sold. The state also receives some revenue from the fees charged for ABC permits, and local governments collect license fees from the permit holders located in their communities.

State Revenue

North Carolina law requires uniform pricing for liquor sold in ABC stores throughout the state. Distillers set the price for their products according to a formula set by state law, with various taxes and markups added to the distiller's base price.⁴⁰ The statutory formula includes a 30 percent excise tax to be collected by local ABC boards and paid to the state.⁴¹ In the fiscal year that ended June 30, 2013, the excise tax was worth nearly \$180 million to the state. When added to sales tax collections of about \$46 million and mixed beverage taxes of \$14 million, the total tax revenue to the state from hard liquor was nearly \$240 million.

There also are state excise taxes of different amounts on beer and wine.⁴² Those taxes are collected by the wholesalers who distribute the beer and wine to retail accountholders,⁴³ and they amount to about \$140 million a year. The majority of the beer and wine excise tax proceeds are kept by the state, but a portion is paid to the counties and cities where those products are sold, as explained further below.

The ABC Commission also collects and pays to the state general fund fees for all of the permits it issues; these fees generated more than \$15 million in fiscal year 2013. As of early 2014 the fees ranged from \$50 for a vendor representative to \$1,000 for a mixed drink permit.⁴⁴ Most ABC permit fees, including those for the sale of beer and wine and the fees for breweries, wineries, and wholesalers, are one-time fees, but beer and wine permit holders still have to pay an annual registration and inspection fee of \$200.⁴⁵ A mixed drink permit is only good for one year, and a renewal fee has to be paid annually.

Calculating the Price of Liquor

In addition to the excise tax described above, and the markups for local governments described below, the markup formula for liquor sold in ABC stores includes several other charges that provide revenue to both the state and local governments. For example, there is a penny charge on each bottle of 50 milliliters or less, and a nickel on each larger bottle (a fifth of alcohol is 750 milliliters); a second bottle charge of the same amount; and a \$20 charge on each four liters sold to a mixed drink permit holder.⁴⁶ The revenue from the first bottle charge goes to the county commissioners to be used for alcoholism programs, while the revenue from the second bottle charge becomes part of the profit to be distributed by the local ABC board to its county or city.⁴⁷ Half the revenue from the \$20 charge to mixed drink permit holders goes to the state general fund, 5 percent to the state Department of Health and Human Services for alcoholism programs, and the remainder to the local government.⁴⁸

40. G.S. 18B-804; 4 N.C.A.C. 2R, § .1502.

41. G.S. 105-113.80, -113.83(a).

42. G.S. 105-113.80.

43. G.S. 105-113.83(b).

44. G.S. 18B-902(d).

45. G.S. 18B-903.

46. G.S. 18B-804(b).

47. G.S. 18B-805(b)(4), (c)(1).

48. G.S. 18B-805(b)(2), (3).

Local Revenue

A local ABC system pays its profits to the county or city that appoints its board. In the fiscal year ending June 30, 2013, the profits paid to local governments totaled more than \$55 million statewide. The price on liquor sold in ABC stores includes markups to go to the local ABC board. The general markup, set at the discretion of the ABC Commission, becomes part of the ABC board's revenue to be mixed into its gross receipts; a second markup of 3.5 percent is earmarked for the local government that appoints the ABC board⁴⁹ (along with other profit as discussed below). Counties and cities where beer and wine are sold also share in the excise tax on those products collected by the state.⁵⁰ The amount shared currently is slightly more than 20 percent of the excise tax on beer, nearly 50 percent of the excise tax on unfortified wine, and 18 percent of the fortified wine excise tax. Those tax proceeds are allocated to counties and cities based on population.

Counties and cities also collect and keep modest annual ABC license fees set by state law.⁵¹ The fees apply to beer and wine permit holders operating in the county or city and to wholesalers with business locations in cities. Local governments may not charge fees to ABC permit holders other than those specified in state law.⁵² Local school systems receive the fines levied by the ABC Commission on permit holders who have violated ABC laws and regulations. In fiscal year 2012, those fines amounted to more than \$830,000.

Allocation of ABC Profits

General state law requires a local ABC board to allocate certain portions of its revenue for specified purposes; the remaining profit typically goes to the county or city for which the ABC system is operated.

By law, 5 percent of gross receipts are to be spent on law enforcement, either for the board's own officers or through contract with local law enforcement agencies or with the Alcohol Law Enforcement division of the state Department of Public Safety.⁵³ Another 7 percent are for alcoholism programs, unless the ABC board is subject to a local act of the legislature setting a different allocation.⁵⁴ After those distributions, the remaining profits are to go to the county or city unless, again, there is a local act setting a different distribution.⁵⁵ Such acts are not as common today as they used to be, but a number of boards still are subject to local acts specifying that a certain percentage of profits must go to schools, parks, or other particular activities. Those local acts for county ABC systems sometimes specify that a certain percentage of profits are to go to each municipality within the county as well as the portion that is to go to the county itself. In those situations, the affected cities and the county may alter the distribution by mutual agreement.⁵⁶

Local Fiscal Control

Although local ABC boards are not subject to the Local Government Budget and Fiscal Control Act,⁵⁷ as are boards of county commissioners and city councils, they are subject to statutes with essentially the same provisions.⁵⁸ Under the ABC statutes, for example, the local ABC board's general manager serves as the board's budget officer, with responsibility for preparing and presenting a budget to the board in the same manner as a county or city manager does.⁵⁹ The budget year is from July 1 to June 30, the same as for other governmental entities in North Carolina, and the budget process is much the same as for counties and cities. The budget officer—i.e., the general manager—is to submit the proposed budget and a budget message to the board by June 1, and there must be a public hearing where anyone

49. G.S. 18B-804(b)(3), (5), & -805(c)(1).

50. G.S. 105-113.82.

51. G.S. 105-113.77, -113.78, -113.79.

52. G.S. 105-113.70(d).

53. G.S. 18B-805(c)(2).

54. G.S. 18B-805(c)(3).

55. G.S. 18B-805(e).

56. *Id.*

57. See generally G.S. Chapter 159, Article 3.

58. See G.S. 18B-702.

59. G.S. 18B-702.

wishing to be heard on the budget is permitted to appear. The ABC law specifies the form of the budget and requires a balanced budget.

In addition to the budget officer, the local ABC board must appoint a finance officer. The board may designate one of its employees for that role or may use the finance officer of the county or city in which the ABC system operates, with the approval of that other board. The local board may appoint the general manager as the finance officer only with the approval of the state ABC Commission, and the commission is to allow such an appointment only for good cause. The fact that the local board operates no more than two stores is considered good cause.⁶⁰

The finance officer keeps the board's books, receives and deposits all moneys, disburses funds, maintains debt records, supervises the investment of idle funds, and otherwise sees that the board follows its budget and the rules of the ABC Commission. Payment of any bill generally requires the approval of the finance officer, but the board may override the finance officer and pay a bill itself if there is an appropriation in the budget for that purpose. The override has to be by adoption of a resolution, and the board members approving the payment can be individually liable if the payment turns out to break the law.⁶¹

The statutes allow a local ABC board to set aside a portion of its profits as working capital to operate the system, subject to the rules of the ABC Commission.⁶² The current commission rule provides that working capital is to be not less than two weeks' average gross sales nor more than two to four months' average, the maximum being tiered according to the boards' gross sales.⁶³ With the approval of its board of county commissioners or city council, the local ABC board also may set aside funds for special capital improvement projects.⁶⁴ The local board may deposit its money in savings accounts or certificates of deposit and may invest its cash balances in the same kinds of funds as allowed for counties and cities or may deposit the moneys with the State Treasurer for investment.⁶⁵

A local ABC board may borrow money only to buy land, buildings, equipment, or stock needed to operate the ABC system.⁶⁶ The board may pledge as security its interest in any of its real or personal property other than the alcohol.

The county or city appointing the ABC board is not responsible for the board's debts.⁶⁷

Each local ABC board is required to have an annual independent audit following a chart of accounts prescribed by the ABC Commission.⁶⁸ The audit report is to be provided to the appointing authority and the ABC Commission, either one of which may require additional audits.

Mixed Drink Elections

Mixed drinks are sold in qualified hotels, restaurants, clubs, and other locations. Whether such sales are allowed in a community usually, but not always, is decided in a local referendum.

Standard Election Provisions

To hold a mixed drink election, a county must either already operate alcoholic beverage control (ABC) stores or have an ABC store election at the same time;⁶⁹ there has to be a store for mixed drink permit holders to get their liquor. Any city with at least 500 registered voters is eligible to have a mixed drink election; if the city does not have ABC stores, the permit holders may buy their liquor from a store located elsewhere that has been approved by the ABC Commission.

60. G.S. 18B-702(j).

61. G.S. 18B-702(o).

62. G.S. 18B-702(g)(3), -805(d).

63. 4 NCAC 2R, § .0902.

64. G.S. 18B-805(d).

65. G.S. 18B-702(t).

66. G.S. 18B-702(r).

67. *Id.*

68. G.S. 18B-702(s).

69. G.S. 600.

If the county or city governing body does not want to call a mixed drink election, it can be required to do so by a petition from 35 percent of the registered voters.⁷⁰

As with elections for ABC stores, a mixed drink election is conducted by the county board of elections using the same rules that apply for all other elections.⁷¹ See the discussion above about the conduct of ABC store elections; the same rules apply to mixed drink elections. A county or city may not hold a mixed drink referendum within three years of an earlier referendum on the same issue.⁷²

Special Provisions on Elections

In addition to the general provisions on mixed drink elections discussed immediately above, the ABC statutes have a number of carefully written sections that describe other kinds of places that may have mixed drink elections. The reason for these provisions is the state constitution's prohibition on local acts regulating trade.⁷³ Under the constitution, the General Assembly could not enact a bill allowing mixed drink sales in, say, Caldwell and Iredell counties because the sale of mixed drinks is the regulation of trade, and the limitation of the act to specifically named counties makes it a local act. One way around that constitutional restriction is to enact a law applicable to a defined category of counties or cities rather than to specific named locations. An example would be an act allowing mixed drink sales in all counties and cities with populations of 200,000 or more.

The use of such classifications to avoid the unconstitutional local act problem has become a staple of the ABC law, especially with respect to mixed drinks. The categories are crafted to sound like something other than local acts while being limited to a very few targeted communities. One provision, for example, allows mixed drink elections in all cities with at least 300 registered voters located in a county with at least one other city that has approved mixed drinks.⁷⁴ Another more egregious example allows any kind of alcohol election in a township (a geographical subdivision of a county that serves no other governmental purpose) that meets all of the following requirements: The county in which the township is located has already approved ABC stores; a third of the employment in the county is travel-related; travel spending exceeds \$400 million per year; the entirety of two townships consists of a single island; the island has a population of at least 4,000; and one side of the island faces the ocean and the other side faces a sound.⁷⁵

These categories do not really fool anyone, and it is obvious that they are simply another way of limiting a provision to a specific community without saying its name out loud. If challenged in court they would be found to be invalid local acts, but generally they have not been questioned and have served as a convenient fiction to allow the legislature to extend mixed drink elections to a number of additional localities.

Beer and Wine Elections

Beer and wine are sold both for consumption on-premises and on a take-out basis. Off-premises sales occur in commercial retail outlets like grocery stores and convenience stores, not in alcoholic beverage control (ABC) stores. On-premises sales take place in restaurants, hotels, bars, movie theaters, cafes, and a host of other places. For the most part, the decision on whether to allow on- or off-premises sale of beer or wine is made in a local referendum.

Beer and Wine Election Choices

Counties and cities may vote on a variety of options for the local sale of beer and wine. They may vote for either on-premises (sale and consumption at the location) or off-premises (carry-out) sales of beer, wine, or both. Once a category

70. G.S. 18B-601(b)(2).

71. For example, just as with any other municipal election, absentee ballots may not be used in an ABC referendum unless approved by the city council. G.S. 163-320(a). Once the use of absentee ballots is authorized, it remains in effect until rescinded by the city council.

72. G.S. 18B-604(a).

73. N.C. Const. art. II, § 24(j).

74. G.S. 18B-600(e1).

75. G.S. 18B-600(f).

of sales is approved, state law dictates the kinds of places that may obtain permits. In an on-premises beer election, for example, the local government can choose to limit sales to Class A hotels, motels, and restaurants only.⁷⁶

Any county may hold a beer or wine election.⁷⁷ A city may by law have such an election only if the last county election was against such sales—that is, the kind of sales the city wants to put on the ballot are not already legal in the county—and the city either has a population of 500 or more or it operates an ABC store. As discussed above in connection with mixed drink elections, there are various, narrowly drawn provisions of the ABC statutes that allow particular local governments to have ABC elections even though they would not qualify under these general requirements for county and city elections. Those other provisions typically are written to allow mixed drink elections, but some also authorize beer and wine elections. Thus, for example, certain seasonal ski resorts can qualify to conduct beer and wine elections based on the weekly average number of skiers, though they otherwise would not be eligible for an election.⁷⁸ The section on mixed drinks, above, explains the reasons for such provisions.

As with ABC store and mixed drink elections, a beer or wine referendum may be called by a board of county commissioners or city council or by a petition submitted by 35 percent of the registered voters in the county or city.⁷⁹ The same rules apply as for all other elections, as discussed earlier. Thus, a county or city may not hold a beer or wine election within three years of the same kind of election in the same jurisdiction.

The Fallout Effect of Some Elections

Some elections for particular kinds of alcohol affect the sale of other products. The approval of ABC stores, for example, automatically results in the lawfulness of on- and off-premises wine sales in that jurisdiction, regardless of any separate election on wine.⁸⁰ Similarly, if mixed drinks are approved in a referendum, the establishments eligible for permits to serve them automatically qualify also for beer and wine permits, even if those sales have not been separately approved.⁸¹ The reasoning is that once the sale of a more potent form of alcohol has been approved, the community also should have access to products with a lower percentage of alcohol.

Mixed Drink, Beer, and Wine Sales Allowed Without an Election

In an increasing number of situations, the legislature has allowed the sale of beer, wine, and mixed drinks in localities without voter approval at an election. Some of these provisions are applicable statewide, authorizing the issuance of permits to particular kinds of establishments regardless of whether alcohol sales have been approved in that community, while other provisions target specific localities using the same kind of thinly disguised local acts described above for mixed drink elections.

Covered by the first category of provisions are, for example, “tourism resorts,” which are eligible for all alcoholic beverage control (ABC) permits even if located in a county or city that has not approved sales.⁸² A tourism resort is a restaurant and lodging facility with a golf course and two tennis courts or a restaurant with an equestrian center and two tennis courts.⁸³ “Sports clubs” receive similar treatment under the ABC laws. A sports club is any 18-hole golf

76. G.S. 18B-602(a)(4). The ABC Commission refers to these as “modified plan” permits and requires that a restaurant have inside seating for at least thirty-six people to qualify for such a permit. See 4 N.C.A.C. 2S, §§ .0101(3), .0105(a).

77. G.S. 18B-600.

78. G.S. 18B-600(e2).

79. G.S. 18B-601.

80. G.S. 18B-603(c)(2).

81. G.S. 18B-603(d)(2).

82. G.S. 18B-603(f)(8).

83. G.S. 18B-101(14b).

course and any facility with two or more tennis courts, whether public or private,⁸⁴ and it may receive beer, wine, and mixed drink permits regardless of the outcome of any local election on such sales.⁸⁵

Examples falling under the second category of provisions include “historic ABC establishments” and “tourism ABC establishments,” each of which qualifies for permits regardless of local elections.⁸⁶ A historic ABC establishment, it turns out, is a restaurant or hotel that is on the National Register of Historic Places or within a state historic district; is located on a state highway within 1.5 miles of a designated North Carolina scenic byway and within 15 miles of a national scenic highway; and is in a county in which at least two cities have approved on-premises sale of beer or wine.⁸⁷ A tourism ABC establishment has to be within 1.5 miles of an entrance or exit ramp for a national scenic parkway between the North Carolina state line and milepost 460.⁸⁸

Just as with the statutes that authorize elections in certain narrowly defined categories of communities rather than coming right out and naming the city or county, the only purpose of these provisions is to avoid the constitutional prohibition on local acts regulating trade (discussed above). If they were challenged in court they would be tossed out, but until then they serve as a means for the legislature to extend alcohol sales to certain small pockets within larger communities that may not be favorably disposed to beer, wine, and mixed drinks.

As a consequence of these various local provisions, it is not correct to say that the sale of beer, wine, and mixed drinks is allowed only in areas in which they have been approved in a local referendum. There are numerous exceptions to that rule and one needs a scorecard to figure out where sales really are allowed.

Retail Permits

Once sales of beer, wine, or mixed drinks become lawful in a community, either through an election or a provision of the law allowing sales without voter approval, the kinds of establishments that may receive permits is set by state law. And it is the state ABC Commission in Raleigh that issues all permits. Local governments generally have little influence over the issuance of permits. Statewide there are about 18,000 retail outlets with permits to sell some kind of alcohol on or off the premises. Only one county, Graham, remains dry.

Establishments Eligible for Permits

Generally speaking, almost any kind of retail business is eligible for a permit to sell beer on its premises. Such sales are not limited to just restaurants, hotels, and convention centers—movie theaters, snack bars, and even shoe stores and hardware stores could sell beer if they wanted to.⁸⁹ Wine permits are only slightly more restricted, requiring at least some minimal sale of food on the premises. Most off-premises sales of beer and wine are in grocery stores and convenience stores, but restaurants and hotels can get such permits as well, as can other kinds of retail businesses.

Fewer places qualify for permits to sell mixed drinks or fortified wine. A restaurant must seat thirty-six and do at least 30 percent of its business from food and nonalcoholic beverages to be eligible.⁹⁰ Hotels, private clubs, convention centers, and community theaters also may get permits, as may some nonprofit and political organizations.⁹¹

84. G.S. 18B-1000(f).

85. G.S. 18B-1006(k).

86. G.S. 18B-603(f)(7), (9).

87. G.S. 18B-101(7b).

88. G.S. 18B-101(14a).

89. If, however, a county or city beer referendum is being held on the proposition of limiting beer sales to “Class A hotels, motels, and restaurants,” permits are limited to that kind of establishment, mainly meaning that a restaurant must seat at least thirty-six to be eligible for a permit. *See* G.S. 18B-602(a).

90. G.S. 18B-1000(6).

91. *See* G.S. 18B-1000.

Special Permits

Some places that do not have regular ABC permits may get permits for particular events. For example, a restaurant, hotel, diner, club, or convention center may get a “special occasion permit” that allows the host of a party or reception, with the permission of the owner of the business that holds the permit, to bring alcohol onto the premises to serve—not sell—to guests.⁹² A “limited special occasion permit” is a slightly different version of the same type of permit; it is obtained by the host of the event, not the establishment, and allows the host to bring liquor in to serve to guests.⁹³ These permits tend to be used for wedding receptions, anniversary parties, and similar events where the host wants to serve guests but is not in the business of selling drinks.

There also are permits that allow businesses that already have wine and beer permits, usually wine shops or grocery stores, to have wine and beer tastings on the premises. Likewise, a distillery may have liquor tastings.⁹⁴ These are promotional events in which small samples are given to customers, not sold.

Additionally, there are special permits that allow particular kinds of organizations to sell or serve alcohol at one-time events.⁹⁵ A one-time permit may be issued, for example, to a nonprofit organization to sell beer, wine, or mixed drinks at a fund-raising event, or to a local government or political organization to serve alcohol at a fund-raiser to which patrons must buy tickets.

Local Government Involvement

All ABC permits are issued by the state ABC Commission according to the requirements of state law. The commission also may suspend or revoke permits or fine permit holders for violations of the ABC law and other offenses.⁹⁶ Before approving one of the regular on- or off-premises permits, the ABC Commission notifies the city or county where the establishment seeking the permit is located and asks the local government to complete a couple of forms. One is a zoning and compliance form simply to verify that the premises meet local zoning and building and fire codes. The other form allows the local government to object to the issuance of the permit.⁹⁷

If the establishment is in an area zoned for that type of business, say a retail business zone that allows restaurants, and is not otherwise disqualified under state law, the ABC Commission will issue the permit even though local officials would prefer not to have restaurants that serve alcohol in that part of town. In other words, local officials may not exclude businesses from an area based solely on the fact that they sell alcohol, if other businesses of the same nature are allowed there.

The statutes list a number of different factors the ABC Commission is to consider in deciding whether to issue a permit, but no one of those factors by itself explicitly disqualifies an application.⁹⁸ The factors include the character of the applicant, the number of establishments with ABC permits already in the area, parking and traffic conditions, proximity to churches and schools, and prior problems with ABC permits in the area. The commission is highly conscious of trying to be uniform in application of the permit requirements throughout the state and rarely will deny a permit application if it meets the minimum standards of state law. The commission will be more sympathetic and helpful to local governments when problems arise at a permitted location, and will suspend or revoke permits when the owner is unable to control the premises properly, but is not likely to pre-judge a location by denying the permit application in the first instance.

As discussed above, under “Local Revenue,” state law provides for annual county and city license fees for beer and wine permit holders, but local governments are specifically prohibited from charging any other local license fees.⁹⁹

92. G.S. 18B-1001(8).

93. G.S. 18B-1001(9).

94. G.S. 18B-1001(15) (wine tastings), (18) (beer tastings), (19) (liquor tastings).

95. G.S. 18B-1002.

96. *See generally* G.S. 18B-203, -901.

97. G.S. 18B-901(b), (c).

98. G.S. 18B-901(c).

99. G.S. 105-113.70(d).

Brown-Bagging

While “brown-bagging” used to be common in North Carolina, it now is mostly a thing of the past. Brown-bagging is the practice of bringing one’s own bottle of alcohol to a club or restaurant, having it stored in a locker, and then consuming it or serving it to one’s guests. It was a popular means of social drinking before mixed drinks became legal. The law still provides for various kinds of establishments to obtain brown-bagging permits so their patrons can bring in their own liquor. Fewer and fewer businesses and clubs are interested in doing so, however. There are no separate elections on whether to allow brown-bagging in a county or city; brown-bagging follows automatically when a community approves ABC stores.¹⁰⁰ If a city or county votes in mixed drinks, brown-bagging may continue for private clubs and veterans organizations but no longer is available for restaurants, hotels, and other businesses that are eligible for mixed drink permits.¹⁰¹ Brown-bagging permits are issued by the ABC Commission, just like all other ABC permits.

Local Governments as Permit Holders

Local governments may own and operate some of the establishments that are eligible for ABC permits. Convention centers are eligible for beer, wine, and mixed drink permits, for example, and ballparks, snack bars, and other establishments may sell beer and wine.¹⁰² If a local government operates a hotel, it would be eligible for ABC permits as well. Additionally, local governments may rent facilities to organizations or individuals who may want special occasion permits to serve alcohol to guests. A local government itself is eligible for a one-time permit to serve alcohol at a ticketed fund-raising event at which it will serve beer, wine, or hard liquor.

Under general state law, beer and wine may be possessed and consumed anywhere except where prohibited by law.¹⁰³ Accordingly, there is nothing unlawful about having beer and wine, and serving it without charge, in county or city buildings or grounds. It is lawful, therefore, to serve beer and wine at a reception, retirement celebration, or other event at city hall. Only if beer or wine is going to be sold is a permit necessary.

For spirituous liquor, the general rule is just the opposite. Spirituous liquor may be possessed and consumed only in those places specifically authorized by law.¹⁰⁴ Consequently, a permit such as a special occasion permit is required to even serve hard liquor at a local government event.

The ABC statutes specifically prohibit the issuance of a permit to sell beer or wine on the property of a public school or college.¹⁰⁵ There are exceptions, however. Beer and wine are allowed, for example, at school and college functions and at campus hotels with mixed drink permits and at college performing arts centers and golf courses.

Local Control of Alcohol Rules

The ABC statutes give local governments limited control over the possession, consumption, and sale of alcohol. A county or city may adopt an ordinance prohibiting possession of open containers and public consumption of beer and wine on county or city property and also prohibiting possession on streets and parking lots closed for special events.¹⁰⁶ A county or city may also by ordinance prohibit Sunday sales of alcohol except in places that have mixed drink or brown-bagging permits.¹⁰⁷

Other than those local controls, the rules on consumption, possession, and sale of alcohol are governed by state law.

100. G.S. 18B-603(c)(3).

101. G.S. 18B-603(d)(4).

102. See G.S. 18B-1001.

103. G.S. 18B-300(a).

104. See G.S. 18B-102(a), -301(f).

105. G.S. 18B-1006(a).

106. G.S. 18B-300(c). Local ordinances are not needed for public possession and consumption of hard liquor because state law makes such conduct unlawful except where specifically authorized by law. See G.S. 18B-301.

107. G.S. 18B-1004(d). State law prohibits alcohol sales before noon on Sunday. The requirement in G.S. 160A-191 that a city have a public hearing before adopting a Sunday closing ordinance does not apply to ordinances to stop Sunday alcohol sales.

Breweries, Wineries, and Distilleries

North Carolina has a number of breweries, wineries, and distilleries. Almost all the breweries are brew-pubs or craft breweries, and almost all the distilleries are small craft operations as well. The requirements for ABC permits are the same, though, regardless of the size of the operation. These kinds of commercial facilities can be located anywhere in the state; they do not depend on local approval at a referendum. In addition to producing their product and selling it to wholesalers for distribution to retail accounts, breweries and wineries also may sell their beers and wines directly to customers at their facilities and at several other locations in the state if they get the regular on-premise permits. They also may hold tastings.¹⁰⁸

The Three-Tier System of Distribution¹⁰⁹

Like almost all other states, North Carolina law mandates a three-tier system of distribution of beer and wine. Generally, a brewery or winery, no matter where located, that wants to sell its products in North Carolina may sell only to a wholesaler in the state; the wholesaler may sell only to a retail business like a grocery store or restaurant; a retailer may buy beer or wine only from a wholesaler; and producers and wholesalers may not own retail businesses. This system of regulation was introduced after Prohibition to guard against the abuses of any one entity having too much control over the distribution and sale of alcohol. The three-tier system, for example, prevents a brewery from pressuring a restaurant to carry only its products.¹¹⁰

To help enforce the three-tier system and assure that larger commercial businesses cannot exercise undue influence over the smaller fish, the ABC statutes and ABC Commission's rules include detailed instructions on the kinds of goods, favors, and services breweries and wineries and wholesalers can provide to retailers. The rules limit, for instance, the value of neon lights and clocks and other displays a wholesaler may provide to a bar or restaurant with a particular brand name on them.¹¹¹

Smaller breweries and wineries may distribute their products directly to retail accounts without going through a wholesaler. When their production passes a specified level, however, they must use a wholesaler.¹¹²

The rise of the Internet has increased the interest in direct sales of alcohol to customers. State law allows wineries, whether located in North Carolina or elsewhere, to ship a very limited number of cases directly to customers in the state. The winery must obtain a permit from the ABC Commission and is restricted in both the number of cases that may be sent to any one individual and the total number of cases that may be shipped directly to customers in North Carolina.¹¹³ Those limitations mean that this kind of purchase tends to be used only by wine connoisseurs. It does provide a means for a North Carolinian who has enjoyed a particular wine at a California or other out-of-state winery to have a case shipped home.

Law Enforcement

Many violations of the alcoholic beverage control (ABC) law, such as serving to a minor or to someone who is already intoxicated, are criminal and may be investigated by city police or sheriffs' deputies. Additionally, local ABC boards are required to spend a certain portion of their revenue on law enforcement, either through their own officers or contracting

108. See G.S. 18B-1001.

109. See generally G.S. Chapter 18B, Articles 11, 12, 13.

110. G.S. 18B-1116(a)(1).

111. See, e.g., 4 N.C.A.C. 2T, § .0713.

112. See, e.g., G.S. 18B-1114.3(b).

113. G.S. 18B-1001.1.

with other agencies,¹¹⁴ and there is a state agency also charged with alcohol law enforcement. Unlike regular police, those local and state alcohol officers also look for violations of the ABC Commission's rules.¹¹⁵

The Law to Be Enforced

Chapter 18B of the General Statutes contains almost all of the state's regulations pertaining to alcohol. Other parts of the General Statutes address alcohol taxation, drunken behavior and driving, minimum ages for employees in establishments that sell alcohol, and a variety of ancillary matters, but all the essential regulatory provisions—who may get permits, hours of sale, approval of brands, etc.—are in Chapter 18B. Those laws are the principal enforcement priority for local and state alcohol enforcement officers. Some violations are criminal and may be prosecuted in court; many others are regulatory and form the bases for actions by the ABC Commission to deny, suspend, or revoke permits or to assess fines against permit holders.

Alcohol enforcement officers also apply the extensive rules of the ABC Commission. Those rules describe in considerable detail how permit holders may conduct their businesses. There are rules governing advertising, storage of bottles, approval of new labels, promotions, gifts from suppliers, recordkeeping, consumer contests, and a host of other issues for the breweries, wineries, distilleries, importers, wholesalers, hotels, restaurants, grocery stores, convenience stores, theaters, ballparks, and numerous other businesses that hold ABC permits. Local and state alcohol officers have authority regular police do not have, namely, the authority to enter licensed premises to inspect for compliance with the many regulatory provisions found in Chapter 18B.¹¹⁶ That kind of regulatory enforcement takes up much of the officers' time.

State Alcohol Law Enforcement Section

The Alcohol Law Enforcement (ALE) section is within the state Department of Public Safety as is the ABC Commission, but they are separate agencies. While ALE agents' primary mission is enforcement of the ABC laws, they also concentrate on drug, tobacco, and lottery-related offenses.¹¹⁷ The 100+ agents, operating out of regional offices, have performed background checks for ABC permit applications, conducted educational programs for permit holders, routinely inspected ABC premises, and investigated violations of both the ABC laws and the ABC Commission's rules. Although ALE agents work closely with the ABC Commission and initiate many of their investigations at the request of the commission, they are not employees of nor supervised by the commission.

Local ABC Enforcement

Each local ABC board is required to itself employ one or more law enforcement officers or to contract with a city police department, sheriff's office, or ALE for the enforcement of ABC laws in its jurisdiction.¹¹⁸ Some counties, including several of the larger ones, still have their own enforcement officers, while most ABC systems contract with the city police or sheriff. A separate statute requires each board to set aside at least 5 percent of its gross receipts for enforcement and says that the local ABC board may contract with ALE for that purpose.¹¹⁹

Local ABC officers are authorized to, and often do, assist other law enforcement agencies.¹²⁰ Before that can happen, the local ABC board has to adopt a resolution authorizing such assistance and there then has to be a specific written request, acknowledged in the board's minutes. The local board continues to be responsible for any assisting officer's salary, benefits, and workers' compensation while the officer is helping the other agency, unless a different arrangement is agreed upon. Local ABC boards also may work out interlocal agreements with other boards or with cities or counties

114. See G.S. 18B-501, -805(c)(2).

115. See G.S. 18B-500.

116. G.S. 18B-502.

117. G.S. 18B-500(b).

118. G.S. 18B-501.

119. G.S. 18B-805(c)(2).

120. G.S. 18B-501(e).

for mutual assistance in law enforcement.¹²¹ Because of potential liability for actions taken by its enforcement officers while they are working for another agency, a local ABC board needs to review any proposed assistance or mutual aid agreement carefully and consider whether those liability issues should be explicitly addressed in the agreement.

Local ABC officers have the same inspection authority that ALE agents have.¹²² That is, they may enter licensed premises at any time to check for compliance with the ABC statutes and the ABC Commission rules. When a local ABC board contracts with city police or the sheriff for ABC law enforcement, the police officers or deputies assigned to that duty acquire the inspection authority of an ABC officer.¹²³ As regular law enforcement officers they would have no right to enter and look around a restaurant or bar if the owner did not want them there, but as ABC enforcement officers they are authorized to do so. For that reason, city police departments and sheriffs like to contract with their local ABC boards; the inspection authority gives them easier access to troublesome locations than they would otherwise have. To prevent abuse of the inspection authority, the law allows no more than five city police officers or sheriffs' deputies to be designated as having that power.¹²⁴

To ensure that city police officers and sheriffs' deputies are actually performing the ABC enforcement duties for which the local board has contracted, the respective agencies must submit a monthly report to the local board of the number of (1) ABC arrests in locations with permits and elsewhere and (2) ABC educational programs conducted.¹²⁵ The board then shares the report with its appointing authority and with the state ABC Commission.

Seizures and Forfeitures

The ABC statutes include detailed provisions on the disposition of alcohol seized due to violations of the law.¹²⁶ Generally, in such cases the alcohol is held until trial and then, depending on the outcome of the trial, is returned to the owner or destroyed or sold. Vehicles, boats, and airplanes used to transport nontaxpaid alcohol (typically bootleg whiskey) and equipment used to unlawfully manufacture alcohol are subject to forfeiture, and again, the statutes set out detailed procedures for seizing and holding such property and then disposing of it following the resolution of the criminal charges.¹²⁷

About the Author

Michael Crowell is a School of Government faculty member with extensive experience in ABC law.

121. G.S. 18B-501(d).

122. G.S. 18B-502.

123. G.S. 18B-501(f).

124. *Id.*

125. G.S. 18B-501(f1).

126. G.S. 18B-503.

127. G.S. 18B-504.

Your Essential Local Government Resource

County and Municipal Government in North Carolina provides a comprehensive look at the foundations, legal authority, organization, and administration of the state's counties and cities. Chapters are written by School of Government faculty and other experts in North Carolina local government.

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Municipal and County Administration is a comprehensive course designed for city and county officials whose responsibilities require an understanding of local government functions beyond individual areas of specialization.

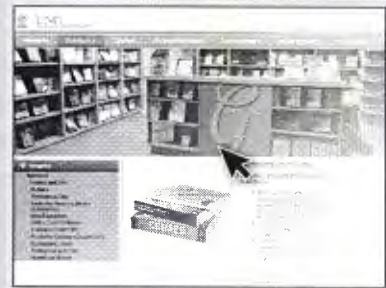
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About the School of Government


The School of Government at the University of North Carolina at Chapel Hill is the largest university-based local government teaching, advising, and research organization in the United States. Its mission is to improve the lives of North Carolinians by engaging in practical scholarship that helps public officials and citizens understand and improve state and local government.




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NC ABC COMMISSION OVERVIEW

**ROBERT A. HAMILTON, ADMINISTRATOR
NC ABC COMMISSION,
FEBRUARY 2015**

NC Alcoholic Beverage Control Commission



ABC
COMMISSION
NORTH CAROLINA



Who is the ABC Commission?

- The ABC Commission consists of a Chairman, James Gardner, and two Commissioners, Kevin Green and Joel Keith who are appointed by the Governor.
- The ABC Commission employs at staff of approximately 40 people who oversee the uniform system of control over the sale, purchase, transportation, manufacture, consumption and possession of alcoholic beverages in the state



ABC Commission Authority - Statutes

- North Carolina General Statute 18B give the Commission the authority to:
- Administer the ABC laws
- Provide for enforcement of the ABC laws
- Determine brands of alcoholic beverages sold in the state
- Serve as wholesale distributor of spirituous liquor
- Contract for state ABC warehousing of spirituous liquor
- Oversee local ABC Boards
- Issue ABC permits
- Impose sanctions against businesses holding ABC permits that violate the law
- Promulgate rules





- **Chapter 18B – NC General Statutes**

- 18B-300s – Sale, Possession, Consumption
- 18B-400s – Transportation
- 18B-500s – Law Enforcement
- 18B-900s – Issuance of Permits
- 18B-1000s – Retail Activity

- **04 NCAC (North Carolina Administrative Code)**

- 2R – Commission Organization
& ABC Boards

- 2S – Retail / Special Permits

- 2T – Industry Members





ABC System Revenues

- **\$250 million** is deposited into the General Fund annually from the sale of spirituous liquor at the ABC stores in North Carolina.
- **\$15.4 million** is deposited into the General Fund annually from the collection of alcohol permit fees. Due to a legislative increase last year we anticipate receiving an additional **\$9 million** this year.
- Local school systems receive more than **\$713.7 thousand** annually from fines paid by permittees.





ABC System General Information

- Currently there are 166 active local ABC Boards.
- The ABC Boards run 423 stores across the state.
- The ABC Commission issued 7,684 Retail and Commercial permits last year.
- Currently there are approximately 18,000 retailers that sell alcohol for consumption.
- The ABC Commission trained 4,671 permit holders, employees and applicants.





ABC System Is Self-funding

- The local ABC Boards in North Carolina are established and operated with no state funds -- *ABC store sales pay for local overhead costs.*
- ABC stores locations are owned or rented by the local ABC Boards that also hire the store staff. *ABC store staff are not State employees. ABC stores are not owned by the State.*
- ABC Commission is a receipt funded agency, which means we receive no funding from the State's General Fund. The Commission and the Warehouse operations are paid for by the shipment of spirituous liquor to the local ABC Boards. ABC Commission staff are state employees. Warehouse staff are employees of warehouse contractor, not the State.





The Initiative to Reduce Underage Drinking

- ABC Commission is the lead agency in the Governor's Task Force to Combat Substance Abuse and Underage Drinking
- The ABC Commission's Initiative to Reduce Underage Drinking Division has commissioned research, engaged with other state agencies and community groups and begun implementation of statewide awareness campaign called: *Talk It Out*
- The *Talk it Out* campaign had a statewide rollout in December 2014 and January 2015 has been well-received
- I would now like to introduce the Director of our Initiative to Reduce Underage Drinking Division, Luther Synder, for a more in-depth look at their work.



Thank you Bob. It is great to be here.

In Governor McCrory's inaugural speech, he set out to do something about the problem of underage drinking in our state. He tasked ABC Commission Chairman Jim Gardner to do something about it. Hence, the NC Initiative to Reduce Underage Drinking was formed.

Our mission is to change the culture of underage drinking. To reduce it. This will take a long term effort.

- Research
 - Secondary research: CDC, DHHS, etc of incidents (self reported etc.)
 - Primary – needed to see what parents and children attitudes of problem. How deep
 - Average age is 13.9 when they start to experiment with Alcohol.
 - Parent's say it is coming.....Kids say it's here
 - TalkItOut = Parents talking to kids about dangers of underage drinking
 - Prevention \$1.5 Billion on underage related incidents

TALKITOUT NC.ORG

- We are in the awareness phase of the campaign. Our message is for parents to talk to their children about dangers of underage drinking. = Crime, brain development, career implications, death etc.
- We are collaborating with NC DMV, Highway Patrol, ALE, NC DHHS, NC DPI, NC Department of Insurance, local city and county prevention and treatment coalitions – getting into the grass roots, the community level, to work together on tackling the problem of underage drinking.
- Commercial



Wednesday, March 4

Room
423

Time
11:00 am

Name

County

Sponsor

Anna DeGrauw

Mecklenburg

John R. Bradford, III

Emilyann Marsh

Johnston

Speaker



Committee Sergeants at Arms

NAME OF COMMITTEE HOUSE COMM ON ALCHOLIC BEVERAGE CONTROL

DATE: 3/4/15

Room: 423

House Sgt-At Arms:

1. Name: REGGIE SILLS

2. Name: MARVIN LEE

3. Name: TERRY McCRAW

4. Name: _____

5. Name: _____

Senate Sgt-At Arms:

1. Name: _____

2. Name: _____

3. Name: _____

4. Name: _____

5. Name: _____



VISITOR REGISTRATION SHEET

ALCOHOL BEVERAGE CONTROL

3/4/15

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

MARK SENTER	ALCOHOL LAW ENFORCEMENT
Alex Miller	KLG
Lori Ann Harvin	LATA
Agnes Stevens	ABC Commission
K Renee Cowick	ABC Commission
Luther Snyder	NC ABC Commission
Jon Carr	NC ASSOC. ABC Boards
Tim KENT	NC BEER & WINE
Mary Catherine Green	NC Beer & Wine
Julie Robinson	Robinson Consulting Group
Sally Sank	NR



VISITOR REGISTRATION SHEET

ALCOHOL BEVERAGE CONTROL

3/4/15

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Jennifer Morgan	Williams Mulken 301 Fayetteville St Raleigh NC 27601
Howard Robinson	NCEMA
Lexi Morgan	NCEMA
KRIS GARDNER	NC BEER & WINE WHOLESALE ASSOC.
Tanya Horton	Truthman Sanders
MARK CREECH	CAL
David Hershler	FBI ARC Comm
Rochelle Spaulo	CFSA





House Committee on Alcoholic Beverage Control
Wednesday, March 18, 2015 at 11:00 AM
Room 423 of the Legislative Office Building

MINUTES

The House Committee on Alcoholic Beverage Control met at 11:00 AM on March 18, 2015 in Room 423 of the Legislative Office Building. Representatives Alexander, Boles, Daughtry, Dobson, Earle, Fisher, Gill, Hardister, Hastings, Lucas, McGrady, Saine, Willingham, and Zachary attended.

Representative Jon Hardister, Chair, presided. Representative Hardister welcomed the committee members and interested parties then introduced the Sergeant-at-Arms, Charles Godwin, Dean Marshbourne, and Rey Cooke, and House Page, Kateleigh Johnson. (See attachments 1 and 2) Research Staff in attendance were: Jennifer Bedford, Chris Saunders and Susan Sitze. A Visitors Registration sheet is attached and made a part of these minutes. (See attachment 3)

The Chair introduced the presenters to the committee and called upon the NC Craft Beer Guild to start with a presentation explaining the growing role of the Craft Beer Industry in North Carolina and its' importance to commerce and tourism. Margot Metzger and Alex Miller each spoke to the committee after a power point presentation (see attachment 4) and a film clip from NBC Today Show featuring North Carolina Craft Brewers in Asheville, North Carolina.

The NC Beer and Wine Wholesalers represented by Tim Kent followed with a presentation to explain the three tier system and its' importance in the State's economy, infrastructure, employment and education. Mr. Kent provided the committee with informational handouts and a CD to listen to at their convenience. (See attachments 5, 5a,b,c,d,e,f)

Each of the presenters took questions from the committee following their presentations.

The meeting adjourned at 11:56 am.



Representative Jon Hardister, Chair
Presiding



Jayne Nelson, Committee Clerk



Jayne Nelson (Rep. Jon Hardister)

From: Jayne Nelson (Rep. Jon Hardister)
Sent: Thursday, March 12, 2015 02:20 PM
To: Jayne Nelson (Rep. Jon Hardister)
Subject: <NCGA> House Alcoholic Beverage Control Committee Meeting Notice for Wednesday, March 18, 2015 at 11:00 AM
Attachments: Add Meeting to Calendar_LINC_ics

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2015-2016 SESSION**

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

DAY & DATE: Wednesday, March 18, 2015

TIME: 11:00 AM

LOCATION: 423 LOB

COMMENTS: The NC Beer and Wine Wholesalers Association and the NC Craft Brewers Guild will be giving presentations. No Bills will be heard.

Respectfully,

Representative James L. Boles, Jr., Co-Chair
Representative Jon Hardister, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 2:12 PM on Thursday, March 12, 2015.

___ Principal Clerk
___ Reading Clerk – House Chamber

Jayne Nelson (Committee Assistant)



House Committee on Alcoholic Beverage Control
Wednesday, March 18, 2015, 11:00 am
Legislative Office Building, Room 423

AGENDA

Welcome and Opening Remarks
Representative Jon Hardister, Chairman

Introduction of Pages and Sergeant-at-Arms

Presentations

Craft Brewers Guild – Margot Metzger

Beer and Wine Wholesalers Association – Tim Kent

Questions and Answers

Other Business

Adjournment



Committee Sergeants at Arms

NAME OF COMMITTEE House Committee on Alcoholic Beverage Control

DATE: 3/18/15 Room: 423

House Sgt-At Arms:

1. Name: Charles Godwin

2. Name: Dean Marshbourne

3. Name: Rey Cooke

4. Name: _____

5. Name: _____

Senate Sgt-At Arms:

1. Name: _____

2. Name: _____

3. Name: _____

4. Name: _____

5. Name: _____



Wednesday, March 18
ABC

Room
423

Time
11:00 am

Name

County

Sponsor

Kateleigh Johnson

Harnett

David R. Lewis



VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control

3-18-2015

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

T J Bugbee	NP
Margo Metzger	NCCBG
Alex Miller	KLG
Rockett Long	NCBWVA
Mary Catherine Green	NCBWVA
Tim KENT	NC BEER & WINE
KRIS GARDNER	"
Jeff Joyce	Asheville Chamber
Tobias Weas	Asheville Chamber
Andy Chase	KMA
Sarah Bales	Brewaker ASSOC.



VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control

3-18-2015

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Paul O'Connor	Citizen
Michael Huser	THCG
Daniel Pagan	TROUTMAN SALDERS
Ernest Robinson	XIKIWA
Bill Scobbin	TS
Derek Ferris	UP
Britt Keller	Per Zell
Whitney Christensen	Ward & Smith
Tommy [Signature]	NC BWWA



VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control

3-18-2015

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Bob Hamilton	NC ABC Commission Raleigh, NC
K Renee Cowick	ABC Commission
William Riley	Mutual Dist.
BILL LEONE	MUTUAL DIST.
Jarret Burr	NC DPS
MARK SENTER	ALCOHOL LAW ENFORCEMENT
AL MILAK	NC Dept. of Revenue
Carri McLamb	Troutman Sanders
Amy Elle	NCPCA
Just Gray	NCPCA
Sarah Seals	MP
Knston Laster	SSGNZ



3-18-15 ATT 4

NC NORTH CAROLINA **CRAFT** BREWERS GUILD

NORTH CAROLINA CRAFT BEER
STATE OF THE INDUSTRY



WHERE WE ARE NOW

THE STATE OF CRAFT BEER

IN NORTH CAROLINA



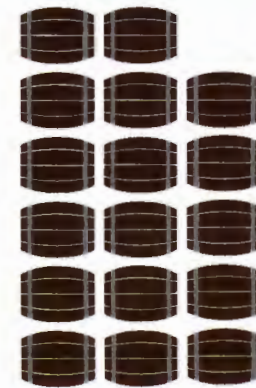
annual economic impact of **\$791 MILLION**



ASHEVILLE

is a favorite beer destination. It is a four-time "Beer City USA" poll-topper and boasts

18 BREWERIES



263,488
BARRELS
produced by craft breweries per year

LOCAL INGREDIENTS

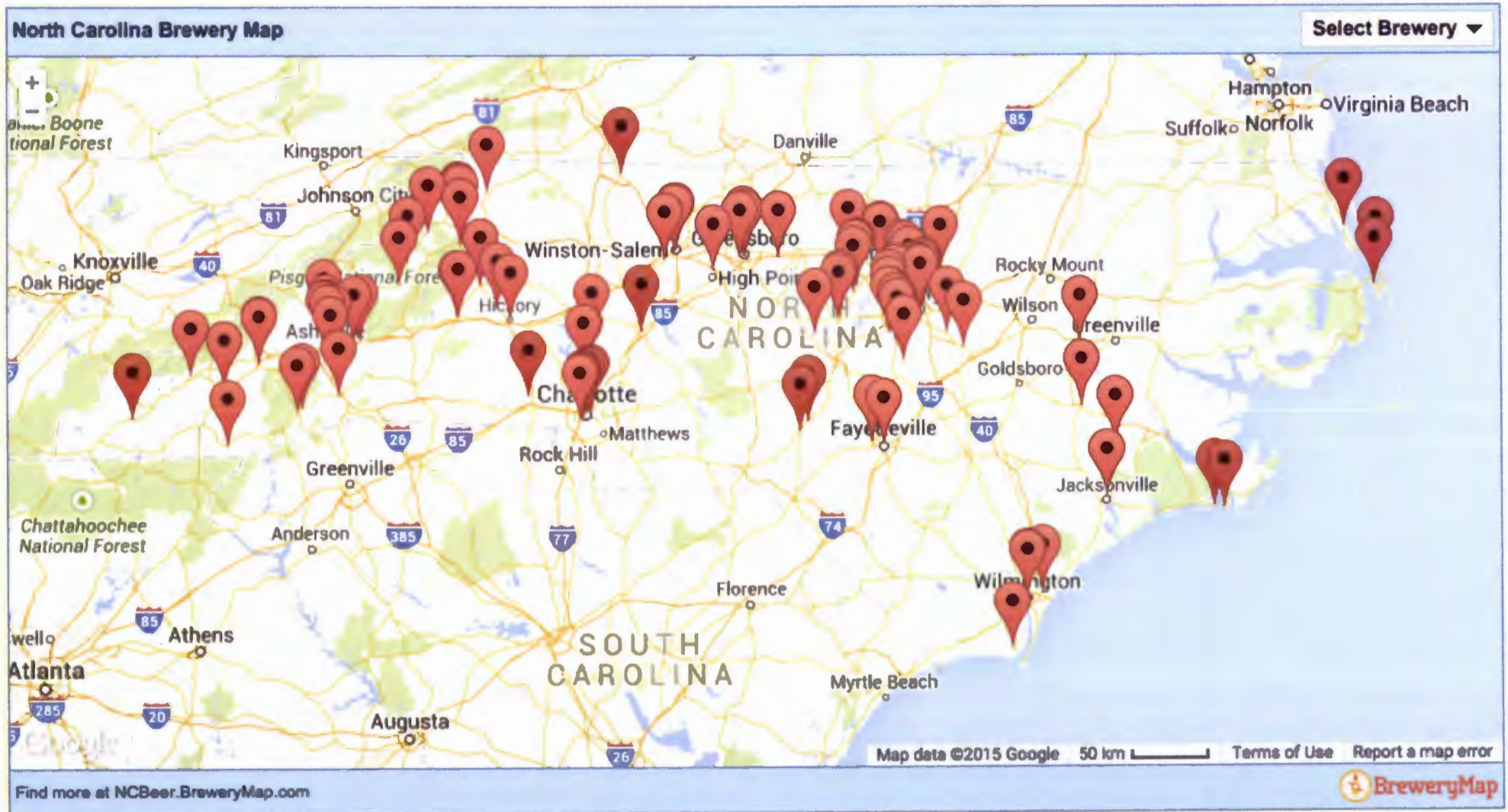
— sweet potatoes, kumquats, sorghum, blueberries, blackberries, persimmons, barley, wheat, rye, and hops — reflect a rich agricultural heritage and have won the state's brewers national recognition.



3 MAJOR CRAFT BREWERY EXPANSIONS



NC BREWERY MAP





LEADING IN THE SOUTH



State of North Carolina

PAT McCRORY
GOVERNOR

NORTH CAROLINA BEER MONTH
2015

BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA
A PROCLAMATION

WHEREAS, the craft beer community is an important part of tourism in North Carolina, with craft breweries flourishing across the Tar Heel State; and

WHEREAS, North Carolina currently has 170 craft breweries and brewpubs, more than any other state in the South; and

WHEREAS, North Carolina ranks 10th nationally in number of breweries, more than doubling since 2010, from 45 to 120; and

WHEREAS, the annual economic impact of North Carolina-produced craft beer is estimated at \$791 million, which supports more than 10,000 jobs in the state; and

WHEREAS, North Carolina's craft beer industry reflects the state's rich agricultural heritage by sourcing local ingredients, a fact reflected by the North Carolina State Fair's addition of the North Carolina Brewers' Cup to competitions; and

WHEREAS, North Carolina brewers have received national recognition for brews that use a range of locally produced ingredients from barley, wheat and hops to sweet potatoes, blueberries, blackberries, kumquats, sorghum and even persimmons; and

WHEREAS, three major craft breweries chose Western North Carolina sites for major expansions announced in 2012; and

WHEREAS, the State of North Carolina recognizes the artistry and dedication of brewers whose efforts have made our state a destination for craft beer tourism; and whose contributions help ensure North Carolina remains a competitive and thriving part of this growing industry;

NOW, THEREFORE, I, PAT McCRORY, Governor of the State of North Carolina, do hereby proclaim April 2015 as "NORTH CAROLINA BEER MONTH" in North Carolina, and commend its observance to all citizens.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of North Carolina at the Capitol in Raleigh this thirtieth day of January in the year of our Lord two thousand and fifteen, and of the Independence of the United States of America the two hundred and thirty-ninth.



Pat McCrory
PAT McCRORY
Governor

- 125 Craft Breweries, more than any other Southern state
- 45+ More in Planning
- Top-5 Fastest Growing States for Craft Beer Production
- Craft Beer Sales Up 18% Nationwide



TOURISM

- Asheville Named “Beer City USA” 4 times
- Visit North Carolina Sees Beer Tourism as Major Asset
- Already Outpacing Visitation to NC Wineries

NORTH CAROLINA
NC
APRIL 2015
BEER MONTH





ECONOMIC DEVELOPMENT

- **Success Stories in Small Towns and Cities**
- **New Investment in Depressed Communities**
- **Expansion Breweries**
- **Attracting Allied Businesses**

Main Street champions



Trent Mooring, left, and Stephen Hill stand inside the brewhouse Monday at Mother Earth Brewery on Heritage Street. The co-owners of the brewery founded it in 2009.

Janet S. Carter / The Free Press





POSITIVE MEDIA COVERAGE FOR NC

Tobacco, tar heels and tulip glasses—NC's craft beer boom

Bo McMillan @BoMcMillan
Saturday, 12 Jul 2014 | 7:05 AM ET



Traditionally known for its tobacco, barbecue, college basketball and the squealing tires of stock car racing, one Southeastern state is blazing a new trail for its name.

"North Carolina is the hottest emerging state for craft beer right now," said Marc Levit, associate at the Demeter Group, which advises alcoholic beverage companies.



Ever since Paul Philippon (pictured above) opened Duck-Rabbit Craft Brewery in Farmville, a few miles outside Greenville, people have been intrigued. The location is odd. The logo is an optical illusion. And there are whispers that Philippon used to be a philosophy professor. Indeed he was, but he loved beer just as much as locals. The mystery of Duck-Rabbit is reflected in its dark beers — coffee stout, milk stout, and porters.



- State, National and International Coverage
- \$1 Million+ in PR Value
- 99 Million Circulation





CHALLENGES

- Self-distribution rights are voided when a brewery produces 25k+ BBLs
- 8th Highest Excise Tax in the Nation
- NC breweries don't have the same rights as NC wineries





CONTACT

Margo Metzger:
director@ncbeer.org

Alex Miller:
alex@kochaneklawgroup.com







DISTRIBUTORS

Local Businesses Providing Jobs, Accountability & Community Support

NC Beer & Wine distributors are locally owned and operated businesses that promote responsibility and moderation. They support local education programs, charity events and public service initiatives designed to educate the public about such issues as drunk driving, underage consumption and recycling. The beer and wine distributors create good paying jobs, pay taxes and give back to the communities they serve.

Distributors are responsible for providing transportation, refrigerated storage and maintenance for beer and wine products from the time they leave the supplier until they arrive at the retailer. After delivery, distributors monitor retailer shelves to maintain product freshness and integrity.

Our distributors are the key component in maintaining accountability for alcohol sales. They are licensed to comply with the state's rules and regulations for alcohol beverage control. They also are responsible for the collection and timely remittance of \$140 million in excise taxes for the State of North Carolina.

Economic Impact: A Look at Jobs and Tax Revenue

North Carolina Beer & Wine distributors employ more than 5,000 people across the state making sure their products make it to the store shelves in a safe, orderly fashion. They preserve and protect products on the way to market and prevent counterfeit, unsafe and bootleg products from entering the marketplace.

Our distributors provide their employees with professional wages and competitive benefits in today's labor market, totaling \$330 million annually.

NC Beer & Wine distributors collect more than \$140 million in excise taxes for the State of North Carolina every year. By efficiently handling excise tax collection and remittance within a month's time, distributors provide an invaluable tax collection service to the state. NC Beer & Wine distributors pay nearly \$300 million in business and personal taxes every year to the federal, state and local governments.



\$140 MILLION

Collected and paid in excise taxes to the State of North Carolina

\$330 MILLION

Paid in direct employee wages and benefits

\$300 MILLION

Paid in state, federal and local taxes by distributors

What is the Three-Tier System?

The 21st Amendment grants states the authority to regulate alcohol within their borders, consistent with the desires and needs of its citizens. We have a three-tier system of distribution – composed of brewers/wineries, distributors and retailers. The three-tier system ensures a safe and transparent regulatory system for alcoholic beverages. Distributors effectively serve this role because they are local businesses whose actions are easily monitored and controlled.



THREE-TIER

Public support for state-based regulation and a strong three-tier system is validated by a recent survey conducted by the Center for Alcohol Policy:

72% believe states should regulate alcohol because it is different from other consumer goods.

81% support the rights of states to determine their own laws and regulations regarding the sale of alcohol.

Independent Distributors Offer Unprecedented Product Variety

While many NC beer distributors maintain long-term partnerships with the makers of iconic brands like Budweiser, Miller and Coors, distributors are independent operators who continue to play a significant role in the emergence of the state's fast-growing craft beer industry. Distributors work closely with local brewers to build their brands and gain access to some of the state's 17,000 licensed retailers.

There are now more than 2,300 breweries in operation nationwide with 13,000 labels of beer, maximizing a wider range of products than ever before. A three-tier system of independent distributors makes it all happen for the benefit of consumers.



"Through our distributors, we have been able to gain access to a wide range of retail establishments that otherwise we would not be able to reach. Our sales have increased significantly."

– **Robert Poitras**
Owner, Carolina Brewery, Chapel Hill/Pittsboro



"If we didn't have a three-tier system, we wouldn't have a craft beer industry. Craft beers would not exist without a three-tier system."

– **Erik Lars Myers**
Owner, Mystery Brewing Co., Hillsborough



"We've worked with distributors since 1994. I didn't want to mess with distribution. I wanted to concentrate on making good beer."

– **Oscar Wong**
Owner, Highland Brewing Co., Asheville



NC Beer & Wine Wholesalers Association
210 North Person Street
Raleigh, NC 27601

For more information about the beer and wine distribution system, visit us online at: www.ncbeerwine.com

For comment, email us at: Tim Kent <tkent@ncbwwa.org>

The North Carolina Beer & Wine Wholesalers Association is a non-profit trade organization that represents family-owned distributorships across our state.

Tim Kent, *Executive Director*
Mary Catherine Green, *Associate Director*

Of Counsel to the Association:
Tom Fetzer
Lori Ann Harris
Harold Brubaker
Chris Valauri
Kristopher Gardner, *Legal Counsel*

NC BEER & WINE DISTRIBUTORS

> An Issue Briefing from the NC Beer & Wine Wholesalers Association



DELIVERING
QUALITY,
CONTROL,
& VARIETY

3-18-15 AT 5a

North Carolina Craft Brewers Production Figures (2013)

Only two N.C.-based brewers exceed 25,000 barrels

	<u>2013</u>	<u>2012</u>	<u>2011</u>
Highland Brewing Co., Asheville	34,300	30,569	20,000
Foothills Brewing, Winston-Salem	25,835	12,581	7,414

---Since its creation in 1994, Highland has always used independent distributors to get their product to the marketplace. Highland's owners prefer to focus on brewing quality beer. Foothills has grown dramatically in the last two years since going to a distribution network in and out of North Carolina. 1,965 barrels of Foothills beer is reportedly sold at the Winston-Salem brewpub.

The rest of the N.C. small brewers (data provided by the Brewers Association)

	<u>2013</u>	<u>2012</u>	<u>2011</u>
Natty Greene's Greensboro	15,794	14,695	9,230
Red Oak Brewing, Whitsett	15,500	12,500	9,500
LoneRider Brewing, Raleigh	13,500	11,100	7,520
Aviator Brewing Co., Fuquay-Varina	10,000	4,000	3,700
Olde Mecklenburg Brewing, Charlotte	10,000	7,032	4,010
Asheville Pizza and Brewing, Asheville	7,381	4,502	1,635
Big Boss Brewing Co., Raleigh	7,250	5,800	5,200
Duck Rabbit Craft, Farmville	6,500	5,918	5,304
Mother Earth Brewing, Kinston	6,400	4,900	3,400
Carolina Brewery, Pittsboro	5,725	4,882	3,324
Green Man Brewery, Asheville	5,038	2,540	1,976
Carolina Brewing Co., Holly Springs	5,000	4,100	3,900
French Broad Brewery, Asheville.	4,000	1,700	1,500
NoDa Brewing, Charlotte	4,000	1,650	150
Pisgah Brewing Co., Black Mountain	3,500	3,253	3,055
Fullsteam Brewery, Durham	2,650	2,363	2,020
Olde Hickory Brewing, Hickory	2,425	1,982	1,996
Birdsong Brewing Co., Charlotte	2,037	747	N/A
Triple C Brewing, Charlotte	1,800	350	N/A
Triangle Brewery, Durham	1,550	1,783	1,250
Railhouse Brewery, Aberdeen	1,430	90	45

	<u>2013</u>	<u>2012</u>	<u>2011</u>
Weeping Radish Farm Brewery, Grandy	1,200	1,200	800
Wedge Brewing, Asheville	1,173	1,180	1,058
Appalachian Mtn. Brewery, Boone	1,000	N/A	N/A
Hi-Wire Brewing, Asheville	900	N/A	N/A
Catawba Valley Brewing, Morganton	850	650	615
Raleigh Brewing, Raleigh	826	N/A	N/A
Mystery Brewing Co., Hillsborough	812	700	N/A
Nantahala Brewing Co., Bryson City	800	552	615
White Street Brewing, Wake Forest	700*	N/A	N/A
Beer Army Combat Brewing, Trenton	452	N/A	N/A
Howard Brewing, Lenoir	390	127	N/A
Four Friends Brewing, Charlotte	380	325	175
Crank Arm Brewing, Raleigh	300	N/A	N/A
Deep River Brewing, Clayton	300	N/A	N/A
Steel String Craft Brewery, Carrboro	200	N/A	N/A
BearWaters Brewing, Waynesville	158	115	N/A
Loe's Brewing, Granite Falls	150	150	100
Burial Beer Co., Asheville	150	N/A	N/A
Biltmore Brewing Co, Asheville	100	100	90
Dry County Brewing, Spruce Pine	100	95	44
Sub Noir Brewing, Raleigh	100	N/A	N/A
Blind Squirrel Brewery, Plumptree	75	30	N/A
White Rabbit Brewing Co, Angier	75	N/A	N/A
Unknown Brewing Co., Charlotte	55	N/A	N/A
Double Barley Brewing, Wilson Mills	50	N/A	N/A
Andrews Brewing Co, Asheville	50	N/A	N/A
Skull Camp Brewing, Mount Airy	33	30	N/A
Bombshell Beer Co., Holly Springs	24	N/A	N/A
Lake Norman Brewing Co, Mooresville	20	N/A	N/A
Ivory Tower Brewery, Boone	20	10	N/A
Old North State Winery & Brewery	15	15	12

*White Street figures were reported by Raleigh *News & Observer*, 5/29/2014

The top producing North Carolina brewpubs

	<u>2013</u>	<u>2012</u>	<u>2011</u>
Wicked Weed Brewing, Asheville	2,800	200	N/A
Top of the Hill, Chapel Hill	1,650	1,900	1,850
Front Street Brewery, Wilmington	1,590	1,380	1,380
Mash House, Fayetteville and Raleigh	1,400	1,300	1,150
Foothills Brewing, Winston-Salem	1,965	1,210	500
Outer Banks Brewing Station, Nags Head	1,200	1,050	1,050
Lexington Avenue Brewery, Asheville	909	870	850
Liberty Steakhouse and Brewing, High Point	811	865	875
Heist Brewery, Charlotte	800	600	N/A
Huske Hardware and Brewing, Fayetteville	500	550	550
Tipping Point Tavern, Waynesville	200	90	N/A
Boondocks Brewing Tap Room, West Jefferson	12	N/A	N/A


Notes:

1. This data is provided by the Brewers Association in its May/June 2014 issue of *The New Brewer* magazine. Those N.C. breweries excluded from this list did not provide production data to the association or, in some cases, the brewery may either have ceased operation or opened for business within the last 18 months.
2. The MillerCoors brewery in Eden and Oskar Blues brewery in Brevard are not included in this list because they are not NC-based companies. MillerCoors has a 9 million barrel capacity brewery in Eden and the company produced 57 million barrels in 2013 at its 10 U.S. brewery locations. Oskar Blues, headquartered in Longmont, CO, reports total 2013 production of 119,013 barrels. 46,000 barrels were produced in Brevard, NC.




FOR SMALL AND LARGE BREWERS, THE U.S. MARKET IS OPEN

By Neil Houghton, Jr. and Marin Gjaja



THE U.S. BEER MARKET is open, freely competitive, and driven by consumer choice. Brewers who capture the hearts of consumers are the most likely to succeed. Those who miss shifts in consumer identities, norms, attitudes, and tastes will suffer.

The success of small brewers making craft beers is proof of these points. Despite fears that small brewers can't compete against the scale and reach of large, mass-market brewers, the opposite has proved to be true. The popularity of craft beers supplied by small brewers has exploded, rising on the strength of consumer demand. Ironically, small brewers' ability to reach more drinkers has been enabled by the open U.S. beer-distribution system—a system that was once thought to lock out smaller players.



The economics of the U.S. beer business conveys significant advantages to those with scale. But, as it turns out, subscale small brewers are also (unexpectedly) the beneficiaries of the advantages afforded major domestic brewers. The reason: they can leverage an effective route-to-market distribution

system that was built by distributors and larger brewers over the decades. This open distribution system enables small brewers to avoid significant, if not prohibitive, costs to entry, while also gaining deep access to large and small retailers.

Our findings have implications for all U.S. brewers. All brewers need to attract consumers, of course. Even incumbents with strong distribution networks are not insulated from the changing tastes and demands of consumers and retailers. Small brewers seeking to break into the market must recognize that they ultimately depend on consumer loyalty and that the distribution costs are not the impediment they seem to think they are. In fact, thanks to piggybacking on independent distribution networks supported largely by the economics of large domestic and import brewers, small brewers avoid much higher distribution costs. And regulators need not worry about the barriers to entry for market newcomers given their recent success and ability to leverage the industry distribution system.

The Rise of Small Brewers

Consumption of imported and domestic beer in the U.S. has remained relatively flat since 1999. Total U.S. sales volumes rose just 0.3 percent year-over-year over the full period, with a mild decline during the past five years. (See Exhibit 1.)

Within that market, the U.S. craft beer segment has seen tremendous growth. According to the Brewers Association, craft beer production increased more than 80 percent in just the past five years, from 117 million cases in 2008 to 215 million cases in 2013. During that same period, small brewers' volume share of the overall beer market rose from 4.0 percent to 7.8 percent. In addition, according to the National Beer Wholesalers Association, the total number of craft breweries in the U.S. has now reached historic levels—growing from 350 in 1991, to 1,499 in 2001, to more than 2,500 today.

Clearly, consumer preferences have been the main engine driving this growth. Craft beers are riding a wave in which consumers are “trading up” across all consumer

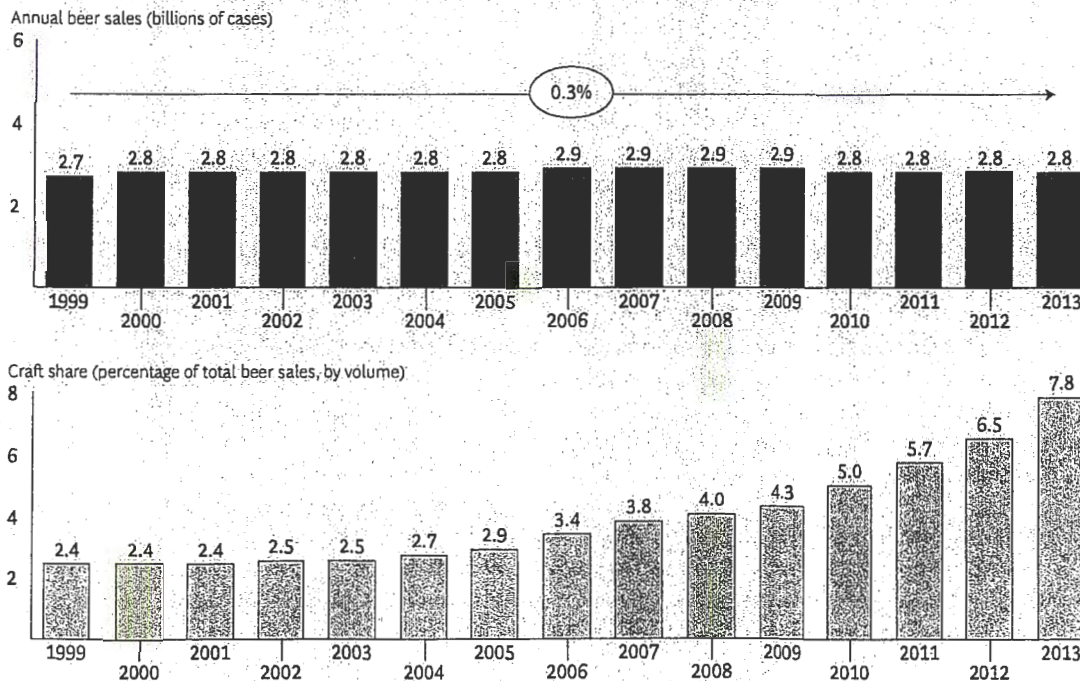
categories to brands and products that are perceived as having strong authenticity and higher quality, and as being more relevant to specific consumers' attitudes, values, and lifestyle. This preference for trading up persisted even during the most recent recession.

The Dynamics of Distribution

Demand without distribution, of course, would leave small brewers without sales. Thanks to the open structure of the three-tier distribution system, small brewers can satisfy consumer demand.

The Boston Consulting Group has studied direct store delivery (DSD) across multiple categories for more than 20 years, often in conjunction with the Grocery Manufacturers Association. We have consistently seen that in U.S. categories with supplier-owned DSD systems—such as ice cream, soda, and snacks—suppliers enjoy significant benefits of local scale. And large players have multiple advantages, such as being able to make more frequent deliveries, reach smaller stores, introduce new products

EXHIBIT 1 | Small U.S. Brewers Have Seen Tremendous Growth in a Flat Market



Sources: Beverage Information Group; Brewers Association; BCG analysis.

more quickly, and set up in-store displays, to name just a few. All these benefits combine into significant competitive advantage for the larger players in DSD categories.

When it comes to beer, however, distributors are independent from brewers. A brewery can demand certain quality standards from its distributors, but it cannot demand absolute product loyalty. In fact, distributors are more than independent—they have certain franchise rights in perpetuity, protected by the state, for the brands they distribute. These protections prevent breweries from using their scale to extract advantages from the distribution system the way that DSD suppliers do.

At the same time, the independence of the distributors creates the opportunity for smaller brewers to “get on trucks” and achieve distribution at a much lower cost per unit than they would otherwise have to pay. These distribution costs are considerable. A recent economic impact report from the National Beer Wholesalers Association estimates that the cost of wages and salaries associated with operating the entire U.S. beer distribution system is approximately \$10 billion in annual expenses.

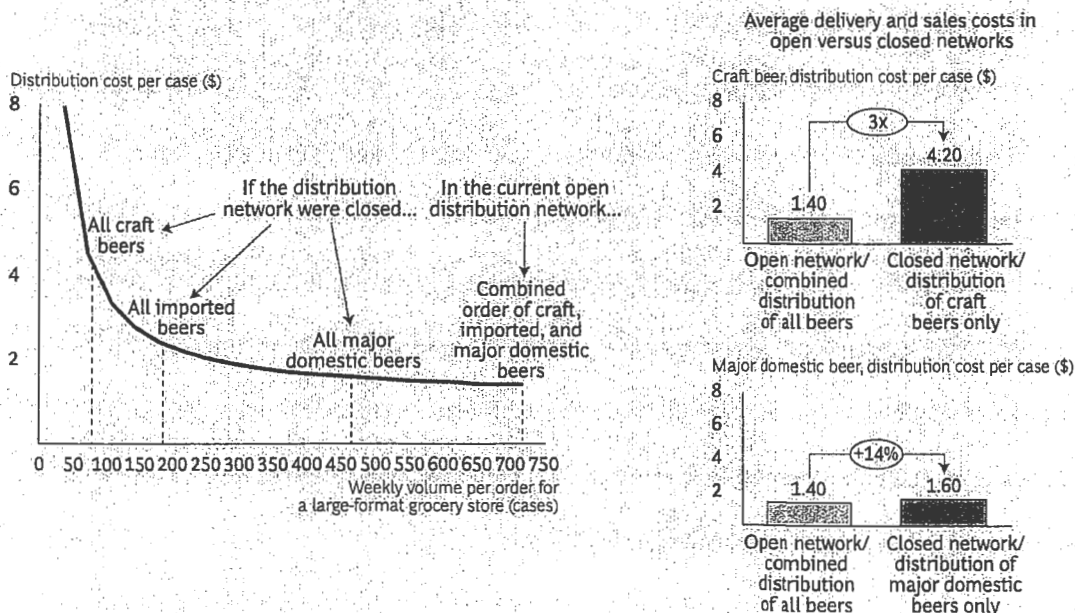
In total, U.S. beer distributors employ more than 130,000 full-time equivalents and service more than 500,000 retail outlets.

The Value of Open Distribution

The ability of small brewers to gain access to the marketplace through independent distributors is a major reason that small brewers are able to exist at all. Considering that only the top ten small brewers generate more than \$20 million in revenues annually, according to the Craft Brew Alliance, building a stand-alone distribution system would be cost prohibitive. Without independent distributors, most small brewers would have to cope with far less access to the market and consumers, and far lower growth rates.

How valuable is this access, economically speaking? To illustrate the economics, we applied BCG’s proprietary DSD economic modeling approach to the costs of distributing beer to large-format grocery stores. (See Exhibit 2.) Using an economic model of the costs of distributing and servicing a set of like stores, we estimated the costs for different types of breweries under today’s open distribution system. Then we compared that result to what the costs would be if the

EXHIBIT 2 | Open Networks Offer Economies of Scale in Beer Distribution



Source: BCG analysis.

distribution system were not open—that is, a system that restricted the types of products permitted on trucks to those produced or sanctioned by a major brewer.

We found that in today's open distribution system, the average delivery and sales cost for a distributor supplying craft beers, imported beers, and a major national beer company's portfolio to a large-format grocery store is \$1.40 a case. If the major national brewer were to build a dedicated closed distribution system, its delivery and sales costs would only increase 14 percent—from \$1.40 per case to \$1.60 per case.

On the other hand, if craft beer suppliers did not have the benefits of scale afforded by combined distribution of their craft beers with imported beers and the domestic beers of a large national brewer, their distribution costs would be triple what they are today—that is, \$4.20 per case. And that's not even including costs such as warehousing, administration, and distributor margin. Given the moderate margins of small brewers, this cost disadvantage would likely get passed through to the consumer—making many craft beers far more expensive and small breweries less competitive.

Ongoing Challenges

This is not to say that all is rosy for small brewers. Open marketplaces, in which consumer choice is king, can be brutal. Small brewers are challenged when their own success invites more entrants. Most consumers aren't looking for the fifteenth version of a strong-tasting hoppy India pale ale. In fact, it is not uncommon for sales to drop off precipitously after the arrival of the first few brands in a particular style or position. This means that most of the me-too craft products deliver low velocity (while taking up valuable shelf space) at retail outlets and low revenues at bars. Once the excitement and newness wears off, retailers, restaurants, and bars may cut their craft beer offerings.

Further, with such an abundance of craft beer options, me-too small brewers face

challenges engaging retailers and distributors. Retailers don't want to carry what distributors don't carry—and vice versa. Without a differentiated position, small brewers will find it hard to create the coordinated momentum required to break through.

Distributors are also increasingly challenged by the complexity and costs inherent in handling low-performing items that don't have a meaningful consumer following. In 2007, the average beer distributor carried 262 different SKUs, according to the National Beer Wholesalers Association; by 2013, the average beer distributor carried 657 SKUs. Beer distributors are starting to be more demanding in terms of what they bring into their warehouses, add to their computer systems, and support in the marketplace.

The Implications

Our view is that success in the beer industry still rests fundamentally with consumer demand. Further, the current open structure of the three-tier distribution system has been a fundamental enabler of growth in the craft beer segment.

Several other key findings also emerged for major players in the industry:

Regulators of the beer industry, which is one of the most highly regulated industries in the U.S., should recognize that the marketplace is working. And they should be skeptical of complaints (legal and otherwise) that the marketplace favors only large players.

Large brewers are also at the mercy of the consumer and retailer. With all the options available, if the brands in large brewers' sizable portfolios don't hit the mark perfectly with today's consumer, sales will decline. History is replete with examples of once-large brands and brewers that have fallen by the wayside because they couldn't keep up with the market.

Small brewers must build their brands in order to generate sufficient demand to win (and retain) the space they occupy in stores and justify the complexity they add to the

work of retailers and distributors. Doing so requires strengthening local demand and also offering products that are differentiated enough to cut through the clutter and compelling enough to convert trial drinkers

to loyal ones. If they can do that, small brewers—aided by an open distribution system—will continue to enjoy success.

About the Authors

Neil Houghton, Jr. is a partner and managing director in the Washington office of The Boston Consulting Group and a core member of the Consumer practice. You may contact him by e-mail at houghton.neil@bcg.com.

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The Boston Consulting Group (BCG) is a global management consulting firm and the world's leading advisor on business strategy. We partner with clients from the private, public, and not-for-profit sectors in all regions to identify their highest-value opportunities, address their most critical challenges, and transform their enterprises. Our customized approach combines deep insight into the dynamics of companies and markets with close collaboration at all levels of the client organization. This ensures that our clients achieve sustainable competitive advantage, build more capable organizations, and secure lasting results. Founded in 1963, BCG is a private company with 81 offices in 45 countries. For more information, please visit bcg.com.

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6/14



WHAT IS THE THREE-TIER SYSTEM

The 21st Amendment established today's successful system of state-based alcohol regulation, which gives each state the authority to enact and enforce alcohol laws consistent with the desires and needs of its citizens. It gave rise to the American three-tier system of distribution – composed of brewers, distributors and retailers – which has effectively balanced community attitudes about alcohol with healthy marketplace competition and vast consumer choice for nearly 80 years.

America's 3,300 beer distributors – employing 98,000 hardworking men and women – are licensed by both the state and federal governments. Distributors source fresh beer only from federally-registered brewers and importers and sell it only to state-licensed retailers such as restaurants and convenience stores.



BREWER OR IMPORTER

DISTRIBUTOR

RETAILER

Benefits of the system include:

- ◆ Healthy competition and a robust marketplace
- ◆ Tremendous variety for consumers – 13,000 labels of beer!
- ◆ Efficient tax collection
- ◆ Consumer protection and community safety







Economic Value of Independent Wholesalers

- 30 family-owned companies in 52 North Carolina locations
- Directly employ 5,600 persons with payroll and benefits of more than \$400 million
- Infrastructure investment= 100's of millions
- Collect + remit \$140 million in NC excise taxes
- Community leadership and philanthropic support of charitable causes

Commercial Value of Independent Wholesalers

- Provide efficient access to market for ALL beer brands to ALL permitted retailers
- Maximize product choice for consumers
- Reliable + frequent delivery
- Safeguard product quality + integrity
- Build brands through promotion + marketing
- Help brewers maximize sales
 - Two N.C. examples (Highland, Foothills)

Regulatory Value of Independent Wholesalers

- Safe, efficient and orderly marketplace
- Independent buffer between supplier and retailer helps prevent industry corruption and “pay to play”
- Strong competition and great variety for consumers
- Efficient collection of taxes
- Consumer protection and community safety

North Carolina Beer Laws

Major rewrite in 2012 (SB 745)

N.C. craft brewers enjoy the most favorable beer laws of any Southern state

- May self-distribute up to 25,000 barrels
- May own and operate up to 3 retail locations in addition to the brewery
- May terminate a distribution agreement within 5 business days without good cause

Note: A brewery, big or small, may sell its products at the brewery location (HB 796, 2011 Special Session)

Industry Facts

1983: 49 U.S. breweries; 2015: 4500+ permits

Per capita (21 and up) beer consumption in N.C. on steady decline since 2004. 26.4 gallons per adult in 2014 (35th in U.S.)

NC beer tax collection down 3 out of 5 years

Number of SKUs per wholesaler: 2003---200; 2009—470; 2013—657

Gallup: Beer (41%), Wine (31%), Spirits (23%)

Association Legislative Contacts

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www.ncbeerwine.com

Twitter: @NCBeerWine

**House Committee on Alcoholic Beverage Control
Wednesday, April 1, 2015 at 11:00 AM
Room 423 of the Legislative Office Building**

MINUTES

The House Committee on Alcoholic Beverage Control met at 11:00 AM on April 1, 2015 in Room 423 of the Legislative Office Building. Representatives Alexander, Boles, Collins, Daughtry, Dobson, Earle, Fisher, Gill, Hardister, Hastings, Holley, Jeter, Lucas, West, Willingham, and Zachary attended.

Representative James L. Boles, Jr., Chair, presided and called the meeting to order at 10:59 a.m.


Chairman Boles introduced the Pages and Sergeant at Arms and then recognized Mark Senter from the North Carolina Department of Public Safety, Alcohol Law Enforcement Branch for a presentation overview of the agency. (See Attachment 1 for a copy of said presentation). Discussion was had following the presentation by Mr. Senter.

The following bills were considered:

Bill No.	Short Title	Sponsor
H95	Tribal Alcoholic Beverage Control	Rep. West

Chairman Boles recognized Rep. Hager to present the a PCS on H95. Rep. Jeter made a motion for a favorable report on the PCS, unfavorable to the original bill with a referral to Finance. The motion carried.

The meeting adjourned at 11:25 a.m.



Representative James L. Boles, Jr., Chair
Presiding



Kerry Guice, Committee Clerk



**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2015-2016 SESSION**

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

DAY & DATE: Wednesday, April 1, 2015

TIME: 11:00 AM

LOCATION: 423 LOB

COMMENTS: A report from the NC Alcohol Law Enforcement Division will be given to the committee during this meeting.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 95	Tribal Alcoholic Beverage Control.	Representative West Representative Hager

Respectfully,

Representative James L. Boles, Jr., Co-Chair
Representative Jon Hardister, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 1:58 PM on Thursday, March 26, 2015.

___ Principal Clerk
___ Reading Clerk – House Chamber

Kerry Guice (Committee Assistant)



House Committee on Alcoholic Beverage Control
Wednesday, April 1, 2015, 11:00 a.m.
Room 423

AGENDA

Welcome and Opening Remarks

Rep. Boles, Presiding

Introduction of Pages

Bills:

BILL NO.	SHORT TITLE	SPONSOR
H95	Tribal Alcoholic Beverage Control	West

Presentations

NC Alcohol Law Enforcement

Adjournment







Overview and Brief



NORTH CAROLINA ALCOHOL LAW ENFORCEMENT BRANCH

LAW ENFORCEMENT SENSITIVE
FOR OFFICIAL USE ONLY

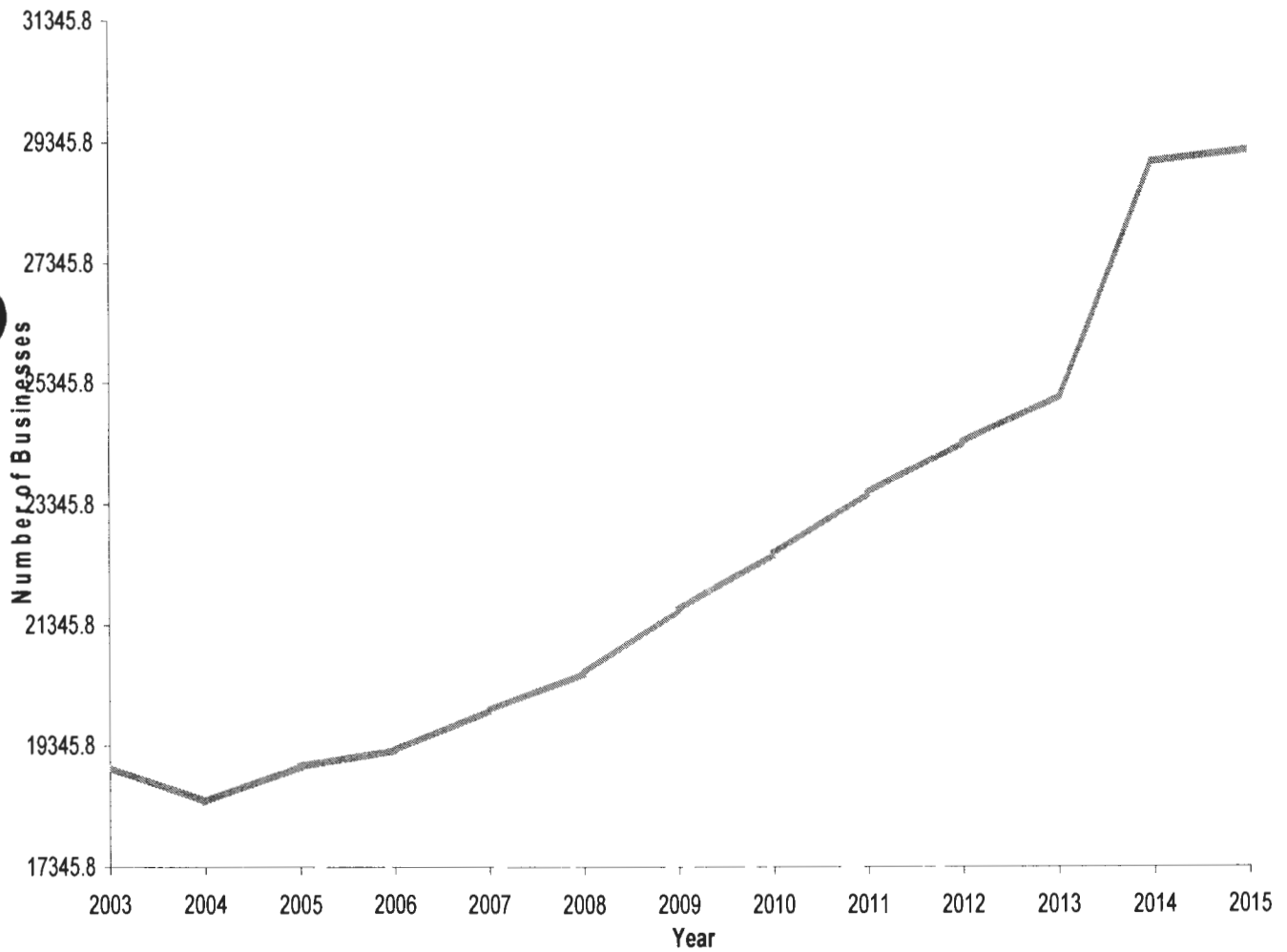
NC Alcohol Law Enforcement

2014' ALE Data

ABC Violation Reports to ABC Commission:	808
Violations for Outlet related homicides, shootings, stabbings, and violent assaults. (Does not capture permit surrender.)	29
ABC Written Warnings:	1094
Illegal Liquor Still Investigations:	43
State Arrests:	3817
Felony Charges:	1620
Federal Arrests:	113
Search Warrants Drafted AND Executed:	819
Consent Searches executed:	275
Number of ABC Licensed Outlets:	>29,100
Number of NC Education Lottery Outlets:	@8,000
ABC Outlet Inspections:	10,228

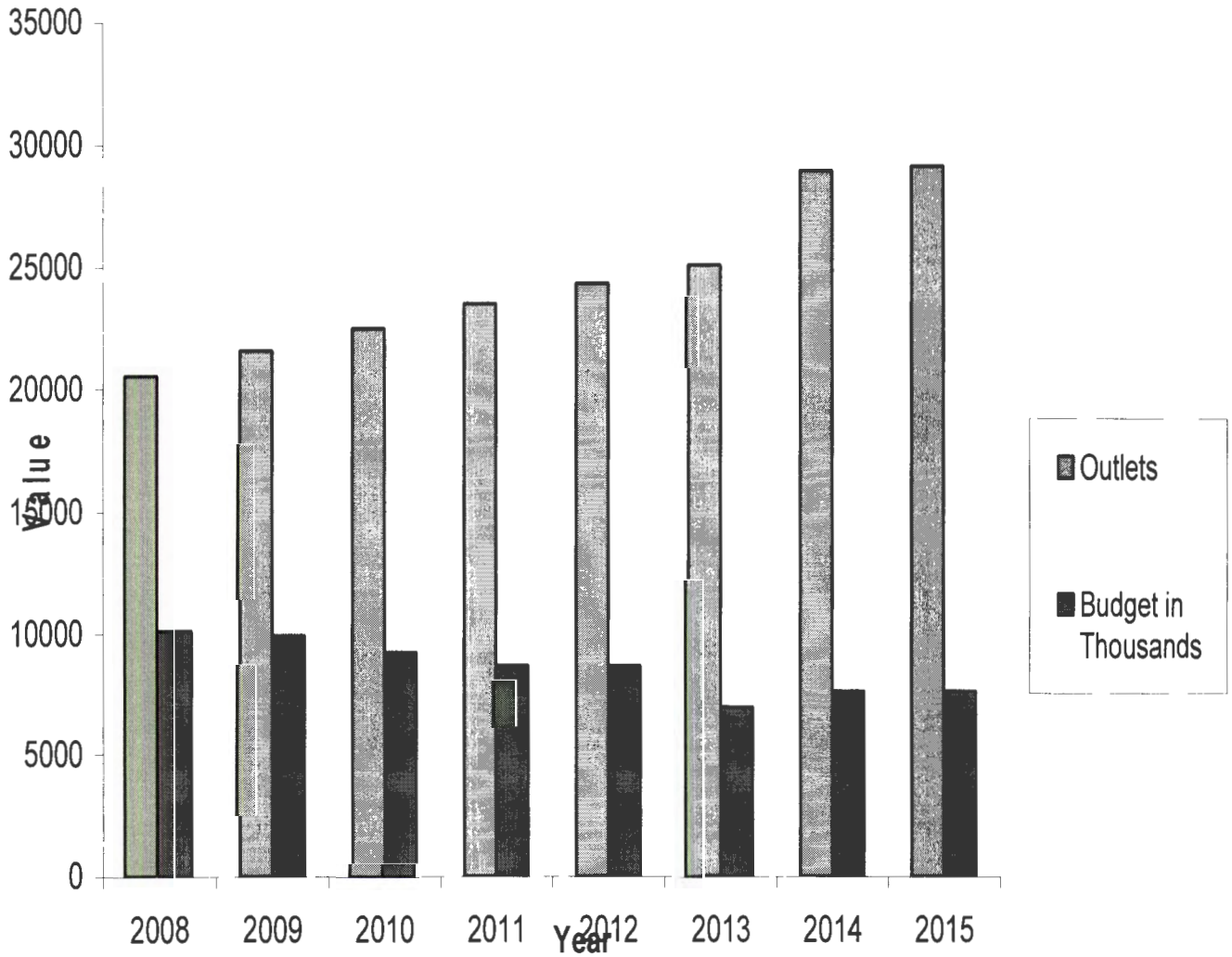
Budget, Trends, and Implications

ABC Businesses from 2003 to Present

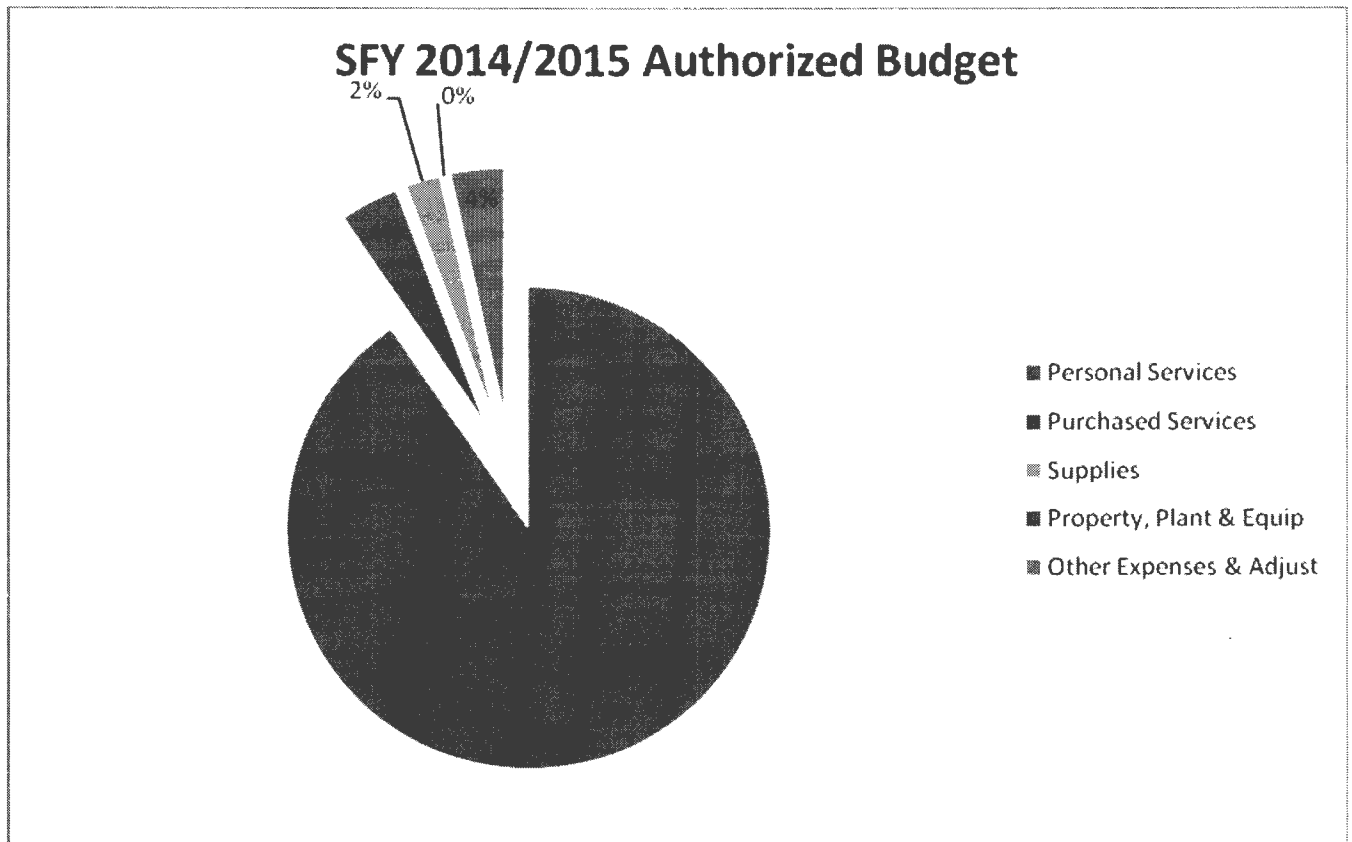


Budget, Trends, and Implications

ABC Businesses v. Appropriated Budget



Budget, Trends, and Implications



Current Budget	Gen. Fund Budget	Boxing	Bingo	Lottery	Total
Personal Services	\$7,097,491.00	\$232,220.00	\$53,207.00	\$1,050,447.00	\$8,433,365.00
Purchased Services	\$304,328.00	\$27,899.00	\$23,731.00	\$0.00	\$355,958.00
Supplies	\$208,136.00	\$1,886.00	\$300.00	\$0.00	\$210,322.00
Property, Plant & Equip	\$4,310.00	\$0.00	\$0.00	\$0.00	\$4,310.00
Other Expenses & Adjust	*\$328,927.00	\$200.00	\$0.00	\$0.00	\$329,127.00
Total	\$7,943,192.00	\$262,205.00	\$77,238.00	\$1,050,447.00	\$9,333,082.00

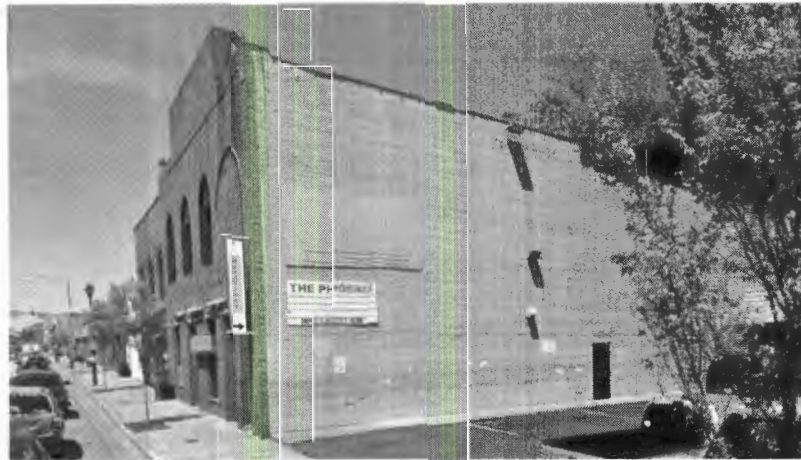
*The \$328,927.00 is completely marked for LE supplement requirements for retirees.

2014' Operation's Brief

Summary of Profile and Concluded Cases only

Multi-County Initiative – Jacksonville ALE agents assisted in a multi-jurisdictional prescription drug ring operating throughout the state. Agents worked multiple hours involving surveillance, intelligence acquisition, and undercover, to further the case on the main targets. The drug ring was fraudulently obtaining Oxycodone from over eight counties, from the coast to the piedmont. Some of the prescription drug fraud occurred in ABC licensed outlets. Agents concluded the effort with 7 arrests on over 60 felony charges, including continuing criminal enterprise, trafficking, and identity theft.

Greenville – District II ALE agents concluded an investigation into an ABC licensed outlet known as Club Phoenix. The location was known for significant violence, including assaults, fights, drugs, shootings and homicides. Local police resources were being greatly taxed due to calls for service. Agents concluded their investigation through a successful 'summary suspension' action, thereby having the permits surrendered.



Enfield – ALE Special Agents conducted an investigation into a licensed outlet where a 68 year old man was the victim of a shooting. The location known as 'K's Lounge, was the target of the investigation where agents identified the patron suspect's involvement in the assault. Agent subsequently submitted a 'summary suspension' report to the ABC commission which yielded a permit suspension sanction against the location.

Weaverville – District VIII agents concluded a non-tax paid liquor investigation resulting in the arrest of the main distributor and the seizure of over 22 gallons of non-tax paid liquor.

Bladen / Columbus Counties – ALE Special Agents worked a controlled substances investigation in assistance to the Columbus and Bladen County Sheriff's offices. ALE agents made multiple undercover purchases of controlled substances as part of the operation. The targets also were suspected of making counterfeit US currency. At the conclusion of the operation; agents arrested the main target and several other collateral suspects. The suspects were charged with multiple drug and weapons charges including trafficking in heroin. Agents seized significant amounts of heroin, prescription medication, and two firearms.



Jacksonville – ALE District I agents investigated a fatal motorcycle accident where alcohol was suspected as a contributing factor. The 20-year old driver was killed. Agents conducted an indepth investigation involving multiple interviews and witness development. At the conclusion of the investigation; agents determined the source of the alcohol provided to the victim and arrested three suspects associated with the incident.

Washington – Greenville ALE Agents concluded their investigation into an illegal outlet in Beaufort County. The investigation resulted in the execution of a search warrant which yielded the arrest of four targets on multiple felony drug and alcohol charges. Agents seized large amounts of alcohol, cocaine, and a firearm. The operator was a convicted felon, and was in possession of a handgun and wearing body armor.

Moore County-District III personnel assisted by Moore County Sheriff's Office; executed two search warrants at ABC Licensed establishments engaged in video poker and drug trafficking violations. A total of \$21,000.00 in U.S. currency was seized, multiple handguns, 42 grams of Spice and six video poker machines. Two persons were charged on numerous felony charges following the raid.

Wilmington – District I ALE Special Agents worked two nuisance abatement investigations in partnership with the Wilmington Police, City Attorney's office, and the District Attorney. Agents conducted hours of undercover and intelligence acquisition to further the case. At the conclusion of

the effort, two ABC licensed outlets were closed and the violence associated with them was abated. The locations both had extensive histories of violent assaults, fights, gang activity, drug distribution and breaches of the peace. This was the last nuisance abatement ALE engaged due to budget and manpower limitations.

Herndon – ALE Agents conducted a drug investigation at a Herndon ABC licensed outlet where suspected drug distribution was occurring. Agents conducted surveillance and undercover, ultimately concluding the investigation with the arrest of two employees on multiple felony charges.

Multi-county - District IV ALE Special Agents conducted a federal investigation into illegal video gaming machines in eastern North Carolina and a vendor in Johnson County. Agents conducted weeks of undercover, surveillance and research during the investigation. At the conclusion of the case, ALE drafted and executed 177 federal search warrants seized 366 video gaming machines, 276 sweepstakes machines and U.S. Currency consisting of \$1,711,379.52 from the vendor and \$973,236.25 from businesses involved in illegal gambling. ALE also seized over 1 million dollars found in deposit boxes and ATM's in connection with the money laundering investigation. ALE is working in partnership with the US Attorney's Office and the main targets are awaiting federal indictment.



Bertie County – ALE was requested to investigate an illegal liquor still involving several youth in Bertie County. Agents were able to locate the illegal operation on private property and seize the still. During the investigation, agents determined the materials used to make the liquor still were stolen from the local fire department. Agents charged two suspects for the manufacturing of liquor and the theft from the fire department.

Bladen County – ALE personnel concluded an investigation into an illegal alcohol outlet in Bladenboro. Agents executed a search warrant at the location which resulted in the arrest of four targets on multiple criminal charges. Agents also seized large amounts of marijuana, prescription medication, liquor, wine, beer, and several firearms. Some of the suspects were suspected and interviewed regarding local unsolved unarmed robberies.

Jacksonville – ALE agents investigated an ABC outlet selling Schedule I drugs in Jacksonville. Agents concluded the investigation with two arrests on multiple felony drug charges. Both targets

arrested were employees. Agents also discovered an illegal ownership and the sale of alcohol without permits while conducting the investigation. Agents seized over 22 grams of the Schedule I narcotic Cathinone, aka 'Khat'.

Knightdale – Raleigh ALE Agents concluded a three month undercover investigation at two ABC licensed businesses in Knightdale. Special Agent's investigation was the result of complaints from the community. ALE Agents executed simultaneous search warrants at Sports Page and Rudinos Pizza. Agents arrested multiple targets on numerous alcohol and felony drug charges, including the manager and employees of the outlets. Both locations were sanctioned by the ABC Commission.



Lee County- District III ALE Special Agents and members of the Lee County Sheriff's Office concluded a long-term drug trafficking investigation into an ABC licensed convenience store located in Lee County. The location was the source of numerous complaints of violence and shootings as well as illegal drug and alcohol violations. The investigation ended with the arrest of five (5) persons to include the owner of the establishment. Charges included assault with a deadly weapon with intent to inflict serious injury, felony assault, possession of a firearm by a felon and multiple drug violations. ALE seized 8,000 grams of Spice, four (4) guns and approximately \$10,000.00 in fraudulent/counterfeit merchandise.

Cumberland County - ALE agents from District III and V led an investigation assisted by Fayetteville Police Department involving four (4) ABC licensed private clubs in Cumberland County. Agents executed search warrants after over six (6) months of undercover work. Undercover ALE agents purchased cocaine, marijuana and prescription medication from 36 employees at the four nightclubs. All 36 persons were arrested on over 100 criminal charges.

Salisbury - District VI Special Agents partnered with the Salisbury Police Department to complete a Community Betterment investigation at a Salisbury motel. As a result of the investigation, three search warrants were executed and a total of six targets were arrested on dozens of felony drug charges, including trafficking. The City of Salisbury is hoping to pursue a nuisance action against the property.

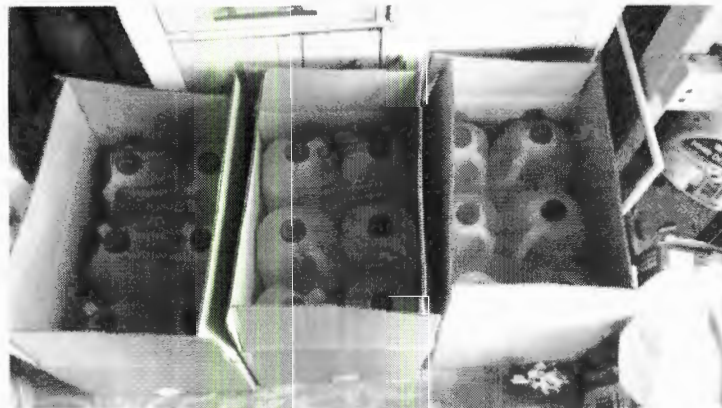
Montgomery County -ALE agents worked with the Mt. Gilead Police to charge five persons with attempted murder. This resulted from agents working at a licensed outlet in Mt. Gilead, when a victim approached them fearing for his life as he had been shot at multiple times by five suspects. Agents identified the pursuing assailants and a subsequent felony vehicle stop evolved. ALE and the

local police arrested all five suspects who were charged for attempted murder pursuant to the DA's direction.

Raleigh - District IV ALE Agents concluded an investigation at Club Rumors, an ABC licensed establishment in Raleigh. The business had been the source of multiple acts of violence and a drain on the resources of the Raleigh Police Department. ALE Agents and the Raleigh P.D. executed a search warrant at the business where 15 suspects were criminally charged for drugs, alcohol, weapons, disorderly conduct and outstanding arrest warrants. Agents seized controlled substances and weapons during the operation. As a result, ALE submitted a 'summary suspension' to the ABCC which subsequently suspended the ABC permits at the location.

FBI Request / Kidnapping – ALE was requested to assist in a kidnapping case involving a 12 year old minor female abducted from Maryland. ALE agents provided significant assistance by drafting and executing the search warrant on the suspect location, after tracking the assailant. The child was rescued and ALE arrested the suspect in connection with the kidnapping and statutory rape charges. The FBI Safe Street Task Force facilitated the effort.

Guilford / Forsyth – Greensboro ALE Agents worked an initiative to address several illegal outlets operating throughout the two counties. Agents served multiple search warrants resulting in over 25 targets being arrested on numerous alcohol, drug and weapons charges. Agents seized large amounts of alcohol, drugs, US Currency and weapons.



UNC Greensboro – ALE agents were requested to assist in an MDMA drug distribution ring which involved several ABC outlets near campus, and the sale of the drug to students. ALE worked multiple hours of undercover and surveillance, ultimately agents concluded the investigation with the arrest of 14 targets on dozens of felony drug charges, including trafficking in MDMA (ecstasy). Agents seized large amounts of MDMA and MDA. The UNC-G campus police and Greensboro Police assisted with the operation.

Guilford County – ALE agents from several districts conducted a joint saturation effort in and around ABC outlets in Greensboro. Agents conducted surveillance and undercover to address complaints and known criminalized communities. ALE concluded the initiative with 49 arrests on multiple drug, alcohol, and weapons charges. As a result of the effort, agents seized large amounts of Schedule I, II, and VI class controlled substances, prescription medications, alcohol, drug paraphernalia, and weapons.

Greensboro / Forsyth – Greensboro ALE personnel addressed two ABC outlets involved in drugs, shooting, assaults and violence, which were draining the resources of the local police. Agents conducted both investigations in assistance to the local police and ultimately achieved closure of both locations through a ‘summary suspension’ process.

Albemarle – ALE Special Agents concluded the investigation into an illegal outlet in Albemarle. The effort resulted in the execution of a search warrant at the target location. Several deadly assaults had occurred at the location and it had been a source of significant drug activity. As a result of the search warrant, alcoholic beverages, cocaine and weapons were seized as evidence. Three subjects were arrested on multiple felony charges.

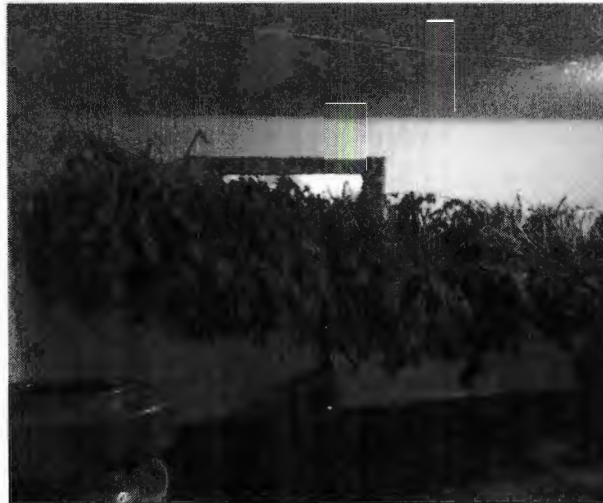
Kernersville – ALE Special Agents in District V worked in partnership with Kernersville Police to investigate an illegal liquor still. Agents concluded the investigation with the seizure of a ten gallon stainless steel “column” distillery. Agents also seized approximately five gallons of non-tax paid liquor which had been run off. The main target was arrested and charged for manufacturing liquor.



Anson County – ALE was requested by Anson County Sheriff’s office to assist in a drug operation in areas known for criminal activity. ALE conducted multiple hours of surveillance and undercover to develop cases on suspected targets. The effort concluded with the arrest of 29 suspects on over 140 felony drug charges.

Guilford – Greensboro agents assisted with a large scale marijuana distribution target in Guilford County. Agents partnered with local police and executed three search warrants in response to the investigation. They concluded the case with the arrest of the main target, the discovery of two in-door marijuana grows and the seizure of multiple pounds of marijuana. The suspect was charged with several felony drug charges, including manufacturing.

Street Gang Murder – Charlotte ALE agents assisted apprehended a murder suspect from a homicide which occurred on an ABC licensed outlet. Upon verification of the suspect's identity, agents located the target and facilitated his arrest. The target was a validated MS-13 gang member, and the victim was a documented 'Latin King'.



Burke County – ALE was requested by Burke County Sheriff's office to assist in the track and apprehension of a murder suspect who had killed his mother and father. The suspect, Troy Whisnant, had also gunned down a Federal Forestry Officer during the pursuit. ALE agents assisted with teams attempting to apprehend the target. One team comprised of ALE agents and Highway Patrol found and confronted the suspect, who ultimately killed himself in the altercation. Two ALE agents received recognition from the Governor for heroism in this incident.

Cherokee County – District VIII ALE personnel conducted an investigation into the source of alcohol which resulted in the serious injury of a 15 year old suspect/victim. The event involved an intoxicated 15 year-old who stole a truck and ultimately led officers on a chase. The minor had been consuming alcohol at a location later determined through ALE's investigation. Agents drafted and executed a search warrant which resulted in the identification of a primary suspect. The subject was charged and later died prior to the completion of the investigation.

Asheville – Asheville ALE agents continued an investigation at an ABC outlet known as Xcapade's, an adult entertainment business in Asheville. A major ALE led federal drug investigation into the business was conducted two years before, but the location had become a problem for the community again. Agents concluded this second investigation with the execution of a search warrant, the arrest of the main target (charged in previous investigation) and the seizure of over 275 liters of alcohol. The location was operating as an illegal outlet and the property is now being seized under federal asset forfeiture statutes.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 95

Short Title: Tribal Alcoholic Beverage Control. (Public)

Sponsors: Representatives West and Hager (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

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

February 23, 2015

- 1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE EASTERN BAND OF CHEROKEE INDIANS TRIBAL
3 ALCOHOLIC BEVERAGE CONTROL COMMISSION TO ISSUE WINE SHIPPER
4 PERMITS AND COMMERCIAL ABC PERMITS AND TO CLARIFY THAT THE
5 EASTERN BAND OF CHEROKEE INDIANS TRIBAL ALCOHOLIC BEVERAGE
6 CONTROL COMMISSION MAINTAINS EXCLUSIVE AUTHORITY TO ISSUE
7 CERTAIN PERMITS.
8 The General Assembly of North Carolina enacts:
9 **SECTION 1.** G.S. 18B-112 reads as rewritten:
10 **"§ 18B-112. Tribal alcoholic beverage control.**
11 ...
12 (b) Compliance Required. – The Eastern Band of Cherokee Indians shall comply with
13 the following provisions of this Chapter to the extent they apply to or can be made applicable to
14 the tribe:
15 (1) The following provisions of Article 1. – General Provisions.
16 a. G.S. 18B-101(4), (7), (7c), (9), (10), (11), (12), (12a), (13),
17 (14)(14a), (14b), and (15).
18 b. G.S. 18B-102.1.
19 c. G.S. 18B-104.
20 d. G.S. 18B-105, except that this section shall not apply to any
21 establishment where gaming is permitted under a State compact and
22 pursuant to federal law.
23 e. G.S. 18B-109(b).
24 f. G.S. 18B-110.
25 g. G.S. 18B-111.
26 h. G.S. 18B-112.
27 (2) Article 1A. – Compensation for Injury Caused by Sales to Underage
28 Persons, to the extent it applies to retail establishments or the tribal alcoholic
29 beverage control commission if it operates ABC stores, or any other
30 permitted establishment, at retail pursuant to the provisions of this section.
31 (3) Article 3. – Sale, Possession, and Consumption, except for G.S. 18B-308
32 and G.S. 18B-309.
33 (4) Article 4. – Transportation.
34 (5) Article 5. – Enforcement, except for G.S. 18B-500 and G.S. 18B-501.



1 (6) Article 6. – Elections, compliance with only G.S. 18B-603(f) and (g) are
2 required.

3 (7) Article 9. – Issuance of Permits, except for G.S. 18B-902(g) and (h) and
4 G.S. 18B-906.

5 ~~(7)(8) Article 10. – Retail Activity, except for G.S. 18B-1001.1, 18B-1001.2, and~~
6 ~~18B-1001.3.Activity.~~

7 (9) Article 11. – Commercial Activity.

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

11 ...

12 (d) Establishment of a Tribal Commission. – In accordance with the provisions of 18
13 U.S.C. § 1161, the Eastern Band of Cherokee Indians is authorized to establish a tribal
14 alcoholic beverage control commission to regulate the purchase, possession, consumption, sale,
15 and delivery of alcoholic beverages ~~at retail~~ on any land designated as Indian Country pursuant
16 to 18 U.S.C. § 1151 under the jurisdiction of the Eastern Band of Cherokee Indians. The tribal
17 commission shall have exclusive authority to issue ~~retail~~ABC permits to retail and commercial
18 establishments located wholly on Indian Country lands under the jurisdiction of the Eastern
19 Band of Cherokee Indians and to regulate the purchase, possession, consumption, sale, and
20 delivery of alcoholic beverages at ~~retail~~permitted outlets and premises. Permits issued by the
21 tribal commission pursuant to this section shall be deemed issued by the State for the purposes
22 of sales and delivery of beer and wine by wholesalers to the retail outlets located on Indian
23 Country lands. The fees generated by the tribal alcoholic beverage control commission for the
24 issuance of retail permits may be retained by the Eastern Band of Cherokee Indians to offset
25 costs of operating the tribal alcoholic beverage control commission.

26"

27 **SECTION 2.** G.S. 18B-101(14a) reads as rewritten:

28 "(14a) "Tourism ABC establishment" means a restaurant or hotel that meets both of
29 the following requirements:

- 30 a. Is located on property, a property line of which is located within 1.5
31 miles of the end of an entrance or exit ramp of a junction on a
32 national scenic parkway designed to attract local, State, national, and
33 international tourists between the State line and Milepost ~~460.460~~,
34 provided that the Eastern Band of Cherokee Indians tribal alcoholic
35 beverage control commission established under G.S. 18B-112 shall
36 maintain exclusive authority to issue permits pursuant to this
37 subdivision between Milepost 460 and the southern terminus of the
38 national scenic byway at Milepost 469.
39 b. Is located in a county in which the on-premises or off-premises sale
40 of malt beverages or unfortified wine is authorized in at least one
41 city."

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL 95
PROPOSED COMMITTEE SUBSTITUTE H95-CSSA-19 [v.1]

3/27/2015 5:31:52 PM

Short Title: Tribal Alcoholic Beverage Control.

(Public)

Sponsors:

Referred to:

February 23, 2015

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE EASTERN BAND OF CHEROKEE INDIANS TRIBAL ALCOHOLIC BEVERAGE CONTROL COMMISSION TO ISSUE WINE SHIPPER PERMITS AND COMMERCIAL ABC PERMITS AND TO CLARIFY THAT THE EASTERN BAND OF CHEROKEE INDIANS TRIBAL ALCOHOLIC BEVERAGE CONTROL COMMISSION MAINTAINS EXCLUSIVE AUTHORITY TO ISSUE CERTAIN PERMITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-112 reads as rewritten:

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

...

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

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

- a. G.S. 18B-101(4), (7), (7c), (9), (10), (11), (12), (12a), (13), (14)(14a), (14b), and (15).
- b. G.S. 18B-102.1.
- c. G.S. 18B-104.
- d. G.S. 18B-105, except that this section shall not apply to any establishment where gaming is permitted under a State compact and pursuant to federal law.
- e. G.S. 18B-109(b).
- f. G.S. 18B-110.
- g. G.S. 18B-111.
- h. G.S. 18B-112.

(2) Article 1A. – Compensation for Injury Caused by Sales to Underage Persons, to the extent it applies to retail establishments or the tribal alcoholic beverage control commission if it operates ABC stores, or any other permitted establishment, at retail pursuant to the provisions of this section.

(3) Article 3. – Sale, Possession, and Consumption, except for G.S. 18B-308 and G.S. 18B-309.

(4) Article 4. – Transportation.

(5) Article 5. – Enforcement, except for G.S. 18B-500 and G.S. 18B-501.

(6) Article 6. – Elections, compliance with only G.S. 18B-603(f) and (g) are required.



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- 1 (7) Article 9. – Issuance of Permits, except for G.S. 18B-902(g) and (h) and
- 2 G.S. 18B-906.
- 3 ~~(7)(8) Article 10. – Retail Activity, except for G.S. 18B-1001.1, 18B-1001.2, and~~
- 4 ~~18B-1001.3.Activity.~~
- 5 (9) Article 11. – Commercial Activity, as clarified by the following:
- 6 a. The tribal alcoholic beverage control commission may issue
- 7 commercial activity permits to any qualifying applicant that
- 8 establishes a commercial business wholly on Indian Country lands
- 9 and shall have sole enforcement authority over any permittee
- 10 receiving a permit from the tribal alcoholic beverage control
- 11 commission only to the extent the regulated conduct occurs on Indian
- 12 Country lands.
- 13 b. The Eastern Band of Cherokee Indians shall recognize any permit
- 14 issued by the North Carolina Alcoholic Beverage Control
- 15 Commission allowing commercial activity in the same manner as if
- 16 such permit was issued by the tribal alcoholic beverage control
- 17 commission. The North Carolina Alcoholic Beverage Control
- 18 Commission shall recognize any commercial activity permit issued
- 19 by the tribal alcoholic beverage commission in the same manner as if
- 20 the permit were issued by the North Carolina Alcoholic Beverage
- 21 Control Commission.
- 22 c. The North Carolina Alcoholic Beverage Control Commission shall
- 23 retain exclusive enforcement authority over all permits it issues to
- 24 commercial activity permittees for violations of its rules or this
- 25 Chapter.

26 Any provision of Articles 12 and 13 of this Chapter which has not been made applicable to

27 the Eastern Band of Cherokee Indians by this section shall act as a bar to engaging in any

28 activity authorized by that Article or section.

29 ...

30 (d) Establishment of a Tribal Commission. – In accordance with the provisions of 18

31 U.S.C. § 1161, the Eastern Band of Cherokee Indians is authorized to establish a tribal

32 alcoholic beverage control commission to regulate the purchase, possession, consumption, sale,

33 and delivery of alcoholic beverages ~~at retail~~ on any land designated as Indian Country pursuant

34 to 18 U.S.C. § 1151 under the jurisdiction of the Eastern Band of Cherokee Indians. The tribal

35 commission shall have exclusive authority to issue ~~retail~~ABC permits to retail and commercial

36 establishments located wholly on Indian Country lands under the jurisdiction of the Eastern

37 Band of Cherokee Indians and to regulate the purchase, possession, consumption, sale, and

38 delivery of alcoholic beverages at ~~retail~~permitted outlets and premises. Permits issued by the

39 tribal commission pursuant to this section shall be deemed issued by the State for the purposes

40 of sales and delivery of beer and wine by wholesalers to the retail outlets located on Indian

41 Country lands. The fees generated by the tribal alcoholic beverage control commission for the

42 issuance of retail permits may be retained by the Eastern Band of Cherokee Indians to offset

43 costs of operating the tribal alcoholic beverage control commission.

44 "

45 **SECTION 2.** G.S. 18B-101(14a) reads as rewritten:

46 "(14a) "Tourism ABC establishment" means a restaurant or hotel that meets both of

47 the following requirements:

48 a. Is located on property, a property line of which is located within 1.5

49 miles of the end of an entrance or exit ramp of a junction on a

50 national scenic parkway designed to attract local, State, national, and

51 international tourists between the State line and Milepost 460-469,

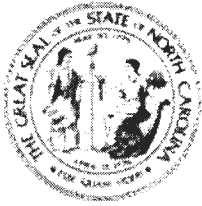
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provided that the Eastern Band of Cherokee Indians tribal alcoholic beverage control commission established under G.S. 18B-112 shall have exclusive authority to issue permits pursuant to this subdivision between Milepost 460 and the southern terminus of the national scenic byway at Milepost 469 for any restaurant or hotel that is located wholly on Indian Country lands.

- b. Is located in a county in which the on-premises or off-premises sale of malt beverages or unfortified wine is authorized in at least one city."

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





HOUSE BILL 95: Tribal Alcoholic Beverage Control

2015-2016 General Assembly

Committee:	House Alcoholic Beverage Control, if favorable, Finance	Date:	April 1, 2015
Introduced by:	Reps. West, Hager	Prepared by:	Susan Sitze
Analysis of:	PCS to First Edition H95-CSSA-19		Committee Counsel

SUMMARY: *The Proposed Committee Substitute (PCS) for House Bill 95 would authorize the Eastern Band of Cherokee Indians tribal alcoholic beverage control commission to issue wine shipper permits and commercial ABC permits and would clarify that the Eastern Band of Cherokee Indians tribal alcoholic beverage control commission maintains exclusive authority to issue certain permits.*

BILL ANALYSIS:

Section 1 of the PCS would authorize the tribal alcoholic beverage control commission to issue wine shipper permits and also to issue commercial activity permits for commercial businesses that are located wholly on Indian Country lands and would grant them sole enforcement authority for those permittees to the extent the regulated conduct occurs on Indian Country lands. Both the Eastern Band of Cherokee Indians and the North Carolina Alcoholic Beverage Control Commission would be required to equally recognize any permit issued by the other entity.

Section 2 of the PCS would authorize the issuance of "Tourism ABC Establishment" permits for restaurants and hotels that meet that definition between Mileposts 460 and 469 of the Blue Ridge Parkway. The Eastern Band of Cherokee Indians tribal alcoholic beverage commission is given exclusive authority to issue "Tourism ABC Establishment" permits to those restaurants and hotels that are located wholly on Indian Country lands.

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

BACKGROUND:

§ 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

O. Walker Reagan
Director



Research Division
(919) 733-2578

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House Bill 95

Page 2

- (14) Nonresident malt beverage vendor
- (15) Nonresident wine vendor
- (16) Winery special show
- (17) Liquor importer/bottler permit
- (18) Cider and vinegar manufacturer
- (19) Wine producer permit
- (20) Malt beverage special event permit.

Committee Sergeants at Arms

NAME OF COMMITTEE Committee on Alcoholic Control

DATE: 4/1/2015

Room: 423

House Sgt-At Arms:

1. Name: Charles Godwin

2. Name: Rey Cooke

3. Name: Dean Marshbourne

4. Name: _____

5. Name: _____

Senate Sgt-At Arms:

1. Name: _____

2. Name: _____

3. Name: _____

4. Name: _____

5. Name: _____



Wednesday, April 1
ABC

Room
423

Time
11:00 am

Name

County

Sponsor

Maddie Dyson

Davidson

John Faircloth

Matthew Parker

Forsyth

Evelyn Terry



VISITOR REGISTRATION SHEET

Committee on Alcoholic Control

4/1/2015

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
D. Gross	EBCT ABC Com
Mikael Gross	EBCT ABC Commission
Paxton Myers	EBCT
John McNamee	EBCT
Tonya Homan	TSS
Michael Houser	THCG
Ken Melton	K.M.A.
Starnes	Treasurer
J. Gray	NCRLA



VISITOR REGISTRATION SHEET

Committee on Alcoholic Control

Name of Committee

4/1/2015

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

TJ Bybee	NP
Wendy Christensen	Wool & Smith
Bre Hager	NCEL
Sarah Bales	Brobakker & Associates
Harold Brobakker	Brobakker & Associates
Tim Kent	NC BEER & WINE
Leigh Jeffreys Fanning	R.A. Jeffreys Dist.
KRIS GARDNER	NC BEER & WINE WHOLESALERS ASSOC.
Lori Ann Harris	LAAHA
Jon Carr	NC ASSN ABC BOWLS
Bob Hamilton	NC ABC Commission



VISITOR REGISTRATION SHEET

Committee on Alcoholic Control

4/1/2015

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

K. Renee Cowick	NC ABC Commission Raleigh
Sarah Sess	MT
KEN Hocutt	NC Dept of Revenue
Ryan Combs	NC OPS
Alex Miller	KLG
Jonathan Bombaker	Bombaker & Assoc
Steve Mange	NCRLA
Conie Wilson	D&E VS



House Committee on Alcoholic Beverage Control
Wednesday, April 15, 2015 at 11:00 AM
Room 423 of the Legislative Office Building

MINUTES

The House Committee on Alcoholic Beverage Control met at 11:00 AM on April 15, 2015 in Room 423 of the Legislative Office Building. Representatives Alexander, Boles, Collins, Daughtry, Dobson, Earle, Fisher, Gill, Hardister, Hastings, Holley, Jeter, Lucas, McGrady, Saine, West, Willingham, and Zachary attended. Research Staff in attendance were: Chris Saunders and Susan Sitze.

Representative Jon Hardister, Chair, presided.

Representative Hardister recognized the Sergeant-at-Arms: Charles Godwin, Rey Cooke and Dean Marshbourne and the Pages: Ben Smith of Johnston County and Roman Bilan of Pitt County. (See attachments 1 and 2) The Visitor's Sheet is attached and made a part of these minutes. (See attachment 3)

The following bills were considered:

HB 290 Prohibit Powdered Alcohol. (Representatives Willingham, L. Hall)

Rep. Hardister recognized Rep. Willingham to present the bill. After questions and comments from the members, Rep. Collins moved for a favorable report to the Proposed Committee Substitute, unfavorable to the original and re-referred to the Committee on Health. The motion carried. (See attachments 4, 5 and 6)

HB 235 Godwin/Repeal Spirituous Liquors Ban. (Representative Szoka)

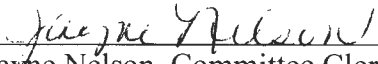
Rep. Hardister recognized Rep. Szoka to present the bill. After questions and comments from the members, Rep. Lucas moved for a favorable report. The motion carried. (See attachments 7 and 8)

A copy of the bill report is attached. (See attachment 9)

The meeting adjourned at 11:22 am.



Representative Jon Hardister, Chair
Presiding



Jayne Nelson, Committee Clerk



Jayne Nelson (Rep. Jon Hardister)

From: Jayne Nelson (Rep. Jon Hardister)
Sent: Tuesday, April 14, 2015 12:07 PM
To: Rep. Larry Hall; Rep. Shelly Willingham; Rep. John Szoka
Cc: Theresa Wright-Bryant (Rep. Larry Hall); Johnna Smith (Rep. Shelly Willingham); Beverly Slagle (Rep. John Szoka)
Subject: <NCGA> House Alcoholic Beverage Control Committee Meeting Notice for Wednesday, April 15, 2015 at 11:00 AM
Attachments: Add Meeting to Calendar_LINC_ics

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2015-2016 SESSION**

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

DAY & DATE: Wednesday, April 15, 2015
TIME: 11:00 AM
LOCATION: 423 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 290	Prohibit Powdered Alcohol.	Representative Willingham Representative L. Hall
HB 235	Godwin/Repeal Spirituous Liquors Ban.	Representative Szoka

Respectfully,

Representative James L. Boles, Jr., Co-Chair
Representative Jon Hardister, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 12:05 PM on Tuesday, April 14, 2015.

____ Principal Clerk
____ Reading Clerk – House Chamber

Jayne Nelson (Committee Assistant)



**House Committee on Alcoholic Beverage Control
Wednesday, April 15, 2015, 11:00 AM
423 Legislative Office Building**

AGENDA

Welcome and Opening Remarks

Rep. Jon Hardister, Chairman

Introduction of Sergeant at Arms

Introduction of Pages

Bills

BILL NO. SHORT TITLE

HB 290 Prohibit Powdered Alcohol.

**HB 235 Godwin/Repeal Spirituous
Liquors Ban.**

SPONSOR

Representative Willingham

Representative L. Hall

Representative Szoka

Other Business

Adjournment



Committee Sergeants at Arms

NAME OF COMMITTEE House Committee on ABC

DATE: 4/15/2015 Room: 423

House Sgt-At Arms:

1. Name: Charles Godwin

2. Name: Rey Cooke

3. Name: Dean Marshbourne

4. Name: _____

5. Name: _____

Senate Sgt-At Arms:

1. Name: _____

2. Name: _____

3. Name: _____

4. Name: _____

5. Name: _____



Wednesday, April 15
ABC

Room
423

Time
11:00 am

<u>Name</u>	<u>County</u>	<u>Sponsor</u>
Ben Smith	Johnston	N. Leo Daughtry
Roman Bilan	Pitt	Brian Brown



VISITOR REGISTRATION SHEET

House Comm. on ABC

4/15/2015

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

NAME	FIRM OR AGENCY AND ADDRESS
Doug Howey	NCPM
Ken Melton	K. M.A.
David Ferrell	VB
Frank Gray	NCRCA
Rhonda Todd	DOA
GARY HARRIS	NE PM
REV. MARK CREECH	CAI
Tanya Hester	TSS





GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 290

Short Title: Prohibit Powdered Alcohol. (Public)

Sponsors: Representative Willingham (Primary Sponsor).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

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

March 19, 2015

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A BILL TO BE ENTITLED
AN ACT TO PROHIBIT THE SALE, POSSESSION, OR CONSUMPTION OF POWDERED
ALCOHOL AND TO CLARIFY THAT THE ADMINISTRATIVE PROCEDURE ACT
APPLIES TO CERTAIN ACTIONS TAKEN BY THE ABC COMMISSION.

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:

...

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

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

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

...."

SECTION 2. G.S. 18B-102 is amended by adding a new subsection to read:

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

SECTION 3. G.S. 18B-906(a) reads as rewritten:

"(a) Act Applies. – An ABC permit is a "license" within the meaning of G.S. 150B-2,
and, except for revocation pursuant to ~~G.S. 18B-904(e)(3)~~G.S. 18B-904(e)(3), suspension
pursuant to G.S. 18B-904(e)(4), or for a confirmation pursuant to G.S. 18B-900(a)(8), a
Commission action on issuance, suspension, or revocation of an ABC permit, other than a
temporary permit issued under G.S. 18B-905, is a "contested case" subject to the provisions of
Chapter 150B except as provided in this section."

SECTION 4. G.S. 150B-38(a) is amended by adding a new subdivision to read:

"(7) The Alcoholic Beverage Control Commission."

SECTION 5. Sections 1 and 2 of this act are effective when this act becomes law.

The remainder of this act becomes effective May 1, 2015.





4-15-15 H 5

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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D

HOUSE BILL 290
PROPOSED COMMITTEE SUBSTITUTE H290-CSTQ-9 [v.1]

4/14/2015 2:16:10 PM

Short Title: Prohibit Powdered Alcohol.

(Public)

Sponsors:

Referred to:

March 19, 2015

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A BILL TO BE ENTITLED
AN ACT TO PROHIBIT THE SALE, POSSESSION, OR CONSUMPTION OF POWDERED
ALCOHOL AND TO CLARIFY THAT THE ADMINISTRATIVE PROCEDURE ACT
APPLIES TO CERTAIN ACTIONS TAKEN BY THE ABC COMMISSION.

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:

...

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

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

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

...."

SECTION 2. G.S. 18B-102 is amended by adding a new subsection to read:

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

SECTION 3. G.S. 18B-906(a) reads as rewritten:

"(a) Act Applies. – An ABC permit is a "license" within the meaning of G.S. 150B-2,
and, except for revocation pursuant to ~~G.S. 18B-904(e)(3)~~G.S. 18B-904(e)(3), suspension
pursuant to G.S. 18B-904(e)(4), or for a confirmation pursuant to G.S. 18B-900(a)(8), a
Commission action on issuance, suspension, or revocation of an ABC permit, other than a
temporary permit issued under G.S. 18B-905, is a "contested case" subject to the provisions of
Chapter 150B except as provided in this section."

SECTION 4. G.S. 150B-38(a) is amended by adding a new subdivision to read:

"(7) The Alcoholic Beverage Control Commission."

SECTION 5. Sections 1 and 2 of this act are effective when this act becomes law.

Section 3 of this act becomes effective May 1, 2015, and applies to suspensions issued on or
after that date. Section 4 of this act becomes effective May 1, 2015, and applies to contested
cases brought on or after that date.







HOUSE BILL 290: Prohibit Powdered Alcohol

2015-2016 General Assembly

Committee:	House Alcoholic Beverage Control, if favorable, Health	Date:	April 15, 2015
Introduced by:	Reps. Willingham, L. Hall	Prepared by:	Chris Saunders Committee Counsel
Analysis of:	PCS to First Edition H290-CSTQ-9		

SUMMARY: *The Proposed Committee Substitute (PCS) for House Bill 290 would (i) prohibit the sale, possession, or consumption of powdered alcohol, (ii) provide that suspension of an Alcoholic Beverage Control Commission (ABC Commission) permit due to charging five or more people with criminal violations of gambling, disorderly conduct, prostitution, controlled substance, or felony criminal counterfeit trademark laws is not a contested case under the North Carolina Administrative Procedure Act (APA), and (iii) provide that contested cases heard by the ABC Commission are covered by the Article of the APA that governs other administrative hearings.*

The PCS makes a technical change to the effective date.

CURRENT LAW: Powdered alcohol currently is not regulated in this State. Except for revocation of an ABC Commission permit in specific circumstances, for a confirmation that a permit applicant is current in filing and paying all applicable taxes, or when regarding a temporary permit, any ABC Commission action on issuance, suspension, or revocation of an ABC Commission permit is a contested case subject to the APA.

BACKGROUND: A contested case is defined in the APA as "an administrative proceeding ... to resolve a dispute between an agency and another person that involves the person's rights, duties, or privileges, including licensing or the levy of a monetary penalty." Article 3A of the APA, governing "other administrative hearings," sets forth a process for hearing contested cases by the board or agency that made the initial ruling at issue in the contested case.

BILL ANALYSIS: Sections 1 and 2 of the PCS would define "powdered alcohol" to mean "any powder or crystalline substance capable of being converted into a liquid alcoholic beverage fit for human consumption" and prohibit the manufacture, sale, transportation, delivery, furnishing, purchase, consumption, and possession of powdered alcohol.

Section 3 of the PCS would provide that suspension of an ABC Commission permit due to charging five or more people with criminal violations of gambling, disorderly conduct, prostitution, controlled substance, or felony criminal counterfeit trademark laws is not a contested case covered by the APA.

Section 4 of the PCS would provide that the ABC Commission is covered by Article 3A of the APA, which governs "other administrative hearings."

O. Walker Reagan
Director



Research Division
(919) 733-2578



House Bill 290

Page 2

EFFECTIVE DATE: Sections 1 and 2 of this act would be effective when the act becomes law. Section 3 of this act would become effective May 1, 2015, and would apply to suspensions issued on or after that date. Section 4 of this act would become effective May 1, 2015, and would apply to contested cases brought on or after that date.



4-15-15#7

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 235

Short Title: Godwin/Repeal Spirituous Liquors Ban. (Local)

Sponsors: Representative Szoka (Primary Sponsor).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Alcoholic Beverage Control.

March 16, 2015

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A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE TOWN OF GODWIN TO REPEAL THE
BAN ON THE SALE OF SPIRITUOUS, VINOUS, OR MALT LIQUORS WITHIN
TOWN LIMITS.

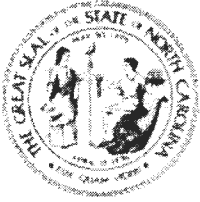
The General Assembly of North Carolina enacts:

SECTION 1. Section 8 of the Charter of the Town of Godwin, being Chapter 397
of the Private Laws of 1905, as amended by S.L. 2009-5, is repealed.

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







HOUSE BILL 235: Godwin/Repeal Spirituous Liquors Ban

2015-2016 General Assembly

Committee:	House Alcoholic Beverage Control	Date:	April 15, 2015
Introduced by:	Rep. Szoka	Prepared by:	Chris Saunders
Analysis of:	First Edition		Committee Counsel

SUMMARY: *House Bill 235 would amend the Charter of the Town of Godwin to repeal an existing ban on the sale of wine, beer, and spirituous liquors within the town limits.*

CURRENT LAW: Under the current Charter of the Town of Godwin, the manufacture and sale of liquor, wine, and beer (spirituous, vinous, and malt liquors) are prohibited within the corporate limits of the Town.

BILL ANALYSIS: House Bill 235 would repeal the ban on the manufacture and sale of wine, beer, and liquor in the Town Charter.

BACKGROUND: The Town of Godwin, incorporated in Cumberland County in 1905, has a population of 139 according to the 2010 census.

EFFECTIVE DATE: This act would be effective when it becomes law.

O. Walker Reagan
Director



* H 2 3 5 - S M T Q - 2 1 E 1 - V 1 *

Research Division
(919) 733-2578



NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

ALCOHOLIC BEVERAGE CONTROL COMMITTEE REPORT

Representative James L. Boles, Jr., Co-Chair

Representative Jon Hardister, Co-Chair

FAVORABLE

HB 235

Godwin/Repeal Spirituous Liquors Ban.

Draft Number: None
Serial Referral: None
Recommended Referral: None
Long Title Amended: No
Floor Manager: Szoka

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 290

Prohibit Powdered Alcohol.

Draft Number: H290-PCS20289-TQ-9
Serial Referral: HEALTH
Recommended Referral: None
Long Title Amended: No
Floor Manager: Willingham

TOTAL REPORTED: 2





House Committee on Alcoholic Beverage Control
Tuesday, April 21, 2015 at 11:00
Room 425

MINUTES

The House Committee on Alcoholic Beverage Control met at 11:05 am on April 21, 2015 in Room 425. Representatives Alexander, Boles, Daughtry, Earle, Gill, Hanes, Hardister, Hastings, Holley, Jeter, Lewis, Lucas, Saine, Tine, West, Willingham, and Zachary attended. Research Staff members attending were: Susan Sitze and Chris Saunders. Sergeant-at-Arms attending were: Garland Shephard, Doug Harris and Larry Elliott and Pages attending were: Jessica Vazquez of Guilford County and Desmond Woods of Wake County.(Attachment 1) A Visitors Sheet is attached and made a part of these minutes.(Attachment 2)


Representative Hardister presided. Representative Hardister called the meeting to order at 11:05 am, welcomed everyone and introduced the Sergeant-at-Arms and Pages.

The Chair recognized Representative Hager to present **House Bill 909 Sale of Antique Spirituous Liquor** to the committee. (Attachments 3 & 4)

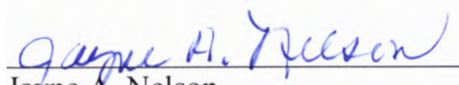
After Representative Hager's presentation and questions from the committee, Representative West moved for a favorable report with a serial referral to the Committee on Finance. The motion carried. (Attachment 5)

Representative Hardister thanked the members and guests in attendance.

The meeting adjourned at 11:14 am.



Representative Jon Hardister,
Presiding



Jayne A. Nelson,
Committee Clerk



Jayne Nelson (Rep. Jon Hardister)

From: Dianne Russell (House Legislative Assistant Director)
Sent: Monday, April 20, 2015 07:36 PM
To: Rep. Mike Hager; Rep. John Bell
Cc: Baxter Knight (Rep. Mike Hager); Susan West Horne (Rep. John Bell); Clayton Somers (Chief of Staff, Speaker Moore's Office)
Subject: <NCGA> House Alcoholic Beverage Control Committee Meeting Notice for Tuesday, April 21, 2015 at 11:00 AM
Attachments: Add Meeting to Calendar_LINC_ics

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2015-2016 SESSION**

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

DAY & DATE: Tuesday, April 21, 2015
TIME: 11:00 AM
LOCATION: 425 LOB

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 909	Sale of Antique Spirituous Liquor.	Representative Hager Representative J. Bell

Respectfully,

Representative James L. Boles, Jr., Co-Chair
Representative Jon Hardister, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 7:35 PM on Monday, April 20, 2015.

____ Principal Clerk
____ Reading Clerk – House Chamber

Dianne Russell (Committee Assistant)



**House Committee on Alcoholic Beverage Control
Tuesday, April 21, 2015, 11:00 am
LOB 425**

AGENDA

Welcome and Opening Remarks: Rep. Jon Hardister, Chairman

Introduction of Pages

Bills:

**HB 909 Sale of Antique Spirituous Liquor Rep. Mike Hager
Rep. John Bell**

Other Business

Adjournment



HOUSE PAGES

NAME OF COMMITTEE ABC DATE 4-21-15

1. Name: Jessica Vazquez

County: Guilford

Sponsor: John Faircloth

2. Name: Desmond Woods

County: Wake

Sponsor: Rosa Gill

3. Name: _____

County: _____

Sponsor: _____

4. Name: _____

County: _____

Sponsor: _____

5. Name: _____

County: _____

Sponsor: _____

SGT-AT-ARM

1. Name: GARLAND SHEPHEARD

2. Name: DOUG HARRIS

3. Name: LARRY ELLIOTT

4. Name: _____



VISITOR REGISTRATION SHEET

ALCOHOLIC BEVERAGE CONTROL

4-21-15

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Robert Hamilton	NC ABC Commission
Agnes Stevens	NC ABC Commission
Steven Mange	NCRLA
Kristen Laster	SSBTR
[Signature]	ISCI
Tim KENT	NC BEER & WINE
Crystal Dowd	Bladen Community College
Kennedy Johnson	Bladen Community College
Jessica [Signature]	Bladen Community College
La-Keith Council	Bladen Community College
Amber Johnson	Bladen Community College







GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 909

Short Title: Sale of Antique Spirituous Liquor. (Public)

Sponsors: Representatives Hager and J. Bell (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

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

April 20, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE AND REGULATE THE SALE OF ANTIQUE SPIRITUOUS
3 LIQUOR.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 18B-101 reads as rewritten:

6 "§ 18B-101. Definitions.

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

8 ...
9 (5) "ALE Branch" means the Alcohol Law Enforcement Branch of the
10 Department of Public Safety.

11 (5a) "Antique spirituous liquor" means spirituous liquor that has been bottled for
12 at least 20 years, is in the original, unopened bottle, is intended for beverage
13 use, and is no longer in production.

14 (5b) "Bailment surcharge" means the charge imposed on each case of liquor
15 shipped from a Commission warehouse as provided in G.S. 18B-208. This
16 bailment surcharge is in addition to the bailment charge imposed by
17 G.S. 18B-804(b)(2).

18"

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

20 "(20) Antique spirituous liquor permit. – A permit under this subdivision may be
21 issued to a holder of a mixed beverages permit issued under subdivision (10)
22 of this subsection. Notwithstanding any law to the contrary, the permit
23 holder may sell at retail antique spirituous liquor for use in mixed beverages
24 for consumption on premises. Every initial and renewal application for a
25 permit under this subdivision shall include a complete inventory of the
26 antique spirituous liquor the permit holder possesses. If the permit holder
27 acquires antique spirituous liquor after filing the inventory required under
28 this subdivision, the permit holder shall amend the inventory filed to include
29 the acquired antique spirituous liquor prior to its sale. The acquisition of
30 antique spirituous liquor on or after August 1, 2015, shall be in accordance
31 with the process established by rule of the Commission for special orders of
32 spirituous liquor that is not on the list approved by the Commission. Nothing
33 in the process established by rule of the Commission shall be construed as
34 prohibiting the acquisition of antique spirituous liquor from a seller other
35 than a distiller. The permit holder shall be solely liable for any violations of





1 this Chapter occurring in connection with the sale of antique spirituous
2 liquor. The Commission shall adopt rules to assure (i) that the permit holder
3 is the lawful owner of the antique spirituous liquor and (ii) that antique
4 spirituous liquor sold under this subdivision is safe for human consumption."

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

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

7 **SECTION 4.** G.S. 18B-1001(10) reads as rewritten:

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

- 16 a. Restaurants;
- 17 b. Hotels;
- 18 c. Private clubs;
- 19 d. Convention centers;
- 20 e. Community theatres;
- 21 f. Nonprofit organizations; and
- 22 g. Political organizations."

23 **SECTION 5.** G.S. 18B-804 reads as rewritten:

24 "**§ 18B-804. Alcoholic beverage pricing.**

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

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

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



1 (9) If the spirituous liquor is sold to a guest room cabinet permittee for resale, a
2 charge of twenty dollars (\$20.00) on each four liters and a proportional sum
3 on lesser quantities.

4"

5 **SECTION 6.** G.S. 105-113.80(c) reads as rewritten:

6 "(c) Liquor. – An excise tax of thirty percent (30%) is levied on liquor sold in ABC
7 stores. Pursuant to G.S. 18B-804(b), the price of liquor on which this tax is computed is the
8 distiller's price plus (i) the State ABC warehouse freight and bailment ~~charges, charges~~ and (ii) a
9 markup for local ABC boards. Pursuant to G.S. 18B-804(b), and except as otherwise provided
10 by law, the price of antique spirituous liquor on which this tax is computed is the price paid by
11 the Commission to purchase the antique spirituous liquor plus (i) the State ABC warehouse
12 freight and bailment charges and (ii) a markup for local ABC boards."

13 **SECTION 7.** Upon obtaining a permit under G.S. 18B-1001(20), as enacted by
14 Section 2 of this act, and paying the excise tax set forth in G.S. 105-113.80(c), a person may
15 sell any antique spirituous liquor (i) in his or her possession prior to or on the effective date of
16 this act or (ii) acquired by bequest or inheritance after the effective date of this act. For
17 purposes of applying the applicable provisions of G.S. 105-113.80(c) to antique spirituous
18 liquor subject to this section, the reference to "the price paid by the Commission to purchase
19 the antique spirituous liquor" shall be construed to mean the fair market value determined by
20 the ABC Commission of the antique spirituous liquor.

21 **SECTION 8.** No later than August 1, 2015, the ABC Commission shall establish
22 and adopt temporary rules to implement the provisions of this act.

23 **SECTION 9.** Sections 1 through 6 of this act become effective upon adoption of
24 rules pursuant to Section 8 of this act. The remainder of this act is effective when it becomes
25 law.





HOUSE BILL 909: Sale of Antique Spirituous Liquor

2015-2016 General Assembly

Committee:	House Alcoholic Beverage Control, if favorable, Finance	Date:	April 21, 2015
Introduced by:	Reps. Hager, J. Bell	Prepared by:	Susan Sitze
Analysis of:	First Edition		Committee Counsel

SUMMARY: *House Bill 909 would authorize and regulate the sale of antique spirituous liquor.*

BILL ANALYSIS:

Section 1 would define "antique spirituous liquor" as spirituous liquor in the original, unopened bottle, that has been bottled at least 20 years, is intended for beverage use, and is no longer in production.

Sections 2, 3 and 4 would create an antique spirituous liquor permit, with a \$100 fee, which could be issued to a mixed beverage permittee and would authorize the sale of antique spirituous liquors at retail for use in mixed beverages for consumption on premises. Permit holders would be required to submit an inventory of any antique spirituous liquor in their possession. Permittees would be authorized to purchase antique spirituous liquor through the ABC Commission special order process.

Sections 5 & 6 would amend the alcoholic beverage pricing statute and the alcohol taxing statute to include language for pricing and taxing antique spirituous liquor.

Section 7 would allow persons who obtain an antique spirituous liquor permit to sell antique spirituous liquor already in their possession on the effective date of this act, or that they later inherit, after payment of the excise tax.

Section 8 directs the ABC Commission to adopt rules to implement the provisions of this act by August 1, 2015.

EFFECTIVE DATE: Sections 1 through 6 of this act become effective upon adoption of rules pursuant to Section 8 of this act. The remainder of this act is effective when it becomes law.

O. Walker Reagan
Director



* H 9 0 9 - S M S A - 3 8 E 1 - V 1 *

Research Division
(919) 733-2578



NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

ALCOHOLIC BEVERAGE CONTROL COMMITTEE REPORT

Representative James L. Boles, Jr., Co-Chair

Representative Jon Hardister, Co-Chair

FAVORABLE AND RE-REFERRED

HB 909

Sale of Antique Spirituous Liquor.

Draft Number: None

Serial Referral: FINANCE

Recommended Referral: None

Long Title Amended: No

Floor Manager: Hager

TOTAL REPORTED: 1





**House Committee on Alcoholic Beverage Control
Wednesday, June 3, 2015 at 12:00 PM
Room 423 of the Legislative Office Building**

MINUTES

The House Committee on Alcoholic Beverage Control met at 12:00 PM on June 3, 2015 in Room 423 of the Legislative Office Building. Representatives Boles, Hardister, Alexander, Hastings, Jeter, Lucas, Collins, Daughtry, Dobson, Earle, Fisher, Gill, Hanes, Holley, Lewis, McGrady, Saine, Tine, West, Willingham, and Yarborough attended.

Representative James L. Boles, Jr., Chair, presided and called the meeting to order at 12:02 p.m.

Chairman Boles welcomed everyone to the meeting and introduced the Pages and Sergeant at Arms members who were present. He then asked staff members to explain the procedure for today's meeting.

The following bills were considered:

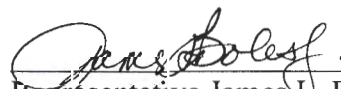
HB 909 ABC Omnibus Legislation. (Representatives Hager, J. Bell)

Chairman Boles called Representative Hager forward to explain HB909. After explaining the bill, Rep. McGrady was recognized to further explain Section 5 of the bill. Rep. Bell was then recognized to further explain Section 8 of the bill. Staff was then recognized to further explain Sections 6 and 7 of the bill. Following explanation of the bill, Chairman Boles opened the floor for discussion and questions.

Following discussion and questions, Chairman Boles recognized Representative Daughtry for a motion. Representative Daughtry made a motion that the committee recommend to not concur with Senate changes to HB909 and appoint a conference committee. The motion did not carry.

Chairman Boles recognized Representative McGrady for a motion. Representative McGrady made a motion that the committee recommend the bill favorable to concur with the Senate changes to HB909. The motion carried.

The meeting adjourned at 12:53 p.m.



Representative James L. Boles, Jr., Chair
Presiding



Kerry Guice, Committee Clerk



**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2015-2016 SESSION**

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

DAY & DATE: Wednesday, June 3, 2015

TIME: 12:00 PM

LOCATION: 423 LOB

COMMENTS: Please note the meeting is not our usual meeting time.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 909	ABC Omnibus Legislation.	Representative Hager Representative J. Bell

Respectfully,

Representative James L. Boles, Jr., Co-Chair
Representative Jon Hardister, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 4:18 PM on Tuesday, June 02, 2015.

___ Principal Clerk
___ Reading Clerk – House Chamber

Kerry Guice (Committee Assistant)



**House Committee on Alcoholic Beverage Control
Wednesday, June 3, 2015, 12:00 p.m.
Room 423 Legislative Office Building**

AGENDA

Welcome and Opening Remarks
Rep. Jamie Boles, Chair

Introduction of Pages

Bills:

BILL NO.	SHORT TITLE	SPONSOR
HB909	ABC Omnibus Legislation	Rep. Mike Hager Rep. John Bell

Adjournment







**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

ALCOHOLIC BEVERAGE CONTROL COMMITTEE REPORT

Representative James L. Boles, Jr., Co-Chair

Representative Jon Hardister, Co-Chair

FAVORABLE FOR CONCURRENCE

HB 909 (SCS#2)

ABC Omnibus Legislation.

Draft Number: None

Serial Referral: None

Recommended Referral: None

Long Title Amended: No

Floor Manager: Hager

TOTAL REPORTED: 1



* C M R 4 0 9 - V - 2 *



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

4

HOUSE BILL 909
Committee Substitute Favorable 4/29/15
Senate Commerce Committee Substitute Adopted 5/21/15
Senate Finance Committee Substitute Adopted 5/27/15

Short Title: ABC Omnibus Legislation.

(Public)

Sponsors:

Referred to:

April 20, 2015

- 1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE ALCOHOLIC BEVERAGE
3 CONTROL COMMISSION LAWS.
4 The General Assembly of North Carolina enacts:
5
6 **AUTHORIZE AND REGULATE THE SALE OF ANTIQUE SPIRITUOUS LIQUOR**
7 **SECTION 1.(a)** G.S. 18B-101 reads as rewritten:
8 **"§ 18B-101. Definitions.**
9 As used in this Chapter, unless the context requires otherwise:
10 ...
11 (5) "ALE Branch" means the Alcohol Law Enforcement Branch of the
12 Department of Public Safety.
13 (5a) "Antique spirituous liquor" means spirituous liquor that has not been in
14 production or bottled in the last 20 years, is in the original manufacturer's
15 unopened container, is not owned by a distillery, and is not otherwise
16 available for purchase by an ABC Board except through the special order
17 process pursuant to G.S. 18B-1001(20).
18 (5b) "Antique spirituous liquor seller" means a person who sells antique
19 spirituous liquor to an ABC Board.
20 (5c) "Bailment surcharge" means the charge imposed on each case of liquor
21 shipped from a Commission warehouse as provided in G.S. 18B-208. This
22 bailment surcharge is in addition to the bailment charge imposed by
23 G.S. 18B-804(b)(2).
24"
25 **SECTION 1.(b)** G.S. 18B-1001 is amended by adding a new subdivision to read:
26 **"(20)** Antique spirituous liquor permit. – A permit under this subdivision may be
27 issued to a holder of a mixed beverages permit issued under subdivision (10)
28 of this section. Notwithstanding any law to the contrary, the permit holder
29 may sell at retail antique spirituous liquor for use in mixed beverages for
30 consumption on premises. The acquisition of antique spirituous liquor on or
31 after September 1, 2015, shall be in accordance with the process established
32 by rule of the Commission for special orders of spirituous liquor that is not
33 on the list approved by the Commission."
34 **SECTION 1.(c)** G.S. 18B-902(d) is amended by adding a new subdivision to read:



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

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

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

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

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

19 **"§ 18B-804. Alcoholic beverage pricing.**

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

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

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

47"

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

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

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

3 **SECTION 1.(g)** G.S. 105-113.68(a) is amended by adding a new subdivision to
4 read:

5 "(4a) Antique spirituous liquor. – Defined in G.S. 18B-101."

6 **SECTION 1.(h)** G.S. 105-164.4(a)(7) reads as rewritten:

7 "(7) The combined general rate applies to the sales price of antique spirituous
8 liquor and spirituous liquor other than mixed beverages. As used in this
9 subdivision, the terms "antique spirituous liquor", "spirituous
10 liquor", "spirituous liquor", and "mixed beverage" have the meanings
11 provided in G.S. 18B-101."

12 **SECTION 1.(i)** No later than September 1, 2015, the ABC Commission shall
13 establish and adopt temporary rules to implement the provisions of this section.

14 **SECTION 1.(j)** Subsections (a) through (h) of this section become effective upon
15 adoption of rules pursuant to subsection (i) of this section. The remainder of this section is
16 effective when it becomes law.

17
18 **PROHIBIT THE SALE, POSSESSION, OR CONSUMPTION OF POWDERED**
19 **ALCOHOL**

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

21 **"§ 18B-101. Definitions.**

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

- 23 ...
- 24 (12a) "Premises" means all areas, whether inside or outside the licensed premises,
25 where the permittee has control of the property through a lease, deed, or
26 other legal process.
- 27 (12b) "Powdered alcohol" means any powder or crystalline substance capable of
28 being converted into a liquid alcoholic beverage fit for human consumption.
- 29 (13) "Sale" means any transfer, trade, exchange, or barter, in any manner or by
30 any means, for consideration.

31"

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

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

35
36 **AUTHORIZE THE EASTERN BAND OF CHEROKEE INDIANS TRIBAL**
37 **ALCOHOLIC BEVERAGE CONTROL COMMISSION TO ISSUE WINE SHIPPER**
38 **PERMITS AND COMMERCIAL ABC PERMITS AND CLARIFY THAT THE**
39 **EASTERN BAND OF CHEROKEE INDIANS TRIBAL ALCOHOLIC BEVERAGE**
40 **CONTROL COMMISSION MAINTAINS EXCLUSIVE AUTHORITY TO ISSUE**
41 **CERTAIN PERMITS**

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

43 **"§ 18B-112. Tribal alcoholic beverage control.**

44 ...

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

- 48 (1) The following provisions of Article 1. – General Provisions.
- 49 a. G.S. 18B-101(4), (7), (7c), (9), (10), (11), (12), (12a), (13),
50 (14)(14a), (14b), and (15).
- 51 b. G.S. 18B-102.1.

- 1 c. G.S. 18B-104.
2 d. G.S. 18B-105, except that this section shall not apply to any
3 establishment where gaming is permitted under a State compact and
4 pursuant to federal law.
5 e. G.S. 18B-109(b).
6 f. G.S. 18B-110.
7 g. G.S. 18B-111.
8 h. G.S. 18B-112.
- 9 (2) Article 1A. – Compensation for Injury Caused by Sales to Underage
10 Persons, to the extent it applies to retail establishments or the tribal alcoholic
11 beverage control commission if it operates ABC stores, or any other
12 permitted establishment, at retail pursuant to the provisions of this section.
- 13 (3) Article 3. – Sale, Possession, and Consumption, except for G.S. 18B-308
14 and G.S. 18B-309.
- 15 (4) Article 4. – Transportation.
- 16 (5) Article 5. – Enforcement, except for G.S. 18B-500 and G.S. 18B-501.
- 17 (6) Article 6. – Elections, compliance with only G.S. 18B-603(f) and (g) are
18 required.
- 19 (7) Article 9. – Issuance of Permits, except for G.S. 18B-902(g) and (h) and
20 G.S. 18B-906.
- 21 ~~(7)(8)~~ Article 10. – Retail Activity, except for G.S. 18B-1001.1, 18B-1001.2, and
22 ~~18B-1001.3.~~ Activity.
- 23 (9) Article 11. – Commercial Activity, as clarified by the following:
- 24 a. The tribal alcoholic beverage control commission may issue
25 commercial activity permits to any qualifying applicant that
26 establishes a commercial business wholly on Indian Country lands
27 and shall have sole enforcement authority over any permittee
28 receiving a permit from the tribal alcoholic beverage control
29 commission only to the extent the regulated conduct occurs on Indian
30 Country lands.
- 31 b. The Eastern Band of Cherokee Indians shall recognize any permit
32 issued by the North Carolina Alcoholic Beverage Control
33 Commission allowing commercial activity in the same manner as if
34 such permit was issued by the tribal alcoholic beverage control
35 commission. The North Carolina Alcoholic Beverage Control
36 Commission shall recognize any commercial activity permit issued
37 by the tribal alcoholic beverage commission in the same manner as if
38 the permit were issued by the North Carolina Alcoholic Beverage
39 Control Commission.
- 40 c. The North Carolina Alcoholic Beverage Control Commission shall
41 retain exclusive enforcement authority over all permits it issues to
42 commercial activity permittees for violations of its rules or this
43 Chapter.

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

47 ...

48 (d) Establishment of a Tribal Commission. – In accordance with the provisions of 18
49 U.S.C. § 1161, the Eastern Band of Cherokee Indians is authorized to establish a tribal
50 alcoholic beverage control commission to regulate the purchase, possession, consumption, sale,
51 and delivery of alcoholic beverages ~~at retail~~ on any land designated as Indian Country pursuant

1 to 18 U.S.C. § 1151 under the jurisdiction of the Eastern Band of Cherokee Indians. The tribal
2 commission shall have exclusive authority to issue ~~retail-ABC~~ permits to retail and commercial
3 establishments located wholly on Indian Country lands under the jurisdiction of the Eastern
4 Band of Cherokee Indians and to regulate the purchase, possession, consumption, sale, and
5 delivery of alcoholic beverages at ~~retail-permitted~~ outlets and premises. Permits issued by the
6 tribal commission pursuant to this section shall be deemed issued by the State for the purposes
7 of sales and delivery of beer and wine by wholesalers to the retail outlets located on Indian
8 Country lands. The fees generated by the tribal alcoholic beverage control commission for the
9 issuance of retail permits may be retained by the Eastern Band of Cherokee Indians to offset
10 costs of operating the tribal alcoholic beverage control commission.

11"

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

13 "(14a) "Tourism ABC establishment" means a restaurant or hotel that meets both of
14 the following requirements:

- 15 a. Is located on property, a property line of which is located within 1.5
16 miles of the end of an entrance or exit ramp of a junction on a
17 national scenic parkway designed to attract local, State, national, and
18 international tourists between the State line and Milepost ~~460.469~~,
19 provided that the Eastern Band of Cherokee Indians tribal alcoholic
20 beverage control commission established under G.S. 18B-112 shall
21 have exclusive authority to issue permits pursuant to this subdivision
22 between Milepost 460 and the southern terminus of the national
23 scenic byway at Milepost 469 for any restaurant or hotel that is
24 located wholly on Indian Country lands.
- 25 b. Is located in a county in which the on-premises or off-premises sale
26 of malt beverages or unfortified wine is authorized in at least one
27 city."
28

29 **ALLOW DISTILLERY PERMIT HOLDERS TO SELL SPIRITUOUS LIQUOR**
30 **DISTILLED ON PREMISES TO VISITORS OF THE DISTILLERY FOR**
31 **CONSUMPTION OFF THE PREMISES**

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

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

- 35 (1) Manufacture, purchase, import, possess and transport ingredients and
36 equipment used in the distillation of spirituous ~~liquor~~liquor.
- 37 (2) Sell, deliver and ship spirituous liquor in closed containers at wholesale to
38 exporters and local boards within the State, and, subject to the laws of other
39 jurisdictions, at wholesale or retail to private or public agencies or
40 establishments of other states or ~~nations~~nations.
- 41 (3) Transport into or out of the distillery the maximum amount of liquor allowed
42 under federal law, if the transportation is related to the distilling process.
- 43 (4) Sell spirituous liquor distilled at the distillery in closed containers to visitors
44 who tour the distillery for consumption off the premises if the distillery
45 manufactures less than 100,000 proof gallons per year. Sales under this
46 subdivision are allowed only in a county where the establishment of a county
47 or municipal ABC store has been approved pursuant to G.S. 18B-602(g) and
48 are subject to the time and day restrictions in G.S. 18B-802. Spirituous
49 liquor sold under this subdivision shall (i) be listed as a code item for sale in
50 the State, (ii) be sold at the price set by the Commission for the code item
51 pursuant to G.S. 18B-804(b), and (iii) have affixed to its bottle a sticker that

bears the words "North Carolina Distillery Tour Commemorative Spirit" in addition to any other labeling requirements set by law. Consumers purchasing spirituous liquor under this subdivision are limited to purchasing, and the selling distillery is limited to selling to each consumer, no more than one bottle of spirituous liquor per 12-month period. The distillery shall use a commonly adopted standard point of sale system to maintain searchable electronic records captured at the point of sale, to include the purchaser's name, drivers license number, and date of birth for at least 12 months from the date of purchase. The Commission shall adopt rules regulating the retail sale of spirituous liquor under this subdivision."

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

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

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

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

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

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

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

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

SECTION 4.(f) G.S. 18B-800(a) reads as rewritten:

"(a) Spirituous Liquor. – Except as provided in Article 10 of this ~~Chapter~~, Chapter and G.S. 18B-1105(a), spirituous liquor may be sold only in ABC stores operated by local boards."

SECTION 4.(g) G.S. 18B-804(a) reads as rewritten:

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

SECTION 4.(h) No later than October 1, 2015, the ABC Commission shall establish and adopt temporary rules to implement the provisions of this section.

SECTION 4.(i) Subsections (a) through (g) of this section become effective upon adoption of rules pursuant to subsection (h) of this section. The remainder of this section is effective when it becomes law.

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

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

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

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

- 1 (1) On-Premises Malt Beverage Permit. – An on-premises malt beverage permit
2 authorizes (i) the retail sale of malt beverages for consumption on the
3 premises, (ii) the retail sale of malt beverages in the manufacturer's original
4 container for consumption off the premises, and (iii) the retail sale of malt
5 beverages in a cleaned, sanitized, resealable container ~~as defined in 4 NCAC~~
6 ~~2T.0308(a)~~ that is filled or refilled and sealed for consumption off the
7 ~~premises, complies with 4 NCAC 2T.0303, 4 NCAC 2T.0305, and 4 NCAC~~
8 ~~2T.0308(d) (e), premises and the container that~~ identifies the permittee and
9 the date the container was filled or refilled. It also authorizes the holder of
10 the permit to ship malt beverages in closed containers to individual
11 purchasers inside and outside the State. The permit may be issued for any of
12 the following:
13 a. Restaurants;
14 b. Hotels;
15 c. Eating establishments;
16 d. Food businesses;
17 e. Retail businesses;
18 f. Private clubs;
19 g. Convention centers;
20 h. Community theatres;
21 i. Breweries as authorized by G.S. 18B-1104(7) and (8).
- 22 (2) Off-Premises Malt Beverage Permit. – An off-premises malt beverage
23 permit authorizes (i) the retail sale of malt beverages in the manufacturer's
24 original container for consumption off the premises, (ii) the retail sale of
25 malt beverages in a cleaned, sanitized, resealable container ~~as defined in 4~~
26 ~~NCAC 2T.0308(a)~~ that is filled or refilled and sealed for consumption off
27 the ~~premises, complies with 4 NCAC 2T.0303, 4 NCAC 2T.0305, and 4~~
28 ~~NCAC 2T.0308(d) (e), premises and the container that~~ identifies the
29 permittee and the date the container was filled or refilled, and (iii) the holder
30 of the permit to ship malt beverages in closed containers to individual
31 purchasers inside and outside the State. The permit may be issued for any of
32 the following:
33 a. Restaurants.
34 b. Hotels.
35 c. Eating establishments.
36 d. Food businesses.
37 e. Retail businesses.
38 f. The holder of a brewing, distillation, and fermentation course
39 authorization under G.S. 18B-1114.6. A school obtaining a permit
40 under this subdivision is authorized to sell malt beverages
41 manufactured during its brewing, distillation, and fermentation
42 program at one noncampus location in a county where the permittee
43 holds and offers classes on a regular full-time basis in a facility
44 owned by the permittee.
- 45 (3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine
46 permit authorizes (i) the retail sale of unfortified wine for consumption on
47 the premises, either alone or mixed with other beverages, and (ii) the retail
48 sale of unfortified wine in the manufacturer's original container for
49 consumption off the premises, premises, and (iii) the retail sale of unfortified
50 wine dispensed from a tap connected to a pressurized container utilizing
51 carbon dioxide or similar gas into a cleaned, sanitized, resealable container

1 that is filled or refilled and sealed for consumption off the premises and that
2 identifies the permittee and the date the container was filled or refilled. The
3 permit also authorizes the permittee to transfer unfortified wine, not more
4 than four times per calendar year, to another on-premises unfortified wine
5 permittee that is under common ownership or control as the transferor.
6 Except as authorized by this subdivision, transfers of wine by on-premises
7 unfortified wine permittees, purchases of wine by a retail permittee from
8 another retail permittee for the purpose of resale, and sale of wine by a retail
9 permittee to another retail permittee for the purpose of resale are unlawful.
10 In addition, a particular brand of wine may be transferred only if both the
11 transferor and transferee are located within the territory designated between
12 the winery and the wholesaler on file with the Commission. Prior to or
13 contemporaneous with any such transfer, the transferor shall notify each
14 wholesaler who distributes the transferred product of the transfer. The notice
15 shall be in writing or verifiable electronic format and shall identify the
16 transferor and transferee, the date of the transfer, quantity, and items
17 transferred. The holder of the permit is authorized to ship unfortified wine in
18 closed containers to individual purchasers inside and outside the State.
19 Orders received by a winery by telephone, Internet, mail, facsimile, or other
20 off-premises means of communication shall be shipped pursuant to a wine
21 shipper permit and not pursuant to this subdivision. The permit may be
22 issued for any of the following:

- 23 a. Restaurants;
- 24 b. Hotels;
- 25 c. Eating establishments;
- 26 d. Private clubs;
- 27 e. Convention centers;
- 28 f. Cooking schools;
- 29 g. Community theatres;
- 30 h. Wineries;
- 31 i. Wine producers.

- 32 (4) Off-Premises Unfortified Wine Permit. – An off-premises unfortified wine
33 permit authorizes (i) the retail sale of unfortified wine in the manufacturer's
34 original container for consumption off the premises and it authorizes
35 premises, (ii) the retail sale of unfortified wine dispensed from a tap
36 connected to a pressurized container utilizing carbon dioxide or similar gas
37 into a cleaned, sanitized, resealable container that is filled or refilled and
38 sealed for consumption off the premises and that identifies the permittee and
39 the date the container was filled or refilled, and (iii) the holder of the permit
40 to ship unfortified wine in closed containers to individual purchasers inside
41 and outside the State. The permit may be issued for retail businesses. The
42 permit also authorizes the permittee to transfer unfortified wine, not more
43 than four times per calendar year, to another off-premises unfortified wine
44 permittee that is under common ownership or control as the transferor.
45 Except as authorized by this subdivision, transfers of wine by off-premises
46 unfortified wine permittees, purchases of wine by a retail permittee from
47 another retail permittee for the purpose of resale, and sale of wine by a retail
48 permittee to another retail permittee for the purpose of resale are unlawful.
49 In addition, a particular brand of wine may be transferred only if both the
50 transferor and transferee are located within the territory designated between
51 the winery and the wholesaler on file with the Commission. Prior to or

1 contemporaneous with any such transfer, the transferor shall notify each
 2 wholesaler who distributes the transferred product of the transfer. The notice
 3 shall be in writing or verifiable electronic format and shall identify the
 4 transferor and transferee, the date of the transfer, quantity, and items
 5 transferred. The permit may also be issued to the holder of a
 6 viticulture/enology course authorization under G.S. 18B-1114.4. A school
 7 obtaining a permit under this subdivision is authorized to sell wines
 8 manufactured during its viticulture/enology program at one non-campus
 9 location in a county where the permittee holds and offers classes on a regular
 10 full-time basis in a facility owned by the permittee. The permit may also be
 11 issued for a winery or a wine producer for sale of its own unfortified wine
 12 during hours when the winery or wine producer's premises is open to the
 13 public, subject to any local ordinance adopted pursuant to G.S. 18B-1004(d)
 14 concerning hours for the retail sale of unfortified wine. A winery obtaining a
 15 permit under this subdivision is authorized to sell wine manufactured by the
 16 winery at one additional location in the county under the same conditions
 17 specified in G.S. 18B-1101(5) for the sale of wine at the winery; provided,
 18 however, that no other alcohol sales shall be authorized at the additional
 19 location. Orders received by a winery by telephone, Internet, mail, facsimile,
 20 or other off-premises means of communication shall be shipped pursuant to
 21 a wine shipper permit and not pursuant to this subdivision.

22 ...

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

47"

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

ALLOW ALTERNATING PROPRIETORSHIPS FOR BREWERIES

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

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

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

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

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

The holder of a brewery permit may:

- (1) Manufacture malt beverages.
- (2) Purchase malt, hops and other ingredients used in the manufacture of malt beverages.
- (3) Sell, deliver and ship malt beverages in closed containers to wholesalers licensed under this Chapter as authorized by the ABC laws, except that malt beverages may be sold to exporters and nonresident wholesalers only when the purchase is not for resale in this State. However, nothing in this subdivision shall prohibit the holder of a brewery permit from selling malt beverages to a nonresident wholesaler, nonresident malt beverage vendor, bottler, or other similar party for resale in this State if the malt beverages are shipped from the brewery to wholesalers licensed under this Chapter.
- (4) Receive malt beverages manufactured by the permittee in some other state for transshipment to dealers in other states.
- (5) Furnish or sell marketable malt beverage products, or packages which do not conform to the manufacturer's marketing standards, if State taxes have been or will be paid, to its employees for the use of the employees or their families and guests in this State.
- (6) Give its products to its employees and guests for consumption on its premises.
- (6a) Receive, in closed containers, and sell at the brewery, malt beverages produced inside or outside North Carolina under contract with a contract brewery. The contract brewery that manufactures the malt beverages shall be responsible for all aspects associated with manufacturing the product, including maintaining appropriate records, obtaining label approval in its own name, and remitting the appropriate taxes. The contract malt beverages may be sold also at affiliated retail outlets of the brewery physically located on or adjacent to the brewery. Any malt beverages received from a contract brewery under this subdivision shall be made available for sale by the brewery to wholesalers for distribution to retailers, without discrimination,

1 in the same manner as if the malt beverages were being imported by the
2 brewery. Contract brewing is authorized between affiliated breweries, but
3 shall not be used as a means to allocate production quantities between
4 affiliated breweries to obtain a malt beverage wholesaler permit pursuant to
5 G.S. 18B-1104(8) where either brewery would not otherwise qualify for a
6 permit, and the Commission shall have no authority to grant an exemption to
7 this requirement pursuant to G.S. 18B-1116(b).

8 (7) In an area where the sale of any type of alcoholic beverage is authorized by
9 law, sell the brewery's malt beverages or malt beverages manufactured by
10 the permittee in some other state that have been approved by the
11 Commission for sale in North Carolina only at the brewery upon receiving a
12 permit under G.S. 18B-1001(1).

13 (8) Obtain a malt beverage wholesaler permit to sell, deliver, and ship at
14 wholesale only malt beverages manufactured by the brewery. The
15 authorization of this subdivision applies to a brewery that sells, to consumers
16 at the brewery, to wholesalers, to retailers, and to exporters, fewer than
17 25,000 barrels, as defined in G.S. 81A-9, of malt beverages produced by it
18 per year. A brewery not exceeding the sales quantity limitations in this
19 subdivision may also sell the malt beverages manufactured by the brewery at
20 not more than three other locations in the State, where the sale is legal, upon
21 obtaining the appropriate permits under G.S. 18B-1001. A brewery operating
22 any additional retail location pursuant to this subdivision shall also offer for
23 sale at that location a reasonable selection of competitive malt beverage
24 products.

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

27
28 **AUTHORIZE THE ABC COMMISSION TO ISSUE GUEST ROOM CABINET**
29 **PERMITS TO CERTAIN 18-HOLE GOLF COURSES**

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

31 "(13) Guest Room Cabinet Permit. – A guest room cabinet permit authorizes a
32 ~~hotel having a mixed beverages permit or a private club having a mixed~~
33 ~~beverages permit and management contracts for the rental of living units~~
34 guest room cabinet permittee to sell to its room guests, from securely locked
35 cabinets, malt beverages, unfortified wine, fortified wine, and spirituous
36 liquor. A permittee shall designate and maintain at least ten percent (10%) of
37 the permittee's guest rooms as rooms that do not have a guest room cabinet.
38 A permittee may dispense alcoholic beverages from a guest room cabinet
39 only in accordance with written policies and procedures filed with and
40 approved by the Commission. A permittee shall provide a reasonable
41 number of vending machines, coolers, or similar machines on premises for
42 the sale of soft drinks to hotel guests.

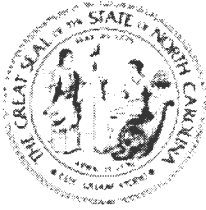
43 A guest room cabinet permit may be issued ~~for to~~ any of the following:

- 44 a. A hotel (i) holding a mixed beverages permit and (ii) located in a
45 county subject to G.S. 18B-600(f).
46 b. A hotel (i) holding a mixed beverages permit and (ii) located in a
47 county that has a population in excess of 150,000 by the last federal
48 census.
49 c. A ~~qualifying private club~~ (i) holding a mixed beverages permit, (ii)
50 having management contracts for the rental of living units, and (iii)
51 located in a county defined in G.S. 18B-101(13a)b.2.

1 d. An 18-hole golf course (i) holding a mixed beverages permit or
2 located in a county where ABC stores have heretofore been
3 established but in which the sale of mixed beverages has not been
4 approved, (ii) having management contracts for the rental of living
5 units, and (iii) located in a county that has a population in excess of
6 20,000 people by the last federal census."
7

8 **EFFECTIVE DATE**

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



HOUSE BILL 909: ABC Omnibus Legislation

2015-2016 General Assembly

Committee:	House Alcoholic Beverage Control	Date:	June 3, 2015
Introduced by:	Reps. Hager, J. Bell	Prepared by:	Chris Saunders
Analysis of:	Fourth Edition		Committee Counsel

SUMMARY: *House Bill 909 would make various changes to the Alcoholic Beverage Control (ABC) Commission laws.*

CURRENT LAW AND BILL ANALYSIS:

Section 1.(a) would define "antique spirituous liquor" as spirituous liquor that has not been in production or bottled in the last 20 years, is in the original manufacturer's unopened container, is not owned by a distillery, and is not otherwise available for purchase by an ABC Board except through the special order process pursuant to G.S. 18B-1001(20).

Sections 1.(b), 1.(c), and 1.(d) would create an antique spirituous liquor permit, with a \$100 fee, which could be issued to a mixed beverage permittee and would authorize the sale of antique spirituous liquors at retail for use in mixed beverages for consumption on premises. Permittees would be authorized to purchase antique spirituous liquor through the ABC Commission special order process.

Sections 1.(e) and 1.(f) would amend the alcoholic beverage pricing statute and the alcohol taxing statute to include language for pricing and taxing antique spirituous liquor.

Sections 1.(g) and 1.(h) would make conforming changes in the excise and sales tax statutes.

Section 1.(i) would direct the ABC Commission to adopt temporary rules to implement the provisions of this act by September 1, 2015.

Section 2.(a) would amend G.S. 18B-101 to define "powdered alcohol" as any powder or crystalline substance capable of being converted into a liquid alcoholic beverage fit for human consumption.

Section 2.(b) would amend G.S. 18B-102 to make it unlawful for any person to manufacture, sell, transport, import, deliver, furnish, purchase, consume, or possess powdered alcohol.

Section 3.(a) would authorize the Eastern Band of Cherokee Indians tribal alcoholic beverage control commission to issue: (i) permits in compliance with G.S. 18B-603(f), (ii) wine shipper permits, and (iii) commercial activity permits for commercial businesses that are located wholly on Indian Country lands. This section would also grant them sole enforcement authority for those permittees to the extent the regulated conduct occurs on Indian Country lands. Both the Eastern Band of Cherokee Indians and the North Carolina Alcoholic Beverage Control Commission would be required to equally recognize any permit issued by the other entity.

Section 3.(b) would authorize the issuance of "Tourism ABC Establishment" permits for restaurants and hotels that meet that definition between Mileposts 460 and 469 of the Blue Ridge Parkway. The Eastern Band of Cherokee Indians tribal alcoholic beverage commission would be given exclusive authority to

O. Walker Reagan
Director



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Page 2

issue "Tourism ABC Establishment" permits to those restaurants and hotels that are located wholly on Indian Country lands.

Section 4.(a) would allow the holder of a distillery permit to sell, in closed containers, liquor that is manufactured at the distillery to visitors who tour the premises for off-premises consumption. The authorization applies only to distilleries that manufacture less than 100,000 proof gallons per year.

The sales would be allowed only in a county where the establishment of a county or municipal ABC store has been approved by election, and would be subject to the time and day restrictions as ABC stores.

The liquor must listed as a code item for sale in the State and must be sold at the price set by the Commission pursuant to G.S. 18B-804(b). There must also be a sticker affixed to the bottle bearing the words "North Carolina Distillery Tour Commemorative Spirit."

Consumers would be limited to purchasing no more than one of any North Carolina code item per calendar year. A distillery would be required to use a commonly adopted standard point of sale system to maintain searchable electronic records captured at the point of sale, to include the purchaser's name, drivers license number, and date of birth for at least one year from the date of purchase. The distillery would not be permitted sell any North Carolina code item to a customer who has purchased the code item in the last year. The Commission would be directed to adopt temporary rules to regulate sales made under this section by October 1, 2015, including the allocation of the proceeds of the sale of spirituous liquor sold at a distillery. This section would become effective on the effective date of those rules.

Sections 4.(b) through 4.(e) would make a technical change and conforming changes in the excise tax statutes to acknowledge the addition of distillery permittees as collectors of the tax.

Sections 4.(f) and 4.(g) would make conforming changes.

Section 5.(a) would amend G.S. 18B-1001 by removing incorrect citations to rules regulating the filling of a growler with malt beverages,¹ and would allow the holders of both off-premises and on-premises unfortified wine permits to sell unfortified wine² for off-premises consumption if dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a cleaned, sanitized, resealable container that is filled or refilled and sealed for consumption off-premises and that identifies the permittee and the date the container was filled or refilled. Cider is classified as an unfortified wine and may be sold by retailers holding unfortified wine permits issued by the ABC Commission. Under current law, permittees may sell unfortified wine in the manufacturer's original container for consumption off-premises.

Section 5.(b) would apply the ABC Commission's existing rules governing the retail sale of malt beverages in growlers to the retail sale of unfortified wine in growlers until the Commission adopts rules implementing this act.

Section 6 would provide that a brewery that enters into an "alternating proprietorship" arrangement with another brewery has not changed ownership and therefore does not lose its ABC permits. In this arrangement, the tenant brewery maintains title to the malt beverages at all states of the brewing process

¹ The current citations are to rules found in Chapter 2 (ABC Commission) of NCAC Title 4 (Department of Commerce). The ABC Commission has been moved from Commerce to the Department of Public Safety, but the North Carolina Administrative Code does not yet reflect the transfer of the ABC Commission rules to NCAC Title 14B (Department of Public Safety).

² Unfortified wine 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." G.S. 18B-101(18).

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and is responsible for all aspects associated with manufacturing the product. Alternating proprietorships would be authorized between affiliated breweries, provided the contract brewing arrangement is not used to allocate production quantities between affiliated breweries to obtain a malt beverage wholesaler permit where either brewery would not otherwise qualify for the permit (i.e., because the brewery exceeds the 25,000 barrel cap).

An alternating proprietorship is an arrangement in which two or more people take turns using the physical premises of a brewery. Generally, the proprietor of an existing brewery, the "host brewery," agrees to rent space and equipment to a new "tenant brewer." The tenant qualifies as a brewer by filing the appropriate documents with federal Alcohol and Tobacco Tax and Trade Bureau. The tenant brewer produces beer, maintains its own brewery records, labels the beer with its own name and address, obtains the necessary Certificates of Label Approval, and pays tax at the appropriate rate upon removal of its beer from the brewery. The tenant brewer has title to the beer at all stages of the brewing process.

Section 7 would provide that the holder of a brewery permit may sell malt beverages to a nonresident wholesaler, nonresident malt beverage vendor, bottler, or other similar party for resale in this State if the malt beverages are shipped from the brewery to wholesalers licensed under Chapter 18B.

This section would allow the holder of a brewery permit to receive, in closed containers, and sell at the brewery, malt beverages produced inside or outside North Carolina under contract with a contract brewery. The contract brewery that manufactures the malt beverages would be responsible for all aspects of manufacturing the product. The contract malt beverages would also be allowed to be sold affiliated retail outlets of the brewery physically located on or adjacent to the brewery. Any malt beverages received from a contract brewery must be made available for sale by the brewery to wholesalers for distribution to retailers, without discrimination, in the same manner as if the malt beverages were being imported by the brewery. Contract brewing would be authorized between affiliated breweries, provided the contract brewing arrangement is not used to allocate production quantities between affiliated breweries to obtain a malt beverage wholesaler permit where either brewery would not otherwise qualify for the permit (i.e., because the brewery exceeds the 25,000 barrel cap).

A contract brewing arrangement is a business relationship in which one person, such as a wholesale or retail dealer or a brewer, pays a brewing company, the "contract brewer," to produce beer for him or her. The contract brewer is entirely responsible for producing the beer, keeping appropriate brewery records, obtaining necessary Certificates of Label Approval, and paying tax at the appropriate rate upon removal of the beer from the brewery. The contract brewer retains title to the beer until the beer is paid for or removed from the brewery.

Section 8 would allow the ABC Commission to issue a guest room cabinet permit to an 18-hole golf course that (i) holds a mixed beverages permit or that is located in a county where ABC stores have heretofore been established but in which the sale of mixed beverages has not been approved, (ii) has management contracts for the rental of living units, and (iii) is located in a county with a population over 20,000 people by the last federal census.

A guest room cabinet permit allows a permittee to sell malt beverages, unfortified wine, fortified wine, and spirituous liquor to its room guests from securely locked cabinets. Under current law, guest room cabinet permits may be issued to hotels in certain counties³ that have a mixed beverages permit, or private clubs in certain counties that have a mixed beverages permit and management contracts for the rental of living units.

³ Guest room cabinet permits have been issued in Buncombe, Durham, Forsyth, Guilford, Mecklenburg, Moore, and Wake Counties.

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EFFECTIVE DATE: Except as otherwise provided, this act is effective when it becomes law.

Susan Sitze, counsel to House Alcoholic Beverages Control, substantially contributed to this summary.

Wednesday, June 3
ABC

Room
423

Time
12:00 pm

Name

County

Sponsor

Emma Lee

Mecklenburg

Speaker Moore

Michael Smith

Mecklenburg

Speaker Moore



Committee Sergeants at Arms

NAME OF COMMITTEE Committee on Alcoholic Beverage Control

DATE: 6/3/2015 Room: 423/424

House Sgt-At Arms:

1. Name: Charles Godwin

2. Name: Dean Marshbourne

3. Name: Rey Cooke

4. Name: _____

5. Name: _____

Senate Sgt-At Arms:

1. Name: _____

2. Name: _____

3. Name: _____

4. Name: _____

5. Name: _____



VISITOR REGISTRATION SHEET

Committee on Alcoholic Beverage Control

6/3/2015

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Bob Hamilton	ABC Commission
Kevin Bobel	Fair Game Beverage - Hillsboro, NC
Chris Jude	Fair Game Bev - Pittsboro, NC
Joseph Kyzor	AFP
Misty Odell	AFP
[Signature]	BCI
Lee Kastrinic	Durham Distillery, Durham, NC
SCOTT MAITLAND	TOPO organic spirits
[Signature]	MWC
[Signature]	MWC
Paul Hoffman	[Signature]



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6/3/2015

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Date

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FIRM OR AGENCY AND ADDRESS

Jeremy Norris	Broadstone Distillery
Sarah McQuillan	ESG-NC
Cathy Thomas	Foxes Carolina
Wendy Kelly	
Vienna Barger	Southern Distilling Co.
Diana B. Clark	UNC Dept Gov.
Susan Vee	Duke Energy
Beth Gunvells	NC Bev
Daniel Baum	TRAUTMAN SANDERS
Lara McLamb	TRAUTMAN SANDERS
Scott Lester	SSGNC
Kristen Lester	SSGNC



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Committee on Alcoholic Beverage Control

6/3/2015

Name of Committee

Date

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NAME	FIRM OR AGENCY AND ADDRESS
Jon Carr	NCASSN ABC Boards
Michael Houser	THCO
Jack Smith	R
Courtney Johnson	NP
TJ Bugbee	NR
Angie D	NCPM
Levi Morgan	NCRMA
Elizabeth Robinson	NCRMA
David Ferrell	US
John Moore	Policy Group
Sam Morris	Office of...



VISITOR REGISTRATION SHEET

Committee on Alcoholic Beverage Control

6/3/2015

Name of Committee

Date

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NAME	FIRM OR AGENCY AND ADDRESS
Margo Metzger	NC Craft Brewers Guild
Alex Miller	KLG
Skype David	KLG
MARK SENTER	ALCOHOL LAW ENFORCEMENT
Tim KENT	NC BEER & WINE Wholesalers
Harold Brubaker	Brubaker & Assoc Inc
Jonathan Brubaker	Brubaker & Assoc
Hayden Baugness	Petzer Strategic Partners
Tanya HoAn	TSS



VISITOR REGISTRATION SHEET

Committee on Alcoholic Beverage Control

6/3/2015

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

NAME	FIRM OR AGENCY AND ADDRESS
Andy Chase	KMA
Lyle ESTILL	FAIR GAME BEVERAGE
Tom Jaker	F&P

