

2019

**HOUSE
ALCOHOLIC BEVERAGE
CONTROL**

MINUTES



North Carolina General Assembly
Alcoholic Beverage Control Committee

2019-2020 Session

Chair(s)

Rep. Jamie Boles
Rep. Chuck McGrady

Vice-Chair(s)

Rep. Susan Fisher
Rep. Jon Hardister

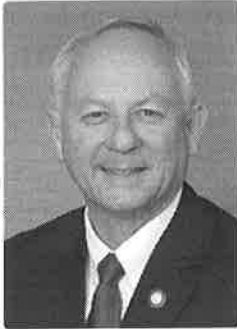
Committee Clerk(s)

Dina Long
Kimberly Neptune

ALCOHOLIC BEVERAGE CONTROL

House Standing Committee

Chairs



Rep. Boles



Rep. McGrady

Vice Chairs



Rep. Fisher



Rep. Hardister

Members



Rep. Alexander



Rep. Bell



Rep. Dahle



Rep. Dobson



Rep. Holley



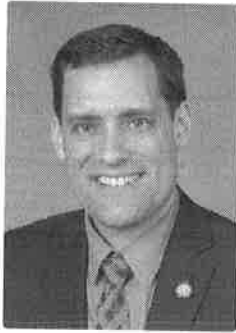
Rep. Hurley



Rep. Johnson



Rep. Lucas



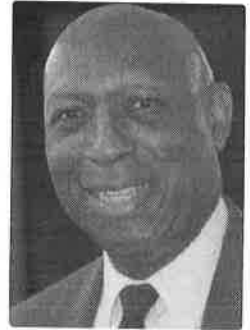
Rep. Meyer



Rep. Saine



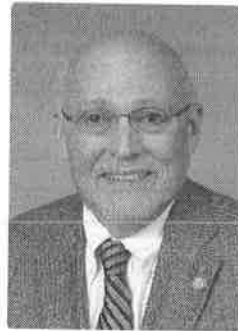
Rep. B. Turner



Rep. Willingham



Rep. Yarborough



Rep. Zachary

Pursuant to House Rules 26(e) and 26(f), the Chair of the Committee on Rules, Calendar and Operations of the House, the Speaker Pro Tempore, the Majority Leader, and the Deputy Majority Leader are ex officio members of each standing committee and permanent subcommittee with the right to vote. The previous sentence does not apply to the Standing Committee on Ethics. For the purposes of determining a quorum, when serving only as ex officio members, these members shall be counted among the membership of the committee or subcommittee only when present.

HOUSE COMMITTEE ON ALCOHOL BEVERAGE CONTROL

<u>MEMBER</u>	<u>ASSISTANT</u>	<u>PHONE</u>	<u>OFFICE</u>
Chairs			
Rep. Jamie Boles	Dina Long	919-733-5903	528 LOB
Rep. Chuck McGrady	Kimberly Neptune	919-733-5956	304 LOB
Vice Chairs			
Rep. Susan Fisher	Cindy Garrison	919-715-2013	504 LOB
Rep. Jon Hardister	Jayne Nelson	919-733-5191	638 LOB
Members			
Rep. Kelly Alexander	Ann Raeford	919-733-5778	404 LOB
Rep. John Bell	Susan Horne	919-715-3017	301F LOB
Rep. Allison Dahle	Anne Evangelista	919-733-5755	1015 LB
Rep. Josh Dobson	Julie Ryan	919-733-5862	307B LOB
Rep. Yvonne Holley	Lee Lewis	919-733-5758	1219 LB
Rep. Pat Hurley	Deborah Holder	919-733-5865	532 LOB
Rep. Linda Johnson	Rhonda Todd	919-733-5861	301D LOB
Rep. Marvin Lucas	Thelma Utley	919-733-5775	402 LOB
Rep. Graig Meyer	Daphne Quinn	919-715-3019	1017 LB
Rep. Jason Saine	Elise Yost	919-733-5782	1326 LB
Rep. Brian Turner	Tristine Johnson	919-715-3012	1217 LB
Rep. Shelly Willingham	Johnna Smith	919-715-3024	513 LOB
Rep. Larry Yarborough	Leslie Murray	919-715-0850	2219 LB
Rep. Lee Zachary	Martha Jenkins	919-715-8361	420 LOB
Ex-Officio			
Rep. Brenden Jones	Andrew Bailey	919-733-5821	1227 LB
Rep. David Lewis	Grace Rogers	919-715-3015	2301 LB
Rep. Sarah Stevens	Lisa Brown	919-715-1883	419 LOB

ATTENDANCE

Alcoholic Beverage Control Committee

DATES	3/5/2019	3/19/2019	4/2/2019	4/16/2019	4/30/2019	5/21/2019	6/27/2019	7/23/2019							
MEMBERS															
Rep. Jamie Boles, Chair	X	X	X	X	X	X	X	X							
Rep. Chuck McGrady, Chair	X	X	X	X	X	X	X	X							
Rep. Susan Fisher, Vice-Chair	X	X	X	X	X	X	X	X							
Rep. Jon Hardister, Vice-Chair	X	X	X	X	X	X		X							
Rep. Kelly Alexander	X	X		X	X	X	X	X							
Rep. John Bell			X		X										
Rep. Allison Dahle	X	X	X	X	X	X	X	X							
Rep. Josh Dobson			X		X										
Rep. Yvonne Holley	X		X	X	X		X								
Rep. Pat Hurley	X	X	X	X	X	X	X	X							
Rep. Linda Johnson						X		X							
Rep. Marvin Lucas	X	X	X	X	X	X									
Rep. Graig Meyer	X	X	X	X	X	X	X								
Rep. Jason Saine			X		X	X	X	X							
Rep. Brian Turner	X	X	X	X	X	X	X	X							
Rep. Shelly Willingham	X	X	X	X	X	X	X	X							
Rep. Larry Yarborough		X	X	X	X	X									
Rep. Lee Zachary		X	X	X	X	X		X							
EX-OFFICIO															
Rep. David Lewis			X												
Rep. Sarah Stevens			X	X											
Rep. Brenden Jones				X	X		X								

DATES	3/5/2019	3/19/2019	4/2/2019	4/16/2019	4/30/2019	5/21/2019	6/27/2019	7/23/2019								
STAFF MEMBERS																
Susan Sitze, Leg. Analysis	X	X	X	X	X	X		X								
Jennifer Bedford, Leg. Analysis		X	X	X		X	X	X								
Chris Saunders, Leg. Analysis	X		X	X	X	X	X	X								
Britt Eller, Policy Adviser	X	X	X	X	X	X	X	X								
Dina Long, Committee Clerk	X	X	X	X	X	X	X	X								
Kimberly Neptune, Committee Clerk	X	X	X	X	X	X	X	X								

House Committee on Alcoholic Beverage Control
Tuesday, March 5, 2019, at 3:00 PM
Room 1327/1228

MINUTES

The House Committee on Alcoholic Beverage Control met at 3:00 PM on Tuesday, March 5, 2019 in Room 1327/1228. Representatives Alexander, Boles, Dahle, Fisher, Hardister, Holley, Hurley, Lucas, McGrady, Meyer, Turner, and Willingham attended.

Representative James L. Boles, Jr. presided. He made announcements concerning the structure of the meetings and stated all presentations would be added to committee website. He introduced the Sergeant at Arms and requested self-introduction of pages, members and staff.

Ms. Renee Metz, Chief Counsel of the ABC Commission, was recognized to provide an overview of the Commission, including the total revenue distribution. Handouts were provided and made a part of the Minutes (Attachment 1).

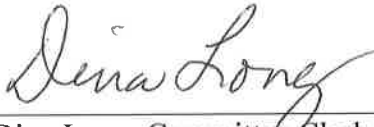
Upon completion of the presentation, Representative Boles opened the meeting to questions from members. He announced that Mr. Bryan Houser, ALE Director, and Mr. Terrence Merriweather, Deputy Director of the ABC Commission, were in attendance. Mr. Houser assisted Ms. Metz in answering several questions.

Representative Boles announced the next meeting would be held on March 19, 2019, with bills being heard.

There being no other business the meeting adjourned at 3:40 PM.



Representative James L. Boles, Jr.
Presiding



Dina Long, Committee Clerk

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

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

DAY & DATE: Tuesday, March 5, 2019

TIME: 3:00 PM

LOCATION: 1228/1327 LB

COMMENTS: The Committee will hear presentations on the history and current organization of the ABC system in North Carolina. Representative Boles presiding.

Respectfully,

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

Representative Chuck McGrady, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 1:34 PM on Tuesday, February 26, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Dina Long (Committee Assistant)

**House Committee on Alcoholic Beverage Control
Tuesday, March 5, 2019, 3:00 PM
Room 1327/1228**

AGENDA

Welcome and Opening Remarks – Representative Jamie Boles

Introduction of Pages

Presentation

Overview of ABC Commission
Renee Metz, Chief Counsel, ABC Commission

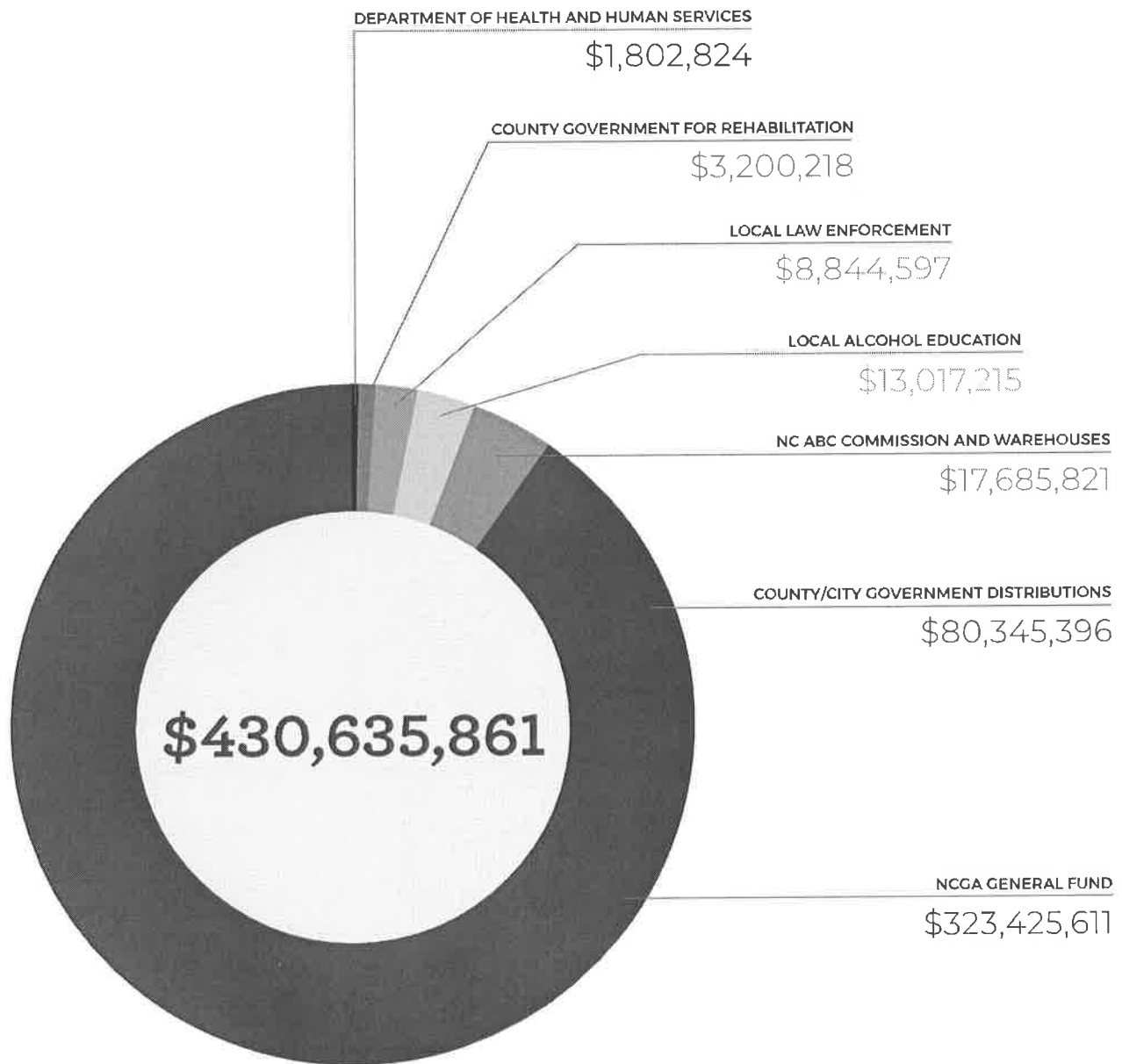
Other Business

Adjournment

NC ABC COMMISSION

TOTAL
REVENUE
DISTRIBUTION

FY18



Local ABC boards in North Carolina are established and operated without state funds. Through the sale of spirituous liquor and fortified wine in ABC stores, over \$1 billion in revenue is generated annually. In FY 18 sales revenue of **\$1,129,023,535** resulted in distributions of **\$430,635,861** that benefited the cities and counties where alcohol sales are allowed as well as the state's General Fund.

ABC Board Revenue and Distirbutions
July 1, 2017 - June 30, 2018

ABC Boards by County (# of Stores)	Sales			Expenses				Profit Before Distributions
	Gross Sales	Percent Change Over FY17	Forecast For FY19	State Taxes Collected	Cost of Liquor Sold	Operating Expenses	Other Income & Expense	
Alamance								
Alamance Municipal (5)	13,887,641	8.28%	14,973,500	3,242,721	7,213,574	2,234,525	5,395	1,202,216
Alleghany								
Sparta (1)	851,613	8.31%	861,500	196,323	440,856	144,323	-156	69,955
Anson								
Wadesboro (1)	1,451,913	4.15%	1,424,708	328,386	775,153	252,221	877	97,030
Ashe								
West Jefferson (1)	1,897,140	7.36%	1,992,000	431,816	1,005,932	284,316	0	175,076
Avery								
High Country (1)	3,426,182	6.41%	3,427,274	806,498	1,765,913	465,682	1,944	390,033
Beaufort County (6)	5,511,563	3.19%	5,635,676	1,257,993	2,839,851	1,021,917	-6,973	384,829
Bertie County (1)	801,617	2.01%	805,000	178,249	436,806	186,331	75	306
Bladen								
Elizabethtown (1)	1,431,145	1.96%	1,345,661	323,843	760,179	210,955	71	136,239
Brunswick								
Belville (2)	3,946,454	10.31%	4,007,188	885,210	2,124,383	603,423	60	333,498
Boiling Spring Lakes (1)	824,078	4.41%	900,000	186,246	436,971	164,869	55	36,047
Brunswick County (2)	3,297,755	7.56%	2,984,105	773,844	1,711,981	575,496	7,382	243,816
Calabash (1)	1,691,269	7.42%	1,734,326	401,030	897,215	257,476	5,330	140,878
Oak Island (1)	3,216,404	7.89%	3,500,000	762,138	1,650,999	466,758	16,197	352,706
Ocean Isle Beach (1)	2,308,187	6.65%	2,380,000	540,922	1,188,549	343,466	1,254	236,504
Shallotte (1)	1,959,713	2.29%	1,935,000	453,794	1,039,267	315,267	277	151,662
Southport (1)	3,282,533	8.83%	3,388,009	771,237	1,704,814	454,135	-1,890	350,457
Sunset Beach (1)	1,702,590	2.90%	1,637,402	390,741	890,224	300,686	-9,266	111,673
Buncombe								
Asheville (9)	35,276,302	7.82%	37,524,000	8,582,056	17,572,203	4,684,554	-118,270	4,319,219
Black Mountain (1)	2,365,482	-0.04%	2,541,328	543,444	1,244,624	352,097	747	226,064
Weaverville (1)	3,032,960	7.77%	3,039,477	687,810	1,604,724	502,990	-53,372	184,064
Woodfin (1)	1,789,610	1.89%	1,817,164	403,750	956,732	349,766	1,152	80,514
Burke								
Morganton (1)	3,447,068	6.66%	3,350,000	796,726	1,806,122	394,827	643	450,036
Valdese (1)	1,050,371	3.42%	1,044,075	240,448	542,920	210,981	-6,482	49,540

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Cabarrus								
Concord (6)	16,979,957	7.61%	19,300,000	3,985,321	8,686,922	2,215,715	-36,777	2,055,222
Mount Pleasant (1)	862,302	14.17%	935,000	196,310	454,814	175,180	1,321	37,319
Caldwell								
Granite Falls (1)	1,171,149	11.31%	1,080,500	264,669	608,796	190,226	4,805	112,263
Lenoir City (2)	3,496,165	3.70%	3,455,750	795,406	1,834,023	525,774	-50	340,912
Camden County (2)	1,442,263	6.37%	1,523,255	324,970	768,871	274,939	16	73,499
Carteret County (6)	14,911,891	4.14%	15,250,000	3,518,056	7,571,134	1,993,578	207,756	2,036,879
Caswell County (4)	2,180,612	0.10%	2,192,000	494,757	1,164,788	475,045	1,876	47,898
Catawba County (11)	20,122,348	4.47%	19,827,277	4,676,360	10,477,231	3,252,522	1,265	1,717,500
Chatham County								
Chatham County (3)	3,932,907	12.08%	4,025,253	891,638	2,055,811	791,739	124	193,843
Pittsboro (1)	1,523,273	8.99%	1,551,437	349,747	797,493	209,839	506	166,700
Siler City (1)	1,402,682	-1.40%	1,441,400	317,127	740,223	240,684	-1,480	103,168
Cherokee								
Andrews (1)	776,768	4.92%	831,000	175,340	411,855	180,597	27	9,003
Murphy (1)	3,160,125	7.36%	3,269,000	715,947	1,678,207	519,391	540	247,120
Chowan County (1)	1,513,349	3.92%	1,570,750	346,848	805,154	240,922	2,398	122,823
Clay County (1)	2,467,339	6.32%	2,501,500	559,647	1,303,992	361,454	318	242,564
Cleveland								
Kings Mountain (1)	1,808,288	10.76%	1,853,121	410,985	960,638	273,241	1,515	164,939
Shelby (2)	4,629,940	4.13%	4,826,000	1,061,049	2,437,123	810,080	-396	321,292
Columbus								
Brunswick (1)	492,147	-6.53%	549,000	110,660	266,447	91,878	5,206	28,368
Lake Waccamaw (1)	430,951	5.09%	455,000	97,065	226,474	78,875	14	28,551
Tabor City (1)	815,143	3.90%	818,000	183,113	432,764	102,953	262	96,575
West Columbus (1)	652,447	-3.95%	712,700	147,339	351,177	143,775	199	10,355
Whiteville (1)	1,307,565	5.93%	1,100,000	299,350	689,810	229,796	1,799	90,408
Craven County (5)	10,758,813	3.85%	10,857,756	2,500,105	5,613,983	1,505,089	956	1,140,592
Cumberland County (11)	36,386,430	3.65%	36,000,000	8,511,216	18,722,759	5,138,327	2,634	4,016,762
Currituck County (3)	5,922,076	3.57%	5,503,501	1,363,209	3,100,183	825,503	1,773	634,954
Dare County (5)	17,727,401	2.71%	18,000,000	4,195,948	9,057,577	2,112,741	12,853	2,373,988

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Davidson								
Lexington (2)	4,736,408	4.92%	5,120,600	1,083,353	2,500,043	550,435	-1,453	601,124
Thomasville (1)	3,154,199	6.18%	3,205,180	721,150	1,702,339	465,330	45,640	311,020
Davie								
Cooleemee (1)	1,198,050	5.11%	1,192,852	277,608	632,465	256,107	3,606	35,476
Duplin								
Kenansville (1)	553,848	1.95%	544,000	124,631	297,279	101,917	31	30,052
Wallace (1)	1,619,254	0.78%	1,651,000	372,175	859,547	274,686	21	112,867
Warsaw (1)	641,545	15.63%	667,300	140,583	353,736	138,768	10	8,468
Durham County (8)	37,346,615	3.53%	37,927,101	8,779,091	19,295,261	5,081,067	-5,929	4,185,267
Edgecombe County (5)	4,971,907	5.66%	4,949,000	1,124,267	2,650,481	836,892	1,137	361,404
Forsyth								
Triad Municipal (14)	47,391,018	4.64%	48,683,763	11,054,247	24,554,970	6,091,038	-19,051	5,671,712
Franklin								
Bunn (1)	879,957	4.85%	885,800	197,705	479,804	156,825	165	45,788
Franklinton (1)	1,171,715	6.85%	1,423,884	263,425	628,163	173,221	230	107,136
Louisburg (1)	1,645,497	2.28%	1,718,573	373,539	881,203	312,577	112	78,290
Youngsville (1)	1,254,607	11.31%	1,251,884	284,088	665,818	197,765	0	106,936
Gaston								
Belmont (1)*	1,251,944		2,492,100	294,020	642,689	313,195	45,054	47,094
Bessemer City (1)	550,334	4.10%	662,500	126,111	290,311	133,066	75	921
Cherryville (1)	1,050,439	3.09%	1,019,550	232,704	568,633	222,598	366	26,870
Cramerton (2)	3,030,341	8.59%	2,920,000	688,054	1,598,702	604,690	-49,214	89,681
Gastonia (5)	11,041,776	4.63%	11,410,000	2,564,434	5,743,686	1,686,724	33,877	1,080,809

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Mount Holly (1)	2,216,530	-1.67%	2,150,550	504,442	1,176,633	308,241	-7,743	219,471
Gates County (2)	768,258	5.68%	774,000	172,668	412,343	179,919	0	3,328
Granville County (2)	4,323,727	4.04%	4,600,000	982,179	2,304,399	628,446	33,559	442,262
Greene County (2)	798,146	4.93%	790,000	179,410	430,939	179,834	7,082	15,045
Guilford								
Gibsonville (1)	1,240,216	4.44%	1,189,025	281,001	655,164	214,519	-3,232	86,300
Greensboro (15)	49,018,578	4.20%	50,558,283	11,561,749	25,085,551	6,748,220	-2,089	5,620,969
High Point (6)	18,695,611	3.03%	18,807,050	4,303,392	9,646,875	2,710,514	9,126	2,043,956
Halifax County (5)	5,305,623	1.63%	5,362,878	1,208,633	2,811,743	991,057	5,715	299,905
Harnett								
Angier (1)	2,139,571	10.71%	2,175,206	480,775	1,150,214	300,436	302	208,448
Dunn (2)	2,469,394	6.10%	2,519,244	561,542	1,315,389	433,449	6,152	165,166
Lillington (1)	1,894,429	8.18%	1,900,000	444,944	984,674	309,826	-4,121	150,864
Haywood								
Canton (1)	1,472,954	6.06%	1,500,000	333,680	785,068	293,337	-408	60,461
Maggie Valley (2)	2,522,346	0.29%	2,534,000	575,462	1,341,410	479,778	-17,388	108,308
Waynesville (1)	2,855,668	7.50%	2,915,000	663,981	1,477,587	399,805	-26,060	288,235
Henderson								
Fletcher (1)	2,283,034	7.73%	2,348,555	512,560	1,210,565	403,360	-1,520	155,029
Hendersonville (3)	7,164,645	7.20%	7,300,000	1,662,303	3,741,757	1,157,031	0	603,554
Laurel Park (1)	1,305,390	2.81%	1,290,000	300,429	684,508	245,523	841	75,771
Hertford County (3)	2,373,614	2.97%	2,377,000	536,625	1,304,491	503,266	668	29,900
Hoke County (2)	2,269,875	45.67%	2,205,000	514,852	1,201,792	367,163	-2,890	183,178
Hyde County (2)	798,758	-3.65%	850,600	192,649	400,481	158,305	5,882	53,205
Iredell								
Mooreville (3)	11,475,180	5.60%	11,652,094	2,689,146	5,958,492	1,147,863	6,474	1,686,153
Statesville (2)	6,209,781	1.38%	6,031,124	1,429,000	3,278,868	957,869	4,671	548,715
Troutman (1)	1,382,368	95.22%	1,378,500	309,176	731,935	224,412	-20,566	96,279
Jackson County (2)	4,830,730	4.25%	4,778,068	1,134,970	2,477,022	632,689	1,332	587,381
Johnston County (8)	16,105,459	7.91%	17,545,329	3,702,262	8,500,360	2,103,732	537	1,799,642
Jones County (3)	1,101,120	5.11%	1,050,000	247,614	589,977	239,867	0	23,662
Lee								

ABC Board Revenue and Distirbutions
July 1, 2017 - June 30, 2018

ABC Boards by County (# of Stores)	Sales			Expenses				Profit Before Distributions
	Gross Sales	Percent Change Over FY17	Forecast For FY19	State Taxes Collected	Cost of Liquor Sold	Operating Expenses	Other Income & Expense	
Sanford (2)	6,069,000	6.10%	6,098,000	1,393,426	3,198,703	1,007,926	3,175	472,120
Lenoir County (3)	4,534,340	5.89%	4,405,000	1,040,747	2,369,565	695,645	-48	428,335
Lincoln								
Lincoln County (2)	3,924,518	15.20%	4,166,957	904,227	2,034,878	455,559	4,273	534,127
Lincolnton (2)	2,918,471	6.32%	3,080,000	668,704	1,511,835	550,848	8,261	195,345
Macon								
Franklin (1)	2,812,251	4.08%	2,993,275	644,116	1,483,186	614,242	623	71,330
Highlands (1)	1,908,492	5.11%	2,084,948	461,897	956,247	347,360	80	143,068
Martin County (2)	2,154,425	1.80%	2,195,000	485,840	1,131,286	377,405	0	159,894
McDowell								
Marion (2)	2,702,204	7.18%	2,878,914	620,060	1,434,100	434,515	-22,351	191,178
Mecklenburg County (26)	163,649,611	7.72%	170,500,000	39,588,039	82,514,324	17,425,584	272,450	24,394,114
Mitchell								
Spruce Pine (1)	1,317,063	3.71%	1,300,000	299,479	705,949	219,113	0	92,522
Montgomery (2)	1,672,531	4.70%	1,611,191	383,933	873,509	361,937	342	53,494
Moore County (4)	11,924,758	6.93%	12,220,000	2,819,039	6,117,319	1,100,414	498	1,888,484
Nash County (9)	11,019,621	3.63%	10,800,000	2,528,939	5,721,588	1,666,654	5,923	1,108,363
New Hanover County (8)	45,858,126	3.83%	44,000,000	11,041,694	22,651,375	5,554,250	148,635	6,759,442
Northampton County (4)	1,071,214	2.21%	1,050,000	240,982	572,302	242,254	0	15,676
Onslow County (6)	18,062,865	5.83%	16,940,000	4,250,317	9,240,518	2,838,504	1,519	1,735,045
Orange County (8)	20,184,369	3.27%	20,780,685	4,763,134	10,468,853	3,783,190	-94,274	1,074,918
Pamlico County (2)	1,385,082	-0.09%	1,486,500	315,938	757,943	240,195	109	71,115
Pasquotank County (1)	3,568,227	0.50%	3,520,000	831,839	1,854,197	412,751	75	469,515
Pender County (4)	6,892,547	5.04%	7,289,805	1,601,834	3,594,806	1,172,234	315	523,988
Perquimans								
Hertford (1)	1,107,802	0.75%	1,056,000	249,436	575,608	194,576	572	88,754
Person County (2)	3,322,752	4.09%	3,298,443	760,104	1,742,682	412,553	4,268	411,681
Pitt County (8)	19,443,653	2.77%	19,646,500	4,577,011	9,961,663	2,447,498	4,162	2,461,643
Polk								
Columbus (1)	676,163	8.12%	657,270	153,136	373,012	123,895	0	26,120
Tryon (1)	495,226	4.92%	591,560	118,029	249,938	92,372	0	34,887
Randolph								

ABC Board Revenue and Distirbutions
July 1, 2017 - June 30, 2018

ABC Boards by County (# of Stores)	Sales			Expenses				Profit Before Distributions
	Gross Sales	Percent Change Over FY17	Forecast For FY19	State Taxes Collected	Cost of Liquor Sold	Operating Expenses	Other Income & Expense	
Asheboro (1)	3,376,600	-2.15%	3,350,250	776,826	1,746,670	535,839	1,246	318,511
Liberty (1)	856,588	-3.07%	868,932	192,761	457,654	180,740	40	25,473
Ramseur (1)	552,487	922.14%	696,050	124,154	294,998	145,014	0	-11,679
Randleman (1)	1,688,876	4.96%	2,069,000	385,551	881,097	250,273	414	172,369
Richmond								
Hamlet (1)	1,125,196	6.48%	1,199,500	254,628	617,784	193,747	18	59,055
Rockingham (2)	2,393,447	2.63%	2,321,500	547,086	1,293,511	411,668	0	141,182
Robeson								
Fairmont (1)	707,074	3.87%	697,500	155,772	390,266	150,154	15	10,897
Lumberton (2)	3,909,298	8.47%	4,100,000	898,565	2,101,052	707,679	8	202,010
Maxton (1)	813,206	6.01%	1,135,796	183,099	428,769	178,694	-17	22,627
Pembroke (1)	1,258,699	1.26%	1,330,000	287,348	666,692	224,205	-7,639	72,815
Red Springs (1)	725,729	1.66%	782,004	160,512	374,830	181,384	0	9,003
Rowland (1)	244,751	0.03%	250,000	55,127	132,890	54,274	-204	2,256
Saint Pauls (1)	1,293,033	1.84%	1,308,100	292,605	705,014	213,500	22	81,936
Rockingham								
Eden (1)	1,844,929	1.90%	1,835,000	422,731	975,177	337,407	125	109,739
Madison (1)	1,383,394	7.47%	1,400,000	316,744	734,179	247,042	58	85,487
Reidsville (1)	2,507,329	6.00%	2,400,000	572,307	1,329,854	432,500	0	172,668
Rowan/Kannapolis (7)	13,395,949	3.28%	13,730,750	3,071,687	7,074,807	2,518,770	-68,084	662,601
Rutherford								
Forest City (1)	2,298,809	6.49%	2,392,000	528,477	1,210,662	369,039	22,658	213,289
Lake Lure (1)	919,544	2.86%	915,000	218,896	471,203	193,806	1,893	37,532
Rutherfordton (1)	1,406,423	4.88%	1,431,165	317,535	785,412	284,775	83	18,784
Sampson								
Clinton (1)	2,198,334	2.86%	2,193,300	498,830	1,165,995	246,525	2,160	289,144
Newton Grove (1)	532,584	10.02%	568,000	120,033	286,826	111,541	383	14,567
Roseboro (1)	960,571	4.13%	941,250	217,429	517,959	169,155	23	56,051
Scotland County (1)	2,142,529	2.76%	2,049,845	485,111	1,144,604	386,359	244	126,699
Stanly								
Albemarle (1)	3,195,294	4.32%	3,187,500	736,608	1,649,592	459,507	101,847	451,434
Locust (1)	1,849,995	8.14%	1,890,000	420,860	966,817	360,031	0	102,287

ABC Board Revenue and Distirbutions
July 1, 2017 - June 30, 2018

ABC Boards by County (# of Stores)	Sales			Expenses				Profit Before Distributions
	Gross Sales	Percent Change Over FY17	Forecast For FY19	State Taxes Collected	Cost of Liquor Sold	Operating Expenses	Other Income & Expense	
Norwood (1)	589,199	3.46%	555,000	133,752	313,248	117,971	-3,431	20,797
Stokes								
Walnut Cove (1)	987,449	8.00%	945,000	222,962	533,515	177,886	0	53,086
Surry								
Dobson (1)	635,221	1.05%	618,700	143,188	338,605	132,101	113	21,440
Mount Airy (1)	2,362,407	1.41%	2,361,458	542,546	1,214,362	442,548	962	163,913
Pilot Mountain (1)	1,060,811	7.34%	1,040,000	237,600	558,132	191,976	-478	72,625
Yadkin Valley (1)	1,865,372	10.09%	1,850,000	423,399	991,977	260,898	-28,017	161,081
Swain								
Bryson City (1)	2,150,577	5.50%	2,247,353	495,947	1,129,397	322,332	127	203,028
Transylvania								
Brevard (2)	3,722,325	7.67%	4,097,658	861,647	1,958,314	598,690	350	304,024
Tyrrell County (1)	460,594	-0.04%	465,000	111,696	245,107	84,641	-5,944	13,206
Union								
Indian Trail (1)	4,279,711	6.82%	4,338,406	995,815	2,229,562	579,688	1,266	475,912
Monroe (1)	4,731,863	4.16%	4,800,000	1,102,241	2,444,417	678,416	1,671	508,460
Waxhaw (1)	3,248,649	14.36%	3,200,000	761,841	1,733,110	474,876	702	279,524
Wingate (1)	1,628,475	5.00%	1,500,000	366,653	862,533	266,112	0	133,177
Vance County (1)	3,935,178	1.69%	3,695,000	894,011	2,109,223	672,070	33	259,907
Wake County (24)	138,891,419	6.55%	137,471,000	33,006,048	70,990,914	12,734,318	222,557	22,382,696
Warren County (2)	2,550,362	2.62%	2,555,000	584,691	1,334,408	421,249	-22,538	187,476
Washington County (1)	909,783	-0.13%	910,000	210,673	467,294	186,073	386	46,129
Watauga								
Blowing Rock (1)	1,795,909	7.28%	1,750,000	436,831	894,028	292,622	380	172,808
Boone (1)	6,511,972	1.68%	6,665,000	1,546,422	3,348,449	815,385	-2,554	799,162
Wayne County (5)	9,031,220	2.50%	9,154,627	2,069,850	4,737,870	1,528,209	589	695,880
Wilkes								
North Wilkesboro (1)	1,367,124	2.94%	1,530,145	310,226	719,120	336,897	0	881
Wilkesboro (2)	2,517,961	6.87%	2,825,000	575,712	1,334,135	575,500	0	32,614
Wilson County (6)	8,540,808	1.18%	8,194,500	1,954,468	4,477,030	1,441,472	8,280	676,118
Yancey								
Burnsville (1)	1,158,787	3.03%	1,291,000	263,007	609,805	204,559	0	81,416

ABC Board Revenue and Distirbutions
July 1, 2017 - June 30, 2018

ABC Boards by County (# of Stores)	Sales			Expenses				Profit Before Distributions
	Gross Sales	Percent Change Over FY17	Forecast For FY19	State Taxes Collected	Cost of Liquor Sold	Operating Expenses	Other Income & Expense	
TOTALS	1,129,023,535	5.64%	1,149,735,523	265,098,444	581,905,863	153,503,877	673,865	129,189,216

* Belmont opened December 2018

ABC Boards by County (# of Stores)	Local Profits		Local Distributions (Law Enf., Alcohol Educ., County/Municipal)	
	Percent Profit	Profit Before Distributions FY17	FY 2018	Forecast For FY19
Alamance				
Alamance Municipal (5)	8.66%	788,343	1,079,896	827,800
Alleghany				
Sparta (1)	8.21%	58,175	43,245	80,676
Anson				
Wadesboro (1)	6.68%	89,669	83,800	62,597
Ashe				
West Jefferson (1)	9.23%	166,299	79,470	94,000
Avery				
High Country (1)	11.38%	324,657	322,805	294,680
Beaufort County (6)	6.98%	413,439	253,085	192,515
Bertie County (1)	0.04%	-15,335	0	12,800
Bladen				
Elizabethtown (1)	9.52%	133,435	116,348	125,500
Brunswick				
Belville (2)	8.45%	235,534	269,339	193,500
Boiling Spring Lakes (1)	4.37%	34,667	26,467	38,500
Brunswick County (2)	7.39%	256,866	44,542	42,330
Calabash (1)	8.33%	123,557	116,206	94,600
Oak Island (1)	10.97%	262,114	288,638	281,060
Ocean Isle Beach (1)	10.25%	195,653	224,400	234,970
Shallotte (1)	7.74%	176,875	180,928	30,000
Southport (1)	10.68%	306,991	320,457	296,909
Sunset Beach (1)	6.56%	118,776	55,685	48,700
Buncombe				
Asheville (9)	12.24%	3,823,126	3,567,085	3,198,674
Black Mountain (1)	9.56%	225,008	98,964	183,000
Weaverville (1)	6.07%	170,870	63,313	52,620
Woodfin (1)	4.50%	75,279	24,801	68,000
Burke				
Morganton (1)	13.06%	375,798	452,189	403,510
Valdese (1)	4.72%	43,383	0	0

ABC Boards by County (# of Stores)	Local Profits		Local Distributions (Law Enf., Alcohol Educ., County/Municipal)	
	Percent Profit	Profit Before Distributions FY17	FY 2018	Forecast For FY19
Cabarrus				
Concord (6)	12.10%	1,785,851	689,479	795,000
Mount Pleasant (1)	4.33%	16,699	27,735	3,500
Caldwell				
Granite Falls (1)	9.59%	68,878	112,263	59,100
Lenoir City (2)	9.75%	328,168	315,150	278,000
Camden County (2)	5.10%	64,567	70,015	35,200
Carteret County (6)	13.66%	1,808,941	1,596,939	1,149,100
Caswell County (4)	2.20%	63,808	64,368	55,529
Catawba County (11)	8.54%	1,396,849	1,037,961	1,017,950
Chatham County				
Chatham County (3)	4.93%	112,134	120,462	122,770
Pittsboro (1)	10.94%	135,759	128,268	84,455
Siler City (1)	7.36%	98,521	53,251	55,000
Cherokee				
Andrews (1)	1.16%	-10,029	7,143	14,104
Murphy (1)	7.82%	215,273	159,000	118,000
Chowan County (1)	8.12%	94,856	123,606	80,000
Clay County (1)	9.83%	230,597	233,572	117,000
Cleveland				
Kings Mountain (1)	9.12%	133,334	85,607	117,542
Shelby (2)	6.94%	310,921	321,074	355,500
Columbus				
Brunswick (1)	5.76%	34,830	35,751	11,700
Lake Waccamaw (1)	6.63%	539	11,899	14,750
Tabor City (1)	11.85%	62,854	92,918	28,420
West Columbus (1)	1.59%	29,801	3,000	9,000
Whiteville (1)	6.91%	75,650	85,991	67,773
Craven County (5)	10.60%	965,054	839,689	835,000
Cumberland County (11)	11.04%	4,088,589	4,184,420	2,866,543
Currituck County (3)	10.72%	566,738	634,954	253,175
Dare County (5)	13.39%	2,306,562	2,045,533	2,440,125

ABC Boards by County (# of Stores)	Local Profits		Local Distributions (Law Enf., Alcohol Educ., County/Municipal)	
	Percent Profit	Profit Before Distributions FY17	FY 2018	Forecast For FY19
Davidson				
Lexington (2)	12.69%	553,945	538,250	338,900
Thomasville (1)	9.86%	288,418	117,372	118,500
Davie				
Cooleemee (1)	2.96%	33,089	35,480	18,500
Duplin				
Kenansville (1)	5.43%	21,714	30,052	850
Wallace (1)	6.97%	138,717	117,133	164,730
Warsaw (1)	1.32%	-1,717	8,469	0
Durham County (8)	11.21%	4,026,524	3,198,327	2,509,109
Edgecombe County (5)	7.27%	260,102	311,404	158,500
Forsyth				
Triad Municipal (14)	11.97%	5,470,785	5,060,168	4,541,418
Franklin				
Bunn (1)	5.20%	45,573	39,788	30,142
Franklinton (1)	9.14%	86,949	102,936	58,000
Louisburg (1)	4.76%	107,521	64,290	99,718
Youngsville (1)	8.52%	87,742	105,313	40,000
Gaston				
Belmont (1)*	3.76%		0	5,700
Bessemer City (1)	0.17%	3,236	15,000	0
Cherryville (1)	2.56%	27,705	29,558	22,500
Cramerton (2)	2.96%	108,600	78,187	85,000
Gastonia (5)	9.79%	974,041	1,007,242	526,000

ABC Boards by County (# of Stores)	Local Profits		Local Distributions (Law Enf., Alcohol Educ., County/Municipal)	
	Percent Profit	Profit Before Distributions FY17	FY 2018	Forecast For FY19
Mount Holly (1)	9.90%	264,580	242,768	200,170
Gates County (2)	0.43%	-2,118	3,000	3,000
Granville County (2)	10.23%	437,486	129,857	123,000
Greene County (2)	1.88%	19,773	14,045	2,000
Guilford				
Gibsonville (1)	6.96%	69,342	16,260	18,000
Greensboro (15)	11.47%	5,014,131	4,720,969	4,415,377
High Point (6)	10.93%	1,995,022	2,179,686	1,685,727
Halifax County (5)	5.65%	307,004	223,866	183,577
Harnett				
Angier (1)	9.74%	139,994	69,128	103,127
Dunn (2)	6.69%	161,843	146,675	136,675
Lillington (1)	7.96%	143,728	11,597	117,560
Haywood				
Canton (1)	4.10%	48,167	14,427	20,700
Maggie Valley (2)	4.29%	140,209	4,358	30,000
Waynesville (1)	10.09%	236,079	112,775	159,460
Henderson				
Fletcher (1)	6.79%	135,238	85,449	181,180
Hendersonville (3)	8.42%	533,318	437,218	385,000
Laurel Park (1)	5.80%	71,409	67,580	65,100
Hertford County (3)	1.26%	41,939	68,670	56,187
Hoke County (2)	8.07%	188,254	110,074	42,000
Hyde County (2)	6.66%	51,553	25,522	27,800
Iredell				
Mooresville (3)	14.69%	1,539,565	1,766,100	1,605,000
Statesville (2)	8.84%	536,393	578,074	252,632
Troutman (1)	6.96%	30,400	20,522	20,897
Jackson County (2)	12.16%	577,241	454,379	453,000
Johnston County (8)	11.17%	1,506,606	1,460,821	1,741,125
Jones County (3)	2.15%	28,094	500	0
Lee				

ABC Boards by County (# of Stores)	Local Profits		Local Distributions (Law Enf., Alcohol Educ., County/Municipal)	
	Percent Profit	Profit Before Distributions FY17	FY 2018	Forecast For FY19
Sanford (2)	7.78%	388,176	393,804	310,000
Lenoir County (3)	9.45%	384,806	378,335	242,800
Lincoln				
Lincoln County (2)	13.61%	437,858	254,451	256,200
Lincolnton (2)	6.69%	33,603	195,346	199,100
Macon				
Franklin (1)	2.54%	58,234	70,000	72,200
Highlands (1)	7.50%	109,363	75,000	124,306
Martin County (2)	7.42%	134,680	121,433	101,500
McDowell				
Marion (2)	7.07%	157,151	168,990	174,500
Mecklenburg County (26)	14.91%	22,610,066	19,660,664	16,387,784
Mitchell				
Spruce Pine (1)	7.02%	97,501	50,615	51,010
Montgomery (2)	3.20%	46,000	50,302	8,000
Moore County (4)	15.84%	1,662,125	1,114,060	1,268,452
Nash County (9)	10.06%	1,045,819	767,244	572,400
New Hanover County (8)	14.74%	6,342,810	5,284,960	5,562,811
Northampton County (4)	1.46%	16,962	0	621
Onslow County (6)	9.61%	1,654,044	996,549	1,202,500
Orange County (8)	5.33%	1,303,231	861,800	939,000
Pamlico County (2)	5.13%	85,785	61,115	42,500
Pasquotank County (1)	13.16%	446,807	393,366	324,500
Pender County (4)	7.60%	533,806	492,967	675,438
Perquimans				
Hertford (1)	8.01%	83,280	88,754	43,400
Person County (2)	12.39%	345,282	393,949	297,000
Pitt County (8)	12.66%	2,389,488	1,870,358	1,480,000
Polk				
Columbus (1)	3.86%	33,362	5,801	8,500
Tryon (1)	7.04%	16,352	2,565	19,100
Randolph				

ABC Boards by County (# of Stores)	Local Profits		Local Distributions (Law Enf., Alcohol Educ., County/Municipal)	
	Percent Profit	Profit Before Distributions FY17	FY 2018	Forecast For FY19
Asheboro (1)	9.43%	391,048	355,167	237,762
Liberty (1)	2.97%	38,147	25,102	23,160
Ramseur (1)	-2.11%	-8,496	0	2,500
Randleman (1)	10.21%	137,673	172,369	179,700
Richmond				
Hamlet (1)	5.25%	61,412	54,055	58,000
Rockingham (2)	5.90%	174,811	141,182	58,300
Robeson				
Fairmont (1)	1.54%	31,786	5,414	0
Lumberton (2)	5.17%	16,036	129,271	123,800
Maxton (1)	2.78%	9,819	0	0
Pembroke (1)	5.78%	72,228	61,785	46,500
Red Springs (1)	1.24%	6,648	1,223	0
Rowland (1)	0.92%	5,300	0	0
Saint Pauls (1)	6.34%	75,319	78,694	100,000
Rockingham				
Eden (1)	5.95%	106,454	102,527	100,400
Madison (1)	6.18%	81,608	45,470	61,720
Reidsville (1)	6.89%	141,505	157,541	128,100
Rowan/Kannapolis (7)	4.95%	760,953	484,987	481,000
Rutherford				
Forest City (1)	9.28%	183,557	219,388	217,000
Lake Lure (1)	4.08%	39,816	35,725	8,500
Rutherfordton (1)	1.34%	30,614	60,876	64,000
Sampson				
Clinton (1)	13.15%	290,420	270,532	230,396
Newton Grove (1)	2.74%	12,534	7,775	10,000
Roseboro (1)	5.84%	37,768	20,105	13,000
Scotland County (1)	5.91%	134,410	126,699	78,440
Stanly				
Albemarle (1)	14.13%	342,846	333,291	278,000
Locust (1)	5.53%	76,761	30,424	36,877

ABC Boards by County (# of Stores)	Local Profits		Local Distributions (Law Enf., Alcohol Educ., County/Municipal)	
	Percent Profit	Profit Before Distributions FY17	FY 2018	Forecast For FY19
Norwood (1)	3.53%	15,835	1,299	1,100
Stokes				
Walnut Cove (1)	5.38%	27,914	38,603	26,783
Surry				
Dobson (1)	3.38%	24,268	17,792	9,041
Mount Airy (1)	6.94%	162,429	155,973	156,867
Pilot Mountain (1)	6.85%	75,270	5,018	41,600
Yadkin Valley (1)	8.64%	146,066	12,881	18,100
Swain				
Bryson City (1)	9.44%	184,233	209,000	169,950
Transylvania				
Brevard (2)	8.17%	293,001	303,674	226,867
Tyrrell County (1)	2.87%	19,702	0	1,075
Union				
Indian Trail (1)	11.12%	410,180	380,500	230,000
Monroe (1)	10.75%	449,515	560,908	464,600
Waxhaw (1)	8.60%	252,938	226,000	247,000
Wingate (1)	8.18%	102,815	64,834	50,929
Vance County (1)	6.60%	250,121	152,762	117,540
Wake County (24)	16.12%	21,224,674	17,305,692	12,255,000
Warren County (2)	7.35%	169,062	13,751	13,000
Washington County (1)	5.07%	31,321	64,980	4,000
Watauga				
Blowing Rock (1)	9.62%	176,430	124,931	80,000
Boone (1)	12.27%	808,344	604,981	621,930
Wayne County (5)	7.71%	709,780	246,138	386,419
Wilkes				
North Wilkesboro (1)	0.06%	13,545	0	14,000
Wilkesboro (2)	1.30%	5,961	0	55,500
Wilson County (6)	7.92%	550,900	424,673	418,000
Yancey				
Burnsville (1)	7.03%	69,167	5,788	7,000

ABC Boards by County (# of Stores)	Local Profits		Local Distributions (Law Enf., Alcohol Educ., County/Municipal)	
	Percent Profit	Profit Before Distributions FY17	FY 2018	Forecast For FY19
TOTALS	11.44%	119,658,156	102,207,208	87,104,116

* Belmont opened December 2018

**House Pages
Assignments
Tuesday, March 05, 2019
Session: 4:45 PM**

Committee	Room	Time	Staff	Comments	Member
Alcoholic Beverage Control	1228/1327	3:00 PM	Asher Ager		Rep. John Ager
			Mary Doms		Speaker Tim Moore

Committee Sergeants at Arms

NAME OF COMMITTEE House Committee on Alcoholic Beverage Control

DATE: 3/5/2019

Room: 1228/1327

House Sgt-At Arms:

1. Name: Ken Gilbert

2. Name: Dean Marshbourne

3. Name: Russell Salisbury

4. Name: David Leighton

5. Name: _____

Senate Sgt-At Arms:

1. Name: _____

2. Name: _____

3. Name: _____

4. Name: _____

5. Name: _____

VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control

3/5/2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

JACK COZART	NCD State Street
Rev. MARK CREECH	CAL
Ann Farrell	FSP
Adam Priderme	NCAEE
BILL SCOBEN	TS
Lynn Mingo	NC RLA
Sarah Collins	NCLM
Demetrius DeBorth	NCLM
Terrance Merriweather	NC ABC C
Bryan House	NC ALE
Renee Metz	NC ABC
Jon Carr	NC Assoc of ABC Boards

VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control

3/5/2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Rachel Spears

ABC Commission

Missy M. Welch

ABC

Lori Ann Harris

LAHA

Tim KENT

NC BEER & WINE

Carol Shaw

PED-NCGA

Korey Kiger

NCMA

Elizabeth Lobner

NCMA

Brian Murr

SBI

Rick Zechini

Williams Miller

Julia Adams Schenck

Oak City GR

VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control

3/5/2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
AL Milale	NC DOR
Wendy Kelly	Four Public Affairs
Ike Wheeler	Wake Co. ABC Board
Bryan Hines	Wake Co. ABC
Scott Broadwell	Wake Co ABC Law Enforcement
Marissa Turner	TSS
Lindsey Dowling	TSS
Kara Weishaar	SA
Ed Hanes	THCi
Margo Metzger	NCRLA
Isabel Villa-Gova	NCRLA

VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control

3/5/2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Cassidy Robertson	AMGA
Sallie James	Governor's office
Ed Shugart	Wyo
Tyler Ford	MWC
Dodie Renfer	Nelson Mullins
Jack City	USI
Sarah Patterson	WM
Susanna Davis	NC DPS
Lori Annun	AAHMI+CO
Connie Wilson	DISCUS
DAVID Wojnar	Distilled Spirits Council

14

3/5/2019

Date _____

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

FIRM OR AGENCY AND ADDRESS

NCDF

CENTRIFUGAL DISTILLING

**House Committee on Alcoholic Beverage Control
Tuesday, March 19, 2019 at 3:00 PM
Room 1228/1327 of the Legislative Building**

MINUTES

The House Committee on Alcoholic Beverage Control met at 3:00 PM on March 19, 2019 in Room 1228/1327 of the Legislative Building. Representatives Alexander, Boles, Dahle, Fisher, Hardister, Hurley, Lucas, McGrady, Meyer, B. Turner, Willingham, Yarborough, and Zachary attended.

Representative Chuck McGrady, Chair, presided and called the meeting to order at 3:03 p.m.

The Chair informed the committee that the order of the agenda had changed and they would take up Senate Bill 11, ABC Regulation and Reform first in order to leave a majority of the time for the initial introduction of the second bill, House Bill 91, ABC Laws Modernization/PED Study. The Chair, then, recognized the Sergeant at Arms and Pages in attendance.

The following bills were considered:

SB 11 ABC Regulation and Reform. (Senator Wells)


HB 91 ABC Laws Modernization/PED Study. (Representatives McGrady, Boles, Horn, Willingham)

The Chair introduced Senator Andy Wells, the bill sponsor of S11, ABC Regulation and Reform, to explain the bill. After the introduction of the bill, the chair opened the floor for questions and discussion. Representative Lucas made a motion for a favorable report of S11 and serial referral to Rules. The motion passed.

The Chair recognized Carol Shaw, clerk and evaluator with the Program Evaluation Division, to introduce H91, ABC Laws Modernization/PED Study [See Attachments for presentation]. At the conclusion of her presentation, the chair opened the floor for questions and discussion.

The Chair thanked Carol Shaw for her presentation and reiterated that the chairs will have further discussion on the bill at a future meeting and opened the floor for public comment. Former Representative Gary Pendleton asked to speak against Sunday sales that is contained in the report and in support of ABC board mergers. Representative Frank Iler stated he had concerns over ABC board mergers and how it can be done with fairness to all impacted towns.

There being no further business, the meeting adjourned at 3:56 p.m.



Representative Chuck McGrady, Chair
Presiding



Kimberly Neptune, Committee Clerk

Updated #1:

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

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

DAY & DATE: Tuesday, March 19, 2019

TIME: 3:00 PM

LOCATION: 1228/1327 LB

COMMENTS:

Rep. Chuck McGrady presiding

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 91</u>	ABC Laws Modernization/PED Study. [FOR DISCUSSION ONLY]	Representative McGrady Representative Boles Representative Horn Representative Willingham
<u>SB 11</u>	ABC Regulation and Reform.	Senator Wells

Respectfully,

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

I hereby certify this notice was filed by the committee assistant at the following offices at 3:58 PM on Tuesday, March 12, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Kimberly Neptune (Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

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

DAY & DATE: Tuesday, March 19, 2019
TIME: 3:00 PM
LOCATION: 1228/1327 LB
COMMENTS: Rep. Chuck McGrady presiding

Respectfully,

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

I hereby certify this notice was filed by the committee assistant at the following offices at 2:49 PM on Tuesday, March 12, 2019.

___ Principal Clerk
___ Reading Clerk – House Chamber

Kimberly Neptune (Committee Assistant)

**House Committee on Alcoholic Beverage Control
Tuesday, March 19, 2019, 3:00 PM
1228/1327 Legislative Building**

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 91	ABC Laws Modernization/PED Study. [FOR DISCUSSION ONLY]	Representative McGrady Representative Boles Representative Horn Representative Willingham
SB 11	ABC Regulation and Reform.	Senator Wells

Presentations

Carol Shaw of Program Evaluation Division will present H91 PED Study

Other Business

Adjournment

**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**ALCOHOLIC BEVERAGE CONTROL COMMITTEE REPORT
Representative James L. Boles, Jr., Co-Chair
Representative Chuck McGrady, Co-Chair**

FAVORABLE AND RE-REFERRED

SB	11	(CS#1)	ABC Regulation and Reform.
			Draft Number: None
			Serial Referral: REGULATORY REFORM
			Recommended Referral: RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
			Long Title Amended: No
			Floor Manager: McGrady

TOTAL REPORTED: 1



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SENATE BILL 11: ABC Regulation and Reform.

2019-2020 General Assembly

Committee: Senate Rules and Operations of the Senate
Introduced by: Sen. Wells
Analysis of: Second Edition

Date: February 14, 2019
Prepared by: Susan Sitze*
Staff Attorney

OVERVIEW: *Senate Bill 11 would:*

- *increase the maximum fines for violations of the ABC laws involving acts of violence, controlled substance, or prostitution occurring upon the premises, and for these types of violations, authorize the ABC Commission (Commission) to impose conditions on the operating hours of a business;*
- *require second or third violations to occur within three years in order to result in the imposition of fines;*
- *increase from \$5,000 to \$10,000 the maximum amount the Commission can accept in compromise in lieu of a permit revocation for certain violations;*
- *repeal the Commission's authority to issue a permit to a person at least 19 years old who is a manager of a business, thereby requiring all persons to be at least 21 years old to obtain an ABC permit;*
- *allow permittees to seek review of Commission permit decisions before an administrative law judge;*
- *modify the Commission's authority to summarily suspend or revoke a permit upon receiving certain information regarding an undercover investigation*
- *change the definition of a "private club" to include only establishments that are 501(c) businesses and that have been in operation for at least 12 months before applying for an ABC permit;*
- *create a new definition of "private bar";*
- *exempt "private bars," as newly defined, from regulation as a food and lodging establishment in the same way that "private clubs" are exempt from such regulation; and*
- *provide that permits issued to "private clubs," as defined before this act becomes law, would be grandfathered and eligible for renewal as a private bar or a private club, as applicable under the new definitions of those terms.*

Karen Cochrane-Brown
Director



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Legislative Analysis
Division
(919) 733-2578

Senate Bill 11

Page 2

CURRENT LAW AND BILL ANALYSIS:

Under current law, the ABC Commission is authorized to take any of the following actions against a permittee for violations of the ABC laws:

- Suspend the permittee's permit for a specified period of up to 3 years
- Revoke the permittee's permit
- Fine the permittee up to \$500 for the first violation, up to \$750 for a second violation, and up to \$1,000 for a third violation
- Suspend the permittee's permit and impose a fine

Section 1 would provide that a permittee's second or third violation would have to occur within three years of the previous violation in order to result in a fine.

In addition, **Section 1** would provide that for violations of the ABC laws involving acts of violence or the violation of the controlled substances or prostitution statutes occurring on the licensed premises, the maximum fines would be increased to \$750 for a first violation, \$1,000 for a second violation within three years, and \$1,250 for a third violation within three years. In addition to a fine, the Commission would also be authorized to impose conditions on the operating hours of the business for these types of violations.

Under current law, in any case when the Commission is entitled to suspend or revoke a permit, the Commission may accept from the permittee an offer in compromise to pay a penalty of not more than \$5,000. The Commission may accept the compromise or revoke the permit, but not both. **Section 1** would increase the maximum amount of a compromise offer from \$5,000 to \$10,000 for violations involving acts of violence or violation of the controlled substances or prostitution statutes occurring on the licensed premises,

Section 2 would:

- Repeal the Commission's current authority to issue permits to 19 year olds who are managers of a business, thereby requiring a person to be at least 21 years old to obtain a permit.
- Require the manager of every business establishment operated by a corporation to qualify for receiving an ABC permit in order for that business to receive an ABC permit, by removing the current exception to that requirement for establishments with only off-premises permits for malt beverage, unfortified wine, or fortified wine.
- Provide that if none of the other persons listed in the statute amended by this bill section is a manager or person otherwise responsible for the day-to-day operations of the business, any manager or person otherwise responsible for the day-to-day operation of the business must qualify for receiving an ABC permit in order for that business to receive an ABC permit.

Section 3 would condense several criteria for determining whether an applicant and business location are suitable to hold an ABC permit into one subdivision.

Section 4 would provide that if the Commission revokes or suspends an ABC permit on the basis that the location occupied by the permittee is no longer a suitable place to hold ABC permits or that the operation of the business with a permit is detrimental to the neighborhood, a permittee could seek review of that action by an Administrative Law Judge. Under current law, the final decision making authority over ABC permit revocations or suspensions due to the unsuitability of a business location resides with the Commission.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 11
Judiciary Committee Substitute Adopted 2/13/19
Third Edition Engrossed 2/19/19

Short Title: ABC Regulation and Reform.

(Public)

Sponsors:

Referred to:

February 4, 2019

A BILL TO BE ENTITLED
AN ACT TO STRENGTHEN THE PERMITTING ENFORCEMENT AUTHORITY OF THE
ABC COMMISSION AND TO MAKE OTHER CHANGES TO THE ABC LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-104 reads as rewritten:

"§ 18B-104. Administrative penalties.

(a) Penalties. – For any violation of the ABC laws, the Commission may take any of the following actions against a permittee:

(1) Suspend the permittee's permit for a specified period of time not longer than three ~~years;~~years.

(2) Revoke the permittee's ~~permit;~~permit.

(3) For all violations not listed in subdivision (3a) of this subsection, fine~~Fine~~ the permittee up to five hundred dollars (\$500.00) for the first violation, up to seven hundred fifty dollars (\$750.00) for the second ~~violation,~~violation within three years, and up to one thousand dollars (\$1,000) for the third ~~violation;~~violation within three years of the first violation.

(3a) If the violations involve acts of violence, controlled substances, or prostitution occurring on the licensed premises, fine the permittee up to seven hundred fifty dollars (\$750.00) for the first violation, up to one thousand dollars (\$1,000) for a second violation within three years, and up to one thousand two hundred fifty dollars (\$1,250) for a third violation within three years of the first violation. Additionally, the Commission may impose conditions on the operating hours of the business for violations listed in this subdivision.

(4) Suspend the permittee's permit under subdivision (1) and impose a fine under subdivision ~~(3);~~(3) or (3a).

...
(b1) Compromise for Certain Egregious Violations. – In any case in which there are two or more violations within three years in which the Commission is entitled to suspend or revoke a permit, the Commission may accept from the permittee an offer in compromise to pay a penalty of not more than ten thousand dollars (\$10,000) if the violations involve any of the following acts:

(1) Acts of violence occurring on the licensed premises.

(2) The permittee or the permittee's agent or employee knowingly allowing any violation of the controlled substances or prostitution statutes on the licensed premises.



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The Commission may also impose conditions on the operating hours of the business as part of a compromise pursuant to this subsection. The Commission may either accept a compromise or revoke a permit, but not both. The Commission may accept a compromise and suspend the permit in the same case.

...."

SECTION 2. G.S. 18B-900 reads as rewritten:

"§ 18B-900. Qualifications for permit.

(a) Requirements. – To be eligible to receive and to hold an ABC permit, a person must satisfy all of the following requirements:

- (1) Be at least 21 years old, ~~unless the person is a manager of a business in which case the person shall be at least 19 years old.~~

...

(c) Who Must Qualify; Exceptions. – For an ABC permit to be issued to and held for a business, each of the following persons associated with that business must qualify under subsection (a):

- (1) The owner of a sole ~~proprietorship;~~ proprietorship.
- (2) Each member of a firm, association or general ~~partnership;~~ partnership.
- (2a) Each general partner in a limited ~~partnership;~~ partnership.
- (2b) Each manager and any member with a twenty-five percent (25%) or greater interest in a limited liability ~~company;~~ company.
- (3) Each officer, director and owner of twenty-five percent (25%) or more of the stock of a corporation except that the requirement of subdivision (a)(1) does not apply to such an officer, director, or stockholder unless he or she is a manager or is otherwise responsible for the day-to-day operation of the business; ~~business.~~
- (4) The manager of an establishment operated by a ~~corporation other than an establishment with only off-premises malt beverage, off-premises unfortified wine, or off-premises fortified wine permits;~~ corporation.
- (5) Any manager who has been empowered as attorney-in-fact for a nonresident individual or partnership.
- (6) Any manager or person otherwise responsible for the day-to-day operation of the business, if none of the persons listed in subdivisions (1) through (5) of this subsection are a manager or person otherwise responsible for the day-to-day operation of the business.

...."

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

"§ 18B-901. Issuance of permits.

...

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

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

(5) ~~Whether the establishment is located within 50 feet of a church, public school, or any nonpublic school as defined by Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes.~~

(6) Zoning laws, laws, the number of places already holding ABC permits within the neighborhood, parking facilities and traffic conditions in the neighborhood, types of businesses already in the neighborhood, and whether the establishment is located within 50 feet of a church, public school, or any nonpublic school as defined in Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes.

...."

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

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

(1) ~~The If the Commission may suspend or revoke a permit issued by it if, after compliance with the provisions of Chapter 150B of the General Statutes, it finds that the location occupied by the permittee is no longer a suitable place to hold ABC permits or that the operation of the business with an ABC permit at that location is detrimental to the neighborhood-neighborhood, the Commission may commence a contested case under Chapter 150B of the General Statutes for the suspension or revocation of a permit issued by it.~~

(2) The Commission shall suspend or revoke a permit issued by it if a permittee is in violation of G.S. 18B-309. Notwithstanding ~~subdivision (e)(1) of this section, G.S. 18B-906,~~ the Commission shall, by order and without prior hearing, summarily suspend or revoke a permit issued by it if a permittee is in violation of G.S. 18B-309(c) when, prior to the period of time for which the audit is to be conducted, the city council has filed information designating the location of the Urban Redevelopment Area as required under G.S. 18B-309(a) and has provided actual notice to permittees located in the Urban Redevelopment Area that they are located in such an area and must abide by G.S. 18B-309(c). Upon entry of a summary order under this subdivision, the Commission shall promptly notify all interested parties that the order has been entered and of the reasons therefore. The order will remain in effect until it is modified or vacated by the Commission. The permittee may, within 30 days after receipt of notice of the order, ~~make written request to the Commission for a hearing on the matter. If a hearing is requested, after compliance with the provisions of commence a contested case under Chapter 150B of the General Statutes, the Commission shall issue an order to affirm, reverse, or modify its previous action.~~ Statutes for the reversal or modification of the Commission's order.

(3) ~~Notwithstanding G.S. 18B-906, If the Commission shall revoke a permit issued by it if, after complying with the provisions of Chapter 150B of the General Statutes and without a finding of mitigating evidence or circumstances, it finds evidence that the permittee or the permittee's employee has been found responsible by a court of competent jurisdiction or the Commission for two or more violations on separate dates of knowingly allowing a violation of the gambling, disorderly conduct, prostitution, controlled substance, or felony criminal counterfeit trademark laws as those offenses are prohibited pursuant to G.S. 18B-1005(a)(2), (a)(3), or (b), G.S. 18B-1005.1, or G.S. 80-11.1(b)(2) or (3), at a single ABC-licensed premises within a 12-month period-period, the Commission may commence a contested case under Chapter 150B of the General Statutes for the revocation of a permit issued by it. The permittee and the owner of the property have the~~

responsibility to monitor the conduct on the licensed premises pursuant to G.S. 18B-1005(b) and G.S. 19-1. Revocation of permits pursuant to this subdivision shall only apply to the permits issued to the location where the violations occurred.

(4) Notwithstanding G.S. 18B-906, the Commission ~~shall immediately~~ shall, by order and without prior hearing, summarily suspend or revoke permits issued by it ~~for a period of 30 days~~ if both of the following apply:

a. Alcohol Law Enforcement agents or local ABC Board officers ~~provide advance notice to have consulted with~~ the Commission Legal Division staff ~~of regarding the ongoing undercover operation~~ operation and the sufficiency of the evidence gathered at the time of the consultation.

b. Upon execution of the search warrant resulting from the undercover operation, five or more persons are criminally charged with violations of the gambling, ~~assault~~, disorderly conduct, prostitution, controlled substance, or felony criminal counterfeit trademark laws.

Upon entry of a summary order under this subdivision, the Commission shall promptly notify the permittee that the order has been entered and of the reasons therefore. The order shall remain in effect until it is modified or vacated by the Commission. The permittee may, within 30 days after receipt of notice of the order, commence a contested case under Chapter 150B of the General Statutes for reversal or modification of the Commission's order."

SECTION 5. G.S. 18B-1000 reads as rewritten:

"§ 18B-1000. Definitions concerning establishments.

The following requirements and definitions shall apply to this Chapter:

...

(4a) Private bar. – An establishment that is organized and operated as a for-profit entity and that is not open to the general public but is open only to the members of the organization and their bona fide guests for the purpose of allowing its members and their guests to socialize and engage in recreation.

(5) Private club. – An establishment that is organized and operated solely for a social, recreational, patriotic, or fraternal purpose and that is not open to the general public, but is open only to the members of the organization and their bona fide guests. This provision does not, however, prohibit such an establishment from being open to the general public for raffles and bingo games as required by G.S. 14-309.11(a) and G.S. 14-309.13. Except for bona fide religious organizations, no organization that discriminates in the selection of its membership on the basis of religion shall be eligible to receive any permit issued under this Chapter qualifies under Section 501(c) of the Internal Revenue Code of 1954, as amended, 26 U.S.C. § 501(c), and that has been in operation for a minimum of 12 months prior to application for an ABC permit.

...."

SECTION 6. 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) On-Premises Malt Beverage Permit. – An on-premises malt beverage permit authorizes (i) the retail sale of malt beverages for consumption on the premises, (ii) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of malt beverages in a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and

the date the container was filled or refilled. It also authorizes the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:

...

k. Private bars.

...

- (3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine permit authorizes (i) the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, (ii) the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another on-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The holder of the permit is authorized to ship unfortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

...

l. Private bars.

...

- (5) On-Premises Fortified Wine Permit. – An on-premises fortified wine permit authorizes the retail sale of fortified wine for consumption on the premises, either alone or mixed with other beverages, and the retail sale of fortified wine in the manufacturer's original container for consumption off the premises. The permit also authorizes the permittee to transfer fortified wine, not more than four times per calendar year, to another on-premises fortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises fortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and

transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The holder of the permit is authorized to ship fortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

...

g. Private bars.

...

- (7) Brown-Bagging Permit. – A brown-bagging permit authorizes each individual patron of an establishment, with the permission of the permittee, to bring up to eight liters of fortified wine or spirituous liquor, or eight liters of the two combined, onto the premises and to consume those alcoholic beverages on the premises. The permit may be issued for any of the following:

...

f. Private bars.

- (8) Special Occasion Permit. – A special occasion permit authorizes the host of a reception, party or other special occasion, with the permission of the permittee, to bring fortified wine and spirituous liquor onto the premises of the business and to serve the same to his guests. The permit may be issued for any of the following:

...

f. Private bars.

...

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

...

i. Private bars.

...."

SECTION 7. G.S. 130A-247 is amended by adding a new subdivision to read:

"(1b) "Private bar" is as defined in G.S. 18B-1000(4a)."

SECTION 8. G.S. 130A-248(a) reads as rewritten:

"(a) For the protection of the public health, the Commission shall adopt rules governing the sanitation of establishments that prepare or serve drink or food for pay and establishments that prepare and sell meat food products or poultry products. However, any establishment that prepares or serves food or drink to the public, regardless of pay, shall be subject to the provisions of this Article if the establishment that prepares or serves food or drink holds an ABC permit, as defined in G.S. 18B-101, meets any of the definitions in G.S. 18B-1000, and does not meet the definition of a private bar as provided in G.S. 130A-247(1b) or a private club as provided in G.S. 130A-247(2)."

1 **SECTION 9.** G.S. 130A-250 is amended by adding a new subdivision to read:

2 "(4a) Private bars."

3 **SECTION 10.** Section 1 of this act becomes effective October 1, 2019. Sections 2,
4 5, and 6 of this act are effective when they become law and apply to new permits issued on or
5 after that date. Permits issued to private clubs as defined in G.S. 18B-1000(5) prior to the
6 effective date of this act shall be grandfathered and may remain in effect and eligible for renewal
7 as a private bar under G.S. 18B-1005(4a) or a private club under G.S. 18B-1005(5), as applicable,
8 notwithstanding Section 5 of this act. The remainder of this act is effective when it becomes law.



HOUSE BILL 91: ABC Laws Modernization/PED Study.

2019-2020 General Assembly

Committee:	House Alcoholic Beverage Control. If favorable, re-refer to Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	March 19, 2019
Introduced by:	Reps. McGrady, Boles, Horn, Willingham	Prepared by:	Susan Sitze
Analysis of:	First Edition		Staff Attorney

OVERVIEW: *House Bill 91 would enact recommendations of the Joint Legislative Program Evaluation Oversight Committee which would make the following changes to the Alcoholic Beverage Control (ABC) laws:*

- *Require the merger of ABC systems located in a county with two or more ABC systems.*
- *Repeal the purchase-transportation permit requirement for spirituous liquor.*
- *Require the ABC Commission to submit a quarterly report on its process for obtaining a contract for State warehouse services.*
- *Allow the purchase of individual bottles when placing a special order of spirituous liquor.*
- *Allow local ABC Boards to charge a delivery fee when delivering spirituous liquor to mixed beverage permittees.*
- *Allow local governments the option of operating ABC stores on Sundays.*
- *Allow spirituous liquor tastings at ABC stores.*

[As introduced, this bill was identical to S87, as introduced by Sens. Waddell, Wells, which is currently in Senate Rules and Operations of the Senate.]

BILL ANALYSIS:

Part I of the bill would require counties with two or more ABC systems to merge into one ABC system by June 30, 2021. Any new ABC system established by election in a county where an ABC board is already in existence would be required to merge its board with the existing ABC board.

Part II of the bill would repeal the purchase-transportation permit requirement for fortified wine and spirituous liquor and would allow any amount to be purchased and transported. **Under current law, G.S. 18B-303** prohibits the purchase or transportation of more than 8 liters of fortified wine or spirituous liquor, or 8 liters of the two combined without a purchase-transportation permit. With a purchase-transportation permit issued under **G.S. 18B-403**, a person can purchase and transport up to 40 liters of fortified wine or spirituous liquor, or 40 liters of the two combined and a mixed beverage permittee can purchase and transport the amount of fortified wine or spirituous liquor specified on the purchase-transportation permit. This part would become effective July 1, 2019, and apply to fortified wine and spirituous liquor purchased on or after that date.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

House Bill 91

Page 2

Part III of the bill would require the ABC Commission to make quarterly reports, beginning October 1, 2019, to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety detailing the progress made in bidding and selecting an independent contractor for the receipt, storage, and distribution of spirituous liquor at and from the State warehouse.

Part IV of the bill would authorize ABC stores to allow the purchase of individual bottles of spirituous liquor purchased through the special order process, and to sell in store any bottles received in excess of what was purchased by the requesting customer. The Commission may establish and charge a fee to a customer for special orders. This part would become effective July 1, 2019, and apply to special orders placed on or after that date.

Part V of the bill would allow local ABC boards to charge a delivery fee sufficient to cover actual costs if it provides delivery of spirituous liquor to mixed beverage permittees. This part would become effective July 1, 2019, and apply to deliveries made on or after that date.

Part VI of the bill would allow counties and cities to adopt an ordinance allowing ABC stores under their operation to be open and selling alcoholic beverages on Sundays. A county or city must consult with its county or city ABC board before adopting an ordinance. This part would become effective July 1, 2019.

Part VII of the bill would authorize spirituous liquor tastings to be held in ABC stores. This part would become effective July 1, 2019.

Part VIII of the bill would require the ABC Commission to amend its rules consistent with the provisions of this bill.

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

BACKGROUND:

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

1

HOUSE BILL 91*

Short Title: ABC Laws Modernization/PED Study. (Public)

Sponsors: Representatives McGrady, Boles, Horn, and Willingham (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, if favorable, Rules, Calendar,
and Operations of the House

February 19, 2019

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE MERGER OF ABC SYSTEMS LOCATED IN A COUNTY WITH TWO OR MORE ABC SYSTEMS; TO REPEAL THE PURCHASE-TRANSPORTATION PERMIT REQUIREMENT FOR SPIRITUOUS LIQUOR; TO REQUIRE THE ABC COMMISSION TO SUBMIT A QUARTERLY REPORT ON ITS PROCESS FOR OBTAINING A CONTRACT FOR STATE WAREHOUSE SERVICES; TO ALLOW THE PURCHASE OF INDIVIDUAL BOTTLES WHEN PLACING A SPECIAL ORDER OF SPIRITUOUS LIQUOR; TO ALLOW LOCAL ABC BOARDS TO CHARGE A DELIVERY FEE WHEN DELIVERING SPIRITUOUS LIQUOR TO MIXED BEVERAGES PERMITTEES; TO ALLOW LOCAL GOVERNMENTS THE OPTION OF OPERATING ABC STORES ON SUNDAYS; AND TO ALLOW SPIRITUOUS LIQUOR TASTINGS AT ABC STORES, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

PART I. REQUIRE CONSOLIDATION IN COUNTIES WITH MULTIPLE ABC SYSTEMS

SECTION 1.(a) By June 30, 2021, to ensure that no county has multiple ABC systems, all ABC systems located in a county with two or more ABC systems shall merge in accordance with the requirements set forth in G.S. 18B-703. Notwithstanding the provisions of any local act, this section applies to all ABC systems. For purposes of this section, the term "ABC system" is as defined in G.S. 18B-101.

SECTION 1.(b) G.S. 18B-700 is amended by adding a new subsection to read:

"(c1) Limit on Number of Boards. – Notwithstanding any provision of law to the contrary, there shall be no more than one local ABC board in each county. If a jurisdiction holds an ABC store election under G.S. 18B-602(g), the establishment of ABC stores is approved, and the jurisdiction that held the election is located in a county where an ABC board is already in operation, the jurisdiction that held the election shall merge its local ABC board with the existing ABC board in accordance with G.S. 18B-703. Nothing in this subsection shall be construed as prohibiting a local ABC board from serving multiple cities, counties, or cities and counties."

SECTION 1.(c) G.S. 18B-703(e) reads as rewritten:

"(e) Dissolution. – With the approval of the Commission, and subject to the limitation set forth in G.S. 18B-700(c1), the cities or counties that have merged their ABC systems may



1 dissolve the merged operation at any time and resume their prior separate ~~operations.~~
2 ~~or merge with a different ABC system in accordance with the requirements of this section."~~

3 **SECTION 1.(d)** Subsections (b) and (c) of this section become effective June 30,
4 2021. The remainder of this section is effective when it becomes law.

5
6 **PART II. REPEAL PURCHASE-TRANSPORTATION PERMIT REQUIREMENT FOR**
7 **SPIRITUOUS LIQUOR**

8 **SECTION 2.(a)** G.S. 18B-303 reads as rewritten:

9 **"§ 18B-303. Amounts of alcoholic beverages that may be purchased.**

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

11 ...

12 (4) ~~Not more than eight liters of either fortified~~ Fortified ~~wine or and spirituous~~
13 ~~liquor, or eight liters of the two combined.~~ liquor in any amount.

14 ...

15 (c) Greater Amounts. – Amounts of alcoholic beverages greater than those listed in
16 ~~subdivisions subdivision (a)(3) and (a)(4)~~ may be purchased with a purchase-transportation
17 permit under G.S. 18B-403."

18 **SECTION 2.(b)** G.S. 18B-403 reads as rewritten:

19 **"§ 18B-403. Purchase-transportation permit.**

20 (a) Amounts. – With a purchase-transportation permit, a person may purchase and
21 transport an amount of alcoholic beverages greater than the amount specified in G.S. 18B-303(a).
22 A permit authorizes the holder to transport from the place of purchase to the destination within
23 North Carolina indicated on the permit at one time the following amount of alcoholic beverages:

24 (1) A maximum of 100 liters of unfortified ~~wine;~~ wine.

25 (2) ~~A maximum of 40 liters of either fortified wine or spirituous liquor, or 40~~
26 ~~liters of the two combined; or~~

27 (3) ~~The amount of fortified wine or spirituous liquors specified on the~~
28 ~~purchase-transportation permit for a mixed beverage permittee.~~

29 ...

30 (e) Restrictions on Permit. – A purchase may be made only from the store named on the
31 permit. One copy of the permit shall be kept by the issuing person, one by the purchaser, and one
32 by the store from which the purchase is made. The purchaser shall display his copy of the permit
33 to any law-enforcement officer upon request. ~~A permit for the purchase and transportation of~~
34 ~~spirituous liquor may be issued only by an authorized agent of the local board for the jurisdiction~~
35 ~~in which the purchase will be made.~~

36 ...

37 (g) Special Occasion Purchase-Transportation Permit. – When a person holds a special
38 occasion for which a permit under G.S. 18B-1001(8) or (9) is required, the
39 purchase-transportation permit issued to him may provide for the storage at and transportation to
40 and from the site of the special occasion of unfortified ~~wine, fortified wine, and spirituous liquor~~
41 wine for a period of no more than 48 hours before and after the special occasion. The
42 purchase-transportation permit authorizes that person to transport only the amounts of those
43 alcoholic beverages authorized by subsection (a). The Commission may adopt rules to govern
44 issuance of these extended purchase-transportation permits."

45 **SECTION 2.(c)** This section becomes effective July 1, 2019, and applies to fortified
46 wine and spirituous liquor purchased on or after that date.

47
48 **PART III. ABC COMMISSION/QUARTERLY REPORT ON PROCESS FOR**
49 **OBTAINING A CONTRACT FOR STATE WAREHOUSE SERVICES**

50 **SECTION 3.(a)** Beginning October 15, 2019, and quarterly thereafter, the ABC
51 Commission shall submit a written report to the chairs of the Joint Legislative Oversight

Committee on Justice and Public Safety detailing the progress made in bidding and selecting an independent contractor for the receipt, storage, and distribution of spirituous liquor at and from the State warehouse in accordance with G.S. 18B-204(a)(3). The report required under this section shall include all of the following:

- (1) The schedule for developing and issuing the Request for Proposal (RFP), including detailed explanations as to how the Commission is meeting the milestones identified on the schedule.
- (2) An identification of State agencies, departments, and other entities providing the Commission with technical assistance on RFP development and contract negotiations, including a detailed description of the assistance that is being provided.
- (3) A description of the Commission's consultation with local ABC boards, as that term is defined in G.S. 18B-101, to ensure the boards' concerns and expectations are addressed during the RFP development and contract negotiations.
- (4) A copy of the RFP when it is released for bid.
- (5) A copy of the final contract entered into pursuant to G.S. 18B-204(a)(3).
- (6) An implementation schedule for transitioning from the existing contract for services described in G.S. 18B-204(a)(3) to the new contract.

SECTION 3.(b) The reporting requirement set forth in subsection (a) of this section expires upon the earlier of the date of the award of the contract for services described in G.S. 18B-204(a)(3) or January 1, 2022.

PART IV. ABC SPECIAL ORDERS/ALLOW PURCHASE OF INDIVIDUAL BOTTLES

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

"§ 18B-800. Sale of alcoholic beverages in ABC stores.

...

(c) Commission Approval. – ~~No~~Except as otherwise provided in subsection (c1) of this section, no ABC store may sell any alcoholic beverage which has not been approved by the Commission for sale in this State.

(c1) Special Orders; Fee. – Through the process established by rule of the Commission for special orders of spirituous liquor that is not on the list approved by the Commission, ABC stores shall allow the purchase of individual bottles of spirituous liquor through that process. ABC stores may sell in store any bottles it receives in excess of what was purchased by the requesting customer. The Commission may establish and charge a fee to a customer placing a special order in an amount sufficient to cover the actual costs incurred by ABC stores in processing the special order.

...."

SECTION 4.(b) This section becomes effective July 1, 2019, and applies to special orders placed on or after that date.

PART V. LOCAL ABC BOARDS/ALLOW DELIVERY FEE

SECTION 5.(a) G.S. 18B-701(a) reads as rewritten:

"(a) Powers. – A local board shall have authority ~~to~~to do all of the following:

- (1) Buy, sell, transport, and possess alcoholic beverages as necessary for the operation of its ABC ~~stores;~~stores. If a local board provides delivery of spirituous liquor to a mixed beverages permittee, the local board may charge a fee to the permittee sufficient to cover the actual costs incurred by the local board in making the delivery.
- (2) Adopt rules for its ABC system, subject to the approval of the ~~Commission;~~Commission.

- (3) Hire and fire employees for the ABC ~~system;system.~~
- (4) Designate one employee as manager of the ABC system and determine his ~~responsibilities;responsibilities.~~
- (5) Require bonds of employees as provided in the rules of the ~~Commission;Commission.~~
- (6) Operate ABC stores as provided in Article 8;~~8.~~
- (7) Issue purchase-transportation permits as provided in Article 4;~~4.~~
- (8) Employ local ABC officers or make other provision for enforcement of ABC laws as provided in Article 5;~~5.~~
- (9) Borrow money as provided in ~~G.S. 18B-702;G.S. 18B-702.~~
- (10) Buy and lease real and personal property, and receive property devised or given, as necessary for the operation of the ABC ~~system;system.~~
- (11) Invest surplus funds as provided in ~~G.S. 18B-702;G.S. 18B-702.~~
- (12) Dispose of property in the same manner as a city council may under Article 12 of Chapter 160A of the General ~~Statutes; andStatutes.~~
-"

SECTION 5.(b) This section becomes effective July 1, 2019, and applies to deliveries made on or after that date.

PART VI. ALLOW LOCAL GOVERNMENT OPTION/ABC STORE SALES ON SUNDAY

SECTION 6.(a) G.S. 18B-802(b) reads as rewritten:

"(b) Days. – No ABC store shall be open, and no ABC store employee shall sell alcoholic beverages, ~~on any Sunday, New Year's Day, Fourth of July, Labor Day, Thanksgiving Day, or Christmas Day. Except as otherwise provided under G.S. 153A-145.8 or G.S. 160A-205.4, no~~ ABC store shall be open, and no ABC store employee shall sell alcoholic beverages, on any Sunday. A local board may otherwise determine the days on which its stores shall be closed."

SECTION 6.(b) Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-145.8. Allow ABC stores to operate on Sunday.

If a county operates at least one ABC store, the county may adopt an ordinance allowing ABC stores under the operation of the county to be open and selling alcoholic beverages on Sundays. A county must consult with its county ABC board prior to adopting an ordinance under this section."

SECTION 6.(c) Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-205.4. Allow ABC stores to operate on Sunday.

If a city operates at least one ABC store, the city may adopt an ordinance allowing ABC stores under the operation of the city to be open and selling alcoholic beverages on Sundays. A city must consult with its city ABC board prior to adopting an ordinance under this section."

SECTION 6.(d) This section becomes effective July 1, 2019.

PART VII. ABC STORES/ALLOW IN-STORE SPIRITUOUS LIQUOR TASTINGS

SECTION 7.(a) G.S. 18B-1114.7(a) reads as rewritten:

"(a) Authorization. – The holder of a supplier representative permit, brokerage representative permit, or distillery permit issued under G.S. 18B-1105 may obtain a spirituous liquor special event permit allowing the permittee to give free tastings of its spirituous liquors at ABC stores where the local ABC board has approved the tasting, trade shows, conventions, shopping malls, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission."

SECTION 7.(b) G.S. 18B-301(f)(1) reads as rewritten:

- 1 "(1) Any person to consume fortified wine, spirituous liquor, or mixed beverages
2 or to offer such beverages to another person at any of the following places:
3 a. ~~On~~ Unless a consumer tasting authorized by G.S. 18B-1114.7 is being
4 conducted, on the premises of an ABC store.
5 b. Upon any property used or occupied by a local board.
6 c. On any public road, street, highway, or sidewalk, unless a consumer
7 tasting authorized by G.S. 18B-1114.7 is being conducted."

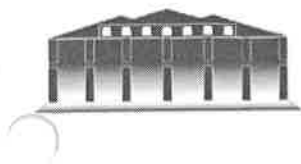
8 **SECTION 7.(c)** This section becomes effective July 1, 2019.
9

10 **PART VIII. RULES**

11 **SECTION 8.** The Alcoholic Beverage Control Commission shall amend its rules
12 consistent with the provisions of this act.
13

14 **PART IX. EFFECTIVE DATE**

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



House Alcohol Beverage Control Committee
March 19, 2019

Changing How North Carolina Controls Liquor Sales Has Operational, Regulatory, and Financial Ramifications

A presentation to the House Alcohol Beverage Control Committee

March 19, 2019

Carol Shaw, Principal Program Evaluator

Program Evaluation Division



North Carolina General Assembly

Background



Program Evaluation Division



North Carolina General Assembly

2



17 States Control Liquor Distribution and Sales

Retail Control States

Government operates retail liquor stores

Agency Store States

Government contracts with agency stores to sell liquor

All Control States

Government controls wholesale distribution, determines brands and pricing of liquor sold, and maintains a warehouse

Combination States

Government operates some retail liquor stores and contracts with or licenses private stores

Wholesale States

Government licenses private retail businesses to sell liquor

North Carolina is a retail control state, but is unique in that local government operates retail liquor stores



Licensure States Do Not Directly Participate in Liquor Sales

- Private businesses regulated by state government conduct wholesale and retail liquor sales
- These states do regulate various aspects of the liquor industry including
 - Where liquor is sold
 - Days and hours of operation
 - License quotas and fees
 - Limitations on store location
 - Local option

Southeastern States

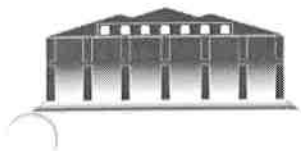
Control States

Alabama
Mississippi
North Carolina
Virginia
West Virginia

Licensure States

Arkansas
Florida
Georgia
Kentucky
Louisiana
South Carolina
Tennessee





Implementation of PED's 2008 Recommendations Has Improved Profitability and Efficiency of Most Local ABC Boards

Providing the ABC Commission with management
tools for better oversight through performance
standards has increased

- Overall profit percentage for the ABC system from 8.5% to 11.2%
- Percentage of ABC boards with profit margins of 5% or more from 44% to 72%
- Percentage of ABC boards with operating margins that match or exceed private liquor retailers from 31% to 62%

Report p. 8



Findings





Finding 1

Among southeastern states, North Carolina collects the most public revenue per gallon of liquor sold, has the lowest liquor outlet density, and has the second lowest adult per capita liquor consumption

Report p. 11

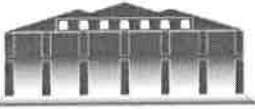


Finding 2

Regulatory and operational modifications would be necessary if North Carolina decided to change how it controls liquor sales

Report p. 15





How Would the Government's Role in Controlling Liquor Sales Change?

Two
choices



Assumes local option continues



Dissolving Local ABC Boards and Closing ABC Stores

- Board Employees (2,870 full-time and part-time)
 - Employment terminated
 - Pension and post-employment benefit obligations
- Local ABC Boards
 - Capital and cash reserves accrue to the local appointing authority
 - Outstanding debts must be resolved before ceasing operations
 - Liquor stock disposition





Regulatory Requirements for Private Retail Businesses to Sell Liquor

- What types of stores?
 - Potential retail venues include package liquor stores, drug stores, grocery stores, and gas stations
 - Most southeastern licensure states authorize package stores to sell liquor
- How many stores?
 - Some southeastern state control the number of stores licensed to sell liquor
 - Population ratios, fixed number, moratoriums

Report pp. 19-22



Regulatory Requirements for Private Retail Businesses to Sell Liquor

- Where would stores be located?
 - Role of ABC Commission and local government in regulating location of liquor stores
- When would stores be open?
 - Most southeastern states limit operating hours for liquor sales
 - Some states allow local governments to determine operating hours including Sunday sales

Report pp. 22-23





ABC Commission Operations

- ABC Commission may need additional permitting resources to issue permits to private wholesale and retail businesses
- ABC warehouse operations would be affected under both options
 - Warehouse disposition would be necessary if state ends control of wholesale liquor sales
 - Warehouse contract may need changes to accommodate increased sales
- Transition planning is important to ensure citizen access and maintain government revenues

Report pp. 23-24



Public Opinion Favors Closing Government-Operated ABC Stores

Response Options	Elon University Poll (n=379)	High Point University Poll (n=827)
Support closing ABC	52%	47%
Oppose closing ABC	32%	34%
Don't know/Refused	16%	N/A
Don't know	N/A	19%

Report p. 25





Public Opinion Favors Issuing Permits to Sell Liquor to Any Store that Sells Beer and Wine

Response Options	Elon University Poll (n=379)	High Point University Poll (n=827)
Any store that sells beer or wine should receive permit to sell liquor	56%	49%
Stores that only sell liquor should receive a permit to sell liquor	31%	32%
Something else	4%	6.5%
Don't know/Refused	9%	12.5%

Report p. 26



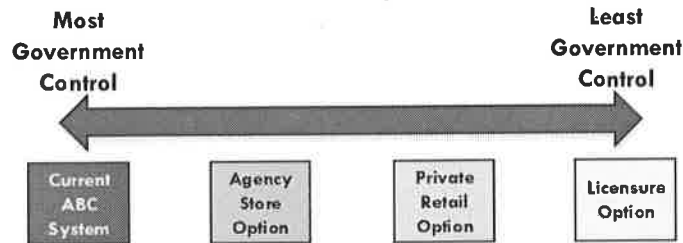
Finding 3

Changing North Carolina's system for regulating liquor sales would also have financial implications for state and local government revenue

Report p. 26



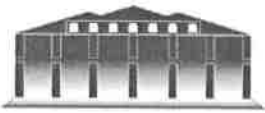
Three Options for Reducing Direct Government Control of Liquor Sales



- **Agency Store** - ABC Commission controls wholesale distribution and would contract with agency stores to sell liquor
- **Private Retail** - ABC Commission controls wholesale distribution and would license private retail business to sell liquor
- **Licensure** - ABC Commission would end direct involvement with selling liquor and would license private wholesalers and retailers

Financial Ramifications of Changing NC's System for Regulating Liquor Sales

- **ABC Commission and warehouse funding**
 - Replacement funding for Commission would be needed under the licensure option
- **State and local government revenue**
 - Revenue can be sustained with adjustments to the markup formula or by increasing excise taxes
- **Liquor consumers**
 - Access to liquor stores would increase with more stores
 - Liquor consumption would also increase with more stores
- **Mixed beverage permittees**
 - Choose where to purchase liquor



Financial Ramifications of Changing NC's System for Regulating Liquor Sales

- Liquor suppliers
 - Continue to ship product to ABC warehouse under agency store and private retail options
 - Ship product to private wholesalers under licensure option
- Liquor Pricing

Liquor Pricing Estimates	Agency Store Option	Private Retail Option	Licensure Option
Retail	Decreases by 14.8%	Decreases by 1.3%	Increases by 15.7%
Mixed Beverage	Decreases by 12.8%	Decreases by 1.1%	Increases by 13.5%

Appendices A - C

Program Evaluation Division



North Carolina General Assembly

Report pp. 32-33

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Finding 4

Opportunities exist to further modernize North Carolina's alcohol beverage control system

Report p. 34

Program Evaluation Division



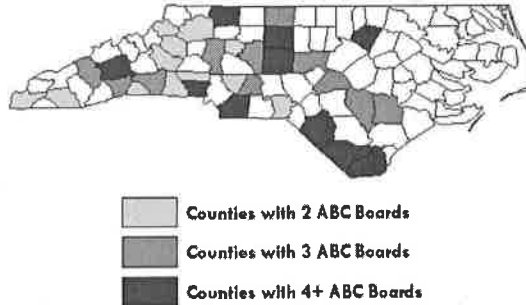
North Carolina General Assembly

20

Streamlining Local ABC Operations Could Improve the Efficiency of the ABC System In NC

Single-county ABC boards have more profitable and efficient operations than counties with multiple boards

- 170 boards serve 98 counties
- 33 counties have 2 or more boards



Report pp. 35-37



Streamlining Local ABC Operations Could Improve the Efficiency of the ABC System In NC

- Board mergers reduce operating costs and increase profitability, but ABC Commission cannot mandate board consolidation or mergers to improve the system
- Purchase-transportation permits for liquor are antiquated and create unnecessary hassles for customers and ABC boards
- Opportunities exist to improve ABC warehouse operations

Report pp. 37-41





House Alcohol Beverage Control Committee
March 19, 2019

Improving Customer Services at ABC Stores

- Special order process – Customers must order a case of unlisted liquor; they do not have option to buy a single bottle
- Mixed beverage permittees – Wish to have liquor deliveries, but local ABC boards cannot charge fees
- Opening ABC stores on Sundays – 42 states allow Sunday liquor sales including 20 states delegating authority to local governments
- Liquor tastings in ABC stores – Liquor consumption is prohibited in ABC stores so boards cannot offer liquor tastings for customers

Report pp. 41-44

Program Evaluation Division



North Carolina General Assembly

23

Recommendations



Program Evaluation Division



North Carolina General Assembly

24

Recommendation

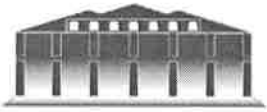
If the General Assembly wishes to change North Carolina's system for regulating liquor, it should appoint a joint legislative commission to determine how state and local government roles in regulating liquor would change



Recommendation 1

Direct local ABC boards located in counties with two or more boards to consolidate ABC operations and establish a merged ABC board





Recommendation 1

- **Modify existing state law**
 - to mandate mergers in counties with two or more local ABC boards that are not participating in a merged board
 - to require cities and counties that wish to dissolve their merged ABC operations to join a different merged ABC board rather than resume separate operations
- **Mandate that all mergers be completed no later than June 30, 2021**

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Recommendation 2

Eliminate the purchase-transportation permit requirement for liquor in N.C. Gen. Stat. §§ 18B-303 and 18B-403

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Recommendation 3

Direct the ABC Commission to report on the process for obtaining a new contract for receipt, storage, and distribution of liquor by an independent contractor

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Recommendation 3

- Quarterly report should include
 - Schedules for developing and issuing the RFP and transitioning to the new contract
 - Identification of state agencies and other entities providing technical assistance
 - Description of ABC Commission consultation with local ABC boards
 - Copies of RFP and final ABC warehouse contract
- First report submitted by October 15, 2019

Report p. 46





Recommendation 4

Direct the ABC Commission to allow ABC stores the flexibility to provide less than a full case of product to a special order customer and sell the remaining product in the ABC store

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Recommendation 5

Modify existing state law to permit local ABC boards to charge mixed beverage permittees a delivery fee

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Recommendation 6

Consider enacting state law to allow local governments the option to open ABC stores on Sundays

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Recommendation 7

Enact state law to allow in-store liquor product tastings in ABC stores in accordance with the permit requirements in N.C. Gen. Stat. § 18B-1114.7

Report p. 48





House Alcohol Beverage Control Committee
March 19, 2019

Report available online at
www.ncleg.net/PED/Reports/reports.html



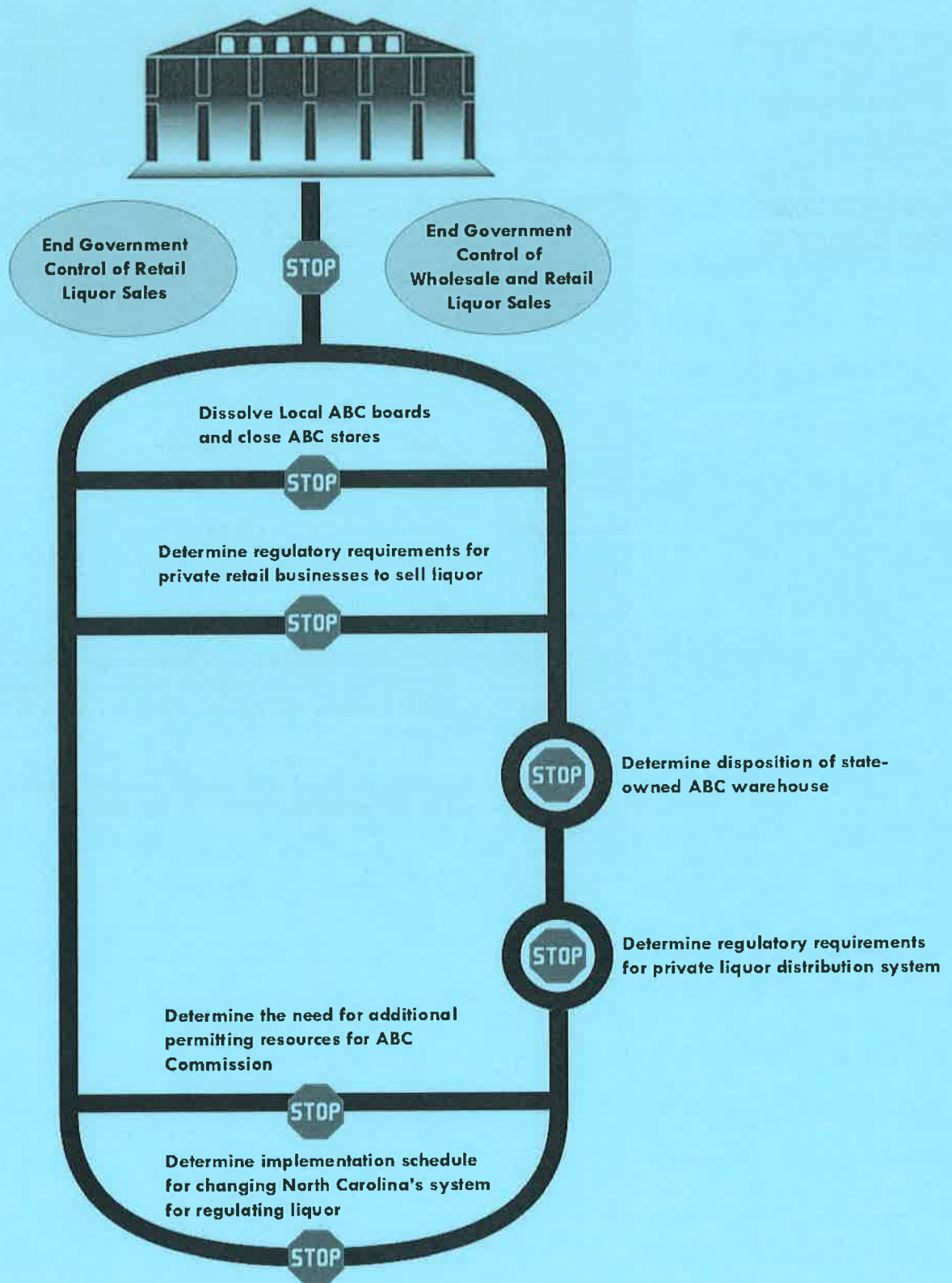
Program Evaluation Division



North Carolina General Assembly

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Exhibit 7: Decision Road Map for Changing the Government Role for Controlling Liquor Sales



Source: Program Evaluation Division.

Exhibit 6

Among Southeastern States, North Carolina Collected the Most Public Revenue per Wine Gallon from Liquor Sales During 2015

Southeastern States	Liquor Sales Outlets 2016-17		Public Revenue From Liquor Sales 2015		Adult Per Capita Liquor Consumption (Wine Gallons) 2015
	Total Outlets	Outlets Per 10,000 Adults	Total Revenue	Revenue per Wine Gallon	
North Carolina	428	.58	455,829,000	36.79	1.72
Virginia	360	.59	381,155,000	35.45	1.77
Alabama	762	2.15	203,730,000	32.98	1.75
Mississippi	763	3.50	92,047,000	20.49	2.12
West Virginia	176	1.32	32,424,000	18.19	1.27
Kentucky	1,271	3.92	113,192,000	16.77	2.08
Florida	2,135	1.42	651,908,000	15.83	2.73
Tennessee	552	1.14	153,005,000	15.69	2.09
Georgia	1301	1.73	191,379,000	13.91	1.89
South Carolina	986	1.72	106,567,000	13.70	2.17
Arkansas	445	2.04	56,825,000	12.98	2.03
Louisiana	5,356	15.67	83,474,000	9.18	2.69

Notes: Control states are shaded light gray. A wine gallon is equivalent to a standard United States bulk or liquid gallon. An adult is defined as a person of legal drinking age (21 or older), and the adult population is estimated as of July 1, 2015 by the United States Bureau of the Census.

Source: Program Evaluation Division based on information from the National Alcohol Beverage Control Association and the Distilled Spirits Council of the United States

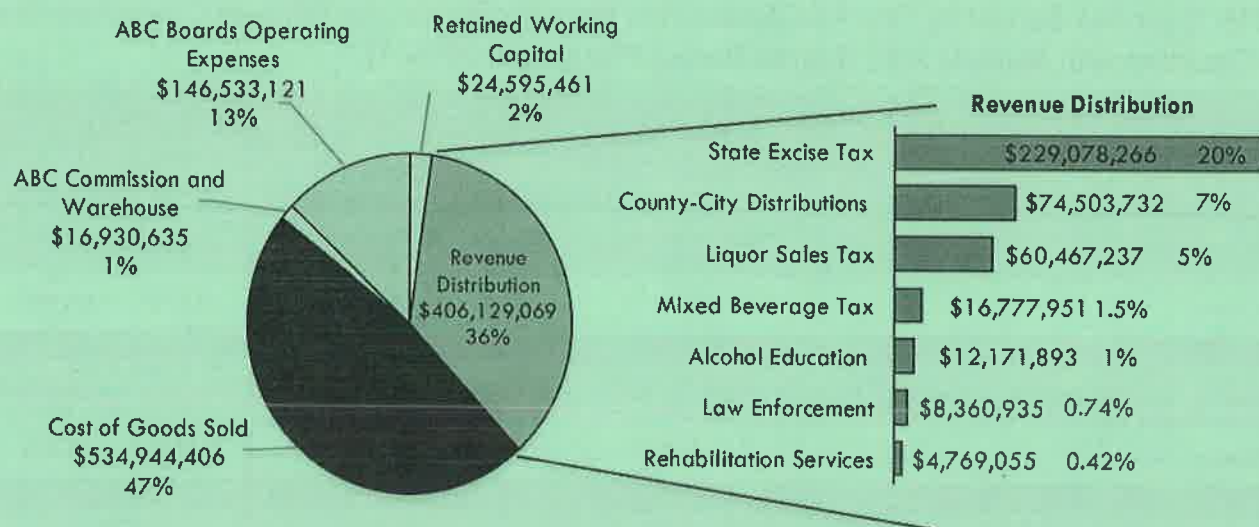
Exhibit 19: Counties Served by One ABC Board Had More Profitable and Efficient Operations than Similar Counties with Multiple ABC Boards During Fiscal Year 2016–17

County	Number of ABC Boards	Number of ABC Board Members	Total Annual ABC Board Compensation	Number of ABC Stores	County Outlet Density Per 10,000 Adults	County Profit %	County Operating Margin %
Brunswick County	9	29	\$38,160	11	1.13	7.9%	16.5%
Carteret County	1	5	\$ 0	6	1.15	12.6%	12.9%
Robeson County	7	25	\$24,512	8	.82	2.6%	19.6%
Wayne County	1	5	\$ 3,600	5	.54	8.1%	16.6%
Columbus County	5	15	\$11,800	5	1.19	5.6%	18.7%
Hoke County	1	3	\$ 3,600	2	.51	12.1%	12.1%

Notes: Brunswick County was compared to Carteret County because both counties are rural, located on the coast, and have similar outlet densities. Columbus County was compared to Hoke County because both counties are rural, located in eastern North Carolina, and have similar populations. Robeson County was compared to Wayne County because both counties are rural, located in eastern North Carolina, and have similar populations. The Carteret County ABC Board does not compensate its board members.

Source: Program Evaluation Division based on information from the ABC Commission.

Exhibit 12: Distribution of \$1.1 Billion Revenue from the ABC System for Fiscal Year 2016-17



Source: Program Evaluation Division based on data from the North Carolina ABC Commission.



Opinion

Letter: Keep the state ABC system

Posted Mar 10, 2019 at 4:00 PM

I am writing in response to the opinion about modernizing ABC stores. North Carolina does not own or sell retail liquor; local ABC boards do and are regulated by the NC ABC Commission. The cities or boards of county commissioners appoint their own ABC board and own and run the ABC stores.

In any system, distillers determine the volume of products available for sale. North Carolina's nonpartisan Program Evaluation Division conducted two surveys whether the state should close ABC stores and instead allow private businesses to sell liquor, with only 52 percent and 47 percent in support, but they weren't told that retail prices would increase by 15.7 percent.

The writers advocate for a licensure system; about 9,000 outlets sell beer and wine in this state from 7 a.m. to 2 a.m. If you visit ABC stores, consider whether the type and number of current products would even fit in a grocery, pharmacy or convenience store. Also, they want to sell liquor on Sundays. If people need to buy liquor seven days a week instead of six, they have a problem.

**Gary H. Pendleton, retired Army Brigadier General, former chairman,
Wake ABC Board**

**Changing How North Carolina Controls Liquor
Sales Has Operational, Regulatory,
and Financial Ramifications**



**Final Report to the Joint Legislative
Program Evaluation Oversight Committee**

Report Number 2019-03

February 11, 2019





NORTH CAROLINA GENERAL ASSEMBLY
Legislative Services Office

Paul Coble, Legislative Services Officer

Program Evaluation Division
300 N. Salisbury Street, Suite 100
Raleigh, NC 27603-5925
Tel. 919-301-1404 Fax 919-301-1406

John W. Turcotte
Director

February 11, 2019

Senator Brent Jackson, Co-Chair, Joint Legislative Program Evaluation Oversight Committee
Representative Craig Horn, Co-Chair, Joint Legislative Program Evaluation Oversight Committee

North Carolina General Assembly
Legislative Building
16 West Jones Street
Raleigh, NC 27601

Honorable Co-Chairs:

The 2018 Work Plan of the Joint Legislative Program Evaluation Oversight Committee directed the Program Evaluation Division to examine whether North Carolina's alcohol beverage control (ABC) system needs further modernization and whether other systems are appropriate for North Carolina.

I am pleased to report that the ABC Commission cooperated with us fully and was at all times courteous to our evaluators during the evaluation.

Sincerely,

A handwritten signature in black ink, appearing to read "J. W. Turcotte".

John W. Turcotte
Director

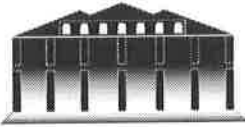
Mandatory Evaluation Components

Report 2019-03: Changing How North Carolina Controls Liquor Sales Has Operational, Regulatory, and Financial Ramifications

N.C. Gen. § 120-36.14 requires the Program Evaluation Division to include certain components in each of its evaluation reports, unless exempted by the Joint Legislative Program Evaluation Oversight Committee. The table below fulfills this requirement and, when applicable, provides a reference to the page number(s) where the component is discussed in the report.

N.C. Gen. § 120-36.14 Specific Provision	Component	Program Evaluation Division Determination	Report Page
(b)(1)	Findings concerning the merits of the program or activity based on whether the program or activity		
(b)(1)(a)	Is efficient	<p>The Program Evaluation Division found that providing the North Carolina ABC Commission with management tools for better oversight of local ABC boards has increased profitability and efficiency of operations for most boards. Since the ABC Commission initiated performance standards in 2011, local ABC board compliance with the standards has increased</p> <ul style="list-style-type: none"> the overall profit percentage of the ABC system from 8.5% to 11.2%, the percentage of boards with profit margins of 5% or greater from 44% to 72%, and the percentage of local ABC boards with operating margins that match or exceed private liquor retailers from 31% to 62%. 	8
(b)(1)(b)	Is effective	The Program Evaluation Division found that the ABC Commission and local ABC boards are effectively controlling the sale of liquor . Among southeastern states, North Carolina collects the most public revenue per gallon of liquor sold, has the lowest liquor outlet density, and has the second lowest adult per capita liquor consumption.	13–14
(b)(1)(c)	Aligns with entity mission	The ABC Commission's mission is to control the sale, purchase, transportation, manufacture, consumption, and possession of alcoholic beverages in North Carolina. In 2008, the Program Evaluation Division found that North Carolina did not clearly define the mission of local ABC boards. In 2010, the General Assembly responded to this finding by defining the mission of local ABC boards as controlling the sale of liquor and promoting customer-friendly, modern, and efficient stores.	5–6
(b)(1)(d)	Operates in accordance with law	The ABC Commission and local ABC boards operate in accordance with Chapter 18B of the North Carolina General Statutes.	5
(b)(1)(e)	Does not duplicate another program or activity	Under state law, the ABC Commission is the only entity to oversee the sale of liquor in North Carolina, and local ABC boards are the only entities that can operate ABC stores.	5–6
(b)(1a)	Quantitative indicators used to determine whether the program or activity		

(b)(1a)(a)	Is efficient	The Program Evaluation Division's efficiency determination is based on the profitability and operating efficiency of local ABC boards. Profitability is an important performance measure because higher profits allow boards to distribute more money to their communities. Controlling operating costs is a component of profitability because efficient boards are more likely to have higher profit margins.	8
(b)(1a)(b)	Is effective	<p>The Program Evaluation Division identified three performance indicators for measuring the effectiveness of state government liquor regulation and used them to determine effectiveness of North Carolina's ABC system for liquor:</p> <ul style="list-style-type: none"> • Public revenue per wine gallon. This indicator measures how state government maximizes revenue from liquor sales by measuring the amount of public revenue collected per wine gallon of liquor sold in a state. • Outlet density per 10,000 adults. This indicator measures how state government regulation affects access to liquor sales outlets. Low outlet density indicates state government operates or licenses fewer outlets. • Adult per capita liquor consumption. This indicator measures how much liquor is consumed in each state by dividing the total amount of liquor (in wine gallons) sold by the number of adults. Low adult per capita liquor consumption indicates less liquor is being sold. 	12-13
(b)(1b)	Cost of the program or activity broken out by activities performed	During Fiscal Year 2016-17, expenses for the ABC system included \$16.9 million for the ABC Commission and warehouse operations and \$171.1 million for local ABC boards' operating expenses and working capital.	27
(b)(2)	Recommendations for making the program or activity more efficient or effective	<p>Recommendations 1 through 7 provide opportunities to further modernize the current system for controlling liquor sales by</p> <ul style="list-style-type: none"> • directing local ABC boards located in counties with multiple boards to form merged ABC boards; • eliminating the purchase-transportation permit for liquor; • monitoring the selection of a new ABC warehouse contract; and • providing local ABC boards with more flexibility to charge delivery fees, serve special order customers, open ABC stores on Sundays, and offer in-store tastings of liquor products. 	44-48
(b)(2a)	Recommendations for eliminating any duplication	The Program Evaluation Division did not find evidence of duplication in wholesale and retail liquor sales by the ABC Commission and local ABC boards.	N/A
(b)(4)	Estimated costs or savings from implementing recommendations	None of the Program Evaluation Division's recommendations will require additional costs nor yield savings.	N/A



PROGRAM EVALUATION DIVISION NORTH CAROLINA GENERAL ASSEMBLY

February 2019

Report No. 2019-03

Changing How North Carolina Controls Liquor Sales Has Operational, Regulatory, and Financial Ramifications

Summary

The Joint Legislative Program Evaluation Oversight Committee's 2018 Work Plan directed the Program Evaluation Division to examine whether North Carolina's alcohol beverage control (ABC) system needs further modernization and whether other systems are appropriate for the State.

Changing how North Carolina regulates liquor sales would require major regulatory adjustments. North Carolina could end government control of retail liquor sales or end government control of both wholesale and retail liquor sales. Both options require decisions related to dissolving local ABC boards and closing ABC stores, determining regulatory requirements for private retail businesses to sell liquor, and developing an implementation schedule. Ending government control of wholesale liquor sales would additionally require establishing regulatory requirements for a private liquor warehouse and distribution system.

Changing North Carolina's regulatory system would also affect state and local revenue received from liquor sales. The Program Evaluation Division identified three options that each assumed local ABC boards would be abolished and local governments would no longer be responsible for operating local ABC stores. These options have important financial ramifications for the State and would affect the ABC Commission, state and local government revenue, and liquor suppliers and consumers.

In lieu of overhauling North Carolina's system for regulating liquor sales, the State could choose to further modernize the current system. Streamlining local ABC board operations could increase efficiency and profitability. Local ABC boards and other stakeholders identified several ideas for modernizing the current system.

If the General Assembly wishes to change North Carolina's system for regulating liquor, it should appoint a joint legislative commission to determine how state and local government roles in regulating liquor sales would change. If it wishes to modernize the current system, the General Assembly should

- direct local ABC boards located in counties with multiple boards to form merged ABC boards;
- eliminate the purchase-transportation permit for liquor;
- monitor the selection of a new ABC warehouse contract; and
- provide local ABC boards with more flexibility to charge delivery fees, serve special order customers, open ABC stores on Sundays, and offer in-store tastings of liquor products.

Purpose and Scope

The Joint Legislative Program Evaluation Oversight Committee's 2018 Work Plan directed the Program Evaluation Division to examine whether North Carolina's alcohol beverage control (ABC) system needs further modernization and whether other systems are appropriate for North Carolina. The Program Evaluation Division's 2008 report *North Carolina's Alcohol Beverage Control System Is Outdated and Needs Modernization* recommended that the General Assembly consider whether the current system of alcohol beverage control needed further modernization, and this report provides information to assist with such consideration.

Two research questions guided this evaluation:

1. What are the ramifications of changing how North Carolina controls the sale of liquor to a wholesale control model or to a licensure control model?
2. What options exist for improving North Carolina's current system for controlling the sale of liquor?

The Program Evaluation Division collected and analyzed data from several sources, including

- current and past North Carolina ABC laws and rules;
- fiscal and operational data for local ABC boards;
- interviews with
 - North Carolina ABC Commission members and staff,
 - management of the state ABC warehouse, and
 - staff and board members at 10 local ABC boards;
- queries from stakeholder organizations and associations, including
 - North Carolina Association of ABC Boards,
 - North Carolina Association of County Commissioners,
 - North Carolina League of Municipalities,
 - North Carolina Restaurant and Lodging Association,
 - NC Spirits Association,
 - Distillers Association of North Carolina,
 - North Carolina Beer and Wine Wholesalers Association,
 - North Carolina Retail Merchants Association, and
 - Christian Action League;
- data on other states and national systems and trends from
 - evaluations and studies of ABC systems conducted in other states,
 - the National Alcohol Beverage Control Association,
 - the Distilled Spirits Council of the United States, and
 - *Beverage Information Group Fact Book 2016: Beverage Alcohol State Facts and Regulation*;
- a survey of the 168 local ABC boards operating one or more stores;
- on-site inspections of 11 ABC stores operated by 10 local ABC boards; and
- two citizen surveys conducted by the Elon University Poll and High Point University Poll.

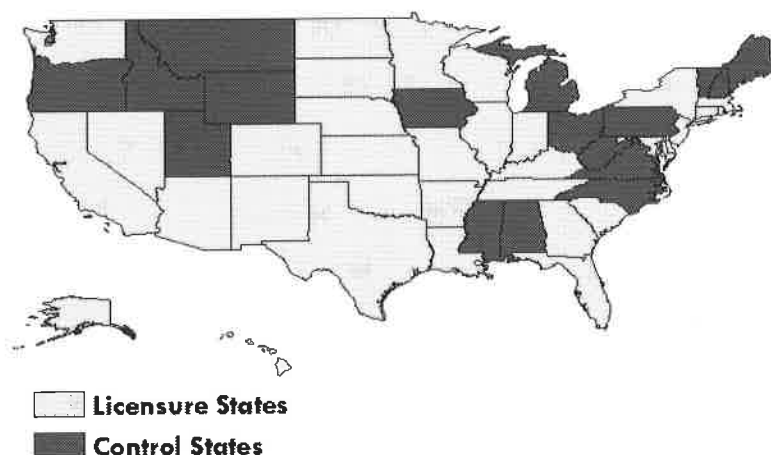
Background

Since Prohibition ended in 1933, state governments have been individually responsible for regulating the sale and distribution of alcoholic beverages. Systems of regulation vary among states.

State governments regulate alcohol through one of two models: control or licensure. Exhibit 1 illustrates the distribution of states according to these two models. Control states regulate through licensing and tax collection but also directly control distribution by providing alcoholic beverages directly to consumers at government-operated retail stores or as wholesalers through retail establishments. Licensure states regulate the distribution of alcoholic beverages by licensing suppliers, wholesalers, and retail businesses selling alcoholic beverages and by collecting taxes on these beverages; however, these states do not control distribution. Today, there are 33 licensure states and 17 control states, including North Carolina.¹

Exhibit 1

North Carolina Is 1 of 17
Control States



Source: Program Evaluation Division based on information from the National Alcohol Beverage Control Association.

Currently there are 17 states that maintain direct control over the distribution and sale of liquor. North Carolina is considered a control state because it directly controls the distribution of liquor at the retail and wholesale level. Control states license and regulate all individuals in the alcoholic beverage industry that conduct business, including manufacturers, importers, wholesalers, and on/off-premises retailers. Control states may use one of four methods to control the sale of liquor.

- **Retail control states.** State government controls the wholesale and retail distribution of liquor and, in some cases, wine. State government also determines brands and pricing of liquor sold and maintains a warehouse for distribution. The retail sale of alcoholic beverages takes place in stores owned, maintained, and operated by state government or, in the case of North Carolina, local government.

¹ Two counties in Maryland operate alcohol beverage control systems: Montgomery and Worcester Counties.

- **Agency store states.** State government controls the wholesale and retail distribution of liquor and sometimes wine, but the retail sale of alcoholic beverages is handled by contracted agency stores selling liquor on behalf of the government. Under this model, state governments pay agency or contract stores a commission or sell alcoholic beverages to agency stores at a discount. Agency stores are usually retail establishments that set aside a portion of their store to sell liquor or wine. The state determines brands and pricing of liquor sold and maintains a warehouse for distribution to agency stores.
- **Combination States.** State government controls the wholesale and retail distribution of liquor and sometimes wine, but the retail sale of alcoholic beverages is handled by a combination of stores operated by state government and agency stores or private retail businesses. In these states, agency stores are usually located in rural areas with populations that cannot support a stand-alone liquor store. By contracting with an outlet such as a convenience store, state government can ensure residents in rural areas have access to liquor and wine without having the expense of maintaining a store. The state determines the brands and pricing of liquor sold and maintains a warehouse for distribution to state-owned and agency stores.
- **Wholesale States.** Under this model of control, state government controls the wholesale distribution of liquor and, in some cases, wine. The retail sale of liquor is handled by private retail businesses licensed by the state. The state determines brands and pricing of liquor sold in the state and maintains a warehouse for distribution to private retail businesses. The state may limit the location and number of retail outlets.

Exhibit 2 summarizes which method is used by the 17 control states. North Carolina is considered a retail control state, but is unique in mandating local government control rather than state government control of retail sales. In the two other retail control states, Pennsylvania and Virginia, state government operates Alcohol Beverage Control (ABC) stores.

Exhibit 2**Methods of Alcohol
Beverage Control in the
17 Control States**

Retail	Agency
North Carolina Pennsylvania* Virginia	Maine Montana Ohio Oregon Vermont
Combination	Wholesale
Alabama Idaho New Hampshire* Utah*	Iowa Michigan Mississippi* West Virginia Wyoming*
Notes: Asterisks denote states that also control the distribution of wine. Two counties in Maryland operate alcohol beverage control systems: Montgomery and Worcester Counties.	

Source: Program Evaluation Division based on data from the National Alcohol Beverage Control Association.

The North Carolina Alcohol Beverage Control Commission (ABC Commission) oversees the sale of liquor in North Carolina under Chapter 18B of the North Carolina General Statutes. The Commission's responsibilities include licensing and regulating all members of the alcoholic beverage industry that conduct business in North Carolina, including manufacturers, importers, wholesalers, and on/off-premises retailers. The ABC Commission consists of three members appointed by the Governor, with one commissioner serving as chair in a full-time capacity and two other members serving on a per diem basis as required. The chair controls all matters related to the ABC Commission's responsibilities and personnel functions. An administrator, who is appointed by the ABC Commission, works at its direction and oversees day-to-day operations.

In addition to oversight of local boards, the ABC Commission is responsible for issuing and controlling permits for the consumption and sale of beer, wine, and mixed beverages. The ABC Commission has the following duties and powers related to the oversight and operation of local boards:

- administering ABC laws;
- setting prices for alcoholic beverages sold in ABC stores;
- requiring reports and audits from boards;
- determining what brands of alcoholic beverages may be sold by stores;
- contracting for state ABC warehousing operations;
- disposing of damaged alcoholic beverages;
- removing, for cause, any member or employee of a board;
- supervising purchasing by a board;
- approving rules adopted by any board;
- authorizing the opening and location of ABC stores;

- fixing bailment charges and surcharges assessed on liquor shipped from the ABC Commission warehouse; and
- collecting bailment charges and surcharges from boards.²

The ABC Commission receives no general fund appropriations. Its budget is funded solely from a bailment surcharge that is added to the cost of liquor sold to ABC stores.

The ABC Commission owns a central liquor warehouse in Raleigh and contracts with a private company to conduct warehouse operations. The warehouse contractor's responsibilities include receipt, storage, and distribution of liquor to local ABC boards. All liquor sold in North Carolina must first come through the state ABC warehouse. Payment for the warehouse contract comes from a bailment system in which ownership of liquor remains with the distillery until it is delivered to local ABC boards. This bailment charge is added to the cost of liquor sold to ABC stores and pays for the warehousing and transporting of liquor.

Local boards operate retail stores for North Carolina's ABC system. Each board has the legal authority to operate one ABC store that sells liquor within its jurisdiction. Additional stores may be operated with the approval of the ABC Commission. In addition to retail liquor sales directly to the general public, some local boards are authorized to supply liquor to mixed beverage businesses such as restaurants and bars. The State's 170 local ABC boards operate 433 stores across North Carolina. See Exhibit 3 for maps showing the location of local ABC boards and ABC stores.

The majority of boards operate only one ABC store, but 40% of boards operate multiple stores within their jurisdictions. Boards employ 2,870 full-time and part-time employees. During Fiscal Year 2016–17, ABC stores sold 79 million bottles of liquor.³

In 2008, the Program Evaluation Division evaluated the effectiveness of the ABC system and identified improvement options. The evaluation, entitled *North Carolina's Alcohol Beverage Control System Is Outdated and Needs Modernization* (2008), found North Carolina's ABC system was outdated because it had not kept pace with demographic and economic changes and because state statutes limited effective management. Local ABC boards did not have clearly defined missions, and some boards used this lack of a clear mission to justify ineffective and inefficient store operations. The report recommended modernizing the ABC system by defining the mission of local boards, providing management tools for better oversight, and modifying outdated statutes.

² Bailment charges and surcharges are imposed on each case of liquor shipped from the ABC warehouse. The revenue from these charges is used to support ABC warehouse and Commission operations.

³ See the Program Evaluation Division report entitled *Follow-Up Report: Implementation of PED Recommendations Has Improved Local ABC Board Profitability and Operational Efficiency* for detailed descriptive and financial information for local ABC boards in operation as of March 1, 2018.

Exhibit 3: Location of ABC Boards and Stores



Source: Program Evaluation Division based on data from the North Carolina ABC Commission.

In 2010, the General Assembly enacted legislation to modernize the North Carolina ABC system based on Program Evaluation Division recommendations.⁴ The legislation included the following statutory additions or changes:

- provided the ABC Commission with management tools for better oversight of local boards and
- increased the number of registered voters needed in order for a city to hold an ABC store election.

The legislation also directed the ABC Commission to promulgate rules establishing performance standards for local ABC boards and required boards to comply with the standards. In 2008, the Program Evaluation Division had found that state law did not allow the ABC Commission to enforce minimum standards for operations and profitability for local ABC boards. As a result, the ABC Commission could not mandate changes to improve local boards' operating efficiency or profitability. The Program Evaluation Division recommended that the ABC Commission should develop performance standards, use the standards to measure the performance of local ABC boards, and require low-performing boards to improve. The General Assembly responded by authorizing the ABC Commission to promulgate rules for local ABC boards that addressed enforcement of ABC laws, store appearance, operating efficiency, solvency, and customer service. State law also mandated that local boards meet all standards for performance and directed the ABC Commission to ensure that all local boards comply with established performance standards by conducting performance audits and inspections.

Providing the North Carolina ABC Commission with management tools for better oversight of local ABC boards has increased profitability and efficiency of operations for most boards. Profitability is an important performance measure because higher profits allow boards to distribute more money to their communities. Controlling operating costs is an important component of profitability because efficient boards are more likely to have higher profit margins. Since the ABC Commission initiated performance standards in 2011, local ABC board compliance with the standards has increased

- overall profit percentage for the ABC system from 8.5% to 11.2%,
- percentage of boards with profit margins of 5% or more from 44% to 72%, and
- percentage of local ABC boards with operating margins that match or exceed private liquor retailers from 31% to 62%.

However, legislation increasing the voter registration threshold to hold a municipal ABC store election has not eliminated inefficiencies resulting from too many ABC stores operating in close proximity. Also in 2010, the General Assembly increased the registered voter threshold to hold a municipal ABC store election from 500 to 1,000 voters. Despite the change, the Program Evaluation Division observed that unnecessary

⁴ Session Law 2010-122.

competition among local ABC boards is still occurring in dry counties where new boards begin operating ABC stores.⁵

During the past 10 years, North Carolina's ABC system has seen substantial changes. More counties and municipalities have voted to authorize a local ABC board to operate ABC stores. Local option allows voters in counties, cities, or towns to decide whether liquor is available for sale in their communities. The number of ABC stores across the state has increased as new local ABC boards have opened stores and existing boards added stores. Total revenues from the sale of liquor has grown considerably, including a significant increase in revenue distribution to state and local governments. Exhibit 4 summarizes the growth in North Carolina's ABC system since 2008.

Exhibit 4

North Carolina's ABC System Experienced Substantial Growth During the Past Decade

ABC System Changes	2008	2018
Local ABC boards	158	170
Counties with local ABC boards	95	98
Local ABC boards with mixed beverage sales	78.5%	94%
ABC stores	405	433
Total revenue from liquor sales	\$691,969,293	\$1,129,132,692
Revenue distributions to state and local government	\$226,083,588	\$406,129,069

Notes: Information for local ABC boards is current as of January 1, 2019. Revenue information for 2008 and 2018 comes from Fiscal Years 2006–07 and 2016–17, respectively. Unrelated to the 2008 Program Evaluation Division report, the State excise tax on liquor increased from 25% to 30% on September 1, 2009. To compare equivalent data across fiscal years, the Program Evaluation Division did not include in the 2008 revenue distribution number any retained mixed beverage taxes, which were included in the 2008 report.

Source: Program Evaluation Division based on data from the North Carolina ABC Commission.

The ABC system experienced a net increase of 12 local ABC boards. During the past 10 years, 12 municipalities and two counties have elected to open an ABC store and appoint a local ABC board:

- Asheboro
- Belmont
- Burnsville
- Marshville
- Indian Trail
- Pilot Mountain
- Ramseur
- Spruce Pine
- Troutman
- Valdese
- Weaverville
- Wingate
- Clay County
- Davidson County

⁵ For more information on the effects of local ABC board proliferation, see pages 15–18 of the Program Evaluation Division report, *Follow-Up Report: Implementation of PED Recommendations Has Improved Local ABC Board Profitability and Operational Efficiency*.

Three of the five counties that did not have an ABC board in 2008 now have one: Clay County, Mitchell County (Spruce Pine), and Yancey County (Burnsville). As of 2018, Graham and Madison Counties are the only North Carolina counties that do not have an ABC store. Four local ABC board have merged since 2008.⁶ The Garland ABC Board in Sampson County closed in 2016; Sampson County still has three other municipalities with local ABC boards.

Most municipalities and counties with local ABC boards have authorized mixed beverage sales in their communities. Mixed beverage sales continue to be an important source of revenue for boards and their communities. Mixed beverage businesses pay a \$20 surcharge per four liters or \$3.75 per 750 milliliter bottle of liquor purchased.⁷ Only 10 rural boards do not offer mixed beverage sales. Many municipalities and counties, both with and without an ABC store, have elected to authorize mixed beverage sales in the years since 2008 because the General Assembly eliminated the requirement that a city must operate an ABC store or hold an ABC store election in order to hold a mixed beverage election. This change was based on a recommendation in the Program Evaluation Division's 2008 report, *North Carolina's Alcohol Beverage Control System Is Outdated and Needs Modernization*.

North Carolina's ABC system has seen few changes since its initial authorization in 1937 when legislation created a state monopoly for the sale of liquor. This evaluation provides an opportunity to examine whether the current system of alcohol beverage control for liquor needs further modernization and to explore the ramifications of changing how North Carolina controls liquor sales.

⁶ The Taylorsville ABC Board in Alexander County chose to merge with the Catawba County ABC Board. Three other mergers occurred because of new ABC store elections. The Sylva ABC Board merged with the Jackson County ABC Board after county voters elected to have an ABC store. The Yadkin Valley ABC Board formed after the Elkin ABC Board in Surry County agreed to create a merged board with Jonesville in Yadkin County. The Mocksville-Cooleemee ABC Board formed after the Cooleemee ABC Board agreed to create a merged board with Mocksville in Davie County.

⁷ The distribution of surcharge revenue is defined in statute; the board retains 45% and the State receives the remainder.

Findings

Finding 1. Among southeastern states, North Carolina collects the most public revenue per gallon of liquor sold, has the lowest liquor outlet density, and has the second lowest adult per capita liquor consumption.

As shown in Exhibit 5, five of 12 southeastern states, including North Carolina, are control states, whereas 7 are licensure states.

Exhibit 5

Five Southeastern States
Are Control States and
Seven Are Licensure States

Control States	Licensure States
Alabama	Arkansas
Mississippi	Florida
North Carolina	Georgia
Virginia	Kentucky
West Virginia	Louisiana
	South Carolina
	Tennessee

Source: Program Evaluation Division based on information from the National Alcohol Beverage Control Association and the Beverage Information Group Fact Book 2016: Beverage Alcohol State Facts and Regulation.

Among the five control states, only North Carolina and Virginia sell liquor through government-operated retail stores. In North Carolina, retail stores are owned by local ABC boards and staffed with board employees. In Virginia, retail stores are owned by state government and staffed with state employees. Alabama is a combination state in which liquor is sold by both state-owned stores and licensed retail businesses. Mississippi and West Virginia are wholesale states that control the wholesale distribution of liquor but license private retail businesses to sell liquor.

Unlike control states, licensure states do not directly participate in the sale of alcoholic beverages. In these states, private businesses regulated by state government conduct wholesale and retail sales of liquor. The seven southeastern licensure states regulate all aspects of the alcoholic beverage industry by mandating a three-tier system in which all members of the industry are involved in no more than one tier. The system consists of

- manufacturers that provide alcoholic products to wholesalers;
- wholesalers that distribute the products to retailers; and
- retailers that sell to consumers.

The North Carolina ABC Commission uses the three tier system to regulate the sale and distribution of wine and malt beverages in North Carolina.

Whereas licensure states do not directly control the distribution of liquor, they do regulate various aspects of the liquor industry. The amount of regulation varies among southeastern licensure states, but regulations target the following areas:

- **Where liquor is sold.** Licensure states determine what types of retail businesses can sell liquor. Venues where liquor can be sold include liquor stores (also known as package stores), drug stores, grocery stores, and gas stations or convenience stores. Most

southeastern licensure states limit the sale of liquor to package stores, but Louisiana allows liquor sales in all venues.

- **Days and hours of operations.** Licensure states set hours of operation for the sale of liquor, though Georgia, Florida, and Kentucky allow local option determination. Sunday sales are regulated, with some states prohibiting Sunday sales or allowing local option determination.
- **License quotas.** Some southeastern states limit the number of stores authorized to sell liquor. Limitations include establishing a fixed number of available licenses, using a population ratio, identifying when citizens are adequately served by the existing number of stores, or imposing a moratorium.
- **License fees.** All southeastern licensure states require a license fee for the off-premises sale of liquor. Annual license fees range from \$100 to \$1,365.
- **Limitation on store location and size.** Most licensure states have regulations limiting where liquor stores can be built or delegate the responsibility to local government through zoning regulations. Limitations include consideration of distance from places of worship and schools.
- **Local option.** Most southeastern licensure states have some form of local option authorizing local government to hold elections to determine whether liquor is sold in their communities. As in North Carolina, some licensure states have dry areas where no alcohol is sold. For example, Arkansas has 34 dry counties out of 75.

The Program Evaluation Division identified three performance indicators for measuring the effectiveness of state government liquor regulation.

Exhibit 6 provides comparative information for these indicators for the 12 southeastern states.

- **Public revenue per wine gallon.** This indicator measures how state government maximizes revenue from liquor sales by measuring the amount of public revenue collected per wine gallon of liquor sold in a state.⁸ Liquor pricing is higher in states that collect more revenue per gallon of liquor sold.
- **Outlet density per 10,000 adults.** This indicator measures how state government regulation affects access to liquor sales outlets. Low outlet density indicates that state government operates or licenses fewer outlets.
- **Adult per capita liquor consumption.** This indicator measures how much liquor is consumed in each state by dividing the total amount of liquor sold (in wine gallons) by the number of adults.⁹ Low adult per capita liquor consumption indicates less liquor is being sold.

⁸ A wine gallon is equivalent to a standard United States bulk or liquid gallon.

⁹ An adult is defined as a person of legal drinking age (21 or older).

Exhibit 6

Among Southeastern States, North Carolina Collected the Most Public Revenue per Wine Gallon from Liquor Sales During 2015

Southeastern States	Liquor Sales Outlets 2016-17		Public Revenue From Liquor Sales 2015		Adult Per Capita Liquor Consumption (Wine Gallons) 2015
	Total Outlets	Outlets Per 10,000 Adults	Total Revenue	Revenue per Wine Gallon	
North Carolina	428	.58	455,829,000	36.79	1.72
Virginia	360	.59	381,155,000	35.45	1.77
Alabama	762	2.15	203,730,000	32.98	1.75
Mississippi	763	3.50	92,047,000	20.49	2.12
West Virginia	176	1.32	32,424,000	18.19	1.27
Kentucky	1,271	3.92	113,192,000	16.77	2.08
Florida	2,135	1.42	651,908,000	15.83	2.73
Tennessee	552	1.14	153,005,000	15.69	2.09
Georgia	1301	1.73	191,379,000	13.91	1.89
South Carolina	986	1.72	106,567,000	13.70	2.17
Arkansas	445	2.04	56,825,000	12.98	2.03
Louisiana	5,356	15.67	83,474,000	9.18	2.69

Notes: Control states are shaded light gray. A wine gallon is equivalent to a standard United States bulk or liquid gallon. An adult is defined as a person of legal drinking age (21 or older), and the adult population is estimated as of July 1, 2015 by the United States Bureau of the Census.

Source: Program Evaluation Division based on information from the National Alcohol Beverage Control Association and the Distilled Spirits Council of the United States

North Carolina collected the most public revenue per gallon of liquor sold among southeastern states during 2015. At \$36.79 per wine gallon, North Carolina collected four times as much revenue per gallon as Louisiana, which collected the lowest revenue per gallon among southeastern states. Nationally, North Carolina generated the fourth highest public revenue per gallon of liquor sold during 2015. Only Washington (\$42.49), Utah (\$41.08), and Vermont (\$37.18) collected more per gallon public revenue. Both Utah and Vermont are control states; Washington was a control state until 2012, when it became the only control state to convert to licensure.

The five southeastern control states all collected more public revenue than the seven licensure states. Control states are in a better position to collect more revenue from liquor because in addition to taxation they control liquor pricing and can increase revenue by using a higher price markup. North Carolina, Virginia, and Alabama collected the most revenue among southeastern control states because they have government-operated liquor stores and also control the retail price of liquor. Mississippi and West Virginia collected comparatively less revenue because they only control the

wholesale price of liquor. Licensure states typically collect less revenue than control states because they can only generate revenue through taxation.

North Carolina had the lowest liquor outlet density among southeastern states during Fiscal Year 2016–17. At 0.58 liquor stores per 10,000 adults, North Carolina had the second lowest outlet density nationwide. Only Ohio had a lower outlet density with 0.55 liquor stores per 10,000 adults. Most other southeastern states had one or more liquor stores per 10,000 adults except for Virginia, which had an outlet density similar to North Carolina with 0.59 liquor stores per 10,000 adults. Louisiana had the highest outlet density nationally with 15.67 stores per 10,000 adults.

Comparing outlet density among southeastern states shows that the regulatory framework does not necessarily determine outlet density. Three southeastern control states had the lowest outlet density—North Carolina, Virginia, and West Virginia. However Alabama and Mississippi, two other control states, had higher outlet density than four southeastern licensure states. Tennessee, Florida, South Carolina, and Georgia all had fewer than two liquor stores per 10,000 adults. Outlet density reflects each state's policy for regulating the number of stores operated or licensed by state government.

North Carolina had the second lowest adult per capita liquor consumption among southeastern states for 2015. At 1.72 gallons of liquor per adult, North Carolina had the third lowest adult per capita liquor consumption nationwide. Only West Virginia (1.27 gallons) and Utah (1.54 gallons) had lower rates of consumption. Overall, southeastern control states had lower adult per capita liquor consumption than southeastern licensure states. Florida (2.73 gallons) and Louisiana (2.69 gallons) reported the highest adult per capita liquor consumption in the southeast.

Changing how North Carolina regulates liquor could affect its performance on these indicators measuring the effectiveness of state control of liquor sales. If the General Assembly decides to modify how the State controls the sale of liquor, it may want to consider how policy changes are likely to affect North Carolina's performance on public revenue collection from liquor sales, outlet density, and adult liquor consumption. For example, the Program Evaluation Division conducted an analysis that found a correlation between liquor outlet density and liquor consumption. States with higher outlet density are more likely to have higher liquor consumption.¹⁰ Likewise, modifying government policies that increase or decrease liquor pricing, such as taxation, has also been shown to affect liquor consumption. Academic studies comparing alcohol price and overall alcohol consumption indicate higher prices are associated with lower consumption.

¹⁰ The Program Evaluation Division conducted a linear regression to investigate the relationship between outlet density per 10,000 adults and adult alcohol consumption in gallons across states using 2016 data. A scatterplot of the data revealed that the assumption for linearity was not met, indicating that a log transformation of the y-axis (adult alcohol consumption) was needed. Ordinary Least Squares (OLS) regression on the transformed data showed a significant relationship ($p < 0.001$) between outlet density and alcohol consumption ($\log y = 0.68 + 0.34x$), with an R2 value of 0.29. The R2 value indicates 29% of the variation in consumption is explained by the model containing only outlet density.

Finding 2. Regulatory and operational modifications would be necessary if North Carolina decided to change how it controls liquor sales.

Some control states have changed how they regulate liquor sales and provide examples of how North Carolina could change its system. The Program Evaluation Division found that several control states have ended government control of retail liquor sales by licensing private retail businesses to sell liquor or contracting with agency stores to sell liquor. These states are still considered control states because they continue to control wholesale liquor sales and maintain warehouse operations. Washington is the only control state that has wholly ended government control of wholesale and retail liquor sales and converted to a licensure model.

- **Ending government control of retail liquor sales.** Iowa closed its state-run stores in 1987 and licensed private retail businesses to sell liquor. Liquor stores, drug stores, and grocery stores were initially licensed to sell liquor, with convenience stores authorized to receive licenses in 2010. Additionally, West Virginia ended the sale of liquor in state-operated stores in 1990 and 1991. State liquor stores in West Virginia were bid out to allow the private sector to purchase retail liquor outlet stores in assigned market zones. Every 10 years, market zones and the existing number of retail liquor outlet stores in the state are reviewed and the state rebids licenses. Both Iowa and West Virginia control the wholesale price of liquor, but Iowa does not set the retail liquor price and West Virginia prohibits retail prices from being lower than 110% of the wholesale price of liquor.

Ohio, Vermont, and Montana also closed their state-operated stores during the 1990s, but these states chose to contract with agency stores to sell liquor. Each of these three states still controls wholesale liquor sales by selecting liquor products sold in the state and determining liquor pricing.

- **Ending government control of wholesale and retail liquor sales.** Initiative 1183 directed the Washington State Liquor Control Board to close its state-run liquor warehouse and retail stores and privatize the sale and distribution of liquor. Major retail stores such as Costco and Trader Joes initiated the referendum, which was not directed by legislative action. Fifty-nine percent of Washington voters approved the initiative in November 2011. Washington's 330 state-run and agency liquor stores and the state distribution center closed in May 2012 and were replaced by licensed privately owned liquor retail stores and distribution systems. Prior to privatization, the Washington State Liquor Control Board employed 1,012 state employees to operate its retail stores and distribution center. These positions were terminated and board administrative costs were substantively reduced. As of December 2018, Washington had 1,432 active retail liquor licenses. To maintain state revenue, liquor distributors pay a 5% distribution fee

and liquor retailers pay a 17% fee on liquor sold. These fees are built into the shelf price of liquor. In addition, liquor consumers pay a 20.5% retail sales tax on off-premises liquor purchases.

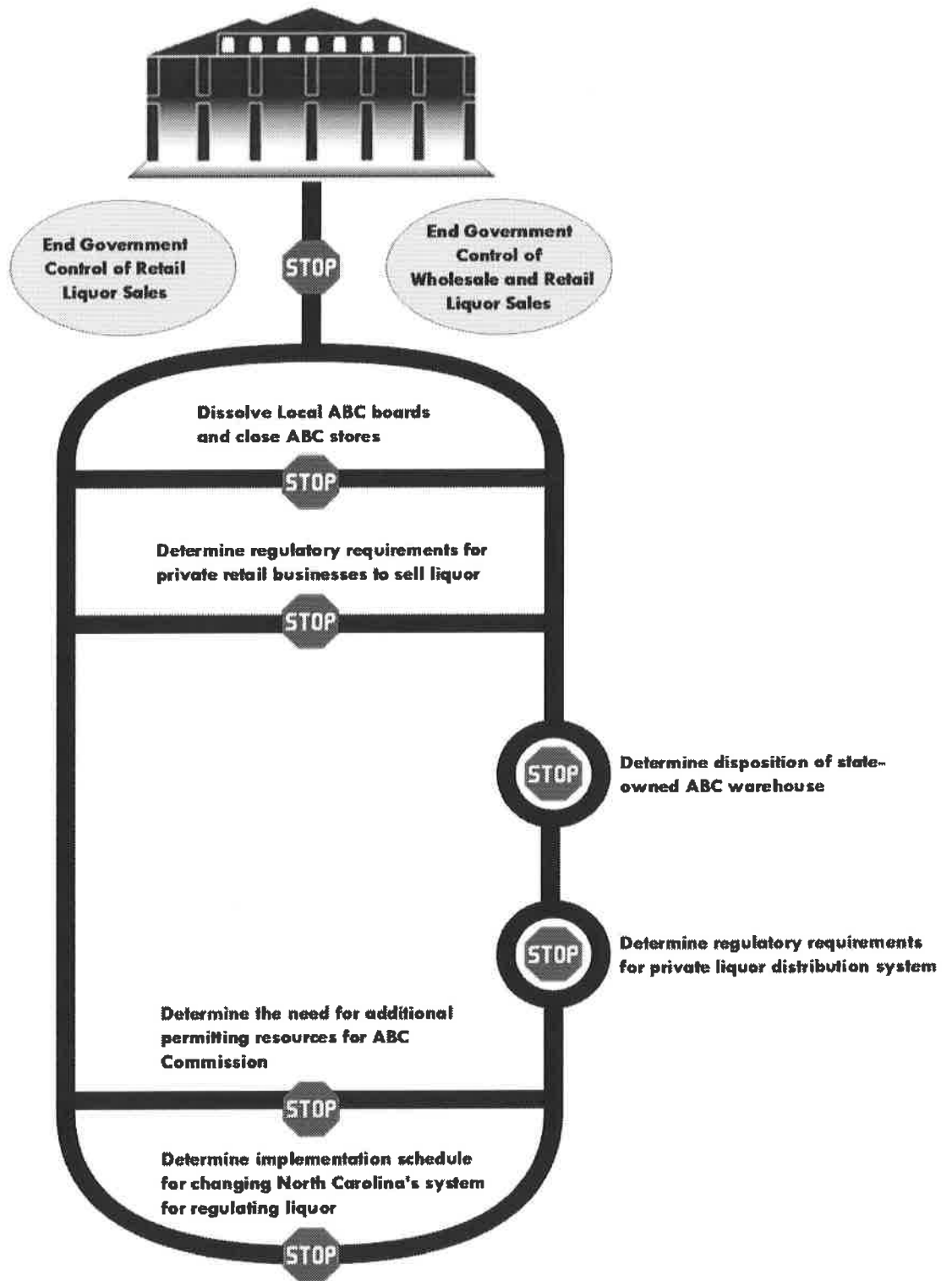
Washington collected the most public revenue in the nation from liquor sales both pre- and post-privatization. Academic research found that liquor prices in Washington have increased substantially following privatization with a much larger increase seen for 750 ml liquor bottles and with wide variation across store types.

Changing how North Carolina regulates liquor sales would require consideration of major regulatory modifications. This finding examines the legislative decisions that would be necessary for changing North Carolina's alcohol beverage control system for liquor. When considering any changes to the system governing how the State controls liquor sales, the Program Evaluation Division assumed that North Carolina's local option process for determining whether liquor is sold in counties and municipalities would be maintained; in other words, liquor would only be sold in areas of the state that have voted to have ABC stores and mixed beverage sales.

The first legislative consideration would be determining how the government's role in controlling liquor sales would change. Based on the experience of other control states, North Carolina has two choices for changing the government's role:

- end government control of retail liquor sales or
- end government control of wholesale and retail liquor sales.

This initial decision would guide legislative consideration of the regulatory and operational modifications that would be necessary for implementing change. As shown in Exhibit 7, both options require decisions related to dissolving local ABC boards and closing ABC stores, determining the regulatory requirements for private retail businesses to sell liquor, identifying whether the ABC Commission needs additional resources for permitting and implementing changes to the system, and determining an implementation schedule. Ending government control of wholesale liquor sales would require additional legislative considerations for the disposition of the state-owned ABC warehouse and establishing regulatory requirements for a private liquor warehouse and distribution system.

Exhibit 7: Decision Road Map for Changing the Government Role for Controlling Liquor Sales

Source: Program Evaluation Division.

Ending government control of retail liquor sales would entail dissolving local ABC boards and closing their stores. Unlike other states that control retail liquor sales, North Carolina has delegated control of retail liquor sales to local ABC boards that are established and appointed by county or municipal governments within the state. This delegation would end if the legislature decides to end government control of retail liquor sales and transfers this responsibility to private retail businesses. The following issues would require legislative consideration if local ABC boards were dissolved and their stores closed:

- **Local ABC board employees.** Based on the most recent data from the ABC Commission, local ABC boards employ 2,870 full-time and part-time employees. Their employment would be terminated if local ABC stores were closed, and each local ABC board would be responsible for managing the reduction in force based on its personnel policies. The legislature could consider establishing a system-wide process for managing the reduction in force of local board employees and direct the ABC Commission to oversee it.
- **Pension and post-employment benefit obligations.** Most local ABC boards participate in the Local Governmental Employees' Retirement System (LGERS) and contribute to pensions for full-time board employees. Dissolving local ABC boards would terminate local ABC board participation in LGERS. The General Assembly recently enacted state law establishing procedures for employing units that would be allowed by the General Assembly to cease participation in LGERS.¹¹ The law requires an employer withdrawing from LGERS to pay the actuarial valuation of the unfunded pension liability for their employees at the time of withdrawal. The estimated amount of this liability for local ABC boards could exceed \$100 million.¹² The legislature would need to request that LGERS produce a withdrawal payment estimate for each local ABC board, and the legislature would need to determine if local ABC boards would be required to make these payments when they cease operations.

Some local ABC boards provide other post-employment benefits for their full-time employees such as retiree health insurance. If local ABC boards providing these additional benefits have not made arrangements with their appointing authority for providing these benefits, the legislature could consider requiring these boards to determine how to fulfill their obligations following dissolution of the boards.

- **Local ABC board capital assets.** Local ABC boards have capital assets including buildings, land, equipment, and vehicles. Based on Fiscal Year 2016–17 financial statements, the estimated value of these assets was \$254 million. The actual value of these assets would depend on market conditions in local ABC board communities. Under state law, these assets would accrue to the local

¹¹ N.C. Gen. Stat. § 128-30(i).

¹² The Fiscal Research Division provided this initial estimate.

government with appointing authority after all board debts were paid.¹³ The local government appointing authority would determine the disposition of capital assets including whether stores would be sold to private retail business authorized to sell liquor. No action by the legislature would be necessary for the transfer of board capital assets to the appointing authority.

- **Local ABC working capital accounts.** Under state law, local ABC boards may set aside a portion of gross receipts, within the limits set by the rules of the Commission, as cash for operations.¹⁴ With the approval of the appointing authority, a local ABC board also may set aside funds for specific capital improvements. Based on financial statements for Fiscal Year 2016–17, local ABC boards had collectively retained \$24.6 million in working capital. Under state law, working capital funds would accrue to the local appointing authority after all board debts are paid.¹⁵ No action by the legislature would be necessary for working capital funds to accrue to the appointing authority.
- **Local ABC board debt.** State law authorizes local ABC boards to borrow money for the purchase of land, buildings, equipment, and liquor stock needed for store operation.¹⁶ A local board can pledge a security interest in any real or personal property it owns other than alcoholic beverages. The local government appointing authority cannot be held responsible for board debts. If local ABC boards are dissolved, boards with outstanding debts would have to resolve their debts before ceasing operation. Debts could be paid from working capital funds or liquidation of capital assets. No action by the legislature would be necessary to direct local ABC boards to pay their debts.
- **Liquor stock disposition.** Under North Carolina's bailment system, liquor ownership remains with the distillery until liquor is delivered to local ABC boards, which means each board owns its liquor stock. If local ABC boards are dissolved, the legislature would need to establish a process for boards to dispose of and receive compensation for any liquor stock that remains in their possession when they cease operations.

Terminating government control of retail liquor sales would require enactment of regulatory requirements for private retail businesses to sell liquor. Consideration of the following four questions would assist the legislature in determining the appropriate requirements for private retail businesses that wish to sell liquor in North Carolina:

1. What types of stores would be authorized to sell liquor?
2. How many stores would be authorized to sell liquor?
3. Where would stores selling liquor be located?

¹³ N.C. Gen. Stat. §§ 18B-801(d) and 18B-805.

¹⁴ N.C. Gen. Stat. § 18B-805(d).

¹⁵ N.C. Gen. Stat. § 18B-805(d).

¹⁶ N.C. Gen. Stat. § 18B-702(r).

4. When would stores be authorized to sell liquor?

What types of stores would be authorized to sell liquor? In North Carolina, liquor is sold exclusively in ABC stores that are similar to the privately-owned package liquor stores that operate in licensure states. By contrast, beer and wine can be sold in drug stores, grocery stores, and gas stations. The legislature could consider authorizing privately-owned package liquor stores or extending liquor sales to stores permitted to sell beer and wine.

The Program Evaluation Division found that most southeastern states authorize package stores to sell liquor. Exhibit 8 compares where liquor is sold among southeastern control and licensure states. In North Carolina and Virginia, liquor is only sold in liquor stores operated by local and state government, respectively. Alabama operates state liquor stores but also permits bars and taverns to sell packaged liquor for off-premises consumption. Most southeastern states allow other alcoholic beverages to be sold with liquor, though some states only include wine. Three states allow liquor to be sold in other retail venues such as drug stores, grocery stores, and gas stations that also are permitted to sell other alcoholic beverages.

Exhibit 8

Most Southeastern
Licensure States Only
Authorize Package Stores
to Sell Liquor for Off-
Premises Consumption

Southeastern States	State Store	Package Store	Drug Store	Grocery Store	Gas Station
Alabama	✓	✓	x	x	x
Arkansas*	x	✓	x	x	x
Florida*	x	✓	x	x	x
Georgia*	x	✓	x	x	x
Kentucky*	x	✓	✓	x	x
Louisiana*	x	✓	✓	✓	✓
Mississippi*	x	✓	x	x	x
North Carolina	✓	x	x	x	x
South Carolina	x	✓	x	x	x
Tennessee*	x	✓	x	x	x
Virginia	✓	x	x	x	x
West Virginia*	x	✓	✓	✓	✓

Notes: Control states are shaded light gray. Asterisks designate states that allow other alcoholic beverages to be sold along with liquor. Convenience stores that sell gasoline would fall under the Gas Station designation.

Source: Program Evaluation Division based on information from the National Alcohol Beverage Control Association and the Beverage Information Group Fact Book 2016: Beverage Alcohol State Facts and Regulation.

How many stores would be authorized to sell liquor? Currently, local ABC boards have the authority and duty to operate one ABC store. Additional stores may be operated with the approval of the ABC Commission. If government control of retail liquor sales ends, the legislature could consider whether to control the number of stores licensed to sell liquor.

The Program Evaluation Division found that the following southeastern states can limit the number of stores authorized to sell liquor:

- **West Virginia** sells liquor licenses every 10 years and determines a fixed number of stores for the state and allocates them regionally.
- **Florida** limits the number of liquor stores in each county based on a ratio of 1 store per 7,500 people residing in a county and holds quota lotteries when population increases allow for new licenses within a county.
- **Kentucky** limits the number of liquor stores in each county to a ratio of 1 store per 2,300 people residing in a county. In 2018, the Kentucky Alcohol Beverage Control Board proposed ending the population-based license quota for retail package liquor stores because it limited competition. The Kentucky General Assembly responded to this proposal by enacting state law to preserve the quota.
- **South Carolina** authorizes its alcohol regulatory agency to limit the further issuance of retail dealer licenses in a political subdivision if it determines that the subdivision's citizens are more than adequately served because of the number of existing retail stores, the location of the stores within the subdivision, or other reasons.
- **Tennessee** enacted a three-year moratorium on the issuance of new retail package store licenses in 2018.

As shown in Finding 1, North Carolina has the lowest outlet density among southeastern states with 0.58 stores per 10,000 adults. All southeastern licensure states have more than 1 store per 10,000 adults. Kentucky and Louisiana have the highest outlet densities in the southeast because in those states liquor is sold in stores other than package stores. Using outlet density per 10,000 adults could be an option for determining how many retail businesses would be permitted to sell liquor.

In addition to controlling the number of stores, some states limit the number of liquor store licenses that can be held by an individual or business. The following southeastern states impose license caps:

- **Arkansas.** State law provides that no person shall have an interest in more than one retail liquor permit.
- **Georgia.** State law provides that no person shall be issued more than two off-premises spirits licenses or have a beneficial interest in more than two of these licenses, with a "person" defined to include all members of a retail dealer licensee's family. State law includes

a grandfather clause and a provision for licenses held prior to marriage.

- **South Carolina.** State law provides that one licensee can hold four retail liquor dealer licenses. This limit will increase to five licenses in 2020 and to six licenses in 2022.
- **Tennessee.** State law prohibits off-premises retail liquor licensees from directly or indirectly operating more than two licensed retail liquor businesses.

Where would stores selling liquor be located? In North Carolina, a local ABC board may choose the location of the ABC stores within its jurisdiction, subject to the approval of the ABC Commission. If a municipality objects to the location of a proposed ABC store, the local ABC board may request that the ABC Commission approve the proposed ABC store location notwithstanding the objection of the municipality. The Commission has final authority to determine if the operation of an ABC store at the contested proposed location is suitable after providing the municipality an opportunity to submit objections. Local ABC boards may close a store, and the ABC Commission can order a store closed if necessary to protect the health and safety of the community. The ABC Commission has rules prohibiting new ABC stores in certain areas including areas that are primarily residential or in unreasonable proximity to a church, school, or similar institution.

If North Carolina ended government control of retail liquor sales, the legislature could consider how to regulate the location of liquor stores within counties and municipalities that have approved liquor sales. Regulating the location of liquor stores could include determining the roles of the ABC Commission and local governments. In queries provided to the Program Evaluation Division, both the North Carolina League of Municipalities and the North Carolina Association of County Commissioners emphasized maintaining local government involvement in regulating location of retail outlets subject to local zoning ordinances to preserve local government's role in maintaining public health, safety, and welfare.

When would stores be authorized to sell liquor? In North Carolina, state law directs that liquor for off-premises consumption can be sold from 9 A.M. until 9 P.M. daily except for Sundays, New Year's Day, the Fourth of July, Labor Day, Thanksgiving, and Christmas. A local board may otherwise determine opening and closing hours of its stores and the days on which its stores shall be closed. State law directs that beer and wine can be sold for off-premises consumption from 7 A.M. until 2 A.M. Monday through Saturday and 12 P.M. until 2 A.M. on Sundays. If government control of liquor sales ends, the legislature could consider whether to maintain the same operating hours for private retail business selling liquor or change them.

The Program Evaluation Division found that most southeastern states limit operating hours for liquor sales. Exhibit 9 compares when liquor can be sold among southeastern states. Louisiana is the only southeastern state that does not limit when liquor can be sold for off-premises consumption on

Monday through Saturday. In Florida, Georgia, and Kentucky, operating hours for liquor sales are set by local governments. In four states, including North Carolina, liquor stores are closed on Sundays, whereas six states allow local governments to determine Sunday liquor sales.

Exhibit 9

Most Southeastern States Limit Operating Hours for Off-Premises Liquor Sales

Southeastern States	Operating Hours for Liquor Sales	
	Monday – Saturday	Sunday
Alabama	State Stores: 9 A.M. – 9 P.M. Licensed Package Stores 6 A.M. – 2 A.M.	Closed Local Option
Arkansas	7 A.M. – 1 A.M., M-F 7 A.M. – Midnight, Sat.	Local Option
Florida		Local Option
Georgia		Local Option
Kentucky		Local Option
Louisiana	12 A.M. – 12 A.M.	Local Option
Mississippi	10 A.M. – 10 P.M.	Closed
North Carolina	9 A.M. – 9 P.M.	Closed
South Carolina	9 A.M. – 7 P.M.	Closed
Tennessee	8 A.M. – 11 P.M.	10 A.M. – 11 P.M.
Virginia	10 A.M. – 9 P.M.	1 P.M. – 6 P.M.
West Virginia	8 A.M. – Midnight	Closed

Note: Control states are shaded light gray.

Source: Program Evaluation Division based on information from the National Alcohol Beverage Control Association and the Beverage Information Group Fact Book 2016: Beverage Alcohol State Facts and Regulation.

Establishing a three-tier system for liquor sales would be necessary if the legislature ended government control of wholesale liquor sales in addition to retail liquor sales. Under the three-tier system for regulating alcoholic beverages, manufacturers provide alcoholic products to wholesalers, who distribute the products to retailers, who sell to consumers. No one entity can be involved in more than one tier under most state models, and each tier is regulated and licensed separately. In North Carolina, state and local government control the wholesale and retail tiers for liquor sales, thereby eliminating the need for a three-tier regulatory system for liquor sales. North Carolina already has a three-tier system for beer and wine sales, and the legislature could consider using the state law for regulating beer and wine sales as a guide for establishing a three-tier system for liquor sales. For example, state law and regulations include permit requirements for beer and wine wholesalers, and permitting for liquor wholesalers would be needed if the General Assembly ended government control of wholesale liquor sales. In addition, liquor suppliers,

including North Carolina distilleries, would need to establish relationships with licensed private wholesalers to sell their products in North Carolina.

Determining the disposition of the state-owned ABC warehouse is another consideration that would accompany ending government control of wholesale liquor sales. North Carolina would no longer need a warehouse to store and distribute liquor if government control of wholesale liquor sales ended. The contract for operating the ABC warehouse and for performing liquor distribution would be terminated and the responsibility would be transferred to private wholesalers.

The legislature could consider several options for ABC warehouse disposition including:

- allowing another state agency to use it,
- leasing it to a private business, or
- selling it.

Transferring the ABC warehouse to another state agency would allow the State to retain the asset for future needs. Leasing the ABC warehouse would provide ongoing revenue for state government, whereas selling it would provide one-time revenue. If government control of wholesale liquor is maintained, the legislature would not need to take action on the disposition of the ABC warehouse. However, if government control of retail liquor sales is ended, the ABC Commission may need to modify the contract for warehouse operations to accommodate potential changes in the quantity of liquor sold by private retail businesses and the distribution system needed to deliver liquor to an increased number of stores.

Changing how North Carolina controls liquor sales also would affect ABC Commission permitting operations and warehouse operations.

Currently, the ABC Commission has permitting staff that evaluate and issue permits for the alcoholic beverage industry in North Carolina. Under the current system of government control of wholesale and retail liquor sales, the Commission does not need to issue permits to private wholesale and retail businesses to sell liquor. Ending government control of retail liquor sales would require the ABC Commission to begin issuing permits to private retail businesses to sell liquor. Permits for private liquor wholesalers also would be necessary if government control of wholesale liquor sales ends. Existing permitting staff may be able to handle the increased workload, but making such a determination would be dependent on the number of retail businesses permitted to sell liquor and the renewal schedule for those permits. The legislature could consider requesting that the ABC Commission evaluate whether additional permitting resources would be necessary.

A transition plan and implementation schedule would be necessary to ensure that citizens can continue to purchase liquor as North Carolina reduces or ends government control of liquor sales. A transition plan for ending government control of retail liquor sales would establish when local ABC boards would close ABC stores and when private retail businesses would open. A transition plan for ending government control of wholesale liquor sales would address when the ABC warehouse would cease operation and when private wholesalers would begin liquor distribution. Transition planning is important to ensure citizen access and maintain

government revenue derived from liquor sales. The legislature could enact an implementation schedule and direct the ABC Commission to manage the transition.

Polling indicates a preference for allowing private retail businesses to sell liquor. Before deciding to change North Carolina's system for regulating liquor sales, the General Assembly may want to consider public opinion regarding the issue. To understand how North Carolina citizens would view altering government control of liquor sales, the Program Evaluation Division sought out public opinion on whether or not private businesses should be allowed to sell liquor and the types of private businesses that should receive permits to sell liquor. The Elon University Poll and the High Point University Poll conducted the citizen surveys.

As shown in Exhibit 10, the majority of citizens polled by Elon University said they would support a proposal that would close ABC stores and instead allow private businesses to sell liquor; this option was also the most popular in the High Point University poll.

Exhibit 10

Public Opinion Favors Closing Government-Operated ABC Stores and Instead Allowing Private Businesses to Sell Liquor

Response Options	Elon University Poll (n=379)	High Point University Poll (n=827)
Support closing ABC	52%	47%
Oppose closing ABC	32%	34%
Don't know/refused	16%	N/A
Don't know	N/A	19%

Notes: The Elon University Poll used a blended online-phone sample for its survey, but the ABC questions were only asked of phone respondents to allow for confirmation that respondents were registered voters in North Carolina. The margin of error on these results is $\pm 5\%$. The High Point University Poll also used a blended online-phone sample for its survey, but the ABC questions were asked to both online and phone respondents. The online sampling is derived from a panel of respondents, and therefore their participation does not adhere to usual assumptions associated with random selection. Because of the blended design, the High Point University Poll provided a credibility interval of ± 5.4 percentage points to account for a traditional 95 percent confidence interval for the estimates (± 3.4 percentage points) and a design effect of 1.6 (based on the weighting).

Source: Program Evaluation Division based on data provided by Elon University and High Point University Polls.

As shown in Exhibit 11, when asked what types of businesses should receive permits to sell liquor, the majority of citizens polled by Elon University said they thought any store that currently sells beer and wine should be able to receive a permit to sell liquor; this option was also the most popular in the High Point University poll.

Exhibit 11**Public Opinion Favors Issuing Permits to Sell Liquor to Any Store that Sells Beer and Wine**

Response Options	Elon University Poll (n=379)	High Point University Poll (n=827)
Any store that currently sells beer or wine should receive a permit to sell liquor	56%	49%
Stores that only sell liquor should receive a permit to sell liquor	31%	32%
Something else	4%	6.5%
Don't know/Refused	9%	12.5%

Notes: "Something else" was recorded for other responses such as grocery stores, drug stores, or government stores. The Elon University Poll used a blended online-phone sample for its survey, but the ABC questions were only asked of phone respondents to allow for confirmation that respondents were registered voters in North Carolina. The margin of error on these results is $\pm 5\%$. The High Point University Poll also used a blended online-phone sample for its survey, but the ABC questions were asked to both online and phone respondents. The online sampling is derived from a panel of respondents, and therefore their participation does not adhere to usual assumptions associated with random selection. Because of the blended design, the High Point University Poll provided a credibility interval of ± 5.4 percentage points to account for a traditional 95 percent confidence interval for the estimates (± 3.4 percentage points) and a design effect of 1.6 (based on the weighting).

Source: Program Evaluation Division based on data provided by Elon University and High Point University Polls.

In summary, changing how North Carolina regulates liquor sales would require consideration of major regulatory adjustments. The first legislative consideration would be to determine how the government's role in controlling liquor sales would change. Based on the experience of other control states, North Carolina could end government control of retail liquor sales or end government control of both wholesale and retail liquor sales. This decision would guide legislative consideration of any subsequent regulatory and operational modifications that would be necessary.

Finding 3. Changing North Carolina's system for regulating liquor sales would also have financial implications for state and local government revenues.

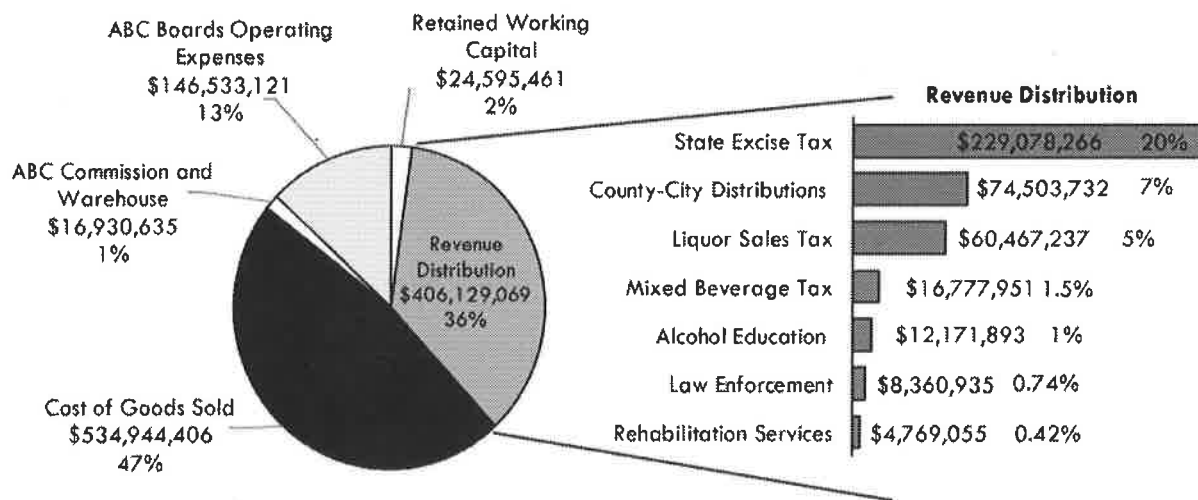
North Carolina's liquor monopoly plays an important role in the State's economy by providing revenue for the State and for local governments that have authorized liquor sales. Total revenue from liquor sales was \$1.1 billion in Fiscal Year 2016–17, with 81% of sales coming from purchases by the general public at ABC stores and 19% of sales coming from purchases by retail businesses for resale as mixed beverages. Since Fiscal Year 2006–07, total revenue from liquor sales has increased 63%.

State excise, sales, and mixed beverage taxes from the sale of liquor are deposited in the General Fund to support the operation of state government. North Carolina received \$306.3 million in Fiscal Year 2016–

17 from liquor sales, an increase of 83% since Fiscal Year 2006–07.¹⁷ Additional charges and profits from the sale of liquor pay for law enforcement, alcohol education, and rehabilitation services provided by counties and the Department of Health and Human Services. Services provided by city and county government also are supported by profits from liquor sales, thereby reducing the need to raise property taxes or request financial assistance from North Carolina state government.

Exhibit 12 summarizes the distribution of revenue to state and local governments from the sale of liquor.

Exhibit 12: Distribution of \$1.1 Billion Revenue from the ABC System for Fiscal Year 2016–17



Source: Program Evaluation Division based on data from the North Carolina ABC Commission.

State law determines the pricing calculation for liquor sold in North Carolina and the distribution of the resulting revenue.¹⁸ Exhibit 13 identifies

- each liquor price component,
- who sets the rate,
- the current rate,
- where the revenue goes, and
- how the revenue can be used.

¹⁷ Unrelated to the 2008 Program Evaluation Division report, the State excise tax on liquor increased from 25% to 30% on September 1, 2009.

¹⁸ N.C. Gen. Stat. § 18B-804.

Exhibit 13: Summary of Liquor Pricing Components in North Carolina and the Distribution of Revenue Generated from Liquor Sales

Liquor Price Component	Who Sets Rate	Current Rate	Where the Revenue Goes	How Revenue is Used
Cost of liquor sold	Distiller	Varies	Distiller	<ul style="list-style-type: none"> • Distiller operations and profit
Bailment fee	ABC Commission	\$1.50	ABC Commission Fund	<ul style="list-style-type: none"> • ABC warehouse operations
Bailment surcharge fee	ABC Commission	\$1.15	ABC Commission Fund	<ul style="list-style-type: none"> • ABC Commission operations
Local ABC board markup	ABC Commission	39.6%	Gross receipts of ABC board	<ul style="list-style-type: none"> • ABC board operating expenses and working capital • 7% for substance abuse research, education, or treatment • 5% for alcohol law enforcement • Local government General Fund
Additional local markup	State law	3.5%	Local government General Fund	<ul style="list-style-type: none"> • No restrictions on use
State excise tax	State law	30%	Department of Revenue	<ul style="list-style-type: none"> • State General Fund
Bottle charge	State law	1¢ and 5¢	Local government restricted funds	<ul style="list-style-type: none"> • Substance abuse research, education, and treatment
Additional bottle charge	State law	1¢ and 5¢	Local government General Fund	<ul style="list-style-type: none"> • No restrictions on use
State sales tax	State law	7%	Department of Revenue	<ul style="list-style-type: none"> • State General Fund • Assessed on liquor sold by ABC stores and distilleries
Mixed beverage surcharge (assessed on liquor sold for resale)	State law	\$20 per 4 liters	<ul style="list-style-type: none"> • 50% to Department of Revenue • 45% to gross receipts of ABC board • 5% to Department of Health and Human Services 	<ul style="list-style-type: none"> • State General Fund • Same as local markup uses • Substance abuse research, education, and treatment
Guest room surcharge (assessed on liquor sold for resale)	State law	\$20 per 4 liters	<ul style="list-style-type: none"> • 50% to Department of Revenue • 45% to gross receipts of ABC board • 5% to Department of Health and Human Services 	<ul style="list-style-type: none"> • State General Fund • Same as local markup uses • Substance abuse research, education, and treatment

Source: Program Evaluation Division based on N.C. Gen. Stat. §§ 18B-804 and 805 and information from the ABC Commission.

The ABC Commission is authorized to determine the rates for the bailment charge and the bailment surcharge, which pay for the operations of the ABC warehouse and the ABC Commission. The ABC Commission sets the local ABC board markup to support board operating expenses and provide revenue for local governments that have authorized liquor sales in their jurisdictions. State law sets the rates for the other liquor pricing components. Suppliers set their own prices and calculate the standard markup that determines the shelf prices of their products.

Under state law, local ABC boards distribute revenue from their gross receipts, defined as proceeds from liquor sales, investments, interest earned on deposits, and any other source.¹⁹ As shown in Exhibit 13, gross receipts pay local ABC board expenses, after which revenue is distributed to the ABC Commission, the Department of Revenue, the Department of Health and Human Services, and local governments.

The retail price of liquor sold in ABC stores and permitted distilleries is uniform throughout the State. The pricing formula starts with the distiller's liquor price, which already includes the federal excise tax, and then a series of markups, fees, and taxes are added to determine the retail price. A mixed beverage tax is assessed for liquor sold to a mixed beverage permittee for resale in a mixed beverage. Retail customers pay sales tax on their liquor purchases, but mixed beverage permittees do not pay sales tax because they assess sales taxes when a mixed beverage is sold. Exhibit 14 provides an example of liquor pricing using the formula provided in state law.

Exhibit 14

North Carolina's Formula for Liquor Pricing

\$151.52	Distiller's price (12 bottle case/80 proof, includes federal excise tax)
<u>+ \$1.50</u>	Bailment Fee
\$153.02	Subtotal case cost
<u>+ 60.60</u>	Local ABC board markup (39.6%)
\$213.62	Subtotal case cost
<u>+ 64.08</u>	State excise tax (30%)
<u>+ 7.48</u>	Additional local government markup (3.5%)
\$285.177253	Case cost to six decimals
<u>+ 1.15</u>	Bailment surcharge
\$286.327353	Subtotal case cost
<u>÷ 12</u>	Divide above number by number of bottles in case
<u>+ 0.05</u>	Bottle charge for rehabilitation
<u>+ 0.05</u>	Bottle charge for profit distribution
\$23.9606	Round the result to an integer divisible by five cents (\$.05)
\$23.95	Retail price per bottle
<u>+ \$1.68</u>	State sales tax (7%)
\$25.63	Selling price per bottle to an individual.
\$23.95	Retail price per bottle
<u>+ \$3.75</u>	Mixed beverage tax (\$3.75 for 0.75 liters)
\$27.70	Selling price to mixed beverage permittee (No sales tax on liquor resold as mixed beverage)

Source: Program Evaluation Division based on state law and information from the ABC Commission.

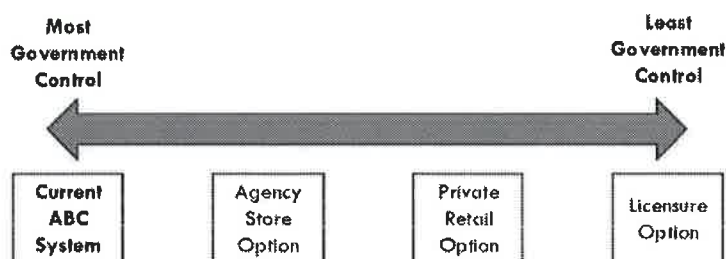
¹⁹ N.C. Gen. Stat. § 18B-805.

The Program Evaluation Division examined three options for changing North Carolina's alcohol beverage control system for liquor in order to illustrate the financial implications of transitioning to a different model. As discussed in Finding 2, several control states have closed state-operated retail liquor stores and switched to contracting with agency stores or licensing private retail businesses to sell liquor. These states continue to control the wholesale distribution of liquor, and their experiences guided the development of the agency store and private retail store options. The licensure option assumes that North Carolina relinquishes direct control of both the wholesale and retail market for liquor and licenses private wholesalers and retail business to sell liquor. Washington's conversion to state licensure and southeastern states' approach to licensing guided development of the licensure option. These options assume that local ABC boards would be abolished and local governments would no longer be responsible for operating local ABC stores. In addition, the Program Evaluation Division assumed that North Carolina's local option process would be maintained and thus liquor would only be sold in areas of the state that have voted to have ABC stores and mixed beverage sales.

Direct government involvement in liquor sales would be reduced under each option. The agency store and private retail options eliminate government-run ABC stores, but the ABC Commission would still control the wholesale liquor operations including liquor selection. The ABC Commission still controls retail liquor prices under the agency store option, but would only control the wholesale price under the private retail model. Under the licensure model, the ABC Commission would no longer have direct involvement with selling liquor and would regulate the liquor industry by licensing private wholesalers and retailers to sell liquor in North Carolina. Exhibit 15 shows where each option would be located on a continuum from most to least government control.

Exhibit 15

Direct Government Control of Liquor Sales Would Be Reduced If North Carolina Changes Liquor Regulation



Source: Program Evaluation Division.

Exhibit 16 describes in more detail how each option would affect North Carolina's alcohol beverage control system and compares the options to North Carolina's current system for controlling liquor sales.

Exhibit 16: ABC Commission Role in Regulating Liquor Sales Changes Depending on the Control Option Selected

Option Attributes	Current ABC System	Agency Store Option	Private Retail Option	Licensure Option
Wholesale Liquor Distribution				
ABC Commission controls central liquor warehouse	✓	✓	✓	✗
ABC Commission licenses private wholesalers to distribute liquor	✗	✗	✗	✓
Retail Liquor Sales				
Local governments operate ABC stores	✓	✗	✗	✗
ABC Commission contracts with agency stores to sell liquor	✗	✓	✗	✗
ABC Commission licenses private retail stores to sell liquor	✗	✗	✓	✓
Liquor Selection				
ABC Commission determines liquor selection	✓	✓	✓	✗
Private wholesaler determines liquor selection	✗	✗	✗	✓
Private retail store determines liquor selection	✗	✗	✗	✓
Liquor Pricing				
ABC Commission determines wholesale liquor prices	✓	✓	✓	✗
Private wholesalers determine wholesale liquor prices	✗	✗	✗	✓
ABC Commission determines retail liquor prices	✓	✓	✗	✗
Private retail businesses determine retail liquor prices	✗	✗	✓	✓
Mixed Beverage Sales				
MXB permittees purchase liquor from ABC stores	✓	✗	✗	✗
MXB permittees purchase liquor from agency stores	✗	✓	✗	✗
MXB permittees purchase liquor from private retail stores	✗	✗	✓	✓
MXB permittees purchase liquor from private wholesalers	✗	✗	✗	✓

Notes: MXB stands for mixed beverage.

Source: Program Evaluation Division.

Changing how North Carolina regulates liquor sales would have important financial ramifications for the State. Predicting the exact outcome of altering North Carolina's current system for regulating liquor sales is not possible. However, the Program Evaluation Division conducted analysis to address the following financial questions regarding possible changes to North Carolina's system for regulating liquor sales:

- How would funding for the ABC Commission and warehouse be affected?
- Could North Carolina sustain a similar level of state and local government revenue?
- What changes would consumers experience when purchasing liquor?

The analysis used estimated liquor sales and revenue data from the ABC Commission for Fiscal Year 2017–18 to estimate the financial implications of changing North Carolina's system for regulating liquor to each of the

three options previously outlined. Specifically, the goal of the analysis was to maintain Fiscal Year 2017–18 estimated revenue distributed to the State and to local governments for each option, as well as revenue for the ABC Commission and warehouse operations for options that require their operation. Appendices A–C provide a detailed analysis of the various financial and operational considerations and ramifications that would accompany a decision to change North Carolina's current system to one of these three options. For each option, Exhibit 17 summarizes the financial ramifications, which are discussed in more detail below.

Exhibit 17: Financial Ramifications of Changing How North Carolina Regulates Liquor Sales

Financial Ramifications	Agency Store Option	Private Retail Option	Licensure Option
ABC Commission funding	Maintains bailment surcharge for Commission		No bailment surcharge would be charged by Commission; replacement funding source would be necessary
ABC warehouse operations	Maintains bailment fee to fund ABC warehouse operations		No bailment fee would be charged by Commission
State government revenue	No change to pricing formula	Maintained by adding 1% markup to state pricing formula	Maintained by increasing state excise tax on liquor from 30% to 33.6%
Local government revenue	Maintained by increasing 3.5% local government markup to 12%		Maintained by establishing a 12% state excise tax for local governments
Local ABC markup		Eliminates 39.6% local ABC board markup	
Private retail liquor stores	Assumes agency stores receive 10% commission	Assumes private retails stores add 25% retail markup	Assumes private retails stores add 25% retail markup
Private wholesale operations		No change	Assumes private wholesalers add 20% wholesale markup
Access to liquor stores		Increases as more liquor stores results in higher outlet density	
Retail liquor consumption		Increases by estimated 20% with higher outlet density	
Retail liquor price	Decreases by estimated 14.8%	Decreases by estimated 1.3%	Increases by estimated 15.7%
Mixed beverage liquor price	Decreases by estimated 12.8%	Decreases by estimated 1.1%	Increases by estimated 13.5%

Note: See Appendices A through C for more information on how ramifications for each options were determined.

Source: Program Evaluation Division.

Financial ramifications for the ABC Commission, state and local government revenues, liquor consumers, mixed beverage permittees, and distilleries vary depending on the option:

- **Funding for the ABC Commission and warehouse.** Under the agency store and private retail options, the ABC Commission and warehouse would continue to be funded through bailment fees. The licensure option eliminates the need for the bailment fee for the ABC warehouse, but leaves no mechanism to assess the bailment

surcharge to fund the ABC Commission because the Commission would no longer operate a liquor warehouse.

Under the licensure option, the General Assembly would need to appropriate funds to support the ABC Commission or identify a different mechanism to pay for Commission operations. Currently, the ABC Commission is wholly supported by the liquor industry, so the General Assembly could consider a funding mechanism that would include all alcoholic beverages regulated by the ABC Commission: beer, liquor, and wine.

- **State and local government revenue.** Under all three options, state and local government revenue can be sustained by making adjustments to the markup formula or by increasing excise taxes. The precise amount of growth in liquor sales would affect the adjustments necessary to sustain state and local government revenue. The Program Evaluation Division assumed a 20% increase in sales. A growth rate lower than 20% would increase the adjustment needed to sustain revenue, whereas a higher growth rate would reduce it.

Permit fees from agency stores or private retail businesses licensed to sell liquor and private wholesalers licensed to distribute liquor also would provide revenue to the State's General Fund. The amount of revenue would vary depending on the amount of the permit fees and the number of stores licensed to sell liquor. For example, if North Carolina levied a \$1,000 annual permit fee for 1,000 private liquor stores, the General Fund would receive \$1 million.

- **Liquor consumers.** Under all three options, consumer access to liquor stores would increase because the number of retail locations selling liquor would increase (the Program Evaluation Division's analysis assumed 1,000 stores for each option). Retail liquor consumption would increase as a result of higher outlet density (analysis assumed an increase from 0.58 to 1.35 stores per 10,000 adults), which means that state and local revenue from liquor sales could be maintained with a smaller increase in markup or excise taxes. Liquor pricing would vary depending on the option; prices are estimated to decrease under the agency store and the private retail options and increase under the licensure option. Prices increase under the licensure option because private wholesalers must add a markup in order to profit from liquor distribution. Under the private retail and licensure options, liquor pricing would no longer be uniform statewide because the ABC Commission would not control retail liquor pricing.
- **Mixed beverage permittees.** Under all three options, mixed beverage permittees would be able to choose where they want to purchase liquor because they would no longer be assigned a specific local ABC board. Under the licensure model, mixed beverage permittees could choose to purchase liquor from a private retailer or wholesaler. Similar to liquor pricing for

consumers, liquor pricing for mixed beverage permittees also would vary depending on the option. Under the private retail and licensure options, liquor pricing would no longer be uniform statewide; as a result, some mixed beverage permittees may get better pricing if they purchase large quantities of liquor on a regular basis.

- **Liquor suppliers.** Under the agency store and private retail models, liquor suppliers would continue to ship their products to a central warehouse controlled by the ABC Commission. Liquor brokers would continue to represent liquor suppliers to agency stores or private retailers. Under the licensure model that follows the three-tier model, liquor suppliers, including North Carolina distilleries, would sell their products to private wholesalers. The liquor brokerage system would no longer be needed because private liquor wholesalers would sell liquor to private retailers and mixed beverage permittees.

In summary, changing how North Carolina regulates liquor sales would affect state and local revenues received from the sale of liquor. The Program Evaluation Division identified three options for changing North Carolina's alcohol beverage control system for liquor based on the experience of other states. These options assume that local ABC boards would be abolished and local governments would no longer be responsible for operating local ABC stores. Direct government involvement in liquor sales would be reduced under each option. Changing how North Carolina regulates liquor sales has important financial ramifications for the State and would affect the ABC Commission, state and local government revenues, and liquor consumers.

Finding 4. Opportunities exist to further modernize North Carolina's alcohol beverage control system.

As discussed previously, changing North Carolina's system for regulating liquor sales would require significant regulatory and operational modifications and would affect state and local government revenues. As an alternative, the current system could be modernized, which could include streamlining local ABC board operations and allowing local ABC boards greater flexibility in improving customer access and service.

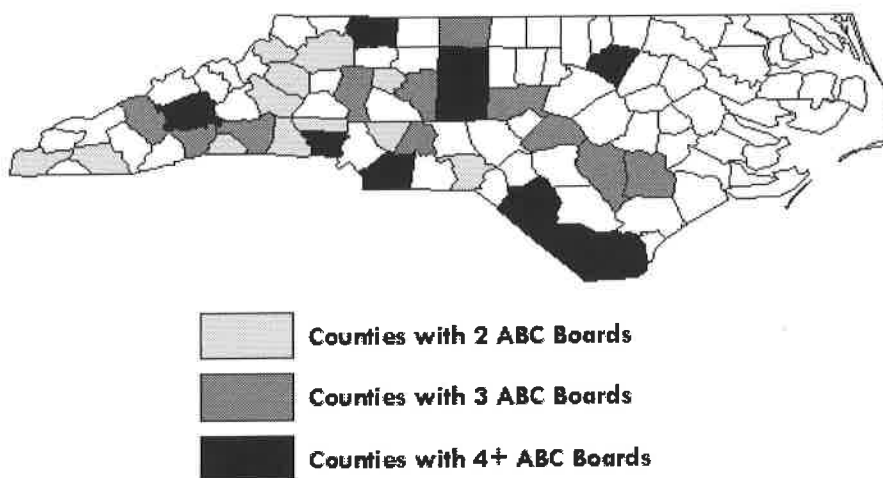
Increasing the registered voter threshold for holding a municipal ABC store election has not eliminated inefficiencies resulting from too many boards operating ABC stores in close proximity. The Program Evaluation Division found in 2008 that the low threshold for holding a municipal ABC store election caused a proliferation of local boards in dry counties.²⁰ To reduce unnecessary competition and inefficiencies caused by too many boards operating ABC stores in close proximity, the Program Evaluation Division recommended that the registered voter threshold be increased from 500 to 5,000 so that communities would have a large enough population to sustain an ABC store and not affect the profitability of other

²⁰ A county is considered "dry" if the county or any municipalities in it have not voted to allow the sale of any alcoholic beverages.

local ABC boards located in a dry county. Instead, the General Assembly increased the registered voter threshold to hold a municipal ABC store election to 1,000 voters. Nine communities located in dry counties have voted to have an ABC store since the registered voter threshold was increased to 1,000.²¹ Three communities—Belmont, Ramseur, and Troutman—appointed a local ABC board and opened an ABC store. The Program Evaluation Division found that gross liquor sales decreased for other nearby boards when these communities opened their stores, which indicates that the new boards reduced sales for nearby boards as opposed to generating new sales.²²

Thirty-three North Carolina counties have multiple ABC boards, causing inefficiencies. Currently, 170 local ABC boards serve 98 counties.²³ Of these boards, 108 are located in 33 counties. The remaining 65 counties with local ABC boards are served by a single county ABC board, merged ABC board, or municipal ABC board. As shown in Exhibit 18, among the 33 counties with multiple ABC boards, 12 counties have two boards, 11 counties have three boards, and 10 counties have four or more boards.

Exhibit 18: Thirty-three North Carolina Counties Are Served by Two or More Local ABC Boards



Note: Graham and Madison Counties do not have ABC boards.

Source: Program Evaluation Division based on information from the ABC Commission.

Single-county ABC boards have more profitable and efficient operations than some counties with multiple boards. The Program Evaluation Division calculated the countywide profitability and operating margins for Fiscal Year 2016–17 for three counties with multiple local ABC boards: Brunswick, Columbus, and Robeson Counties. Performance for these counties was compared to similar counties served by a single county ABC board. Exhibit 19 shows the comparison.

²¹ The effective date for the 1,000 registered voter threshold was October 1, 2010.

²² For more information on the effects of local ABC board proliferation, see pages 15–18 of the Program Evaluation Division report, *Follow-Up Report: Implementation of PED Recommendations Has Improved Local ABC Board Profitability and Operational Efficiency*.

²³ Graham and Madison Counties do not have ABC boards.

Exhibit 19: Counties Served by One ABC Board Had More Profitable and Efficient Operations than Similar Counties with Multiple ABC Boards During Fiscal Year 2016–17

County	Number of ABC Boards	Number of ABC Board Members	Total Annual ABC Board Compensation	Number of ABC Stores	County Outlet Density Per 10,000 Adults	County Profit %	County Operating Margin %
Brunswick County	9	29	\$38,160	11	1.13	7.9%	16.5%
Carteret County	1	5	\$ 0	6	1.15	12.6%	12.9%
Robeson County	7	25	\$24,512	8	.82	2.6%	19.6%
Wayne County	1	5	\$ 3,600	5	.54	8.1%	16.6%
Columbus County	5	15	\$11,800	5	1.19	5.6%	18.7%
Hoke County	1	3	\$ 3,600	2	.51	12.1%	12.1%

Notes: Brunswick County was compared to Carteret County because both counties are rural, located on the coast, and have similar outlet densities. Columbus County was compared to Hoke County because both counties are rural, located in eastern North Carolina, and have similar populations. Robeson County was compared to Wayne County because both counties are rural, located in eastern North Carolina, and have similar populations. The Carteret County ABC Board does not compensate its board members.

Source: Program Evaluation Division based on information from the ABC Commission.

Overall, each of the three counties with multiple ABC boards had lower profits and higher operating margins than their comparison county with a single county board. Two of the seven ABC boards in Robeson County were barely profitable during Fiscal Year 2016–17 and also had operating margins above 20%.²⁴ In Columbus County, the Lake Wacamaw ABC Board experienced 0.13% profit and an operating margin over 23%. Lower profits and higher operating margins mean that local appointing authorities receive lower distributions from liquor sales. During Fiscal Year 2016–17, the Maxton, Red Springs, and Rowland ABC Boards in Robeson County and the Lake Wacamaw ABC Board in Columbus County were all unable to distribute funds to their communities.

With eight municipal boards and a county board, Brunswick County has the most local boards in North Carolina. Currently, its nine boards operate 11 stores. Although all local boards in Brunswick County are profitable because the county is a tourist destination, having numerous boards creates inefficiencies and forces unnecessary competition. However, Carteret County, which also is a tourist destination, has only one board, and it is more profitable and efficient than the nine boards in Brunswick County. In Fiscal Year 2016–17, the Carteret County ABC Board distributed \$1.6 million or 11% of total sales of \$14.3 million to the county and

²⁴ The Maxton ABC Board experienced 1.3% profit and a 22.4% operating margin. The Red Springs ABC Board experienced 0.9% profit and a 23.2% operating margin. The Lumberton ABC Board also reported 0.4% profit, though its operations were affected by Hurricane Michael in 2017.

municipalities in comparison to \$1.3 million or 6% of total sales of \$21.6 million that was distributed by the nine boards in Brunswick County.

Streamlining local ABC board operations could improve efficiency of the alcohol beverage control system in North Carolina. Each local ABC board has between three and five members, which means that counties with multiple ABC boards appoint many more ABC board members than counties with only one ABC board. Most ABC boards provide compensation to their board members. As shown in Exhibit 19, the nine ABC boards in Brunswick County have 29 total board members who were paid a combined \$38,160 for their services during Fiscal Year 2016–17. By contrast, the Carteret County ABC Board has five members and chooses not to offer compensation to its board members, which results in a cost savings for the board. Whereas the seven ABC boards in Robeson County spent \$24,512 to compensate their board members, the Wayne County ABC Board only spent \$3,600.

Each local ABC board also employs a general manager to oversee operations and sometimes to serve as finance officer for the board. General manager compensation varies among ABC boards with smaller boards tending to pay lower salaries. ABC boards in Brunswick County collectively paid over \$420,000 to compensate nine general managers in Fiscal Year 2016–17, whereas the Carteret County ABC Board paid about \$75,000 to compensate one general manager. Operating expenses, including compensation and per diem for board members and compensation for general managers, detracts from the local revenue available for the board to distribute to local appointing authorities.

Board proliferation limits opportunities resulting from economies of scale. Boards with two or more stores are more likely to have a central warehouse to store liquor and also are likely to have more frequent deliveries because their volume of sales are higher. The two most common local board complaints reported to the Program Evaluation Division were

- frequency or dates of warehouse deliveries, and
- availability of product in the warehouse when ordering.

Under current operating standards, warehouse orders are first-come, first-served and delivery is scheduled based on sales volume. When boards leverage sales and storage space across a county, they are able to increase the number of monthly deliveries and the probability of receiving popular or hard-to-get items. In addition, local ABC boards with a central warehouse or more storage space are able to stock up when liquor products go on sale, thereby increasing their profits.

Board mergers reduce operating costs and increase profitability. In 2008, the Program Evaluation Division found that merging ABC boards resulted in increased efficiencies. The High Country ABC Board formed when three ski resort communities located in close proximity to each other decided to merge three boards because their three separate stores were struggling financially. The High Country ABC Board closed two stores and opened a new store that was centrally located among the ski resorts. As a result, operating margins and profitability improved.

The Triad Municipal ABC Board is the largest merged board with 14 stores serving Winston-Salem and six other communities located in Forsyth, Davie, Guilford, and Yadkin Counties. During a 2008 site visit, board staff noted that merged operations generate more revenue for each community because savings are achieved through combined managerial, administrative, financial, warehousing, and law enforcement functions.

Since 2008, only four merged ABC boards have formed, bringing the State's total to 11 merged boards.²⁵ As shown by the experiences of the High Country and Triad Municipal ABC Boards, board consolidation is a proven way to reduce operating costs and control store proliferation. Three of the most recent board mergers occurred as a result of a new community voting to have an ABC store. Jonesville chose to merge with the Elkin ABC Board to form the Yadkin Valley ABC Board, with a single store serving both communities. Mocksville merged with Cooleemee in Davie County to form the Mocksville-Cooleemee ABC Board; this merged board is planning to open an ABC store in Mocksville. Finally, the Jackson County ABC Board merged with the Sylva ABC Board after the former county voted to have an ABC store.

The Program Evaluation Division found that merged boards were more likely to outperform ABC boards in terms of profit and operating margins. Exhibit 20 provides the number of stores, profitability percentages, and operating margins for merged ABC boards. Whereas 19.6% of all local ABC boards in North Carolina have a profit margin of 10% or higher, 40% of merged boards have a profit margin of 10% or higher.

²⁵ In addition to the mergers resulting from a new community voting to have an ABC store, the Taylorsville ABC Board in Alexander County chose to merge with the Catawba County ABC Board.

Exhibit 20**Merged Boards Are More Likely to Outperform Other ABC Boards in Profit and Operating Margins**

Merged ABC Board	Number of Stores	Profit Margin	Operating Margin
Alamance Municipal	5	6.2%	18.6%
Catawba County	11	7.3%	16.9%
Gastonia	5	9.2%	15.7%
Greensboro	15	10.7%	14.5%
High Country	1	10.1%	15.0%
Jackson County	2	12.5%	12.6%
Montgomery Municipal	2	2.9%	22.1%
Oak Island	1	8.8%	16.2%
Triad Municipal	14	12.1%	12.6%
Yadkin Valley	1	8.6%	14.4%

Note: The Mocksville-Cooleemee ABC Board was not included in this analysis because its merger occurred in 2018.

Source: Program Evaluation Division from data provided by the ABC Commission.

For another point of comparison, the Program Evaluation Division found that private liquor retailers in South Carolina and Florida had operating margins between 14% and 18% during the 2008 evaluation of the ABC system. Whereas 62% of all local ABC boards match or exceed private liquor stores in South Carolina and Florida, 80% of merged local ABC boards have operating margins that match or exceed private liquor stores in these two states.

The ABC Commission cannot mandate board consolidations or mergers to improve the ABC system. According to ABC statutes, the ABC Commission can approve mergers, but it does not have the authority to compel consolidation to improve system efficiency.²⁶ If all ABC boards located in a county were required to merge into one board with one general manager, the resulting merged board would use a smaller percentage of operating costs for compensation and per diem and subsequently distribute a higher proportion of revenue than multiple boards located in the same county. Based on the experience of merged ABC boards, moving to a system with a single board would reduce operating costs and increase profitability for counties with multiple ABC boards.

Purchase-transportation permits are a holdover from an era of greater concern over bootlegging and do not reflect current attitudes about access to alcoholic beverages. The purchase-transportation permit requirement was a provision of the 1937 Act establishing North Carolina's ABC system and was intended to deter bootlegging, a pervasive problem during Prohibition. Although the Program Evaluation Division recommended its elimination during its 2008 evaluation, the statute remains, limiting the

²⁶ N. C. Gen. Stat. § 18B-100.

amount of liquor that can be purchased without a permit to 8 liters or 10 bottles (750 milliliters). During the course of this evaluation, the Program Evaluation Division again found that local boards thought the purchase-transportation permit requirement was antiquated, hindered sales, and created unnecessary hassles for customers, particularly those who make large purchases infrequently. Several boards recommended the permit be eliminated or the amount of liquor requiring a permit be increased.

Opportunities exist for improving state warehouse operations and contract requirements. The warehouse contractor's responsibilities include receipt, storage, and distribution of liquor to all ABC boards across the state. The current annual contract costs \$8 million and is paid through bailment fees. In 2018, the State Auditor found that the ABC Commission did not procure, administer, and monitor the contract with LB&B Associates for the warehousing and distribution of liquor in accordance with state policies and best practices, resulting in unjustified costs to the State.²⁷ In response to the audit, the current Chairman of the ABC Commission accepted all findings and promised to implement all necessary changes to ensure efficiency in ABC operations. As part of these changes, the ABC Commission will openly bid for warehouse services before the expiration of the current contract in 2021. The ABC Commission plans to work with the Division of Purchasing and Contract in the Department of Administration, the Attorney General's Office, and others who have expertise in developing similar Requests for Proposal (RFPs) and contracts. The Commission plans to develop RFP requirements and establish the implementation timeline in 2019. The Program Evaluation Division surveyed local ABC boards and found widespread interest in issues surrounding warehouse services, including the delivery schedule and billing.

A contracted service of this scale and complexity is unique in North Carolina state government and may require specialized logistical planning and expertise beyond what the Division of Purchasing and Contract and Attorney General's Office can provide. As the ABC Commission prepares to rebid North Carolina's liquor warehouse contract, other control states with private warehouse arrangements may be a resource for technical assistance.

The Program Evaluation Division found that control states have a variety of liquor warehousing arrangements. Overall, most control states own and operate their liquor warehouses with government employees. Several states, like North Carolina, own at least one warehouse but contract with a private company to operate the warehouse and distribute liquor to stores. Two states, Michigan and Ohio, do not own liquor warehouses and contract for warehouse services. Exhibit 21 provides information on warehouse arrangements for each control state.

²⁷ Office of the State Auditor. (2018, August). *Alcoholic Beverage Control Commission Warehouse Contract*. Performance Audit. Raleigh, State of North Carolina.

Exhibit 21: Most Control States Own and Operate Their Liquor Warehouses

Control State	Bailment Fees?	Number of warehouses	Who owns warehouse?	Who operates warehouse?	Distribution System
Alabama	Yes	1	State	State	Private
Idaho	Yes	1	State	State	State
Iowa	Yes	1	State	State	State
Maine	Yes	1	Private	Private	Private
Michigan	Yes	0	Private	Private	Private
Mississippi	Yes	1	State	State	State
Montana	Yes	1	State	State	Private
New Hampshire	Yes	2	State, Private	State, Private	State, Private
North Carolina	Yes	2	State, Private	Private	Private
Ohio	Yes	4	Private	Private	Private
Oregon	Yes	2	State	State	State
Pennsylvania	No	3	State	Private	Private
Utah	Yes	1	State	State	State
Vermont	Yes	1	State	State	State
Virginia	Yes	1	State	State	State
West Virginia	Yes	1	State	State	Private
Wyoming	No	1	State	State	State

Note: States received "State, Private" designation when both state government and private contractors own or operate the warehouse or distribution system.

Source: Program Evaluation Division based on information from the National Alcohol Beverage Control Association.

Special order process. Liquor products that are not listed on the approved state price listing may be special ordered. A retail or mixed-beverage customer must contact a local ABC board and make a request to purchase a case of unlisted liquor. The local ABC board then makes a request to the ABC Commission. The Commission contacts the vendor for the price and advises the local board, which then advises the customer as to how much each case will cost. Customers do not have the option to buy a single bottle of special order liquor; they are required to buy a case. The special order must be prepaid by the customer to the local ABC board, which places the order with the Commission. During this evaluation, the Program Evaluation Division heard the contention that local ABC boards should be allowed to let customers purchase a bottle of special order liquor and then sell the remaining bottles in the case on store shelves at their discretion. This change would allow local ABC boards to better serve their retail and mixed-beverage customers who cannot afford or do not need a full case of special order liquor. The ABC Commission does not currently charge an administrative fee for managing the special order process for local ABC

boards because the number of special orders is limited by the requirement that a customer must purchase a full case. Under a more flexible process, the number of special orders would be expected to increase, and the ABC Commission noted that more staff resources might be needed to manage special orders.

Services for mixed beverage permittees. State law prevents local ordinances from requiring additional permits or fees beyond those established in law, which means that local ABC boards cannot charge mixed beverage permittees a delivery fee.²⁸ The Program Evaluation Division heard from local ABC boards and stakeholder groups that mixed-beverage permittees would prefer to have liquor delivered to them. In order to remedy the inconvenience, some local boards reported that they provide a free delivery service to mixed beverage permittees despite associated costs. If local ABC boards had the authority to charge a delivery fee, more boards would be likely to offer the service to mixed-beverage permittees.

Opening ABC stores on Sundays. State law prohibits local boards from selling alcoholic beverages between the hours of 9:00 P.M. and 9:00 A.M. and on Sundays.²⁹ The Program Evaluation Division heard from some local ABC boards and stakeholders that communities should have the option to open ABC stores on Sundays. Stakeholders noted that state law allows packaged beer and wine to be sold in retail stores on Sundays starting at noon and that some consumers prefer to shop on Sundays.

Currently, 42 states and the District of Columbia allow Sunday liquor sales including 20 states that authorize local governments to decide whether to allow or prohibit Sunday sales. As shown in Exhibit 10 in this report, four southeastern states prohibit Sunday off-premises liquor sales: Mississippi, North Carolina, South Carolina, and West Virginia. Other than Tennessee, which allows Sunday liquor sales throughout the state, the other southeastern states allow local governments to regulate Sunday liquor sales.

To understand how North Carolina citizens would view Sunday sales of liquor by ABC stores, the Program Evaluation Division sought out public opinion as to whether ABC stores should be open or closed on Sundays. As shown in Exhibit 22, the majority of citizens polled by Elon University said that they thought ABC stores should remain closed on Sundays; this option was also the most popular among respondents to the High Point University poll.

²⁸ N. C. Gen. Stat. § 18B-100.

²⁹ N. C. Gen. Stat. § 18B-802.

Exhibit 22**Public Opinion Favors
Keeping ABC Stores Closed
on Sundays**

Response Options	Elon University Poll (n=379)	High Point University Poll (n=827)
ABC stores open on Sundays	37%	45%
ABC stores closed on Sundays	52%	46%
Don't know/Refused	11%	9%

Notes: The Elon University Poll used a blended online-phone sample for its survey, but the ABC questions were only asked to phone respondents to allow for confirmation that respondents were registered voters in North Carolina. The margin of error on these results is $\pm 5\%$. The High Point University Poll also used a blended online-phone sample for its survey but the ABC questions were asked to both online and phone respondents. The online sampling is derived from a panel of respondents, and therefore their participation does not adhere to usual assumptions associated with random selection. Because of the blended design, the High Point University Poll provided a credibility interval of ± 5.4 percentage points to account for a traditional 95 percent confidence interval for the estimates (± 3.4 percentage points) and a design effect of 1.6 (based on the weighting).

Source: Program Evaluation Division from data provided by Elon University and High Point University Polls.

Liquor tastings in ABC stores. State law prohibits consumption of liquor on the premises of an ABC store, which means ABC stores cannot offer in-store liquor tastings for customers.³⁰ The Program Evaluation Division heard from liquor suppliers and brokers and some local ABC boards that boards should have the option to offer in-store tastings with appropriate regulation of the activity. They said that customers wanted the opportunity to try liquor products before purchasing them, especially expensive ones. The Program Evaluation Division found that 37 states allow retail stores to offer liquor tastings. Exhibit 23 shows that most southeastern states allow in-store liquor tastings. Florida, Georgia, and North Carolina are the only southeastern states that prohibit in-store tastings.

³⁰ N. C. Gen. Stat. § 18B-301(f)(1).

Exhibit 23**Most Southeastern
States Allow In-Store
Liquor Tastings**

Southeastern States	Allow In-Store Tastings
Alabama	✓
Arkansas	✓
Florida	x
Georgia	x
Kentucky	✓
Louisiana	✓
Mississippi	✓
North Carolina	x
South Carolina	✓
Tennessee	✓
Virginia	✓
West Virginia	✓

Note: Control states are shaded light gray.

Source: Program Evaluation Division based on information from the 2016 Fact Book: Beverage Alcohol State Facts and Regulations by the Beverage Information Group.

State law already allows North Carolina distilleries to provide liquor tastings, and permitting liquor tastings in ABC stores would offer liquor consumers the opportunity to try liquor products from out-of-state distilleries.³¹

In summary, in lieu of changing North Carolina's system for regulating liquor sales, the State could choose to further modernize its current system. Streamlining local ABC board operations could increase efficiency and profitability, including through board mergers in counties with multiple ABC boards. In addition, purchase-transportation permits do not reflect current attitudes about access to alcoholic beverages. Local ABC boards and other stakeholders identified several other ideas for modernizing the current system for regulating liquor in North Carolina including modifying the special order process, allowing ABC stores to be open on Sundays, and allowing ABC stores to offer in-store liquor tastings.

³¹ N. C. Gen. Stat. § 18B-1001(19)

Recommendations

North Carolina's ABC system has seen few changes since its initial authorization in 1937 when legislation created a state monopoly for the sale of liquor. Legislative consideration of potentially changing how North Carolina regulates liquor sales would involve wide-ranging deliberation.

The first legislative consideration would be determining how the government's role in controlling liquor sales would change. Based on the experience of other control states, this evaluation identified two options for changing the government's role:

- ending government control of retail liquor sales or
- ending government control of wholesale and retail liquor sales.

This initial decision would guide legislative consideration of the regulatory, operational, and financial modifications to the current system that would be subsequently necessary.

If the General Assembly decides to change how North Carolina regulates liquor sales, the Program Evaluation Division would recommend appointing a joint legislative commission to determine how state and local government roles in regulating liquor sales would change. As a starting point for the joint legislative commission, this evaluation provides a road map to guide legislative decisions for existing and new components of the alcohol beverage control system for liquor (see Exhibit 7 on page 16).

If the General Assembly decides not to pursue changing North Carolina's system, the Program Evaluation Division makes the following seven recommendations to further modernize the current system for controlling liquor sales.

Recommendation 1. The General Assembly should direct local ABC boards located in counties with two or more boards to consolidate local ABC operations and establish a merged ABC board.

As discussed in Finding 4, the Program Evaluation Division found that counties with only one ABC board have more profitable and efficient operations than counties served by multiple boards. Board mergers have reduced operating costs and increased profitability for the 11 merged boards currently in existence, and merged boards were more likely to outperform other ABC boards in terms of profit and operating margins. According to ABC statutes, the ABC Commission can approve mergers but does not have the authority to compel consolidation to improve system efficiency. If all local ABC boards located in a county with multiple boards were required to merge into one board, the resulting merged boards would be more efficient and likely distribute a higher proportion of revenue back to the community compared to multiple boards operating in the same county.

To increase the profitability and efficiency of the ABC system, the General Assembly should direct local ABC boards located in counties with two or more boards to consolidate local ABC operations and establish a merged board. Existing state law (N. C. Gen. Stat. § 18B-703) already addresses

the merger of local ABC operations. This law should be modified to mandate mergers in counties with two or more local ABC boards that are not already participating in a merged ABC board. In addition, the language in state law that allows cities and counties to dissolve their merged operation at any time and resume their prior separate operations should be modified so that dissolution can only happen if a city or county chooses to join a different merged ABC board.

To ensure that board mergers occur within a reasonable timeframe, the General Assembly should mandate that all mergers must be completed no later than June 30, 2021.

Recommendation 2. The General Assembly should eliminate the purchase-transportation permit requirement for liquor in N.C. Gen. Stat. §§ 18B-303 and 18B-403.

The Program Evaluation Division recommended in its 2008 evaluation, *North Carolina's Alcohol Beverage Control System Is Outdated and Needs Modernization*, that the purchase-transportation permit requirement limiting the amount of liquor a consumer can purchase at one time be eliminated. The General Assembly did not take action on this recommendation. As discussed in Finding 4 of this report, purchase-transportation permits were originally established to deter bootlegging, which is no longer a serious problem in North Carolina. Local ABC boards reported that these permits impose an administrative burden on ABC stores and liquor customers.

To improve services for liquor customers and reduce the administrative burden on local ABC boards, the General Assembly should eliminate the purchase-transportation permit requirement for liquor in N.C. Gen. Stat. §§ 18B-303 and 18B-403.

Recommendation 3. The General Assembly should direct the ABC Commission to report on the process for obtaining a new contract for receipt, storage, and distribution of liquor by an independent contractor.

The ABC Commission will bid for warehouse services prior to the expiration of its current contract in 2021. To ensure that concerns identified by the State Auditor are addressed, the General Assembly should monitor the Request for Proposal (RFP) process for the warehouse contract until the ABC Commission selects a contractor to operate the ABC warehouse and liquor distribution system.

The General Assembly should direct the ABC Commission to report quarterly to the Joint Legislative Oversight on Justice and Public Safety Committee on its process for selecting a contractor to operate the ABC warehouse and liquor distribution system. At a minimum, the quarterly report should include

- a schedule for developing and issuing the RFP, including how the ABC Commission is meeting the milestones identified in the schedule;
- identification of state agencies and other entities providing the ABC Commission with technical assistance on RFP development and

- contract negotiation, including a description of the technical assistance that is being provided;
- description of ABC Commission consultation with local ABC boards to ensure the latter's concerns and expectations are addressed during RFP development and contract negotiations;
- a copy of the RFP when it is released;
- a copy of the final ABC warehouse contract and financial terms; and
- an implementation schedule for transitioning from the existing ABC warehouse contract to the new contract.

The ABC Commission should be directed to submit its first report on October 15, 2019. Subsequent reports should be submitted 15 days after the end of each quarter until the final ABC warehouse contract has been awarded.

Recommendation 4. The General Assembly should direct the ABC Commission to allow ABC stores the flexibility to provide less than a full case of product to a special order customer and sell the remaining product in the ABC store.

During this evaluation, the Program Evaluation Division heard that local ABC boards should be permitted to allow a customer to purchase a bottle of special order liquor and then sell the remaining bottles in the case on store shelves at their discretion. This adjustment would allow local ABC boards to better serve their retail and mixed-beverage customers who are interested in purchasing a special order liquor product but cannot afford or do not need a full case of it.

To increase the availability of special order liquor products for retail and mixed-beverage liquor customers, the General Assembly should direct the ABC Commission to modify administrative rules to allow ABC stores the flexibility to provide less than a full case of product to special order customers and sell the remaining product in the ABC store. In addition, the General Assembly should authorize the ABC Commission to charge local ABC boards an administrative fee to cover the cost of managing the special order process.

Recommendation 5. The General Assembly should modify existing state law to allow local ABC boards to charge mixed beverage permittees a delivery fee.

As discussed in Finding 4, the Program Evaluation Division found that state law prevents local ordinances from requiring additional permits or fees beyond those established in law, and as a result local ABC boards cannot charge mixed beverage permittees a delivery fee. Both local ABC boards and stakeholder groups mentioned that mixed beverage permittees would prefer to have liquor delivered to their establishments. Permitting local ABC boards to charge a delivery fee would make it financially feasible for more boards to offer a delivery service for their mixed beverage

permittees. The General Assembly should enact state law that specifically authorizes local ABC boards to charge a fee for delivery services provided to mixed-beverage permittees in their jurisdiction.

Recommendation 6. The General Assembly should consider enacting state law to allow local governments the option to open ABC stores on Sundays.

The Program Evaluation Division heard from some local ABC boards and stakeholders that communities should have the option to open ABC stores on Sundays. Currently, 20 states authorize local governments to decide whether to allow or prohibit Sunday package or off-premises liquor sales. In 2017, the General Assembly enacted state law authorizing counties and municipalities to adopt ordinances to allow on-premises alcoholic beverage permittees to serve beer, wine, and mixed beverages beginning at 10:00 A.M. on Sundays.

To allow communities the flexibility to decide whether ABC stores should be open on Sundays, the General Assembly should enact state law authorizing counties and municipalities to adopt ordinances directing the local ABC board serving their jurisdiction to open ABC stores on Sundays. Local governments should be required to consult with the local ABC board serving their community prior to adoption of the ordinance.

Recommendation 7. The General Assembly should enact state law to allow in-store liquor product tastings in ABC stores in accordance with the permit requirements in N.C. Gen. Stat. § 18B-1114.7.

The Program Evaluation Division heard from liquor suppliers and brokers and some local ABC boards that boards should have the option to offer in-store tastings of liquor products with appropriate regulation of the activity. State law already allows North Carolina distilleries to provide liquor tastings, and permitting liquor tastings in ABC stores would offer liquor consumers the opportunity to try liquor products from both in-state and out-of-state distilleries.

The General Assembly should enact state law to allow local ABC boards the option to offer in-store liquor product tastings in ABC stores in accordance with the permit requirements already in state law.

Appendices

Appendix A: Financial and Operational Considerations for Three Alternative Liquor Regulatory Systems

Appendix B: Estimated Revenue Calculations for Current Liquor Regulatory System and Three Alternative Systems

Appendix C: Comparison of Estimated Liquor Pricing for Current Regulatory System and Three Alternative Systems

Agency Response

A draft of this report was submitted to the ABC Commission for review. Its response is provided following the appendices.

Program Evaluation Division Contact and Acknowledgments

For more information on this report, please contact the lead evaluator, Carol Shaw, at carol.shaw@ncleg.net.

Staff members who made key contributions to this report include Joanne Brosh and Sidney Thomas. John W. Turcotte is the director of the Program Evaluation Division.

Appendix A: Financial and Operational Considerations for Three Alternative Liquor Regulatory Systems

Analysis Attribute	Why the Attribute matters	Agency Store Option	Private Retail Option	Licensure Option	Additional Comments
ABC Commission Attributes					
ABC Commission funding	The ABC Commission charges a bailment surcharge to support the cost of ABC Commission operations.	PED assumed that the \$1.15 bailment surcharge would continue because the Commission would control wholesale liquor distribution.	PED assumed that the bailment surcharge would end because the State would no longer control wholesale liquor distribution.	The current bailment surcharge fully supports ABC Commission operations so PED did not change it for the analysis. Under the licensure option, the ABC Commission would need replacement funding to cover the cost of operations.	
ABC warehouse operations	The ABC Commission charges a bailment fee to support the cost of the ABC warehouse and distribution system.	PED assumed that the \$1.50 bailment fee would continue because the Commission would control wholesale liquor distribution.	PED assumed that the bailment fee would end because the State would not control wholesale distribution.	The current bailment fee fully supports warehouse operations so PED did not change it for the analysis.	
Number of retail licenses	Licenses determine the number of retail liquor stores.	PED assumed that the ABC Commission would contract with or license 1,000 retail businesses to sell packaged liquor.		This assumption would increase the statewide outlet density for liquor from 0.58 stores per 10,000 adults to 1.35 stores per 10,000 adults.	
Liquor consumption growth rate	There is a correlation between liquor density and liquor consumption. States with higher outlet density are more likely to have higher liquor consumption	For each option, the initial cost of goods sold for home consumption for Fiscal Year 2017–18 was increased by 20% to reflect estimated consumption growth. PED used the following formulas to estimate the growth in liquor consumption if outlet density was increased. Adult liquor consumption = (0.35)(ln(outlet density per 10,000 adults)) + 1.96 2.07 = (0.35)ln(1.35))=1.96 (Increased adult liquor consumption – 2015 liquor consumption)/2015 liquor consumption (2.07 – 1.72)/1.72 = .2035 rounded to 20%		PED conducted a linear regression to investigate the relationship between outlet density per 10,000 adults and adult liquor consumption across states using 2015 and 2016 data. The assumption for linearity was not met, indicating that a log transformation of the y-axis (adult liquor consumption) was needed. Ordinary Least Squares (OLS) regression on the transformed data showed a significant relationship (p < 0.001) between outlet density and liquor consumption (log y = 0.68 + 0.34x), with an R ² value of 0.29. The R ² value indicates 29% of the variation in consumption is explained by the model containing only outlet density.	
Initial cost of goods sold	Liquor revenues were calculated on the initial cost of goods sold.	PED used the Fiscal Year 2017–18 estimated cost of goods sold provided by the ABC Commission minus the bailment fee and bailment surcharges for the analysis. \$564,698,166 = \$581,037,960 COGS – (\$7,090,854 + 9,248,940) For each option, 80.3% of estimated cost of goods sold (retail sales for home consumption) was increased by 20% to reflect higher liquor consumption resulting from more liquor stores. Mixed beverage sales were not adjusted (19.7% of estimated cost of goods sold).		Under the licensure model, private wholesalers may or may not be able to get liquor at the same price as the State—the cost of goods may vary across the state.	

Analysis Attribute	Why the Attribute matters	Agency Store Option	Private Retail Option	Licensure Option	Additional Comments
State Revenue Attributes					
State excise tax on liquor	Revenue from the excise tax on liquor goes to the State General Fund.	Currently, the State excise tax on liquor is 30%, and PED assumed that the tax rate on would not change for the agency store and private retail options.		PED assumed that the state excise tax on liquor would increase from 30% to 33.6% to maintain state revenue.	Under the agency store and private retail options, state revenue could be maintained by adding a state markup percentage to the pricing formula instead of increasing the excise tax on liquor. Under the licensure model, the ABC Commission would not control liquor pricing which means the only mechanism to maintain state revenue is to increase the State excise tax.
State sales tax on liquor	Revenue from the sales tax on liquor goes to the State General Fund.	Currently, the sales tax on liquor is 7%, and PED assumed that the tax rate would not change for the three options. The cost of goods sold to mixed beverage permittees is excluded from sales tax calculations because the permittees do not pay sales tax. PED found that 19.7% of Fiscal Year 2017–18 total liquor sales in North Carolina were purchased by mixed beverage permittees. Estimated sales tax for each option is calculated for 80.3% of estimated total liquor sales for Fiscal Year 2017–18.			The amount of sales tax revenue collected under each option differs because the amount is determined by the estimated cost of liquor prior to the sales tax calculations.
Mixed beverage tax	Revenue (55%) from the mixed beverage tax goes to the State General Fund and the Department of Health and Human Services.	<p>Currently, the mixed beverage tax is \$20 per four liters or \$3.75 per 750 ml bottle of liquor sold to mixed beverage permittees. PED assumed that the tax would not change for the three options, and that tax revenue would continue to go to the State General Fund (50%) and the Department of Health and Human Services (5%).</p> <p>PED estimated the mixed beverage tax collections were \$36.4 million during Fiscal Year 2017–18. The estimate was calculated by determining the growth in mixed beverage sales during Fiscal Year 2017–18 as compared to Fiscal Year 2016–17.</p> <p>Growth in MBX sales = (2017–18 MBX sales minus 2016–17 MBX sales)/2016–17 MBX sales. $(221,872,475 - 204,631,073) / 204,631,073 = 8.4\%$.</p> <p>Estimated MBX taxes for FY2017–18 = (MBX taxes for FY2016–17 x 8.4%) $33,555,726 \times 1.084 = 36,374,560$.</p>			PED assumed that private retailers and/or wholesalers would collect the mixed beverage tax and submit it to the State when liquor is purchased by a mixed beverage permittee.
State liquor markup	The current ABC Commission pricing formula does not include a state markup for the General Fund, but a state markup would be necessary to maintain state revenues under the private retail option.	PED found that a state liquor markup was not needed to maintain revenue under this option.	PED assumed a 1% markup under the state pricing formula that would be deposited in the General Fund to maintain state revenue.	Not applicable because the ABC Commission would no longer control liquor pricing under this option	PED added a state markup under the Private Retail option because the ABC Commission controls the pricing formula for liquor.

Analysis Attribute	Why the Attribute matters	Agency Store Option	Private Retail Option	Licensure Option	Additional Comments
State liquor revenue	The State General Fund receives tax revenue from liquor taxes.	During Fiscal Year 2016–17, the State General Fund received \$306.3 million from liquor taxes. For this analysis, PED estimated that Fiscal Year 2017–18 State General Fund revenue from liquor taxes was \$319.6 million and used this number when estimating how each option would affect state revenue and what changes would be necessary to maintain state revenue. The Fiscal Year 2017–18 State liquor excise tax revenue estimate was derived using the following formula: $2017\text{--}18 \text{ State Liquor Excise Tax Revenue} = (2017\text{--}18 \text{ Estimated Cost of Goods Sold} + \text{Estimated Bailment Fee Revenue} + \text{Local ABC Board Markup}) \times 30\%$ The Fiscal Year 2017–18 liquor sales tax revenue estimate was derived using the following formula: $2017\text{--}18 \text{ State Liquor Sales Tax Revenue} = (2017\text{--}18 \text{ Cost of Goods Sold for Home Consumption} + \text{Estimated Bailment Fee Revenue} + \text{Local ABC Board Markup} + \text{Bailment Fee Surcharge Revenue} + \text{Additional Local Government Markup} + \text{Bottle Charge Revenue for Rehabilitation} + \text{Bottle Charge Revenue for Local government}) \times 7\%$			PED found that the amount of state revenue collected is affected by how much the initial cost of goods sold is marked up prior to the calculation of liquor taxes. For example, the current State excised tax on liquor is applied after the bailment fee (\$1.15 per case) and local ABC board markup (39.6%) has been added to the initial cost of goods sold. Decreasing or increasing the markup prior to applying the State excise tax on liquor affects the amount of revenue collected.
Local Government Revenue Attributes					
Local ABC Board Markup	The ABC Commission sets the local ABC markup to cover the cost of ABC store operations and revenue distributions for local government.	Currently, the local ABC board markup is 39.6%. PED assumed that the local ABC board markup would be eliminated under each option.			PED assumed that the local ABC boards would be dissolved and their stores closed which would eliminate the need for the local ABC board markup.
Bottle charge for rehabilitation	Revenue from this bottle charge must be spent on substance abuse research, education, or treatment.	Currently, the bottle charge for rehabilitation is 1¢ per bottle of 50 ml or less and 5¢ per bottle over 50 ml. PED assumed that the bottle charge for rehabilitation would continue under each option and that the revenue would be used by local governments for substance abuse research, education or treatment.			Revenue from both bottle charges would increase under all options because liquor consumption is estimated to increase. PED assumed that revenue from both bottle charges would be distributed based on where the liquor is sold.
Additional bottle charge for local governments	Revenue from this bottle charge goes to local government General Funds and is unrestricted.	Currently, the additional bottle charge for local government is 1¢ per bottle of 50 ml or less and 5¢ per bottle over 50 ml. PED assumed that the bottle charge for local governments would continue under each option and that the revenue would be unrestricted and go to local government General Funds.			
Mixed beverage tax	45% of mixed beverage revenue goes local ABC Boards' gross receipts for operating costs and profit distribution.	Currently, the mixed beverage tax is \$20 per four liters or \$3.75 per 750 ml bottle of liquor sold to mixed beverage permittees. PED assumed that the tax would not change for the three options and that the mixed beverage tax would go directly to local government General Funds instead of local ABC board gross receipts.			PED assumed that revenue from the mixed beverage tax would be distributed based on where liquor is sold.

Analysis Attribute	Why the Attribute matters	Agency Store Option	Private Retail Option	Licensure Option	Additional Comments
Local government markup	Revenue from the local government markup set by the ABC Commission goes to local government General Funds and is unrestricted.	Currently, the local government markup is 3.5%. PED assumed that the local government markup would increase from 12% under the agency store and private retail options.		Not applicable because the ABC Commission would no longer control liquor pricing under this option.	PED assumed that the revenue from the local government markup would be distributed based on where liquor is sold.
State excise tax for local governments	A State excise tax for local government would be needed under the licensure option because the ABC Commission would not control liquor pricing.	Not applicable because the local government markup controlled by the ABC Commission would allow local governments to maintain revenue under the agency store and private retail options.		PED assumed that a 12% State excise tax for local government would be established under the licensure option.	PED assumed that the revenue from the State excise tax for local governments would be distributed based on where liquor is sold.
Local Government Revenue	Local governments receive revenue from local ABC board profit distributions, local government markup, bottle charges, and the mixed beverage tax.	During Fiscal Year 2016–17, local governments received \$98 million from local ABC board profit distributions, local government markup, bottle charges, and the mixed beverage tax. For this analysis, PED estimated that local governments received \$105 million during Fiscal Year 2017–18 and used this number when estimating how each option would affect local government revenue and what changes would be necessary to maintain revenue.			PED assumed that all liquor revenue for local governments would be distributed based on where liquor is sold.
Private Retail and Wholesale Attributes					
Agency store commission fee	Commission fees compensate agency stores for selling liquor on behalf of state government.	PED assumed a 10% commission fee under the agency store option.	Not applicable under the private retail and licensure options.		PED reviewed commission fees for control states that contract with agency stores to sell liquor. The fees ranged from 6% to 14% of retail liquor sales. Some states offer incentives for higher sales or paid a higher commission on a base level of sales and lowered the commission as sales increased. PED assumed a flat commission fee of 10% to simplify calculations.
Private retail store markup	Markup allows private retailers to profit from liquor sales.	Not applicable under the agency store option.	PED assumed a 25% private retail markup for the private retail and licensure options.		According to the Distilled Spirits Council of the United States, the national average for private retail markup is 25% for small to medium package liquor stores.
Private wholesale markup	Markup allows private wholesalers to profit from liquor distribution.	Not applicable because the ABC Commission would continue to control wholesale liquor distribution under the agency store and private retail options.		PED assumed a 20% wholesale markup and applied the markup after State excise taxes were calculated.	According to the Distilled Spirits Council of the United States, the national average for wholesale markup is 20%.

Source: Program Evaluation Division.

Appendix B: Estimated Revenue Calculations for Current Liquor Regulatory System and for Three Alternative Systems

Current ABC System: Estimated Revenue Calculations for Fiscal Year 2017–18

Pricing Component	Rate	Amount	Distribution to
Cost of Goods Sold	n/a	\$ 564,698,166	Liquor suppliers
+ Bailment Fee	\$1.50 per case	9,248,940	ABC Commission Fund
Subtotal 1		\$ 573,947,106	
+ Local ABC board markup	39.6%	227,283,054	Local ABC board gross receipts
Subtotal 2		\$ 801,230,160	
+ State Excise Tax	30%	240,369,048	State General Fund
+ Additional Local government markup	3.5%	28,043,056	Local government General Fund
+ Bailment surcharge	\$1.15 per case	7,090,854	ABC Commission Fund
+ Rehabilitation bottle charge	Bottles 50ml or less - 1¢/bottle Bottles over 50ml - 5¢/bottle	4,404,832	Local government restricted funds for rehabilitation
+ Local government bottle charge	Bottles 50ml or less - 1¢/bottle Bottles over 50ml - 5¢/bottle	4,404,832	Local government General Fund
Subtotal 3		\$1,085,542,781	
+ Sales tax on retail product	7%	61,018,360	State General Fund
+ Mixed beverage tax	\$10/4 liters	18,187,280	State General Fund
	\$9/4 liters	16,368,552	Local ABC board gross receipts
	\$1/4 liters	1,818,728	Department of Health and Human Services
Total Gross Revenue		\$1,182,935,701	

Distributed to	Revenue
Liquor suppliers	\$ 564,698,166
State General Fund	319,574,688
Local ABC board gross receipts	243,651,606
Local governments general funds	32,447,887
ABC Commission Fund	16,339,794
Local government restricted funds for rehabilitation	4,404,832
Department of Health and Human Services	1,818,728
Total Revenue Distribution	\$ 1,182,935,701

Source: Program Evaluation Division based on estimated Fiscal Year 2017–18 financial data from the ABC Commission.

Agency Store Option: Estimated Revenue Calculations Based on Fiscal Year 2017–18 Data

Pricing Component	Rate	Amount	Distribution to
Cost of Goods Sold (COGS)	n/a	\$ 655,388,691	Liquor suppliers
+ Bailment Fee	\$1.50 per case	9,248,940	ABC Commission Fund
Subtotal 1		\$ 664,637,631	
+ Agency store commission	10%	66,463,763	Agency stores
+ Local government markup	12%	79,756,516	Local government General Fund
Subtotal 2		\$ 810,857,910	
+ State Excise Tax	30%	243,257,373	State General Fund
+ Bailment surcharge	\$1.15 per case	7,090,854	ABC Commission Fund
+ Rehabilitation bottle charge	Bottles 50ml or less - 1¢/bottle Bottles over 50ml - 5¢/bottle	5,193,153	Local government restricted funds for rehabilitation
+ Local government bottle charge	Bottles 50ml or less - 1¢/bottle Bottles over 50ml - 5¢/bottle	5,193,153	Local government General Fund
Subtotal 3		\$1,071,592,444	
+ Sales tax on retail product	7%	60,234,211	State General Fund
+ Mixed beverage tax	\$10/4 liters	18,187,280	State General Fund
	\$9/4 liters	16,368,552	Local ABC board gross receipts
	\$1/4 liters	1,818,728	Department of Health and Human Services
Total Gross Revenue		\$ 1,168,201,215	

Distributed to	Revenue
Liquor suppliers	\$ 655,388,691
State General Fund	321,678,864
Agency Stores	66,463,763
Local governments general funds	101,318,221
ABC Commission Fund	16,339,794
Local government restricted funds for rehabilitation	5,193,153
Department of Health and Human Services	1,818,728
Total Revenue Distribution	\$ 1,168,201,215

Source: Program Evaluation Division based on estimated Fiscal Year 2017–18 financial data from the ABC Commission.

Private Retail Option: Estimated Revenue Calculations Based on Fiscal Year 2017–18 Data

Pricing Component	Rate	Amount	Distribution to
Cost of Goods Sold (COGS)	n/a	\$ 655,388,691	Liquor suppliers
+ Bailment Fee	\$1.50 per case	9,248,940	ABC Commission Fund
Subtotal 1		\$ 664,637,631	
+ State government markup	1%	6,646,376	State General Fund
+ Local government markup	12%	79,756,516	Local government General Fund
Subtotal 2		\$ 751,040,524	
+ State Excise Tax	30%	225,312,157	State General Fund
+ Bailment surcharge	\$1.15 per case	7,090,854	ABC Commission Fund
+ Rehabilitation bottle charge	Bottles 50ml or less - 1¢/bottle Bottles over 50ml - 5¢/bottle	5,193,153	Local government restricted funds for rehabilitation
+ Local government bottle charge	Bottles 50ml or less - 1¢/bottle Bottles over 50ml - 5¢/bottle	5,193,153	Local government General Fund
Subtotal 3		\$ 993,829,841	
+ Private retail markup	25%	248,457,460	Private retailers
Subtotal 4		\$1,242,287,302	
+ Sales tax on retail product	7%	69,828,969	State General Fund
+ Mixed beverage tax	\$10/4 liters	18,187,280	State General Fund
	\$9/4 liters	16,368,552	Local government General Fund
	\$1/4 liters	1,818,728	Department of Health and Human Services
Total Gross Revenue		\$1,348,490,831	

Distributed to	Revenue
Liquor suppliers	\$ 655,388,691
State General Fund	319,974,783
Private retailers	248,457,460
Local governments general funds	101,318,221
ABC Commission Fund	16,339,794
Local government restricted funds for rehabilitation	5,193,153
Department of Health and Human Services	1,818,728
Total Revenue Distribution	\$1,348,490,831

Source: Program Evaluation Division based on estimated Fiscal Year 2017–18 financial data from the ABC Commission.

Licensure Option: Estimated Revenue Calculations Based on Fiscal Year 2017–18 Data

Pricing Component	Rate	Amount	Distribution to
Cost of Goods Sold (COGS)	n/a	\$ 655,388,691	Liquor suppliers
+State Excise Tax	33.6%	220,210,600	State General Fund
+State excise tax for local government	12%	78,646,643	Local government General Fund
Subtotal 1		\$ 954,245,935	
+Private wholesale markup	20%	190,849,187	Private wholesalers
Subtotal 2		\$1,145,095,122	
+ Rehabilitation bottle charge	Bottles 50ml or less - 1¢/bottle Bottles over 50ml - 5¢/bottle	5,193,153	Local government restricted funds for rehabilitation
+ Local government bottle charge	Bottles 50ml or less - 1¢/bottle Bottles over 50ml - 5¢/bottle	5,193,153	Local government General Fund
Subtotal 3		\$1,155,481,428	
+ Private retail markup	25%	288,870,357	Private retailers
Subtotal 4		\$1,444,351,785	
+ Sales tax on retail product	7%	81,187,014	State General Fund
+ Mixed beverage tax	\$10/4 liters	18,187,280	State General Fund
	\$9/4 liters	16,368,552	Local government General Fund
	\$1/4 liters	1,818,728	Department of Health and Human Services
Total Gross Revenue		\$1,561,913,359	

Distributed to	Revenue
Liquor suppliers	\$ 655,388,691
State General Fund	319,584,894
Private wholesalers	190,849,187
Private retailers	288,870,357
Local governments general funds	100,208,348
Local government restricted funds for rehabilitation	5,193,153
Department of Health and Human Services	1,818,728
ABC Commission Fund	0
Total Revenue Distribution	\$1,561,913,359

Source: Program Evaluation Division based on estimated Fiscal Year 2017–18 financial data from the ABC Commission.

Appendix C: Comparison of Estimated Liquor Pricing for Current Regulatory System and for Three Alternative Systems

Per Bottle Price Estimate	Current System	Agency Store Option	Private Retail Option	Licensure Option
Retail	\$25.63	\$21.83	\$25.31	\$29.64
Mixed beverage	\$27.70	\$24.15	\$27.40	\$31.45

Current Liquor Pricing Formula

\$151.52	Distiller's price (12 bottle case/80 proof, includes federal excise tax)
<u>+ \$1.50</u>	Bailment Fee
\$153.02	Subtotal case cost
<u>+ 60.60</u>	Local ABC board markup (39.6%)
\$213.62	Subtotal case cost
<u>+ 64.08</u>	State excise tax (30%)
<u>+ 7.48</u>	Additional local government markup (3.5%)
\$285.177253	Case cost to six decimals
<u>+ 1.15</u>	Bailment surcharge
\$286.327353	Subtotal case cost
<u>÷ 12</u>	Divide above number by number of bottles in case
<u>+ 0.05</u>	Bottle charge for rehabilitation
<u>+ 0.05</u>	Bottle charge for profit distribution
\$23.9606	Round the result to an integer divisible by five cents (\$.05)
\$23.95	Retail price per bottle
<u>+ \$1.68</u>	State sales tax (7%)
\$25.63	Selling price per bottle to an individual.
\$23.95	Retail price per bottle
<u>+ \$3.75</u>	Mixed beverage tax (\$3.75 for 0.75 liters)
\$27.70	Selling price to mixed beverage permittee (No sales tax on liquor resold as mixed beverage)

Agency Store Option Pricing Formula

\$151.52	Distiller's price (12 bottle case/80 proof, includes federal excise tax)
<u>+ \$1.50</u>	Bailment fee
\$153.02	Subtotal case cost
<u>+ 15.30</u>	Agency store commission (10%)
<u>+ 18.36</u>	Local ABC board markup (12%)
\$186.68	Subtotal case cost
<u>+ 56.01</u>	State excise tax (30%)
\$242.689720	Case cost to six decimals
<u>+ 1.15</u>	Bailment surcharge
\$243.837920	Subtotal case cost
<u>÷ 12</u>	Divide above number by number of bottles in case
\$20.3200	
<u>+ 0.05</u>	Bottle charge for rehabilitation
<u>+ 0.05</u>	Bottle charge for profit distribution
\$20.4200	Round the result to an integer divisible by five cents (\$.05)
\$20.40	Retail price per bottle
<u>+ \$1.43</u>	State sales tax (7%)
\$21.83	Selling price per bottle to an individual.
\$20.40	Retail price per bottle
<u>+ \$3.75</u>	Mixed beverage tax (\$3.75 for 0.75 liters)
\$24.15	Selling price to mixed beverage permittee (No sales tax on liquor resold as mixed beverage)

Private Retail Pricing Formula	
\$151.52	Distiller's price (12 bottle case/80 proof, includes federal excise tax)
<u>+ \$1.50</u>	Bailment fee
\$153.02	Subtotal case cost
<u>+ 1.53</u>	State government markup (1%)
<u>+ 18.36</u>	Local ABC board markup (12%)
\$172.91	Subtotal case price
<u>+ 51.87</u>	State excise tax (30%)
\$224.786380	Case cost to six decimals
<u>+ 1.15</u>	Bailment surcharge
\$225.936380	Subtotal case price
<u>+ 56.48</u>	Private retailer markup (25%)
\$282.420475	Case cost to private retailer
<u>÷ 12</u>	Divide above number by number of bottles in case
\$23.5350	
<u>+ 0.05</u>	Bottle charge for rehabilitation
<u>+ 0.05</u>	Bottle charge for profit distribution
\$23.6350	Round the result to an integer divisible by five cents (\$.05)
\$23.65	Retail price per bottle
<u>+ \$1.66</u>	State sales tax (7%)
\$25.31	Selling price per bottle to an individual.
\$23.65	Retail price per bottle
<u>+ \$3.75</u>	Mixed beverage tax (\$3.75 for 0.75 liters)
\$27.40	Selling price to mixed beverage permittee (No sales tax on liquor resold as mixed beverage)

Licensure Option Pricing Formula	
\$151.52	Distiller's price (12 bottle case/80 proof, includes federal excise tax)
<u>+ 50.91</u>	State Excise Tax (33.60%)
<u>+ 18.18</u>	State excise tax for local government (12%)
\$220.61	Subtotal case cost
<u>+ 44.12</u>	Private wholesale markup (20%)
\$264.74	Private wholesaler case price
<u>+ 66.18</u>	Private retailer markup (25%)
\$330.92	Private retailer case price
<u>÷ 12</u>	Divide above number by number of bottles in case
\$27.5766	
<u>+ 0.05</u>	Bottle charge for rehabilitation
<u>+ 0.05</u>	Bottle charge for profit distribution
\$27.6766	Round the result to an integer divisible by five cents (\$.05)
\$27.70	Retail price per bottle
<u>+ \$1.94</u>	State sales tax (7%)
\$29.64	Selling price per bottle to an individual.
\$27.70	Retail price per bottle
<u>+ \$3.75</u>	Mixed beverage tax (\$3.75 for 0.75 liters)
\$31.45	Selling price to mixed beverage permittee (No sales tax on liquor resold as mixed beverage)
<p>Note: Under the licensure option, the private wholesalers may or may not be able to purchase liquor at the same price as the State. This pricing analysis used the State price because the actual price that private wholesalers would pay cannot be determined.</p>	

Source: Program Evaluation Division based on the ABC Commission's current pricing formula with financial adjustments based on the assumptions for each option for changing North Carolina's alcohol beverage control system.



State of North Carolina
ALCOHOLIC BEVERAGE CONTROL COMMISSION

A. D. "ZANDER" GUY, JR.
CHAIRMAN

4307 MAIL SERVICE CENTER
RALEIGH, NC 27699-4307

COMMISSION MEMBERS:
NORMAN A. MITCHELL, SR.
CHARLOTTE

AGNES C. STEVENS
ADMINISTRATOR

(919) 779-0700
FAX (919) 661-5927

January 18, 2019

Mr. John W. Turcotte,
Director
N.C. General Assembly Legislative Services Office
Program Evaluation Division
300 N. Salisbury Street,
Suite 100 LOB Raleigh, NC 27603-5925

Dear Director Turcotte:

Thank you very much for the opportunity to review the preliminary draft report related to the current North Carolina Alcoholic Beverage Control system and the potential ramifications of making changes to the system.

As the report notes, the state of North Carolina does not own the liquor or the retail stores where the liquor is sold in our state. However, our citizens enjoy the public health benefits as well as the recurring public revenue that are both hallmarks of our current control system. In fact, the first finding of the report is that "among southeastern states, North Carolina collects the most public revenue per gallon of liquor sold, has the lowest liquor outlet density, and has the second lowest adult per capita liquor consumption."

This finding validates North Carolina's current system and would prompt me to have concerns about making significant changes to a model that has worked so well for eight decades and continues to work well for the people of the state. I also believe that organizations always can be improved, and I accept the PED recommendations for modernization as reasonable ideas to consider.

I will note that the Commission is already under way on some of the modernization recommendations, including the process of contract review and engaging third-party assistance in rebidding the contract for future warehouse services.

Last, I would like to thank your staff for their thoroughness and professionalism. The ABC system is complex, and your team has presented its review in a way that I believe is fair and accurate. Please let me know if I can be of assistance in the future.


A.D. "Zander" Guy
Chairman



Program Evaluation Division
North Carolina General Assembly
Legislative Office Building, Suite 100
300 North Salisbury Street
Raleigh, NC 27603-5925
919-301-1404
www.ncleg.net/PED

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Raleigh, NC 27603
919-733-9390

The report is also available online at www.ncleg.net/PED.

**House Pages
Assignments
Tuesday, March 19, 2019
Session: 4:45 PM**

Committee	Room	Time	Staff	Comments	Member
 Alcoholic Beverage Control	1228/1327	3:00 PM	Ansleigh Adams		Rep. David R. Lewis
			Kaitlyn Gomez		Rep. Stephen Ross
Banking	422	3:00 PM	Timothy White		Rep. Kyle Hall
Public Utilities	643	3:00 PM	Katherine Hampton		Rep. Kyle Hall
			Olivia White		Rep. Stephen M. Ross

Committee Sergeants at Arms

NAME OF COMMITTEE House Committee on Alcoholic Beverage Control

DATE: 3/19/2019 Room: 1228/1327

House Sgt-At Arms:

1. Name: Ken Gilbert
2. Name: Thomas Terry
3. Name: Bill Riley
4. Name: David Leighton
5. Name: _____

Senate Sgt-At Arms:

1. Name: _____
2. Name: _____
3. Name: _____
4. Name: _____
5. Name: _____

VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control

3/19/2019

Name of Committee

Date _____

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Jack Covert

NSS Policy

DIANE BIBE

SELF - CHAPEL HILL

DEU. MARK CREECH

CAL

Sarah Wolfe

MWC

Isabel Villar-Garcia

NRLA

Tyler Ross

Intern

VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control

3/19/2019

Name of Committee

Date

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NAME	FIRM OR AGENCY AND ADDRESS
Lexi A. Anur	DISCUS
Graig Thompson	NFIB
David Farrell	NP
Berry Sessions	NC SA
Agnes Stevens	NC ABC Commission
Rachel Spears	NC ABC Commission
Clavin S. Mwakata	governor's office

VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control

3/19/2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

JUSTIN DAVIS	NC DPS
John Trump	CAROLINA JOURNAL
Marissa Turner	TSS
Kathleen Mars	Alcoholic Citizens for Drug-Free Communities
Ed Hartz	THC
Hyd Johnson	NAC
Amber Harris	NAC
Margo Metzger	NCRLA
Frank Hargis	NCRLA
Sym Minger	NCRLA
Jim Albright	NC Alcohol Policy Alliance

VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control

3/19/2019

Name of Committee

Date

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NAME

FIRM OR AGENCY AND ADDRESS

Julia Adams Schwind	Oak City GR
Sarah McQuillan	KGANC
By Young	OSB
CINDY EDWARDS	JACKSONVILLE, NC
Kim Sionkew	Publix Super Markets
Bob	BCI
John Trump	CJ Jones /
Connie Wilson	DISCUS
Chandler Spaulding	SA
Courtney Crowder	CCC
Kenny Kizer	NCMA

VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control

3/19/2019

Name of Committee

Date

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NAME

FIRM OR AGENCY AND ADDRESS

Elizabeth Robinson	NCRA
Andy Eller	NCRA
Terrance Merriweather	NC ABCC
Bryan House	ALE
Jason Locklear	ALE
Sarah Patterson	WM
Shirley Lynn	West Strategies
Lewis Westharpson	Town of Angier
Rose Williams	NC LMI
Scott Mangham	NC LMI
Eddie Greene	Guyrick Robbins, Raleigh

VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control

3/19/2019

Name of Committee

Date

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NAME	FIRM OR AGENCY AND ADDRESS
BEN BROWN	NC LEAGUE OF MUNICIPALITIES
Dennis Delouche	NCLM
Rhacgan Jackson	FOCUS Carolina
Jon Carr	NCAASN, ABC Boards
George Robinson	NO DSI
GARY PADDLETON	W W
Wendy Hunt	
John Luckey	Raleigh Rescue Mission
Fred Baggett	Police chiefs association

House Committee on Alcoholic Beverage Control
Tuesday, April 2, 2019 at 3:00 P.M.
Room 1228/1327

MINUTES

The House Committee on Alcoholic Beverage Control met at 3:00 P.M. on April 2, 2019 in Room 1228/1327. Representatives Bell, Boles, Dahle, Dobson, Fisher, Hardister, Holley, Hurley, Lucas, McGrady, Meyer, Saine, Turner, Willingham, Yarborough, and Zachary attended. Representatives Lewis and Stevens, Ex-Officio attended.

Representative Jamie Boles presided.

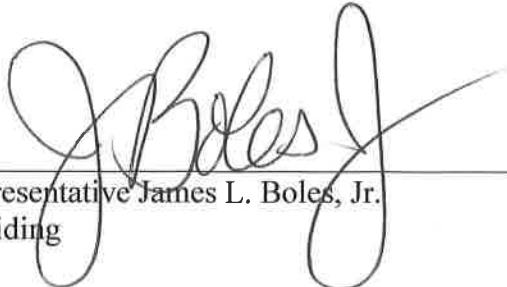
Representative Boles introduced pages, Sergeant at Arms and welcomed all in attendance. He asked for a moment of personal privilege. He introduced William T. Belvin, Chief ABC Officer 2008-18, and presented him the Order of the Long Leaf Pine. Mr. Belvin thanked everyone involved in honoring him with this award.

The following bills were considered:

HB 363, Craft Beer Distribution and Modernization Act. A motion was made by Representative McGrady to bring the PCS before the Committee. Representative Lewis explained the bill. There were questions asked by members and Representative Hurley voiced she would not vote for the bill. Representative Fisher made the motion for a favorable report to the PCS, unfavorable to the original bill and a referral to the Rules Committee. The motion passed. Handouts were provided and made a part of the Minutes (Attachment 1).

HB 389, ABC/Univ Athletic Facility. A motion was made by Representative McGrady to bring the PCS before the Committee. The bill was explained by Representative Bell. Questions and answers were heard. Representative Hardister motioned for a favorable report to the PCS, unfavorable to the original bill and a referral to Finance. The motion passed. Handouts were provided and made a part of the Minutes (Attachment 2).

The meeting adjourned at 3:35 P.M.



Representative James L. Boles, Jr.
Presiding



Dina Long, Committee Clerk

VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control

3/19/2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bryan Hieles	Wake County ABC 1212 Wicker Drive, Raleigh, NC 27604
Ed Wheeler	Wake Co. ABC 1212 Wicker Dr. Rg. NC
Kevin Lawrence	Wake Co ABC 1212 Wicker Dr Raleigh
John Peterson	Relate Advocacy
Joe Ryall	NCFPC
Sarah Potter	APNC
John Pury	NCLLGR
Cady Thomas	FPA
Tim KENT	NC BEER & WINE

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

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

DAY & DATE: Tuesday, April 2, 2019
TIME: 3:00 PM
LOCATION: 1228/1327 LB
COMMENTS: Presentation by Local ABC-ALE

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 363</u>	Craft Beer Distribution & Modernization Act.	Representative Lewis Representative Bell Representative Jackson Representative Reives
<u>HB 389</u>	ABC/Univ Athletic Facility.	Representative Bell Representative Boles Representative Goodman Representative Lewis

Respectfully,

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

I hereby certify this notice was filed by the committee assistant at the following offices at 11:55 AM on Thursday, March 28, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Dina Long (Committee Assistant)

**House Committee on Alcoholic Beverage Control
Tuesday, April 2, 2019, 3:00 PM
1228/1327 Legislative Building**

AGENDA

Welcome and Opening Remarks – Chairman Boles

Introduction of Pages

Bills

BILL NO. SHORT TITLE

HB 363 Craft Beer Distribution &
Modernization Act.

HB 389 ABC/Univ Athletic Facility.

SPONSOR

Representative Lewis
Representative Bell
Representative Jackson
Representative Reives
Representative Bell
Representative Boles
Representative Goodman
Representative Lewis

Presentations – Local ABC-ALE

Other Business

Adjournment

**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

ALCOHOLIC BEVERAGE CONTROL COMMITTEE REPORT

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

Representative Chuck McGrady, Co-Chair

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 363

Craft Beer Distribution & Modernization Act.

Draft Number: H363-PCS10327-TQ-7

**Serial Referral: RULES, CALENDAR, AND
OPERATIONS OF THE HOUSE**

Recommended Referral: None

Long Title Amended: No

Floor Manager: Lewis

TOTAL REPORTED: 1



* C M R 2 0 0 - V - 1 *

**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**ALCOHOLIC BEVERAGE CONTROL COMMITTEE REPORT
Representative James L. Boles, Jr., Co-Chair
Representative Chuck McGrady, Co-Chair**

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 389

ABC/Univ Athletic Facility.

Draft Number: H389-PCS10323-SAf-13

Serial Referral: FINANCE

Recommended Referral: None

Long Title Amended: No

Floor Manager: Bell

TOTAL REPORTED: 1



* C M R 1 9 5 - V - 1 *

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

H**D**

**HOUSE BILL 363
PROPOSED COMMITTEE SUBSTITUTE H363-CSTQ-7 [v.2]**

03/28/2019 05:09:09 PM

Short Title: Craft Beer Distribution & Modernization Act.

(Public)

Sponsors:

Referred to:

March 18, 2019

A BILL TO BE ENTITLED

AN ACT TO CONFIRM THE STATE'S SUPPORT OF THE THREE-TIER SYSTEM FOR DISTRIBUTION OF MALT BEVERAGES AND THE FRANCHISE LAWS, TO MAKE ADJUSTMENTS TO MODERNIZE THE EXEMPTIONS TO THE THREE-TIER SYSTEM, AND TO PROMOTE THE GROWTH OF SMALL AND MID-SIZED INDEPENDENT CRAFT BREWERIES.

Whereas, the General Assembly reaffirms its support of the Beer Franchise Law and the three-tier system for the distribution of malt beverages and finds that the Beer Franchise Law and the three-tier system does all of the following:

- (1) Promotes consumer choice and product variety by providing a platform that enables new malt beverage products to come to market that might not otherwise be available to the consumer. These laws encourage wholesalers to make investments in their businesses necessary to expand distribution of new products and to allow large and small breweries alike an opportunity to enter the market through independent distribution. Wholesaler investments include adding resources such as warehouses, personnel, vehicles, equipment, merchandise, and marketing. Consumers have access to an exceedingly wide array of malt beverage products, unlike other industries that foster closed distribution networks and vertical integration.
- (2) Promotes the growth of the craft beer industry by providing suppliers with access to markets outside of the brewery. Brewers that use wholesalers are able to instantly access and utilize a wholesaler's established infrastructure in markets they may not otherwise be able to enter. Smaller breweries further benefit because wholesalers are able to act independently to carry all brands, from large and small suppliers. The goal of these laws is to allow brewers of all sizes to fairly compete in the marketplace and to access retailers of all sizes.
- (3) Helps ensure that the industry, as a whole, complies with the alcohol laws of this State. A wholesaler must remain independent and free from unfair conduct to promote responsible sales and marketing practices. Wholesaler independence also promotes and maintains fair dealing among industry participants. Ultimately, these measures protect consumers and the public from abuses that might occur absent the three-tier system.
- (4) Promotes a vibrant marketplace that carefully balances fair competition with health and public safety concerns. The Beer Franchise Law and the three-tier system ensure that all three tiers operate independently and on a level playing



field so that no one participant or sector of the industry becomes too dominant over the others. These laws allow for fair checks-and-balances in the beer industry. Wholesaler independence further creates a transparent and accountable distribution system that assists in identifying improper marketing practices and potentially unsafe products when issues arise, and provides brewers that engage a wholesaler with an established means to access new markets.

- (5) Prevents vertical integration of the manufacturing, distribution, and retail tiers. This still occurs in other countries today where adverse health and public safety effects are observed. The historical three-tier system model incorporated a deliberate regulatory structure that prevents monopolization. However, as the number of beer industry participants has grown substantially, it is necessary to make important adjustments to the three-tier system to promote the overall success of the beer manufacturing industry in North Carolina by recognizing the different stages of brewery development.
- (6) Assists in collecting excise taxes, particularly from nonresident suppliers. While self-distributing resident breweries are required to remit excise taxes directly to the Department of Revenue, wholesalers collect and remit the excise tax on malt beverages on behalf of resident and nonresident suppliers to the Department of Revenue, totaling approximately \$140 million in excise taxes each year to the State.
- (7) Promotes local regulatory control, temperance, and moderate consumption of malt beverages. The three-tier system in particular incorporates features to promote healthy competition in the marketplace while minimizing overly-aggressive marketing practices, such as limits on quantity discounts, requirements of nondiscriminatory treatment among wholesalers and retailers, and limits on advertising and promotional materials. The three-tier system also provides clear chain of custody for products in distribution, which enables law enforcement to easily track products in the marketplace when issues arise.
- (8) Provides a vital platform that promotes product safety for consumers. Malt beverage distributors invest heavily in infrastructure, such as modern warehouses and vehicles, that maintain product integrity during distribution. There are also strict recordkeeping requirements, which enable wholesalers to readily track malt beverage products sold in the market for prompt return in the event of a product recall.
- (9) Encourages wholesalers, under the Beer Franchise Law, to invest capital and labor for suppliers of all sizes, large and small, to expand into new markets with new products. Unfair or arbitrary termination is prohibited, but suppliers who are subject to the Beer Franchise Law are still afforded the ability to terminate a distribution agreement for good cause. The Beer Franchise Law inhibits forced consolidation among wholesalers. The three-tier system also affords small retailers the same market access opportunities to the same wide selection of brands that other large-scale retailers have, and on equal terms.

Whereas, the General Assembly also reaffirms its support of the craft beer industry and makes the following findings:

- (1) The current small-brewery provisions of Chapter 18B of the General Statutes were intended to foster the growth of small craft breweries while simultaneously protecting wholesalers from the risk of economic uncertainty. Since the adoption of those provisions, however, the craft beer industry has seen exponential growth. The craft beer industry now provides a significant source of high-quality manufacturing and service employment and wages and

generates significant tax revenue for the State. In addition, the growth of the craft beer industry has resulted in significant positive secondary impacts on the economy through increased business to a myriad of suppliers to the craft breweries, resulting in even greater employment and tax revenue for the State's citizens.

(2) It is in the best interest of the State to continue supporting the entrepreneurial spirit and economic growth driven by the craft beer industry. Yet it remains vital to preserve the integrity of the State's three-tier system. Today, mid-sized independent breweries possess only a fraction of the malt beverage market in light of increased consolidation and globalization of large suppliers. Consequently, the growth of these mid-sized independent breweries promotes economic development, employment and wages, and significant tax revenue without the same risks of harm that the three-tier system is designed to minimize.

(3) In view of these new market realities, the existing small brewery provisions of Chapter 18B of the General Statutes warrant revision. Specifically, recognition for a new category of breweries, Mid-Sized Independent Breweries, is needed to reflect the market's evolution, foster the continued growth of the craft beer industry, promote consumer choice, ensure access to market, and promote stable and healthy competition in the malt beverage industry in this State. The following legislative enactments are expressly intended to further these purposes.

Whereas, the General Assembly finds that regulation of the malt beverage industry and the objectives sought to be achieved by this act fall squarely within the authority granted to the State by the 21st Amendment to the United States Constitution and the inherent police powers of this State; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-100 reads as rewritten:

"§ 18B-100. Purpose of Chapter.

This Chapter is intended to establish a uniform system of control over the sale, purchase, transportation, manufacture, consumption, and possession of alcoholic beverages in North Carolina, and to provide procedures to insure the proper administration of the ABC laws under a uniform system throughout the State. This Chapter shall be liberally construed to the end that the sale, purchase, transportation, manufacture, consumption, and possession of alcoholic beverages shall be prohibited except as authorized in this Chapter. If any provision of this Chapter, or its application to any person or circumstance, is determined by a court or other authority of competent jurisdiction to be invalid or unconstitutional, such provision shall be stricken and the remaining provisions shall be construed in accordance with the intent of the General Assembly to further limit rather than expand commerce in alcoholic beverages, and with respect to malt beverages, unfortified wine, and fortified wine, the remaining provisions shall be construed to enhance strict regulatory control over taxation, distribution, and sale of alcoholic beverages through the three-tier regulatory system and the franchise laws imposed by this Chapter.

Except as provided in this Chapter, local ordinances establishing different rules on the manufacture, sale, purchase, transportation, possession, consumption, or other use of alcoholic beverages, or requiring additional permits or fees, are prohibited."

SECTION 2. G.S. 18B-1104(a)(8) reads as rewritten:

"(8) Obtain a malt beverage wholesaler permit to sell, deliver, and ship at wholesale ~~only up to 50,000 barrels of~~ malt beverages manufactured by the ~~brewery. brewery per year to unaffiliated retail permittees.~~ The authorization of this subdivision applies to a brewery that sells, to consumers at the brewery, to wholesalers, to retailers, and to exporters, fewer than ~~25,000-100,000~~

1 barrels of malt beverages produced by it per year. The barrelage limitations
2 set forth in this subdivision apply regardless of the number or type of permits
3 that may be issued to a brewery under this Chapter. A brewery not exceeding
4 the sales quantity limitations in this subdivision may also sell the malt
5 beverages manufactured by the brewery, and malt beverages produced under
6 subdivision (6a) of this subsection, at not more than three other locations in
7 the State, where the sale is legal, upon obtaining the appropriate permits under
8 G.S. 18B-1001. A brewery operating any additional retail location pursuant to
9 this subdivision under a different trade name than that used at the brewery
10 shall also offer for sale at that location a reasonable selection of competitive
11 malt beverage products. A sale at any additional retail location under this
12 subdivision shall not be considered a wholesale sale for the purposes of Article
13 13 of this Chapter. Except as provided in G.S. 18B-1116(b), the Commission
14 shall have no authority to grant an exemption to or otherwise allow a brewery
15 permittee more than the three additional retail locations authorized by this
16 subdivision. Malt beverages manufactured by a supplier permittee that owns
17 five percent (5%) or more of a brewery permittee acting under the authority
18 granted in this subdivision shall be included in determining whether the
19 brewery permittee complies with the barrelage limitations set forth in this
20 subdivision."

21 **SECTION 3.** G.S. 18B-1116 reads as rewritten:

22 **"§ 18B-1116. Exclusive outlets prohibited.**

23 ...

24 (b) Exemptions. – The Commission may grant exemptions from the provisions of this
25 section. Any exemption entered by the Commission in which any brewery or any officer, director,
26 or affiliate of the brewery has a direct or indirect financial interest in the business of any retailer
27 beyond the number of additional retail locations authorized by G.S. 18B-1104 shall prohibit the
28 brewery's malt beverages from being sold to or purchased by that retailer. In determining whether
29 to grant an exemption, the Commission shall consider the public welfare, the quantity and value
30 of articles involved, established trade customs not contrary to the public interest, and the purposes
31 of this section.

32"

33 **SECTION 4.** G.S. 18B-1300 reads as rewritten:

34 **"§ 18B-1300. Purpose.**

35 Pursuant to the authority of the State under the Twenty-First Amendment to the United States
36 Constitution, the General Assembly finds that regulation of the business relations between malt
37 beverage manufacturers and importers and the wholesalers of such products is necessary to:

38 ...

- 39 (5) Prevent unfair or unlawful trade practices by enabling wholesalers to refuse
40 to participate in such practices without fear of arbitrary or unlawful retribution
41 from suppliers.
- 42 (6) Provide wholesalers with rights and remedies in addition to those existing by
43 contract or common law.
- 44 (7) Govern all agreements between suppliers and wholesalers, including any
45 renewals or amendments.
- 46 (8) Protect wholesalers against unfair treatment by suppliers.
- 47 (9) Preserve investments made by wholesalers in franchise agreements through
48 minimization of arbitrary termination.
- 49 (10) Promote consumer choice by ensuring an independent wholesale distribution
50 tier that enables wholesalers to distribute competing products of other
51 suppliers.

(11) Prevent vertical integration of the malt beverage market."

SECTION 5. G.S. 18B-1305(a1) reads as rewritten:

"(a1) Termination by a Small Brewery. – A brewery's authorization to distribute its own malt beverage products pursuant to G.S. 18B-1104(a)(8) shall revert back to the brewery, in the absence of good cause, following the fifth business day after confirmed receipt of written notice of such reversion by the brewery to the wholesaler. The brewery shall pay the wholesaler fair market value for the distribution rights for the affected brand. For purposes of this subsection, "fair market value" means the highest dollar amount at which a seller would be willing to sell and a buyer willing to buy at the time the self-distribution rights revert back to the brewery, after each party has been provided all information relevant to the transaction. This subsection only applies to a brewery that sells to consumers at the brewery, to wholesalers, to retailers, and to exporters, fewer than 25,000 barrels of malt beverages produced by it per year. Malt beverages manufactured by a supplier permittee that owns five percent (5%) or more of a brewery permittee shall be included in determining whether the brewery permittee complies with the barrelage limitations set forth in this subdivision. For purposes of this subsection, the term "barrel" is as defined in G.S. 18B-1104."

SECTION 6. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 7. This act does not apply to any exemption order or amendment thereto entered by the Alcoholic Beverage Control Commission prior to the effective date of this act, or to any such exemption order or amendment that is renewed or reissued by the Commission after the effective date of this act.

SECTION 8. This act is effective when it becomes law.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

H

1

HOUSE BILL 363

Short Title: Craft Beer Distribution & Modernization Act. (Public)

Sponsors: Representatives Lewis, Bell, Jackson, and Reives (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Alcoholic Beverage Control, if favorable, Rules, Calendar, and Operations of the
House

March 18, 2019

A BILL TO BE ENTITLED

AN ACT TO CONFIRM THE STATE'S SUPPORT OF THE THREE-TIER SYSTEM FOR
DISTRIBUTION OF MALT BEVERAGES AND THE FRANCHISE LAWS, TO MAKE
ADJUSTMENTS TO MODERNIZE THE EXEMPTIONS TO THE THREE-TIER
SYSTEM, AND TO PROMOTE THE GROWTH OF SMALL AND MID-SIZED
INDEPENDENT CRAFT BREWERIES.

Whereas, the General Assembly reaffirms its support of the Beer Franchise Law and
the three-tier system for the distribution of malt beverages and finds that the Beer Franchise Law
and the three-tier system does all of the following:

- (1) Promotes consumer choice and product variety by providing a platform that
enables new malt beverage products to come to market that might not
otherwise be available to the consumer. These laws encourage wholesalers to
make investments in their businesses necessary to expand distribution of new
products and to allow large and small breweries alike an opportunity to enter
the market through independent distribution. Wholesaler investments include
adding resources such as warehouses, personnel, vehicles, equipment,
merchandise, and marketing. Consumers have access to an exceedingly wide
array of malt beverage products, unlike other industries that foster closed
distribution networks and vertical integration.
- (2) Promotes the growth of the craft beer industry by providing suppliers with
access to markets outside of the brewery. Brewers that use wholesalers are
able to instantly access and utilize a wholesaler's established infrastructure in
markets they may not otherwise be able to enter. Smaller breweries further
benefit because wholesalers are able to act independently to carry all brands,
from large and small suppliers. The goal of these laws is to allow brewers of
all sizes to fairly compete in the marketplace and to access retailers of all sizes.
- (3) Helps ensure that the industry, as a whole, complies with the alcohol laws of
this State. A wholesaler must remain independent and free from unfair or
oppressive conduct by large suppliers to promote responsible sales and
marketing practices. Wholesaler independence also promotes and maintains
fair dealing among industry participants. Ultimately, these measures protect
consumers and the public from abuses that might occur if large industry
participants were able to control more than one tier of the industry.



- (4) Promotes a vibrant marketplace that carefully balances fair competition with health and public safety concerns. The Beer Franchise Law and the three-tier system ensure that all three tiers operate independently and on a level playing field so that no one participant or sector of the industry becomes too dominant over the others. These laws allow for fair checks-and-balances in the beer industry. Wholesaler independence further creates a transparent and accountable distribution system that assists in identifying improper marketing practices and potentially unsafe products when issues arise, and provides brewers that engage a wholesaler with an established means to access new markets.
- (5) Prevents vertical integration of the manufacturing, distribution, and retail tiers by large industry participants. This still occurs in other countries today where adverse health and public safety effects are observed. The historical three-tier system model incorporated a deliberate regulatory structure that made it impossible for large suppliers to monopolize. However, as the number of beer industry participants has grown substantially, it is necessary to make important adjustments to the three-tier system to promote the overall success of the beer manufacturing industry in North Carolina by recognizing the different stages of brewery development.
- (6) Assists in collecting excise taxes, particularly from nonresident suppliers. While self-distributing resident breweries are required to remit excise taxes directly to the Department of Revenue, wholesalers collect and remit the excise tax on malt beverages on behalf of resident and nonresident suppliers to the Department of Revenue, totaling approximately \$140 million in excise taxes each year to the State.
- (7) Promotes local regulatory control, temperance, and moderate consumption of malt beverages. The three-tier system in particular incorporates features to promote healthy competition in the marketplace while minimizing overly-aggressive marketing practices, such as limits on quantity discounts, requirements of nondiscriminatory treatment among wholesalers and retailers, and limits on advertising and promotional materials. The three-tier system also provides clear chain of custody for products in distribution, which enables law enforcement to easily track products in the marketplace when issues arise.
- (8) Provides a vital platform that promotes product safety for consumers. Malt beverage distributors invest heavily in infrastructure, such as modern warehouses and vehicles, that maintain product integrity during distribution. There are also strict recordkeeping requirements, which enable wholesalers to readily track malt beverage products sold in the market for prompt return in the event of a product recall.
- (9) Helps ensure these and other policy objectives by preventing unfair or arbitrary termination from large suppliers. The Beer Franchise Law encourages wholesalers to invest capital and labor for suppliers of all sizes, large and small, to expand into new markets with new products. Although unfair or arbitrary termination is prohibited, suppliers who are subject to the Beer Franchise Law are still afforded the ability to terminate a distribution agreement for good cause. Wholesaler independence is critical to prevent vertical integration of the market and other tied house abuses by large industry participants. The Beer Franchise Law inhibits forced consolidation among wholesalers and prevents arbitrary termination of a franchise agreement by these large suppliers. The three-tier system also affords small retailers the

same market access opportunities to the same wide selection of brands that other large-scale retailers have, and on equal terms.

Whereas, the General Assembly also reaffirms its support of the craft beer industry and makes the following findings:

- (1) The current small-brewery provisions of Chapter 18B of the General Statutes were intended to foster the growth of small craft breweries while simultaneously protecting wholesalers from the risk of economic abuses by large suppliers holding market dominance. Since the adoption of those provisions, however, the craft beer industry has seen exponential growth. The craft beer industry now provides a significant source of high-quality manufacturing and service employment and wages and generates significant tax revenue for the State. In addition, the growth of the craft beer industry has resulted in significant positive secondary impacts on the economy through increased business to a myriad of suppliers to the craft breweries, resulting in even greater employment and tax revenue for the State's citizens.
- (2) It is in the best interest of the State to continue supporting the entrepreneurial spirit and economic growth driven by the craft beer industry. Yet it remains vital to preserve the integrity of the State's three-tier system, which minimizes the potential for harm by large suppliers that hold market dominance. Today, mid-sized independent breweries possess only a fraction of the malt beverage market in light of increased consolidation and globalization of large suppliers. Consequently, the growth of these mid-sized independent breweries promotes economic development, employment and wages, and significant tax revenue without the same risks of harm that the three-tier system is designed to minimize.
- (3) In view of these new market realities, the existing small brewery provisions of Chapter 18B of the General Statutes warrant revision. Specifically, recognition for a new category of breweries, Mid-Sized Independent Breweries, is needed to reflect the market's evolution, foster the continued growth of the craft beer industry, promote consumer choice, ensure access to market, and promote stable and healthy competition in the malt beverage industry in this State. The following legislative enactments are expressly intended to further these purposes.

Whereas, the General Assembly finds that regulation of the malt beverage industry and the objectives sought to be achieved by this act fall squarely within the authority granted to the State by the 21st Amendment to the United States Constitution and the inherent police powers of this State; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-100 reads as rewritten:

"§ 18B-100. Purpose of Chapter.

This Chapter is intended to establish a uniform system of control over the sale, purchase, transportation, manufacture, consumption, and possession of alcoholic beverages in North Carolina, and to provide procedures to insure the proper administration of the ABC laws under a uniform system throughout the State. This Chapter shall be liberally construed to the end that the sale, purchase, transportation, manufacture, consumption, and possession of alcoholic beverages shall be prohibited except as authorized in this Chapter. If any provision of this Chapter, or its application to any person or circumstance, is determined by a court or other authority of competent jurisdiction to be invalid or unconstitutional, such provision shall be stricken and the remaining provisions shall be construed in accordance with the intent of the General Assembly to further limit rather than expand commerce in alcoholic beverages, and with respect to malt beverages, unfortified wine, and fortified wine, the remaining provisions shall be construed to

1 enhance strict regulatory control over taxation, distribution, and sale of alcoholic beverages
2 through the three-tier regulatory system and the franchise laws imposed by this Chapter.

3 Except as provided in this Chapter, local ordinances establishing different rules on the
4 manufacture, sale, purchase, transportation, possession, consumption, or other use of alcoholic
5 beverages, or requiring additional permits or fees, are prohibited."

6 **SECTION 2.** G.S. 18B-1104(a)(8) reads as rewritten:

7 "(8) Obtain a malt beverage wholesaler permit to sell, deliver, and ship at
8 wholesale ~~only up to 50,000 barrels of malt beverages manufactured by the~~
9 ~~brewery, brewery per year to unaffiliated retail permittees.~~ The authorization
10 of this subdivision applies to a brewery that sells, to consumers at the brewery,
11 to wholesalers, to retailers, and to exporters, fewer than ~~25,000-100,000~~
12 barrels of malt beverages produced by it per year. The barrelage limitations
13 set forth in this subdivision apply regardless of the number or type of permits
14 that may be issued to a brewery under this Chapter. A brewery not exceeding
15 the sales quantity limitations in this subdivision may also sell the malt
16 beverages manufactured by the brewery, and malt beverages produced under
17 subdivision (6a) of this subsection, at not more than three other locations in
18 the State, where the sale is legal, upon obtaining the appropriate permits under
19 G.S. 18B-1001. A brewery operating any additional retail location pursuant to
20 this subdivision under a different trade name than that used at the brewery
21 shall also offer for sale at that location a reasonable selection of competitive
22 malt beverage products. A sale at any additional retail location under this
23 subdivision shall not be considered a wholesale sale for the purposes of Article
24 13 of this Chapter. The Commission shall have no authority to grant an
25 exemption to or otherwise allow more than the three additional retail locations
26 authorized by this subdivision. Malt beverages manufactured by a supplier
27 that owns five percent (5%) or more of a brewery permittee acting under the
28 authority granted in this subdivision shall be included in determining whether
29 the brewery permittee complies with the barrelage limitations set forth in this
30 subdivision."

31 **SECTION 3.** G.S. 18B-1300 reads as rewritten:

32 **"§ 18B-1300. Purpose.**

33 Pursuant to the authority of the State under the Twenty-First Amendment to the United States
34 Constitution, the General Assembly finds that regulation of the business relations between malt
35 beverage manufacturers and importers and the wholesalers of such products is necessary to:

36 ...

- 37 (5) Prevent unfair or unlawful trade practices by enabling wholesalers to refuse
38 to participate in such practices without fear of arbitrary or unlawful retribution
39 from suppliers.
40 (6) Provide wholesalers with rights and remedies in addition to those existing by
41 contract or common law.
42 (7) Govern all agreements between suppliers and wholesalers, including any
43 renewals or amendments.
44 (8) Protect wholesalers against unfair treatment by suppliers.
45 (9) Preserve investments made by wholesalers in franchise agreements through
46 minimization of arbitrary termination.
47 (10) Promote consumer choice by ensuring an independent wholesale distribution
48 tier that enables wholesalers to distribute competing products of other
49 suppliers.
50 (11) Prevent vertical integration of the malt beverage market."

51 **SECTION 4.** G.S. 18B-1305(a1) reads as rewritten:

1 "(a1) Termination by a Small Brewery. – A brewery's authorization to distribute its own
2 malt beverage products pursuant to G.S. 18B-1104(a)(8) shall revert back to the brewery, in the
3 absence of good cause, following the fifth business day after confirmed receipt of written notice
4 of such reversion by the brewery to the wholesaler. The brewery shall pay the wholesaler fair
5 market value for the distribution rights for the affected brand. For purposes of this subsection,
6 "fair market value" means the highest dollar amount at which a seller would be willing to sell
7 and a buyer willing to buy at the time the self-distribution rights revert back to the brewery, after
8 each party has been provided all information relevant to the transaction. This subsection only
9 applies to a brewery that sells to consumers at the brewery, to wholesalers, to retailers, and to
10 exporters, fewer than 25,000 barrels of malt beverages produced by it per year. Malt beverages
11 manufactured by a supplier that owns five percent (5%) or more of a brewery permittee shall be
12 included in determining whether the brewery permittee complies with the barrelage limitations
13 set forth in this subdivision. For purposes of this subsection, the term "barrel" is as defined in
14 G.S. 18B-1104."

15 **SECTION 5.** If any provision of this act or its application is held invalid, the
16 invalidity does not affect other provisions or applications of this act that can be given effect
17 without the invalid provisions or application, and to this end the provisions of this act are
18 severable.

19 **SECTION 6.** Section 2 of this act does not apply to any exemption order or
20 amendment thereto entered by the Alcoholic Beverage Control Commission prior to the effective
21 date of this act.

22 **SECTION 7.** This act is effective when it becomes law.



HOUSE BILL 363: Craft Beer Distribution & Modernization Act.

2019-2020 General Assembly

Committee:	House Alcoholic Beverage Control. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 2, 2019
Introduced by:	Reps. Lewis, Bell, Jackson, Reives	Prepared by:	Chris Saunders
Analysis of:	PCS to First Edition H363-CSTQ-7		Committee Counsel

OVERVIEW: *The Proposed Committee Substitute (PCS) to House Bill 363 would allow brewery permittees that sell fewer than 100,000 barrels of malt beverages produced by the brewery each year to self-distribute up to 50,000 barrels of malt beverages manufactured by the brewery per year to unaffiliated retail permittees. The bill would also provide that only breweries that sell fewer than 25,000 barrels of malt beverages produced by the brewery per year may terminate a franchise agreement in the absence of good cause.*

[As introduced, this bill was identical to S246, as introduced by Sen. Rabon, which is currently in Senate Commerce and Insurance.]

CURRENT LAW: Under current law, only a brewery permittee that sells fewer than 25,000 barrels of malt beverages per year may obtain a malt beverage wholesaler permit to distribute the malt beverages manufactured by the brewery. A brewery not exceeding the 25,000 barrel limit may also sell the malt beverages manufactured by the brewery, and malt beverages produced under a contract brewing arrangement, at not more than three other locations in the State. Additionally, a brewery permittee that holds a malt beverage wholesaler permit may terminate a franchise agreement with a wholesaler in the absence of good cause after giving written notice and paying the wholesaler fair market value for the distribution rights for the affected brand.

BILL ANALYSIS:

Section 1 of the PCS would add a savings clause to Chapter 18B of the General Statutes (Regulation of Intoxicating Liquors) and express the intent of the General Assembly for the Chapter to be construed to limit rather than expand commerce in alcoholic beverages and enhance regulation of malt beverages, unfortified wine, and fortified wine through the three-tier regulatory system.

Section 2 would allow a brewery permittee that sells fewer than 100,000 barrels of malt beverages per year to obtain a malt beverage wholesaler permit to sell, deliver, and ship at wholesale up to 50,000 barrels of malt beverages per year to unaffiliated retail permittees. The barrelage limitation would apply regardless of the number or type of permits that may be issued to a brewery. Malt beverages manufactured by a supplier permittee that owns five percent or more of a brewer permittee would be included in determining whether the brewery permittee complies with the barrelage limitations.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

House PCS 363

Page 2

This section would also prohibit the Alcoholic Beverages Control Commission from granting an exemption to or otherwise allowing a brewery permittee to have more than three additional retail locations, except as provided in Section 3 of this act.

Section 3 would provide that if the Commission enters an exemption in which any brewery or any officer, director, or affiliate of the brewery has a financial interest in the business of any retailer beyond the three additional retail locations allowed by the brewery permit, the exemption must prohibit the brewery's malt beverages from being sold to or purchased by that retailer.

Section 4 would add seven new purposes for which the General Assembly finds that regulation of business relations between malt beverage manufacturers and importers and malt beverage wholesalers is necessary.

Section 5 would provide that only a brewery that sells fewer than 25,000 barrels of malt beverages per year may terminate a franchise agreement with a malt beverage wholesaler in the absence of good cause. Malt beverages manufactured by a supplier permittee that owns five percent or more of a brewer permittee would be included in determining whether the brewery permittee complies with the barrelage limitations.

Section 6 and 7 contain a severability clause and provide that this act does not apply to any exemption order or amendment to an exemption order entered by the Alcoholic Beverage Control Commission prior to the effective date of this act, or any exemption order or amendment renewed or reissued after the effective date of this act.

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

**GENERAL ASSEMBLY OF NORTH CARC
SESSION 2019**

H**D**

**HOUSE BILL 389
PROPOSED COMMITTEE SUBSTITUTE H389-CSSAf-13 [v.2]**

03/29/2019 10:25:20 AM

Short Title: ABC/Univ Athletic Facility.

(Public)

Sponsors:

Referred to:

March 20, 2019

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE PUBLIC COLLEGES AND UNIVERSITIES TO ALLOW
ALCOHOL SALES AT STADIUMS, ATHLETIC FACILITIES, AND ARENAS
LOCATED ON SCHOOL PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-1006(a) reads as rewritten:

"(a) School and College Campuses. – No permit for the sale of alcoholic beverages shall be issued to a business on the campus or property of a public school, college, or university. This subsection shall not apply to the following:

- (1) A regional facility as defined by G.S. 160A-480.2 operated by a facility authority under Part 4 of Article 20 of Chapter 160A of the General Statutes, ~~unless the permit is for a public school or public college or university function.~~ Statutes.
- (2) Property owned by a local board of education and leased for 99 years or more to a nonprofit auditorium authority created prior to 1991 whose governing board is appointed by a city governing board, a county board of commissioners, or a local school board.
- (3) A hotel.
- (4) A nonprofit alumni organization.
- (5) Restaurants, eating establishments, food businesses, or retail businesses on the property defined by G.S. 116-198.33(4).
- (6) Any golf courses owned or leased by the public college or university and open to the public for use.
- (7) The sale of malt beverages, unfortified wine, or fortified wine at the following:
 - a. Performing arts centers located on property owned or leased by the public college or university.
 - b. Any stadiums that support a NASCAR-sanctioned one-fourth mile asphalt flat oval short track, that are owned or leased by the public college or university, and that only sell malt beverages, unfortified wine, or fortified wine at events that are not sponsored or funded by the public college or university.
- (8) Special one-time permits as described in G.S. 18B-1002(a)(5) for the Loudermilk Center for Excellence facility at the University of North Carolina at Chapel Hill.
- (9) A stadium, athletic facility, or arena on the campus or property of a public college or university, if the Board of Trustees of the public college or



1 university has voted to allow the issuance of permits for use at that stadium,
2 athletic facility, or arena. If a Board of Trustees votes to allow the issuance of
3 permits in accordance with this subdivision, the Board of Trustees shall
4 provide written notice to the Commission that it has voted to allow the
5 issuance of permits. For purposes of this subdivision, the term "public college
6 or university" does not include a community college. Any permit described in
7 G.S. 18B-1001, 18B-1002(a)(2), or 18B-1002(a)(5) may be issued pursuant
8 to this subdivision to applicants meeting the requirements for the requested
9 permit. Notwithstanding the issuance of a mixed beverages permit pursuant to
10 G.S. 18B-1001(10), this subdivision does not authorize the sale of mixed
11 beverages when the stadium, athletic facility, or arena is being used for a
12 sports event sponsored by the public college or university. This subdivision
13 does not apply to any sales authorized under subdivisions (1) through (8) of
14 this subsection. For purposes of this subdivision, the premises of a stadium,
15 athletic facility, or arena shall include any area that meets all of the following
16 requirements:

- 17 a. Is within 500 feet of the furthest exterior building wall, perimeter
18 fence, or permanent fixed perimeter.
19 b. Is designated by the stadium, athletic facility, or arena in a map or
20 written description that clearly defines the boundary of the area, and
21 that map or written description is included in the permit application.
22 c. Can be designated in a manner that enables the stadium, athletic
23 facility, or arena to ensure compliance with the provisions of this
24 Chapter."

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

1

HOUSE BILL 389*

Short Title: ABC/Univ Athletic Facility. (Public)

Sponsors: Representatives Bell, Boles, Goodman, and Lewis (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, if favorable, Rules, Calendar,
and Operations of the House

March 20, 2019

A BILL TO BE ENTITLED
AN ACT TO AUTHORIZE PUBLIC COLLEGES AND UNIVERSITIES TO ALLOW
ALCOHOL SALES AT STADIUMS, ATHLETIC FACILITIES, AND ARENAS
LOCATED ON SCHOOL PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-1006(a) reads as rewritten:

"(a) School and College Campuses. – No permit for the sale of alcoholic beverages shall
be issued to a business on the campus or property of a public school, college, or university. This
subsection shall not apply to the following:

- (1) A regional facility as defined by G.S. 160A-480.2 operated by a facility
authority under Part 4 of Article 20 of Chapter 160A of the General Statutes,
~~unless the permit is for a public school or public college or university~~
~~function.~~ Statutes.
- (2) Property owned by a local board of education and leased for 99 years or more
to a nonprofit auditorium authority created prior to 1991 whose governing
board is appointed by a city governing board, a county board of
commissioners, or a local school board.
- (3) A hotel.
- (4) A nonprofit alumni organization.
- (5) Restaurants, eating establishments, food businesses, or retail businesses on the
property defined by G.S. 116-198.33(4).
- (6) Any golf courses owned or leased by the public college or university and open
to the public for use.
- (7) The sale of malt beverages, unfortified wine, or fortified wine at the following:
 - a. Performing arts centers located on property owned or leased by the
public college or university.
 - b. Any stadiums that support a NASCAR-sanctioned one-fourth mile
asphalt flat oval short track, that are owned or leased by the public
college or university, and that only sell malt beverages, unfortified
wine, or fortified wine at events that are not sponsored or funded by
the public college or university.
- (8) Special one-time permits as described in G.S. 18B-1002(a)(5) for the
Loudermilk Center for Excellence facility at the University of North Carolina
at Chapel Hill.



(9) A stadium, athletic facility, or arena on the campus or property of a public college or university, if the Board of Trustees of the public college or university has voted to allow the issuance of permits for use at that stadium, athletic facility, or arena. Any permit described in G.S. 18B-1001, 18B-1002(a)(2), or 18B-1002(a)(5) may be issued pursuant to this subdivision to applicants meeting the requirements for the requested permit. Notwithstanding the issuance of a mixed beverages permit pursuant to G.S. 18B-1001(10), this subdivision does not authorize the sale of mixed beverages when the stadium, athletic facility, or arena is being used for a sports event sponsored by the public college or university. For purposes of this subdivision, the premises of a stadium, athletic facility, or arena shall include any area that meets all of the following requirements:

- a. Is within 500 feet of the furthest exterior building wall, perimeter fence, or permanent fixed perimeter.
- b. Is designated by the stadium, athletic facility, or arena in a map or written description that clearly defines the boundary of the area, and that map or written description is included in the permit application.
- c. Can be designated in a manner that enables the stadium, athletic facility, or arena to ensure compliance with the provisions of this Chapter."

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



HOUSE BILL 389: ABC/Univ Athletic Facility.

2019-2020 General Assembly

Committee:	House Alcoholic Beverage Control. If favorable, re-refer to Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 2, 2019
Introduced by:	Reps. Bell, Boles, Goodman, Lewis	Prepared by:	Susan Sitze
Analysis of:	PCS to First Edition H389-CSSAf-13		Staff Attorney

OVERVIEW: *The Proposed Committee Substitute (PCS) for House Bill 389 would authorize public colleges and universities to allow alcohol sales at stadiums, athletic facilities, and arenas located on school property.*

[As introduced, this bill was identical to S296, as introduced by Sens. Gunn, Rabon, Britt, which is currently in Senate Education/Higher Education.]

CURRENT LAW: G.S. 18B-1006(a) prohibits the issuance of permits for the sale of alcoholic beverages to businesses on the campus or property of a public school, college or university, unless a specific exception applies.

BILL ANALYSIS:

The PCS for House Bill 389 would create a new exception to authorize the issuance of permits for the sale of alcoholic beverages at stadiums, athletic facilities, or arenas on the campus or property of a public college or university if (i) the Board of Trustees has voted to allow the issuance of permits at that particular stadium, athletic facility, or arena, and (ii) the Board has notified the Alcoholic Beverage Control Commission of that vote. This exception would not apply to community colleges.

If the Board of Trustees has authorized the issuance of permits, permits for the sale and serving of alcohol could be issued to applicants that meet the requirements for the requested permit. However, if a mixed beverage permit is issued, sales of mixed beverages would not be allowed when the stadium, athletic facility, or arena is being used for a sports event sponsored by the public college or university. Sales that are already allowed under the current statutory exceptions would not be affected by the provisions of this exception.

For the purpose of issuing permits pursuant to this exception, the premises of a stadium, athletic facility, or arena could include any area within 500 feet of the facility, designated by the facility in a written description or map that clearly defines the boundary of the area, and that can be designated in a way to ensure compliance with the alcohol laws. The written description or map of the area must be included in the permit application.

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

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.



NORTH CAROLINA GENERAL ASSEMBLY

Session 2019

Legislative Fiscal Note

Short Title: ABC/Univ Athletic Facility.
Bill Number: House Bill 389 (First Edition)
Sponsor(s): Representatives Bell, Boles, Goodman, and Lewis

SUMMARY TABLE

FISCAL IMPACT OF H.B. 389, V.1

	<u>FY 2019-20</u>	<u>FY 2020-21</u>	<u>FY 2021-22</u>	<u>FY 2022-23</u>	<u>FY 2023-24</u>
State Impact					
General Fund Revenue	-	-	-	-	-
Less Expenditures	-	-	-	-	-
General Fund Impact	No Estimate Available - Refer to Fiscal Analysis section				

NET STATE IMPACT	No Estimate Available - Refer to Fiscal Analysis section
-------------------------	--

FISCAL IMPACT SUMMARY

Fiscal Research cannot determine which educational institutions, if any, would apply for the permits added in Section 1 of this bill. Therefore, the costs to the ABC Commission and revenues to the public colleges or universities and to the General Fund cannot be estimated at this time.

FISCAL ANALYSIS

Section 1 of the bill would add a permit for the sale of alcoholic beverages as described in G.S. 18B-1001, 18B-1002(a)(2), or 18B-2001(a)(5) in a stadium, athletic facility, or arena on the campus or property of a public college or universities if the Board of Trustees of that institution vote to allow the issuance of such a permit. The section would not permit the sale of mixed beverages when the facility is being used for a sports event sponsored by the public college or university.

Fiscal Research finds that while there will be more locations eligible to apply for permits, there is no method to determine how many such facilities will actually apply for such permits. The ABC Commission may incur costs for processing these additional applications and may remit additional revenue to the General Fund from additional ABC fees, but the amounts cannot be determined at this time. Because it is unknown which Board of Trustees for a public college or university would apply for such a permit, if any, the fiscal impact to the public colleges or universities also cannot be estimated at this time.



TECHNICAL CONSIDERATIONS

N/A.

DATA SOURCES

ABC COMMISSION

LEGISLATIVE FISCAL NOTE – PURPOSE AND LIMITATIONS

This document is an official fiscal analysis prepared pursuant to Chapter 120 of the General Statutes and rules adopted by the Senate and House of Representatives. The estimates in this analysis are based on the data, assumptions, and methodology described in the Fiscal Analysis section of this document. This document only addresses sections of the bill that have projected direct fiscal impacts on State or local governments and does not address sections that have no projected fiscal impacts.

CONTACT INFORMATION

Questions on this analysis should be directed to the Fiscal Research Division at (919) 733-4910.

ESTIMATE PREPARED BY

William Childs and Chris Hearley

ESTIMATE APPROVED BY

Mark Trogdon, Director of Fiscal Research
Fiscal Research Division
April 1, 2019



Signed copy located in the NCGA Principal Clerk's Offices



**House Pages
Assignments
Tuesday, April 02, 2019
Session: 4:45 PM**

Committee	Room	Time	Staff	Comments	Member
Public Utilities	643	2:45 PM	Allison Gilbert		Rep. Robert T. Reives, II
		3:00	Tucker Leandro		Rep. Josh Dobson
Alcoholic Beverage Control	1228/1327	3:00 PM	Meigan Bagwell		Rep. Terence Everitt
			Brianna Drye		Rep. Larry Pittman

Committee Sergeants at Arms

NAME OF COMMITTEE House Committee on Alcoholic Beverage Control

DATE: 4/2/2019 Room: 1228/1327

House Sgt-At Arms:

1. Name: Rex Foster

2. Name: Ken Gilbert

Name: ~~Rex Foster~~ RUSSELL SALISBURY

4. Name: David Leighton

5. Name: _____

Senate Sgt-At Arms:

1. Name: _____

2. Name: _____

3. Name: _____

4. Name: _____

5. Name: _____

VISITOR REGISTRATION SHEET

Alcoholic Beverage Control Committee

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

Tim KENT

NC Beer & Wine

Tom Gher

FL

Susie Farrell

FL

Bryan House

ALE

Becki Gray

John Locke Foundation

VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control 4/2/2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Amy Auth	UNC - CH
Adam Prodenac	NCACC
Bo Hatt	MWC
Von Carr	NC Area ABC Board
Mah Esgen	Red Oak
Russ Jones	Wake ABC
Joe Keith	Wake ABC
Ross Papp	NP
Smith	NP
DAVID POWERS	UNC BOC
KRIS GARDNER	NCBWWA

VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control 4/2/2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Keith Whitefield	Durham Co ABC
Wanda Rea	ABC Cumberland (Retired)
KAREN BELVIN	WIFE OF W.T. BELVIN
Diana Behin	Mother of WT Behin
Leona Singley	
Nelson Forener	Fipatek Tomsin
Scott Broadwell	Wake Co. ABC Law Enf.
Yeni Arthur	DISCUS
Matthew Dockter	Appalachian State Univ
Jonathan Reeder	Appalachian State University
Jonathan Babaker	Babaker + Assoc

VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control 4/2/2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Edward J. H. [Signature]	The Liana Group
Chandler Spaulding	SA
Philip Hamilton	Long Beverage Inc.
JJ McLamb	ECU
Stephanie Coleman	ECU
Lindsey Druling	TSS
Chris Boyer	NC STATE
Kevin Howell	NC State
Brent McConkey	NC State
Rick Steinbacher	UNC - Chapel Hill
Cameron Sauer	UNC - CH

VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control 4/2/2019

Name of Committee

Date _____

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

Renee Metz

ABC Commission

Tyler Ross

Intern

Horrell Lister Lee

CAC

Q. 10. मानक स्पीड

CAL

VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control 4/2/2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Jke Wheeler	Wake Co ABC Board
Bryan Hicks	Wake Co. ABC Board
Kevin Lawrence	Wake Co ABC Law Enforcement
Jimmy Butler	Wake Co ABC Law Enforcement
Tonya Evans	Durham Emergency Comm
Rhaegon Jackson	Focus Public Affairs
Demetrius Debatck	NCLM
Doug Lassiter	NCSTA
Martez Hill	Sm Hill
Trime King Tugay	Vista Strategies
Austin Howell	Blue system

VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control 4/2/2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Drew Moretz	UNC System
Cassidy Robertson	AMGA
Alex Miller	AMGA
Richard Greene	NCCBG
JOHN SZYMANKIEWICZ	BEER LAW CENTER
Mollie Schwan	beer law center
LAURA PURYEAR	MWCLLC
DAVID FERRI	NP
Miko Hill	UNC Charlotte
Betty Doster	UNC Charlotte
Margo Metzger	NCRLA

VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control 4/2/2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Elizabeth Robinson	NCEMT
Andy Ellen	NCRMA
PG300	BSG
Marissa Turner	TSS
Bill Scoobin	TS
Julia Adams Schenck	OCGR
Dana Simpson	SA
Sarah Peters	WM
Lori Ann Harris	LATA
Sallie James	Governor's office
Connie Wilson	DISCUS

House Committee on Alcoholic Beverage Control
Tuesday, April 16 at 3:00 PM
Room 1228/1327 of the Legislative Building

MINUTES

The House Committee on Alcoholic Beverage Control met at 3:00 PM on April 16, 2019 in Room 1228/1327 of the Legislative Building. Representatives Alexander, Boles, Dahle, Fisher, Hardister, Holley, Hurley, Jones, Lucas, McGrady, Meyer, Stevens, B. Turner, Willingham, Yarborough, and Zachary attended. Carol Shaw, Program Evaluation Division Clerk and Evaluator, Jennifer Bedford, Chris Saunders, and Susan Sitze from Legislative Analysis were also present. A Visitor Registration Sheet is attached and made part of the minutes.

Representative Chuck McGrady, Chair, presided and called the meeting to order at 3:05 p.m.

The Chair recognized the Sergeant at Arms and Pages in attendance. Chairman McGrady then explained that the committee would take up **HB 91 ABC Laws and Modernization/PED Study** first, and if time permitted, would consider **HB 99 Transfer ALE**.

Representative McGrady recognized Susan Sitze to address the committee regarding the bill.

The following bill and its amendments were considered:

HB 91 ABC Laws Modernization/PED Study. (Representatives McGrady, Boles, Horn, Willingham)

Amendment 1 H91-ASA-10 [v.1] (Attachment 1).

Representative McGrady recognized Representative Hurley to send forth amendment H91-ASA-10 [v.1]

There was discussion on the amendment.

Public comment was taken. Jon Carr, Lobbyist of North Carolina ABC Boards, Demetrius Deloatch of North Carolina League of Municipalities and Reverend Mark Creech, Executive Director of the Christian Action League commented on the amendment.

Representative McGrady, seeing no further discussion on the amendment, called for a vote on Amendment 1 H91-ASA-10 [v.1], the amendment passed.

Amendment 2 H91-ASA-21 [v.3] (Attachment 2).

Representative McGrady recognized Representative Boles to send forth amendment H91-ASA-21 [v.3].

There was discussion on the amendment.

Representative McGrady, seeing no further discussion on the amendment, called for a vote on Amendment 2 H91-ASA-21 [v.3], the amendment passed.

Amendment 3 H91-ASA-8 [v.1] (Attachment 3).

Representative McGrady recognized Representative Hurley to send forth amendment H91-ASA-8 [v.1].

There was discussion on the amendment.

Public comment was taken. Reverend Mark Creech and Connie Wilson, lobbyist for Distilled Spirits Council of United States commented on the amendment.

Representative McGrady, seeing no further discussion on the amendment, called for a vote on Amendment 3 H91-ASA-8 [v.1], the amendment failed.

Amendment 4 H91-ASA-9 [v.1] (Attachment 4)

Representative McGrady recognized Representative Hurley to send forth amendment H91-ASA-9 [v.1].

There was discussion on the amendment

Public comment was taken. Jim Albright, North Carolina Alcohol Policy Alliance commented on the amendment.

Representative McGrady, seeing no further discussion on the amendment, called for a vote on Amendment 4 H91-ASA-9 [v.1], the amendment failed.

Amendment 5 H91-ASA-19 [v.5] (Attachment 5)

Representative McGrady recognized Representative Hardister to send forth amendment H91-ASA-19 [v.5]
Representative McGrady opened the floor for discussion, hearing none, opened the floor for public comment.
Renee Metzger, Chief Counsel for North Carolina ABC Commission commented on amendment.
Representative Hardister withdrew Amendment 5 H91-ASA-19 [v.5] for further review.

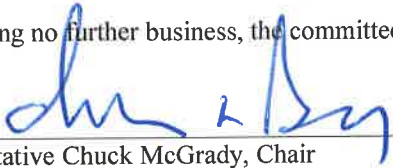
Representative McGrady recognized Representative Hardister for a motion to suspend the rules in order to allow the vote to be taken within fifteen minutes of adjournment of the committee.
The Chair opened the floor for discussion, hearing none, called for the vote. The motion passed.

Representative McGrady recognized Representative Yarborough for a motion for HB 91 as amended, be rolled into a Committee Substitute; favorable report as to the Committee Substitute, unfavorable as to the original bill with a serial referral to Finance.

The Chair called for the vote and the motion passed.

Due to time constraints the chairman announced that consideration of H99 [Transfer ALE] would be postponed to a future meeting.

There being no further business, the committee adjourned at 3:52 p.m.



Representative Chuck McGrady, Chair
Presiding



Kimberly Neptune, Committee Clerk

Handwritten signature

Updated #1: H99 Transfer ALE added to the calendar

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

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

DAY & DATE: Tuesday, April 16, 2019

TIME: 3:00 PM

LOCATION: 1228/1327 LB

COMMENTS: Representative Chuck McGrady presiding.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 91</u>	ABC Laws Modernization/PED Study.	Representative McGrady Representative Boles Representative Horn Representative Willingham Representative McNeill Representative Boles
<u>HB 99</u>	Transfer ALE.	

Respectfully,

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

I hereby certify this notice was filed by the committee assistant at the following offices at 4:42 PM on Monday, April 15, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Kimberly Neptune (Committee Assistant)

House Committee on Alcoholic Beverage Control
Tuesday, April 16, 2019, 3:00 PM
1228/1327 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 91	ABC Laws Modernization/PED Study.	Representative McGrady Representative Boles Representative Horn Representative Willingham
HB 99	Transfer ALE.	Representative McNeill Representative Boles

Presentations

Other Business

Adjournment

**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**ALCOHOLIC BEVERAGE CONTROL COMMITTEE REPORT
Representative James L. Boles, Jr., Co-Chair
Representative Chuck McGrady, Co-Chair**

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 91

ABC Laws Modernization/PED Study.

Draft Number: H91-PCS10549-SAf-20

Serial Referral: **FINANCE**

Recommended Referral: None

Long Title Amended: Yes

Floor Manager: McGrady

TOTAL REPORTED: 1



* C M R 2 9 6 - V - 1 *



HOUSE BILL 91: ABC Laws Modernization/PED Study.

2019-2020 General Assembly

Committee:	House Alcoholic Beverage Control. If favorable, re-refer to Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	March 19, 2019
Introduced by:	Reps. McGrady, Boles, Horn, Willingham	Prepared by:	Susan Sitze
Analysis of:	First Edition		Staff Attorney

OVERVIEW: *House Bill 91 would enact recommendations of the Joint Legislative Program Evaluation Oversight Committee which would make the following changes to the Alcoholic Beverage Control (ABC) laws:*

- *Require the merger of ABC systems located in a county with two or more ABC systems.*
- *Repeal the purchase-transportation permit requirement for spirituous liquor.*
- *Require the ABC Commission to submit a quarterly report on its process for obtaining a contract for State warehouse services.*
- *Allow the purchase of individual bottles when placing a special order of spirituous liquor.*
- *Allow local ABC Boards to charge a delivery fee when delivering spirituous liquor to mixed beverage permittees.*
- *Allow local governments the option of operating ABC stores on Sundays.*
- *Allow spirituous liquor tastings at ABC stores.*

[As introduced, this bill was identical to S87, as introduced by Sens. Waddell, Wells, which is currently in Senate Rules and Operations of the Senate.]

BILL ANALYSIS:

Part I of the bill would require counties with two or more ABC systems to merge into one ABC system by June 30, 2021. Any new ABC system established by election in a county where an ABC board is already in existence would be required to merge its board with the existing ABC board.

Part II of the bill would repeal the purchase-transportation permit requirement for fortified wine and spirituous liquor and would allow any amount to be purchased and transported. **Under current law, G.S. 18B-303** prohibits the purchase or transportation of more than 8 liters of fortified wine or spirituous liquor, or 8 liters of the two combined without a purchase-transportation permit. With a purchase-transportation permit issued under **G.S. 18B-403**, a person can purchase and transport up to 40 liters of fortified wine or spirituous liquor, or 40 liters of the two combined and a mixed beverage permittee can purchase and transport the amount of fortified wine or spirituous liquor specified on the purchase-transportation permit. This part would become effective July 1, 2019, and apply to fortified wine and spirituous liquor purchased on or after that date.

Karen Cochrane-Brown
Director

H91-SMSA-13(e1)-v-3

Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

House Bill 91

Page 2

Part III of the bill would require the ABC Commission to make quarterly reports, beginning October 1, 2019, to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety detailing the progress made in bidding and selecting an independent contractor for the receipt, storage, and distribution of spirituous liquor at and from the State warehouse.

Part IV of the bill would authorize ABC stores to allow the purchase of individual bottles of spirituous liquor purchased through the special order process, and to sell in store any bottles received in excess of what was purchased by the requesting customer. The Commission may establish and charge a fee to a customer for special orders. This part would become effective July 1, 2019, and apply to special orders placed on or after that date.

Part V of the bill would allow local ABC boards to charge a delivery fee sufficient to cover actual costs if it provides delivery of spirituous liquor to mixed beverage permittees. This part would become effective July 1, 2019, and apply to deliveries made on or after that date.

Part VI of the bill would allow counties and cities to adopt an ordinance allowing ABC stores under their operation to be open and selling alcoholic beverages on Sundays. A county or city must consult with its county or city ABC board before adopting an ordinance. This part would become effective July 1, 2019.

Part VII of the bill would authorize spirituous liquor tastings to be held in ABC stores. This part would become effective July 1, 2019.

Part VIII of the bill would require the ABC Commission to amend its rules consistent with the provisions of this bill.

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

BACKGROUND:

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

H

1

HOUSE BILL 91*

Short Title: ABC Laws Modernization/PED Study. (Public)

Sponsors: Representatives McGrady, Boles, Horn, and Willingham (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, if favorable, Rules, Calendar,
and Operations of the House

February 19, 2019

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE MERGER OF ABC SYSTEMS LOCATED IN A COUNTY WITH TWO OR MORE ABC SYSTEMS; TO REPEAL THE PURCHASE-TRANSPORTATION PERMIT REQUIREMENT FOR SPIRITUOUS LIQUOR; TO REQUIRE THE ABC COMMISSION TO SUBMIT A QUARTERLY REPORT ON ITS PROCESS FOR OBTAINING A CONTRACT FOR STATE WAREHOUSE SERVICES; TO ALLOW THE PURCHASE OF INDIVIDUAL BOTTLES WHEN PLACING A SPECIAL ORDER OF SPIRITUOUS LIQUOR; TO ALLOW LOCAL ABC BOARDS TO CHARGE A DELIVERY FEE WHEN DELIVERING SPIRITUOUS LIQUOR TO MIXED BEVERAGES PERMITTEES; TO ALLOW LOCAL GOVERNMENTS THE OPTION OF OPERATING ABC STORES ON SUNDAYS; AND TO ALLOW SPIRITUOUS LIQUOR TASTINGS AT ABC STORES, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

PART I. REQUIRE CONSOLIDATION IN COUNTIES WITH MULTIPLE ABC SYSTEMS

SECTION 1.(a) By June 30, 2021, to ensure that no county has multiple ABC systems, all ABC systems located in a county with two or more ABC systems shall merge in accordance with the requirements set forth in G.S. 18B-703. Notwithstanding the provisions of any local act, this section applies to all ABC systems. For purposes of this section, the term "ABC system" is as defined in G.S. 18B-101.

SECTION 1.(b) G.S. 18B-700 is amended by adding a new subsection to read:

"(c1) Limit on Number of Boards. – Notwithstanding any provision of law to the contrary, there shall be no more than one local ABC board in each county. If a jurisdiction holds an ABC store election under G.S. 18B-602(g), the establishment of ABC stores is approved, and the jurisdiction that held the election is located in a county where an ABC board is already in operation, the jurisdiction that held the election shall merge its local ABC board with the existing ABC board in accordance with G.S. 18B-703. Nothing in this subsection shall be construed as prohibiting a local ABC board from serving multiple cities, counties, or cities and counties."

SECTION 1.(c) G.S. 18B-703(e) reads as rewritten:

"(e) Dissolution. – With the approval of the Commission, and subject to the limitation set forth in G.S. 18B-700(c1), the cities or counties that have merged their ABC systems may



1 dissolve the merged operation at any time and resume their prior separate ~~operations, operations~~
2 or merge with a different ABC system in accordance with the requirements of this section."

3 **SECTION 1.(d)** Subsections (b) and (c) of this section become effective June 30,
4 2021. The remainder of this section is effective when it becomes law.

5
6 **PART II. REPEAL PURCHASE-TRANSPORTATION PERMIT REQUIREMENT FOR**
7 **SPIRITUOUS LIQUOR**

8 **SECTION 2.(a)** G.S. 18B-303 reads as rewritten:

9 **"§ 18B-303. Amounts of alcoholic beverages that may be purchased.**

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

11 ...

12 (4) ~~Not more than eight liters of either fortified~~ Fortified wine or and spirituous
13 liquor, or eight liters of the two combined, liquor in any amount.

14 ...

15 (c) Greater Amounts. – Amounts of alcoholic beverages greater than those listed in
16 ~~subdivisions subdivision~~ (a)(3) ~~and (a)(4)~~ may be purchased with a purchase-transportation
17 permit under G.S. 18B-403."

18 **SECTION 2.(b)** G.S. 18B-403 reads as rewritten:

19 **"§ 18B-403. Purchase-transportation permit.**

20 (a) Amounts. – With a purchase-transportation permit, a person may purchase and
21 transport an amount of alcoholic beverages greater than the amount specified in G.S. 18B-303(a).
22 A permit authorizes the holder to transport from the place of purchase to the destination within
23 North Carolina indicated on the permit at one time the following amount of alcoholic beverages:

24 (1) A maximum of 100 liters of unfortified ~~wine; wine.~~

25 (2) ~~A maximum of 40 liters of either fortified wine or spirituous liquor, or 40~~
26 ~~liters of the two combined; or~~

27 (3) ~~The amount of fortified wine or spirituous liquors specified on the~~
28 ~~purchase-transportation permit for a mixed beverage permittee.~~

29 ...

30 (e) Restrictions on Permit. – A purchase may be made only from the store named on the
31 permit. One copy of the permit shall be kept by the issuing person, one by the purchaser, and one
32 by the store from which the purchase is made. The purchaser shall display his copy of the permit
33 to any law-enforcement officer upon request. ~~A permit for the purchase and transportation of~~
34 ~~spirituous liquor may be issued only by an authorized agent of the local board for the jurisdiction~~
35 ~~in which the purchase will be made.~~

36 ...

37 (g) Special Occasion Purchase-Transportation Permit. – When a person holds a special
38 occasion for which a permit under G.S. 18B-1001(8) or (9) is required, the
39 purchase-transportation permit issued to him may provide for the storage at and transportation to
40 and from the site of the special occasion of unfortified ~~wine, fortified wine, and spirituous liquor~~
41 wine for a period of no more than 48 hours before and after the special occasion. The
42 purchase-transportation permit authorizes that person to transport only the amounts of those
43 alcoholic beverages authorized by subsection (a). The Commission may adopt rules to govern
44 issuance of these extended purchase-transportation permits."

45 **SECTION 2.(c)** This section becomes effective July 1, 2019, and applies to fortified
46 wine and spirituous liquor purchased on or after that date.

47
48 **PART III. ABC COMMISSION/QUARTERLY REPORT ON PROCESS FOR**
49 **OBTAINING A CONTRACT FOR STATE WAREHOUSE SERVICES**

50 **SECTION 3.(a)** Beginning October 15, 2019, and quarterly thereafter, the ABC
51 Commission shall submit a written report to the chairs of the Joint Legislative Oversight

Committee on Justice and Public Safety detailing the progress made in bidding and selecting an independent contractor for the receipt, storage, and distribution of spirituous liquor at and from the State warehouse in accordance with G.S. 18B-204(a)(3). The report required under this section shall include all of the following:

- (1) The schedule for developing and issuing the Request for Proposal (RFP), including detailed explanations as to how the Commission is meeting the milestones identified on the schedule.
- (2) An identification of State agencies, departments, and other entities providing the Commission with technical assistance on RFP development and contract negotiations, including a detailed description of the assistance that is being provided.
- (3) A description of the Commission's consultation with local ABC boards, as that term is defined in G.S. 18B-101, to ensure the boards' concerns and expectations are addressed during the RFP development and contract negotiations.
- (4) A copy of the RFP when it is released for bid.
- (5) A copy of the final contract entered into pursuant to G.S. 18B-204(a)(3).
- (6) An implementation schedule for transitioning from the existing contract for services described in G.S. 18B-204(a)(3) to the new contract.

SECTION 3.(b) The reporting requirement set forth in subsection (a) of this section expires upon the earlier of the date of the award of the contract for services described in G.S. 18B-204(a)(3) or January 1, 2022.

PART IV. ABC SPECIAL ORDERS/ALLOW PURCHASE OF INDIVIDUAL BOTTLES

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

"§ 18B-800. Sale of alcoholic beverages in ABC stores.

...

(c) Commission Approval. – ~~No~~Except as otherwise provided in subsection (c1) of this section, no ABC store may sell any alcoholic beverage which has not been approved by the Commission for sale in this State.

(c1) Special Orders; Fee. – Through the process established by rule of the Commission for special orders of spirituous liquor that is not on the list approved by the Commission, ABC stores shall allow the purchase of individual bottles of spirituous liquor through that process. ABC stores may sell in store any bottles it receives in excess of what was purchased by the requesting customer. The Commission may establish and charge a fee to a customer placing a special order in an amount sufficient to cover the actual costs incurred by ABC stores in processing the special order.

...."

SECTION 4.(b) This section becomes effective July 1, 2019, and applies to special orders placed on or after that date.

PART V. LOCAL ABC BOARDS/ALLOW DELIVERY FEE

SECTION 5.(a) G.S. 18B-701(a) reads as rewritten:

"(a) Powers. – A local board shall have authority ~~to~~to do all of the following:

- (1) Buy, sell, transport, and possess alcoholic beverages as necessary for the operation of its ABC ~~stores;~~stores. If a local board provides delivery of spirituous liquor to a mixed beverages permittee, the local board may charge a fee to the permittee sufficient to cover the actual costs incurred by the local board in making the delivery.
- (2) Adopt rules for its ABC system, subject to the approval of the ~~Commission;~~Commission.

- (3) Hire and fire employees for the ABC ~~system;system.~~
- (4) Designate one employee as manager of the ABC system and determine his ~~responsibilities;responsibilities.~~
- (5) Require bonds of employees as provided in the rules of the ~~Commission;Commission.~~
- (6) Operate ABC stores as provided in Article ~~8;8.~~
- (7) Issue purchase-transportation permits as provided in Article ~~4;4.~~
- (8) Employ local ABC officers or make other provision for enforcement of ABC laws as provided in Article ~~5;5.~~
- (9) Borrow money as provided in ~~G.S. 18B-702;G.S. 18B-702.~~
- (10) Buy and lease real and personal property, and receive property devised or given, as necessary for the operation of the ABC ~~system;system.~~
- (11) Invest surplus funds as provided in ~~G.S. 18B-702;G.S. 18B-702.~~
- (12) Dispose of property in the same manner as a city council may under Article 12 of Chapter 160A of the General ~~Statutes; andStatutes.~~

...."

SECTION 5.(b) This section becomes effective July 1, 2019, and applies to deliveries made on or after that date.

PART VI. ALLOW LOCAL GOVERNMENT OPTION/ABC STORE SALES ON SUNDAY

SECTION 6.(a) G.S. 18B-802(b) reads as rewritten:

"(b) Days. – No ABC store shall be open, and no ABC store employee shall sell alcoholic beverages, ~~on any Sunday, New Year's Day, Fourth of July, Labor Day, Thanksgiving Day, or Christmas Day. Except as otherwise provided under G.S. 153A-145.8 or G.S. 160A-205.4, no~~ ABC store shall be open, and no ABC store employee shall sell alcoholic beverages, on any Sunday. A local board may otherwise determine the days on which its stores shall be closed."

SECTION 6.(b) Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-145.8. Allow ABC stores to operate on Sunday.

If a county operates at least one ABC store, the county may adopt an ordinance allowing ABC stores under the operation of the county to be open and selling alcoholic beverages on Sundays. A county must consult with its county ABC board prior to adopting an ordinance under this section."

SECTION 6.(c) Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-205.4. Allow ABC stores to operate on Sunday.

If a city operates at least one ABC store, the city may adopt an ordinance allowing ABC stores under the operation of the city to be open and selling alcoholic beverages on Sundays. A city must consult with its city ABC board prior to adopting an ordinance under this section."

SECTION 6.(d) This section becomes effective July 1, 2019.

PART VII. ABC STORES/ALLOW IN-STORE SPIRITUOUS LIQUOR TASTINGS

SECTION 7.(a) G.S. 18B-1114.7(a) reads as rewritten:

"(a) Authorization. – The holder of a supplier representative permit, brokerage representative permit, or distillery permit issued under G.S. 18B-1105 may obtain a spirituous liquor special event permit allowing the permittee to give free tastings of its spirituous liquors at ABC stores where the local ABC board has approved the tasting, trade shows, conventions, shopping malls, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission."

SECTION 7.(b) G.S. 18B-301(f)(1) reads as rewritten:

- 1 "(1) Any person to consume fortified wine, spirituous liquor, or mixed beverages
2 or to offer such beverages to another person at any of the following places:
3 a. ~~On~~Unless a consumer tasting authorized by G.S. 18B-1114.7 is being
4 conducted, on the premises of an ABC store.
5 b. Upon any property used or occupied by a local board.
6 c. On any public road, street, highway, or sidewalk, unless a consumer
7 tasting authorized by G.S. 18B-1114.7 is being conducted."

8 **SECTION 7.(c)** This section becomes effective July 1, 2019.
9

10 **PART VIII. RULES**

11 **SECTION 8.** The Alcoholic Beverage Control Commission shall amend its rules
12 consistent with the provisions of this act.
13

14 **PART IX. EFFECTIVE DATE**

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

D

HOUSE BILL 91
PROPOSED COMMITTEE SUBSTITUTE H91-PCS10549-SAf-20

Short Title: ABC Laws Modernization/PED Study.

(Public)

Sponsors:

Referred to:

February 19, 2019

A BILL TO BE ENTITLED

AN ACT TO EXEMPT MIXED BEVERAGE PERMITTEES FROM THE PURCHASE-TRANSPORTATION PERMIT REQUIREMENT FOR SPIRITUOUS LIQUOR; TO REQUIRE THE ABC COMMISSION TO SUBMIT A QUARTERLY REPORT ON ITS PROCESS FOR OBTAINING A CONTRACT FOR STATE WAREHOUSE SERVICES; TO ALLOW THE PURCHASE OF INDIVIDUAL BOTTLES WHEN PLACING A SPECIAL ORDER OF SPIRITUOUS LIQUOR; TO ALLOW LOCAL ABC BOARDS TO CHARGE A DELIVERY FEE WHEN DELIVERING SPIRITUOUS LIQUOR TO MIXED BEVERAGES PERMITTEES; TO ALLOW LOCAL GOVERNMENTS THE OPTION OF OPERATING ABC STORES ON SUNDAYS; AND TO ALLOW SPIRITUOUS LIQUOR TASTINGS AT ABC STORES, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

PART II. EXEMPT MIXED BEVERAGE PERMITTEES FROM PURCHASE-TRANSPORTATION PERMIT REQUIREMENT FOR SPIRITUOUS LIQUOR

SECTION 2.(a) G.S. 18B-303 reads as rewritten:

"§ 18B-303. Amounts of alcoholic beverages that may be purchased.

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

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

(b) Unlawful Purchase. – Except as provided in ~~subsection (c)~~ subsections (c) and (d) of this section, and in ~~Article 11~~, Article 11 of this Chapter, it shall be unlawful for any person to purchase, or for any person to sell, an amount of alcoholic beverages greater than that stated in subsection (a).



* H 9 1 - P C S 1 0 5 4 9 - S A F - 2 0 *

(c) Greater Amounts. – Amounts of alcoholic beverages greater than those listed in subdivisions (a)(3) and (a)(4) may be purchased with a purchase-transportation permit under G.S. 18B-403.

(d) Mixed Beverage Permittee Exception. – A mixed beverage permittee, or an employee of a mixed beverage permittee, may purchase and transport any amount of fortified wine or spirituous liquor for use by the mixed beverage permittee without obtaining a purchase-transportation permit under G.S. 18B-403. An independent contractor employed pursuant to G.S. 18B-701(a)(1), by either a mixed beverage permittee or a local ABC board, may transport any amount of fortified wine or spirituous liquor for use by a mixed beverage permittee without obtaining a purchase-transportation permit under G.S. 18B-403.

SECTION 2.(b) G.S. 18B-403(a) reads as rewritten:

"(a) Amounts. – With a purchase-transportation permit, a person may purchase and transport an amount of alcoholic beverages greater than the amount specified in G.S. 18B-303(a). A permit authorizes the holder to transport from the place of purchase to the destination within North Carolina indicated on the permit at one time the following amount of alcoholic beverages:

(1) A maximum of 100 liters of unfortified ~~wine~~ wine.

(2) A maximum of 40 liters of either fortified wine or spirituous liquor, or 40 liters of the two ~~combined~~ or combined.

(3) ~~The amount of fortified wine or spirituous liquors specified on the purchase-transportation permit for a mixed beverage permittee.~~

SECTION 2.(c) This section becomes effective July 1, 2019, and applies to fortified wine and spirituous liquor purchased on or after that date.

PART III. ABC COMMISSION/QUARTERLY REPORT ON PROCESS FOR OBTAINING A CONTRACT FOR STATE WAREHOUSE SERVICES

SECTION 3.(a) Beginning October 15, 2019, and quarterly thereafter, the ABC Commission shall submit a written report to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety detailing the progress made in bidding and selecting an independent contractor for the receipt, storage, and distribution of spirituous liquor at and from the State warehouse in accordance with G.S. 18B-204(a)(3). The report required under this section shall include all of the following:

(1) The schedule for developing and issuing the Request for Proposal (RFP), including detailed explanations as to how the Commission is meeting the milestones identified on the schedule.

(2) An identification of State agencies, departments, and other entities providing the Commission with technical assistance on RFP development and contract negotiations, including a detailed description of the assistance that is being provided.

(3) A description of the Commission's consultation with local ABC boards, as that term is defined in G.S. 18B-101, to ensure the boards' concerns and expectations are addressed during the RFP development and contract negotiations.

(4) A copy of the RFP when it is released for bid.

(5) A copy of the final contract entered into pursuant to G.S. 18B-204(a)(3).

(6) An implementation schedule for transitioning from the existing contract for services described in G.S. 18B-204(a)(3) to the new contract.

SECTION 3.(b) The reporting requirement set forth in subsection (a) of this section expires upon the earlier of the date of the award of the contract for services described in G.S. 18B-204(a)(3) or January 1, 2022.

PART IV. ABC SPECIAL ORDERS/ALLOW PURCHASE OF INDIVIDUAL BOTTLES

1 **SECTION 4.(a)** G.S. 18B-800 is amended by adding a new subsection to read:

2 "**(c1)** Special Orders. – Through the process established by rule of the Commission for
3 special orders of spirituous liquor that are on the special item list approved by the Commission,
4 ABC stores shall allow the purchase of individual bottles of spirituous liquor. ABC stores may
5 sell in store any bottles it receives from a special item case in excess of what was purchased by
6 the requesting customer."

7 **SECTION 4.(b)** In order to facilitate the sale of any remainders of a special item
8 case by a local ABC board, increase customer access to products, and allow local ABC boards
9 to more effectively manage inventory, the ABC Commission shall develop and implement an
10 Internet-based system to facilitate the sale and purchase, and transport and delivery, of spirituous
11 liquor items by and among local ABC boards. The system shall include both items listed on the
12 regular approved list of items and on the special item list maintained by the ABC Commission.

13 **SECTION 4.(c)** The ABC Commission shall develop and implement an
14 Internet-based system to allow mixed beverage permittees to track special orders from the special
15 item list online, including the date a special order is placed with the ABC Commission by a local
16 ABC board and the expected date that a mixed beverage permittee can take possession of a
17 special order.

18 **SECTION 4.(d)** Subsection (a) of this section becomes effective July 1, 2019, and
19 applies to special orders placed on or after that date. The remainder of this section is effective
20 when it becomes law.

21
22 **PART V. LOCAL ABC BOARDS/ALLOW DELIVERY FEE**

23 **SECTION 5.(a)** G.S. 18B-701(a) reads as rewritten:

24 "(a) Powers. – A local board shall have authority ~~to~~to do all of the following:

- 25 (1) Buy, sell, transport, and possess alcoholic beverages as necessary for the
26 operation of its ABC ~~stores;~~stores. If a local board provides delivery of
27 spirituous liquor to a mixed beverages permittee, the local board may use its
28 employees or contract with an independent contractor and may charge a fee
29 to the permittee. A mixed beverage permittee may contract with an
30 independent contractor to provide delivery of spirituous liquor from an ABC
31 board's store or warehouse to the permittee's premises.
- 32 (2) Adopt rules for its ABC system, subject to the approval of the
33 ~~Commission;~~Commission.
- 34 (3) Hire and fire employees for the ABC ~~system;~~system.
- 35 (4) Designate one employee as manager of the ABC system and determine his
36 ~~responsibilities;~~responsibilities.
- 37 (5) Require bonds of employees as provided in the rules of the
38 ~~Commission;~~Commission.
- 39 (6) Operate ABC stores as provided in Article ~~8;~~8.
- 40 (7) Issue purchase-transportation permits as provided in Article ~~4;~~4.
- 41 (8) Employ local ABC officers or make other provision for enforcement of ABC
42 laws as provided in Article ~~5;~~5.
- 43 (9) Borrow money as provided in ~~G.S. 18B-702;~~G.S. 18B-702.
- 44 (10) Buy and lease real and personal property, and receive property devised or
45 given, as necessary for the operation of the ABC ~~system;~~system.
- 46 (11) Invest surplus funds as provided in ~~G.S. 18B-702;~~G.S. 18B-702.
- 47 (12) Dispose of property in the same manner as a city council may under Article
48 12 of Chapter 160A of the General ~~Statutes;~~ and Statutes.

49 "

1 **SECTION 5.(b)** The ABC Commission shall adopt rules to implement this section,
2 including the allowed fee for delivery and establishing requirements independent contractors
3 must meet to provide deliveries authorized by this section.

4 **SECTION 5.(c)** Subsection (a) of this section becomes effective July 1, 2019, and
5 applies to deliveries made on or after that date. The remainder of this section is effective when it
6 becomes law.

7
8 **PART VI. ALLOW LOCAL GOVERNMENT OPTION/ABC STORE SALES ON**
9 **SUNDAY**

10 **SECTION 6.(a)** G.S. 18B-802(b) reads as rewritten:

11 "(b) Days. – No ABC store shall be open, and no ABC store employee shall sell alcoholic
12 beverages, ~~on any Sunday, New Year's Day, Fourth of July, Labor Day, Thanksgiving Day, or~~
13 ~~Christmas Day. Except as otherwise provided under G.S. 153A-145.8 or G.S. 160A-205.4, no~~
14 ABC store shall be open, and no ABC store employee shall sell alcoholic beverages, on any
15 Sunday. A local board may otherwise determine the days on which its stores shall be closed."

16 **SECTION 6.(b)** Article 6 of Chapter 153A of the General Statutes is amended by
17 adding a new section to read:

18 **"§ 153A-145.8. Allow ABC stores to operate on Sunday.**

19 If a county operates at least one ABC store, the county may adopt an ordinance allowing
20 ABC stores under the operation of the county to be open and selling alcoholic beverages on
21 Sundays. A county must consult with its county ABC board prior to adopting an ordinance under
22 this section."

23 **SECTION 6.(c)** Article 8 of Chapter 160A of the General Statutes is amended by
24 adding a new section to read:

25 **"§ 160A-205.4. Allow ABC stores to operate on Sunday.**

26 If a city operates at least one ABC store, the city may adopt an ordinance allowing ABC
27 stores under the operation of the city to be open and selling alcoholic beverages on Sundays. A
28 city must consult with its city ABC board prior to adopting an ordinance under this section."

29 **SECTION 6.(d)** This section becomes effective July 1, 2019.

30
31 **PART VII. ABC STORES/ALLOW IN-STORE SPIRITUOUS LIQUOR TASTINGS**

32 **SECTION 7.(a)** G.S. 18B-1114.7(a) reads as rewritten:

33 "(a) Authorization. – The holder of a supplier representative permit, brokerage
34 representative permit, or distillery permit issued under G.S. 18B-1105 may obtain a spirituous
35 liquor special event permit allowing the permittee to give free tastings of its spirituous liquors at
36 ABC stores where the local ABC board has approved the tasting, trade shows, conventions,
37 shopping malls, street festivals, holiday festivals, agricultural festivals, balloon races, local
38 fund-raisers, and other similar events approved by the Commission."

39 **SECTION 7.(b)** G.S. 18B-301(f)(1) reads as rewritten:

40 "(1) Any person to consume fortified wine, spirituous liquor, or mixed beverages
41 or to offer such beverages to another person at any of the following places:

- 42 a. ~~On~~ Unless a consumer tasting authorized by G.S. 18B-1114.7 is being
43 conducted, on the premises of an ABC store.
44 b. Upon any property used or occupied by a local board.
45 c. On any public road, street, highway, or sidewalk, unless a consumer
46 tasting authorized by G.S. 18B-1114.7 is being conducted."

47 **SECTION 7.(c)** This section becomes effective July 1, 2019.

48
49 **PART VIII. RULES**

50 **SECTION 8.** The Alcoholic Beverage Control Commission shall amend its rules
51 consistent with the provisions of this act.

1
2
3
4

PART IX. EFFECTIVE DATE

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



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 91*

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

H91-ASA-10 [v.1]

Page 1 of 1

Amends Title [YES]
First Edition

Date April 16, 2019

Representative Hurley

- 1 moves to amend the bill on page 1, lines 2-3
- 2 by deleting the following:
- 3 "TO REQUIRE THE MERGER OF ABC SYSTEMS LOCATED IN A COUNTY WITH TWO
- 4 OR MORE ABC SYSTEMS;";
- 5
- 6 And on page 1, line 17 through page 2, line 4
- 7 By deleting those lines.

SIGNED Pat Hurley
Amendment Sponsor

SIGNED hank w
Committee Chair if Senate Committed Amendment

ADOPTED ✓ FAILED _____ TABLED _____



* H 9 1 - A S A - 1 0 - V - 1 *

Attachment 1



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 91 *

AMENDMENT NO. 2
(to be filled in by
Principal Clerk)

H91-ASA-21 [v.3]

Page 1 of 3

Amends Title [NO]
First Edition

Date April 16, 2019

Representative Boles

1 moves to amend the bill on page 1, line 3
2 by deleting "REPEAL" and inserting "EXEMPT MIXED BEVERAGE PERMITTEES FROM";
3
4 and on page 2, lines 6 – 46
5 by rewriting those lines to read:

6 **"PART II. EXEMPT MIXED BEVERAGE PERMITTEES FROM PURCHASE-**
7 **TRANSPORTATION PERMIT REQUIREMENT FOR SPIRITUOUS LIQUOR**

8 **SECTION 2.(a) G.S. 18B-303 reads as rewritten:**

9 **"§ 18B-303. Amounts of alcoholic beverages that may be purchased.**

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

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

20 (b) Unlawful Purchase. – Except as provided in ~~subsection (e)~~ subsections (c) and (d) of
21 this section, and in ~~Article 11, Article 11 of this Chapter~~, it shall be unlawful for any person to
22 purchase, or for any person to sell, an amount of alcoholic beverages greater than that stated in
23 subsection (a).

24 (c) Greater Amounts. – Amounts of alcoholic beverages greater than those listed in
25 subdivisions (a)(3) and (a)(4) may be purchased with a purchase-transportation permit under G.S.
26 18B-403.

27 (d) Mixed Beverage Permittee Exception. – A mixed beverage permittee, or an employee
28 of a mixed beverage permittee, may purchase and transport any amount of fortified wine or
29 spirituous liquor for use by the mixed beverage permittee without obtaining a purchase-
30 transportation permit under G.S. 18B-403. An independent contractor employed pursuant to G.S.
31 18B-701(a)(1), by either a mixed beverage permittee or a local ABC board, may transport any



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 91*

AMENDMENT NO. 2
(to be filled in by
Principal Clerk)

H91-ASA-21 [v.3]

Page 2 of 3

1 amount of fortified wine or spirituous liquor for use by a mixed beverage permittee without
2 obtaining a purchase-transportation permit under G.S. 18B-403."

3 **SECTION 2.(b)** G.S. 18B-403(a) reads as rewritten:

4 "(a) Amounts. – With a purchase-transportation permit, a person may purchase and
5 transport an amount of alcoholic beverages greater than the amount specified in G.S. 18B-303(a).
6 A permit authorizes the holder to transport from the place of purchase to the destination within
7 North Carolina indicated on the permit at one time the following amount of alcoholic beverages:

8 (1) A maximum of 100 liters of unfortified ~~wine;~~wine.

9 (2) A maximum of 40 liters of either fortified wine or spirituous liquor, or 40
10 liters of the two ~~combined;~~or combined.

11 (3) ~~The amount of fortified wine or spirituous liquors specified on the~~
12 ~~purchase-transportation permit for a mixed beverage permittee."~~

13 **SECTION 2.(c)** This section becomes effective July 1, 2019, and applies to fortified
14 wine and spirituous liquor purchased on or after that date.";

15
16 And on page 3, line 24 through page 4, line 18
17 by rewriting those lines to read:

18 **"PART IV. ABC SPECIAL ORDERS/ALLOW PURCHASE OF INDIVIDUAL**
19 **BOTTLES**

20 **SECTION 4.(a)** G.S. 18B-800 is amended by adding a new subsection to read:

21 "(c1) Special Orders. – Through the process established by rule of the Commission for
22 special orders of spirituous liquor that are on the special item list approved by the Commission,
23 ABC stores shall allow the purchase of individual bottles of spirituous liquor. ABC stores may
24 sell in store any bottles it receives from a special item case in excess of what was purchased by
25 the requesting customer."

26 **SECTION 4.(b)** In order to facilitate the sale of any remainders of a special item
27 case by a local ABC board, increase customer access to products, and allow local ABC boards
28 to more effectively manage inventory, the ABC Commission shall develop and implement an
29 internet-based system to facilitate the sale and purchase, and transport and delivery, of spirituous
30 liquor items by and among local ABC boards. The system shall include both items listed on the
31 regular approved list of items and on the special item list maintained by the ABC Commission.

32 **SECTION 4.(c)** The ABC Commission shall develop and implement an internet-
33 based system to allow mixed beverage permittees to track special orders from the special item
34 list online, including the date a special order is placed with the ABC Commission by a local ABC
35 board and the expected date that a mixed beverage permittee can take possession of a special
36 order.

37 **SECTION 4.(d)** Subsection (a) of this section becomes effective July 1, 2019, and
38 applies to special orders placed on or after that date. The remainder of this section is effective
39 when it becomes law.

40
41 **PART V. LOCAL ABC BOARDS/ALLOW DELIVERY FEE**

42 **SECTION 5.(a)** G.S. 18B-701(a) reads as rewritten:

43 "(a) Powers. – A local board shall have authority ~~to~~to do all of the following:

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 91*

AMENDMENT NO. 2
(to be filled in by
Principal Clerk)

H91-ASA-21 [v.3]

Page 3 of 3

- (1) Buy, sell, transport, and possess alcoholic beverages as necessary for the operation of its ABC ~~stores; stores.~~ If a local board provides delivery of spirituous liquor to a mixed beverages permittee, the local board may use its employees or contract with an independent contractor and may charge a fee to the permittee. A mixed beverage permittee may contract with an independent contractor to provide delivery of spirituous liquor from an ABC board's store or warehouse to the permittee's premises.
- (2) Adopt rules for its ABC system, subject to the approval of the ~~Commission; Commission.~~
- (3) Hire and fire employees for the ABC ~~system; system.~~
- (4) Designate one employee as manager of the ABC system and determine his ~~responsibilities; responsibilities.~~
- (5) Require bonds of employees as provided in the rules of the ~~Commission; Commission.~~
- (6) Operate ABC stores as provided in Article ~~8; 8.~~
- (7) Issue purchase-transportation permits as provided in Article ~~4; 4.~~
- (8) Employ local ABC officers or make other provision for enforcement of ABC laws as provided in Article ~~5; 5.~~
- (9) Borrow money as provided in ~~G.S. 18B-702; G.S. 18B-702.~~
- (10) Buy and lease real and personal property, and receive property devised or given, as necessary for the operation of the ABC ~~system; system.~~
- (11) Invest surplus funds as provided in ~~G.S. 18B-702; G.S. 18B-702.~~
- (12) Dispose of property in the same manner as a city council may under Article 12 of Chapter 160A of the General ~~Statutes; and Statutes.~~

...."

SECTION 5.(b) The ABC Commission shall adopt rules to implement this section, including the allowed fee for delivery and establishing requirements independent contractors must meet to provide deliveries authorized by this section.

SECTION 5.(c) Subsection (a) of this section becomes effective July 1, 2019, and applies to deliveries made on or after that date. The remainder of this section is effective when it becomes law."

SIGNED _____

Amendment Sponsor

SIGNED _____

Committee Chair if Senate Committed Amendment

ADOPTED ☒

FAILED _____

TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 91*

AMENDMENT NO. 3
(to be filled in by
Principal Clerk)

H91-ASA-8 [v.1]

Page 1 of 1

Amends Title [YES]
First Edition

Date April 16, 2019

Representative Hurley

- 1 moves to amend the bill on page 1, lines 10-11
2 by deleting the following:
3 "TO ALLOW LOCAL GOVERNMENTS THE OPTION OF OPERATING ABC STORES ON
4 SUNDAY;";
5
6 And on page 4, lines 20-41, by deleting those lines.

SIGNED

Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

FAILED

X

TABLED



* H 9 1 - A S A - 8 - V - 1 *

Attachment 3



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 91*

AMENDMENT NO. 4
(to be filled in by
Principal Clerk)

H91-ASA-9 [v.1]

Page 1 of 1

Amends Title [YES]
First Edition

Date April 16, 2019

Representative Hurley

- 1 moves to amend the bill on page 1, line 12
2 by deleting the following:
3 "TO ALLOW SPIRITUOUS LIQUOR TASTINGS AT ABC STORES,";
4
5 And on page 4, line 43 through page 5, line 8
6 By deleting those lines.

SIGNED

Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

FAILED

X

TABLED



* H 9 1 - A S A - 9 - V - 1 *

Attachment 4



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 91*

AMENDMENT NO. 5
(to be filled in by
Principal Clerk)

H91-ASA-19 [v.5]

Page 1 of 2

Amends Title [YES]
First Edition

Date April 16, 2019

Representative ~~McGrady~~ Handister

moves to amend the bill on page 1, lines 11-14
by rewriting those lines to read:

"GOVERNMENTS THE OPTION OF OPERATING ABC STORES ON SUNDAYS; TO
ALLOW SPIRITUOUS LIQUOR TASTINGS AT ABC STORES; AND TO FINE LOCAL
ABC BOARDS FOR SALES OF SPIRITUOUS LIQUOR TO UNDERAGE PERSONS AT
ABC STORES."

and on page 5, lines 10-16
by rewriting those lines to read:

"PART VIII. CIVIL PENALTY FOR REPEAT UNDERAGE SALES

SECTION 8.(a) Article 7 of Chapter 18B of the General Statutes is amended by
adding a new section to read:

"§ 18B-707. Local board administrative penalty for underage sales.

(a) For any violation of G.S. 18B-302(a), (a1), or (c)(2) committed by an employee of an
ABC store or a member of the local board that operates the ABC store, the local board operating
that store, shall be fined by the Commission as follows:

- (1) Five hundred dollars (\$500.00) for the first violation.
- (2) Seven hundred fifty dollars (\$750.00) for a second violation within three years
of the first violation.
- (3) One thousand dollars (\$1,000) for a third violation within three years of the
first violation.

(b) Fines assessed pursuant to this section shall be considered expenses of operating the local
ABC system and shall be paid as a primary distribution pursuant to G.S. 18B-805(b)(1).

(c) The clear proceeds of fines assessed pursuant to this section shall be remitted to the Civil
Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) Nothing in this section shall be construed to interfere with or replace the provisions of
G.S. 18B-704."

SECTION 8.(b) This section becomes effective July 1, 2019 and applies to
violations of G.S. 18B-302(a), (a1), or (c)(2) occurring on or after that date.

PART IX. RULES



* H 9 1 - A S A - 1 9 - V - 5 *

Attachment 5

**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 91***

AMENDMENT NO. 5
(to be filled in by
Principal Clerk)

H91-ASA-19 [v.5]

Page 2 of 2


1 **SECTION 9.** The Alcoholic Beverage Control Commission shall amend its rules
2 consistent with the provisions of this act.

3

4 **PART X. EFFECTIVE DATE**

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

SIGNED


Amendment Sponsor

SIGNED


Committee Chair if Senate Committee Amendment

ADOPTED

FAILED

TABLED

X



HOUSE BILL 99: Transfer ALE.

2019-2020 General Assembly

Committee:	House Alcoholic Beverage Control. If favorable, re-refer to Judiciary. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 16, 2019
Introduced by:	Reps. McNeill, Boles	Prepared by:	Jennifer H. Bedford
Analysis of:	PCS to First Edition H99-CSTT-15		Staff Attorney

OVERVIEW: *The PCS for House Bill 99 would create the Alcohol Law Enforcement Division, a separate division of the Department of Public Safety, and expand the jurisdiction of Alcohol Law Enforcement agents.*

[As introduced, this bill was identical to S78, as introduced by Sens. Sanderson, Britt, Horner, which is currently in Senate Judiciary.]

CURRENT LAW AND BACKGROUND: Alcohol Law Enforcement (ALE) is the lead enforcement agency for the State's alcoholic beverage control, lottery, and tobacco laws. ALE has been a branch agency of the State Bureau of Investigation (SBI) since 2014.

BILL ANALYSIS:

Section 1 of the PCS would relocate the ALE Branch of the SBI to a new Division of the Department of Public Safety (DPS).

Section 2 of the PCS would create the ALE Division of the DPS.

Section 3 of the PCS would repeal the existing law that established the ALE Branch within the SBI.

Section 4 of the PCS would:

- Authorize the Secretary of the DPS to appoint and supervise the Director of the ALE Division of the DPS.
- Allow the Director of the ALE Division to hire, appoint, transfer, supervise, and fire personnel within the new Division.

Section 4 of the PCS would also expand the jurisdiction of ALE agents to include any criminal offense:

- At a location related to a permit issued by the Alcoholic Beverage Control Commission (ABC) or the Education Lottery Commission.
- Encountered by an ALE agent acting on behalf of the ABC Commission or the Education Lottery Commission.
- Encountered while an ALE agent is carrying out a duty assigned by the ALE Division or by law.
- Occurring in the presence of an ALE agent.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 99

Page 2

- Occurring while an ALE agent is assisting another law-enforcement agency.

Section 4 of the PCS would also expand the primary responsibilities of an ALE agent to include violations of the lottery and gaming laws, and the bingo and raffle laws.

Sections 5-10 of the PCS would make conforming changes.

EFFECTIVE DATE: This act would become effective July 1, 2019.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

D

HOUSE BILL 99
PROPOSED COMMITTEE SUBSTITUTE H99-CSTT-15 [v.8]

04/15/2019 08:37:31 PM

Short Title: Transfer ALE.

(Public)

Sponsors:

Referred to:

February 19, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH ALCOHOL LAW ENFORCEMENT AS A SEPARATE DIVISION
3 OF THE DEPARTMENT OF PUBLIC SAFETY AND TO CLARIFY THE
4 JURISDICTION AND PRIMARY RESPONSIBILITIES OF ALCOHOL
5 LAW-ENFORCEMENT AGENTS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** The Alcohol Law Enforcement Branch of the State Bureau of
8 Investigation shall be relocated as a division of the Department of Public Safety. The Department
9 of Public Safety shall continue to consolidate ALE and SBI regions and regional offices in the
10 same manner so that all district offices remain co-located.

11 **SECTION 2.** Part 4 of Article 13 of Chapter 143B of the General Statutes is amended
12 by adding a new Subpart to read:

13 "Subpart F. Alcohol Law Enforcement Division.

14 **"§ 143B-990. Creation of Alcohol Law Enforcement Division of the Department of Public
15 Safety.**

16 There is created and established a division to be known as the Alcohol Law Enforcement
17 Division of the Department of Public Safety with the organization, powers, and duties defined in
18 Article 1 of this Chapter and G.S. 18B-500, except as modified in this Part."

19 **SECTION 3.** G.S. 143B-928 is repealed.

20 **SECTION 4.** G.S. 18B-500 reads as rewritten:

21 **"§ 18B-500. Alcohol law-enforcement agents.**

22 **"§ 18B-500. Alcohol law-enforcement agents.**

23 (a) Appointment. – The Secretary of Public Safety shall appoint and supervise the
24 Director of the Division of Alcohol Law Enforcement of the Department of Public Safety. The
25 Director of the State Bureau of Investigation shall Division of Alcohol Law Enforcement of the
26 Department of Public Safety may appoint alcohol law-enforcement agents and other enforcement
27 personnel, and supervise a sufficient number of assistants who shall be competent and qualified
28 to do the work of the Division. The Director may also appoint regular employees of the
29 Commission as alcohol law-enforcement agents, shall be responsible for making all hiring and
30 personnel decisions of the Division. Notwithstanding the provisions of this Chapter or Chapter
31 143A of the General Statutes, the Director may hire or fire personnel and transfer personnel
32 within the Division. The Director may also appoint a regular employee of the Commission as an
33 ALE Agent providing the employee was employed by the ABC Commission and serving as an
34 ALE Agent on January 1, 2019. Alcohol law-enforcement agents shall be designated as "alcohol
35 law-enforcement agents". Persons serving as reserve alcohol law-enforcement agents are
36 considered employees of the Alcohol Law Enforcement Branch Division for workers'



1 compensation purposes while performing duties assigned or approved by the Head-Director of
2 the Alcohol Law Enforcement Branch-Division or the Head's-Director's designee.

3 (b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace officer, an
4 alcohol law-enforcement agent shall have authority to arrest and take other investigatory and
5 enforcement actions for any criminal offense. The primary responsibility of an agent shall be
6 enforcement of the ABC and lottery laws and G.S. 14-313 regarding youth access to tobacco
7 products offense:

8 (1) Occurring, encountered, or otherwise discovered on the premises of, or
9 elsewhere when such conduct relates to a location under application for, or
10 holding a permit issued by, the North Carolina Alcoholic Beverage Control
11 Commission or the North Carolina Education Lottery Commission.

12 (2) Encountered or otherwise discovered while investigating or enforcing matters
13 for the North Carolina Alcoholic Beverage Control Commission or the North
14 Carolina Education Lottery Commission, or encountered or otherwise
15 discovered while investigating or enforcing the provisions of this Chapter,
16 Chapter 18C, G.S. 14-313, or Parts 1 and 2 of Article 37 of Chapter 14 of the
17 General Statutes.

18 (3) Encountered or otherwise discovered while carrying out any duty or function
19 assigned to the Division by law.

20 (4) Occurring in an agent's presence.

21 (5) When assisting another law-enforcement agency.

22 (b1) Authority. – Alcohol law-enforcement agents have full power and authority as peace
23 officers to execute criminal process, and respond to and take enforcement action for any crime
24 of violence or breach of the peace, and any additional duties as may from time to time be directed
25 by the Governor or the Secretary of the Department of Public Safety when needed for security
26 purposes at a public event, or to protect persons or property because of a disaster or state of
27 emergency.

28 (b2) Primary responsibilities. – The primary responsibility-responsibilities of an alcohol
29 law-enforcement agent shall be the enforcement of the ABC and lottery laws and G.S. 14-313
30 regarding youth access to tobacco products this Chapter, Chapter 18C, G.S. 14-313, and Parts 1
31 and 2 of Article 37 of Chapter 14 of the General Statutes.

32 ...
33 (g) Shifting of Personnel From One District to Another. – The Head-Director of the
34 Alcohol Law Enforcement Branch, under rules adopted by the Department of Public Safety
35 Division may, from time to time, shift the forces from one district to another or consolidate more
36 than one district force at any point for special purposes. Whenever an agent of the Alcohol Law
37 Enforcement Section-Division is transferred from one district to another for the convenience of
38 the State or for reasons other than the request of the agent, the Department shall be responsible
39 for transporting the household goods, furniture, and personal apparel of the agent and members
40 of the agent's household."

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

42 "§ 18B-101. Definitions.

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

44 ...
45 (3) "ABC system" means a local ~~board and board~~, all ABC stores operated by it,
46 ~~its law enforcement branch, and all its employees.~~ a local board, and the
47 designated ABC law enforcement officers employed pursuant to G. S.
48 18B-501.

49 ...
50 (5) "ALE ~~Branch~~—Division" means the Alcohol Law Enforcement ~~Branch~~
51 Division of the Department of Public Safety.

...."

SECTION 6. G.S. 143-651 reads as rewritten:

"§ 143-651. Definitions.

The following definitions apply in this Article:

...

(4a) ~~Branch. The Alcohol Law Enforcement Branch of the State Bureau of Investigation.~~

...

(7a) Division or ALE Division. – The Alcohol Law Enforcement Division of the Department of Public Safety.

...

(23b) Sanctioned amateur match. – Any match regulated by an amateur sports organization that has been recognized and approved by the ~~Branch~~ALE Division.

...."

SECTION 7. G.S. 143-652.1 reads as rewritten:

"§ 143-652.1. Regulation of boxing, kickboxing, mixed martial arts, and toughman events.

~~The Alcohol Law Enforcement Branch of the Department of Public Safety~~ ALE Division shall regulate live boxing, kickboxing, and mixed martial arts matches, whether professional, amateur, or sanctioned amateur, or toughman events, in which admission is charged for viewing, or the contestants compete for a purse or prize of value greater than twenty-five dollars (\$25.00). The ~~Branch~~ALE Division shall have the exclusive authority to approve and issue rules for the regulation of the conduct, promotion, and performances of live boxing, kickboxing, and mixed martial arts matches and exhibitions, whether professional, amateur, or sanctioned amateur, and toughman events in this State. The rules shall be issued pursuant to the provisions of Chapter 150B of the General Statutes and may include, without limitation, the following subjects:

...."

SECTION 8. G.S. 143-652.2 reads as rewritten:

"§ 143-652.2. Boxing Advisory Commission.

(a) Creation. – The Boxing Advisory Commission is created within the Department of Public Safety to advise the ~~Alcohol Law Enforcement Branch of the Department of Public Safety~~ ALE Division concerning matters regulated by this Article. The Commission shall consist of six voting members and two nonvoting advisory members. All the members shall be residents of North Carolina. The members shall be appointed as follows:

- (1) One voting member shall be appointed by the Governor for an initial term of two years.
- (2) One voting member shall be appointed by the President Pro Tempore of the Senate for an initial term of three years.
- (3) One voting member shall be appointed by the Speaker of the House of Representatives for an initial term of three years.
- (4) One voting member shall be appointed by the Secretary of Public Safety for an initial term of three years.
- (5) One voting member shall be appointed by the Lieutenant Governor for an initial term of two years.
- (6) One voting member shall be appointed by the Tribal Council of the Eastern Band of the Cherokee for an initial term of three years.
- (7) One nonvoting advisory member shall be appointed by the Speaker of the House of Representatives for an initial term of one year, from nominations made by the North Carolina Medical Society, which shall nominate two licensed physicians for the position.

(8) One nonvoting advisory member shall be appointed by the President Pro Tempore of the Senate for an initial term of one year, from nominations made by the North Carolina Medical Society, which shall nominate two licensed physicians for the position.

Notwithstanding the schedule above in subdivisions (1), (5), (7), and (8) of this subsection, if any former member of the North Carolina Boxing Commission is appointed to the initial membership, that person shall serve an initial term of three years. The member appointed pursuant to subdivision (6) of this subsection may serve on the Commission only if an agreement exists and remains in effect between the Tribal Council of the Eastern Band of the Cherokee and the Commission authorizing the Commission to regulate professional boxing matches within the Cherokee Indian Reservation as provided by the Professional Boxing Safety Act of 1996.

The two nonvoting advisory members appointed pursuant to subdivisions (7) and (8) of this subsection shall advise the Commission and the ~~Branch~~ ALE Division on matters concerning the health and physical condition of boxers and health issues relating to the conduct of exhibitions and boxing matches. They may prepare and submit to the Commission for its consideration and to the ~~Branch~~ ALE Division for its approval any rules that in their judgment will safeguard the physical welfare of all participants engaged in boxing.

Terms for all members of the Commission except for the initial appointments shall be for three years.

The Secretary of Public Safety shall designate which member of the Commission is to serve as chair. A member of the Commission may be removed from office by the Secretary of Public Safety for cause. Members of the Commission are subject to the conflicts of interest requirements of 15 U.S.C. § 6308 (contained in the Professional Boxing Safety Act of 1996, as amended). Each member, before entering upon the duties of a member, shall take and subscribe an oath to perform the duties of the office faithfully, impartially, and justly to the best of the member's ability. A record of these oaths shall be filed in the Department of Public Safety.

...
(d) Review Authority of the Commission. – The Commission shall review existing rules adopted under this Article and shall from time to time make recommendations to the ~~Branch~~ ALE Division for changes or addition to such rules. Any proposals for change, amendment, addition, or deletion to those rules shall be submitted by the ~~Branch~~ ALE Division to the Commission for its comments prior to approval.

...."

SECTION 9.(a) The following statutes are amended by deleting the word "Branch" wherever it appears in uppercase and substituting "Division": G.S. 18B-201, 18B-202, 18B-203, 18B-504, 18B-805, 18B-902, 18B-903, 18B-903.1, 18B-904, 18C-163, 19-2.1, and 105-259(b)(15).

SECTION 9.(b) The following statutes are amended by deleting the word "Branch" wherever it appears in uppercase and substituting "ALE Division": G.S. 143-654, 143-655, and 143-656.

SECTION 10. G.S. 143-63.1(d) reads as rewritten:

(d) Notwithstanding the provisions of this section, but subject to the provisions of G.S. 20-187.2, the North Carolina State Highway Patrol, the North Carolina Division of Adult Correction and Juvenile Justice of the Department of Public Safety, ~~Safety~~, the Alcohol Law Enforcement Division of the Department of Public Safety, and the North Carolina State Bureau of Investigation may sell, trade, or otherwise dispose of any or all surplus weapons they possess to any federally licensed firearm dealers. The sale, trade, or disposal of these weapons shall be in a manner prescribed by the Department of Administration. Any moneys or property obtained from the sale, trade, or disposal shall go to the general fund.

SECTION 11. G.S. 143-341(8)(i)(3) reads as rewritten:

1 "3. To require on a schedule determined by the Department all
2 State agencies to transfer ownership, custody or control of any
3 or all passenger motor vehicles within the ownership, custody
4 or control of that agency to the Department, except those motor
5 vehicles under the ownership, custody or control of the
6 Highway Patrol, the State Bureau of
7 ~~Investigation, Investigation, the Alcohol Law Enforcement~~
8 Division of the Department of Public Safety, the Samarcand
9 Training Academy, or the constituent institutions of The
10 University of North Carolina which are used primarily for
11 law-enforcement purposes."
12

SECTION 12. This act becomes effective July 1, 2019.

**House Pages
Assignments
Tuesday, April 16, 2019
Session: 11:00 AM**

Committee	Room	Time	Staff	Comments	Member
Alcoholic Beverage Control	1228/1327	3:00 PM	Caroline DeMaayer		Rep. Gale Adcock
			Katherine Horner		Rep. Josh Dobson
			Tarun Karthikeyan		Rep. Gale Adcock
			Tiffanie Lee		Rep. Gale Adcock
Banking	422	3:00 PM	Alexander Cook		Rep. Robert T. Reives, II
			Alayah Nguyen		Rep. D. Craig Horn
			Jenna Schroeder		Rep. Tim Moore
			Abigail Hamilton		Rep. Susan Fisher

Committee Sergeants at Arms

NAME OF COMMITTEE H C on Alcoholic Beverage Control

DATE: 4/16/2019 Room: 1228/1327

House Sgt-At Arms:

1. Name: Ken Gilbert
2. Name: Bill Riley
3. Name: Russell Salisbury
4. Name: David Leighton
5. Name: _____

Senate Sgt-At Arms:

1. Name: _____
2. Name: _____
3. Name: _____
4. Name: _____
5. Name: _____

VISITOR REGISTRATION SHEET

H C on Alcoholic Beverage Control

4/16/2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Rick Zechini	Williams Mullen
Lexi Arthur	DISCUS
Lynn Mingers	NC Restaurant & Lodging Assoc.
Trabel Villa-Good	NCLRA
Demetrius Debatck	NCLM
Rose Williams	NCLM
Bo Hunt	MWC
REV. MARK CREECH	CAE
Sarah Potter	APNC
Jon Carr	NC Assn. ABC Board
Connie Wilson	DISCUS
Dino Radosta	White Street Brewing

H C on Alcoholic Beverage Control

4/16/2019

Date _____

NAME _____

FIRM OR AGENCY AND ADDRESS

[illegible]

VISITOR REGISTRATION SHEET

H C on Alcoholic Beverage Control

4/16/2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

JACK Cozart	NSS
DAVID HOENE	Cumberland County ABC Board
Scott Broadwell	Wake Co. ABC Law Enforcement
Ike Wheeler	Wake Co. ABC Board
Bryan Hicks	Wake Co. ABC
Amanda Donovan	KTS
Ed Ham	THG
Lori Ann Harris	LAAA
Tyler Ross	Intern
Dodie Blaffer	Nelson Mullins
LEE LILLEY	BCI
	OFC. OF Gov.

VISITOR REGISTRATION SHEET

H C on Alcoholic Beverage Control

4/16/2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Rhaegan Jackson

Focus Public Affairs

Janae Lynn

Uta Strategies

Claudia Smeemakers

Guernsey cfe

Adam Pridemore

NCACC

Keith Whitfield

Dunkan CO ABC Police

Eddie Greene

Lynrick Robbins

Susanna Davis

NC DPS

JUSTIN DAVIS

NC DPS

Diana ↓

NC ↓ 11

Rence Metz

ABC Commission

Jim Albright

NC Alcohol Policy Alliance

VISITOR REGISTRATION SHEET

H C on Alcoholic Beverage Control

4/16/2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Terrance Merriweather	NC ABC Commission
Hayden Bauguess	NCEL
Tim KENT	NC BEER & WINE
KRIS GARDNER	"
JOHN PETERSON	WELITE ADVOCACY
B. Jung	ODA
MARISSA TURNER	TSS
[Signature]	BWf
Hardy Lewis	lawyer
Elizabeth Robinson	NORMA
Alexis Burt	NEC

House Committee on Alcoholic Beverage Control
Tuesday, April 30, 2019, at 3:00 P.M.
Room 643

MINUTES

The House Committee on Alcoholic Beverage Control met on April 30, 2019 in Room 643 of the Legislative Office Building. Representatives Boles, McGrady, Fisher, Hardister, Alexander, Bell, Dahle, Dobson, Holley, Hurley, Lucas, Meyer, Saine, B. Turner, Willingham, Yarborough, Zachary and Jones attended.

Representative James L. Boles, Jr., Chair, presided. He welcomed all in attendance and introduced the Sergeant at Arms and Page. He announced Committee rules for the meeting as follows: each section explained; amendments considered; questions from members; answers by staff, bill sponsors, and stakeholders, at the end of each section. (Stakeholders List provided and made a part of the Minutes – Attachment No. 1)

The following bills were considered:

HB 99, Transfer ALE. (Representatives McNeill, Boles). Representative Boles made the motion to bring the PCS before the Committee. Representative McNeill explained the bill and questions and answers followed. Representative Hurley made a motion for a favorable report to the PCS, unfavorable to the original bill with a referral to Rules. The motion passed. (Handouts were provided and made a part of the Minutes - Attachment No. 2)

HB 536, ABC Omnibus Regulatory Reform. (Representatives McGrady, Boles, Fisher, Hardister). Representative Boles made a motion to bring the PCS before the Committee. Representative McGrady explained the bill and Susan Sitze, NCGA Fiscal Staff, addressed each part. Amendments were presented at applicable parts and voted on. Questions were asked by members after each part and answered by Susan Sitze, Representative McGrady and recognized stakeholders.

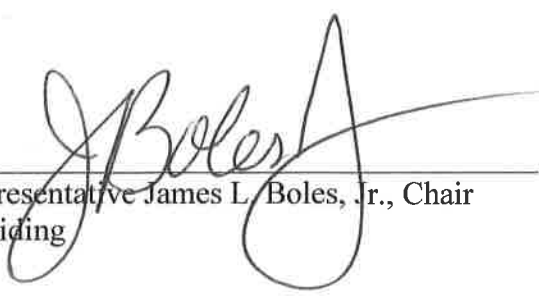
Representative Boles recessed the Committee at 4:15 P.M. for session and reconvened at 4:55 P.M.

Once reconvened the discussion of HB536 continued. Upon completion of all discussion of the bill, Representative Boles offered stakeholders an opportunity to make a closing statement. Three spoke against the bill and one spoke for the bill. Representative Meyer moved to roll the amendments into a new PCS, favorable to the PCS, unfavorable to the original bill, with a referral to Finance and authorization for staff to make technical and conforming changes. The motion passed. (Handouts were provided and made a part of the Minutes – Attachment No. 3)

The following Amendments were considered:

Amendment #1 – H536-ASA-26 [v.1] – Representative Hurley – Amendment Failed
Amendment #2 – H636-ASA-27 [v.2] – Representative Hurley – Amendment Failed
Amendment #3 – H536-ASA-32 [v.1] – Representative McGrady – Amendment Adopted
Amendment #4 – H536-ASA-28 [v.1] – Representative Hurley – Amendment Failed
Amendment #5 – H536-ATQ-18 [v.1] – Representative Hurley – Amendment Failed
Amendment #6 – H536-ASA-31 [v.1] – Representative Hurley – Amendment Adopted
Amendment #7 – H536-ASA-30 [v.1] – Representative Hurley – Amendment Failed
(Amendments made a part of the Minutes - Attachment No. 4)

The meeting adjourned at 5:25 P.M.



Representative James L. Boles, Jr., Chair
Presiding



Dina Long, Committee Clerk

Updated #4: In Recess - Return 10 Minutes after Ceremonial Session

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

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

DAY & DATE: Tuesday, April 30, 2019
TIME: 10 Minutes after Ceremonial Session
LOCATION: 643 LOB
COMMENTS: Representative Boles chairing.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 99</u>	Transfer ALE.	Representative McNeill Representative Boles
<u>HB 536</u>	ABC Omnibus Regulatory Reform.	Representative McGrady Representative Boles Representative Fisher Representative Hardister

Respectfully,

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

I hereby certify this notice was filed by the committee assistant at the following offices at 4:30 PM on Tuesday, April 30, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Dina Long (Committee Assistant)

Updated #3: Room Change to 643

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

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

DAY & DATE: Tuesday, April 30, 2019
TIME: 3:00 PM
LOCATION: 643 LOB
COMMENTS: Representative Boles chairing.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 99</u>	Transfer ALE.	Representative McNeill Representative Boles
<u>HB 536</u>	ABC Omnibus Regulatory Reform.	Representative McGrady Representative Boles Representative Fisher Representative Hardister

Respectfully,

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

I hereby certify this notice was filed by the committee assistant at the following offices at 11:10 AM on Monday, April 29, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Dina Long (Committee Assistant)

Updated #2: Room Change to 643

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

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

DAY & DATE: Tuesday, April 30, 2019
TIME: 3:00 PM
LOCATION: 423 LOB
COMMENTS: Representative Boles chairing.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 99</u>	Transfer ALE.	Representative McNeill Representative Boles
<u>HB 536</u>	ABC Omnibus Regulatory Reform.	Representative McGrady Representative Boles Representative Fisher Representative Hardister

Respectfully,

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

I hereby certify this notice was filed by the committee assistant at the following offices at 10:07 AM on Monday, April 29, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Dina Long (Committee Assistant)

Updated #1: Room Change to 423

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

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

DAY & DATE: Tuesday, April 30, 2019
TIME: 3:00 PM
LOCATION: 423 LOB
COMMENTS: Representative Boles chairing.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 99</u>	Transfer ALE.	Representative McNeill Representative Boles Representative McGrady Representative Boles Representative Fisher Representative Hardister
<u>HB 536</u>	ABC Omnibus Regulatory Reform.	

Respectfully,

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

I hereby certify this notice was filed by the committee assistant at the following offices at 2:33 PM on Wednesday, April 24, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Dina Long (Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

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

DAY & DATE: Tuesday, April 30, 2019
TIME: 3:00 PM
LOCATION: 1228/1327 LB
COMMENTS: Representative Boles chairing.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 99</u>	Transfer ALE.	Representative McNeill Representative Boles
<u>HB 536</u>	ABC Omnibus Regulatory Reform.	Representative McGrady Representative Boles Representative Fisher Representative Hardister

Respectfully,

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

I hereby certify this notice was filed by the committee assistant at the following offices at 2:20 PM on Monday, April 22, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Dina Long (Committee Assistant)

**House Committee on Alcoholic Beverage Control
Tuesday, April 30, 2019, 3:00 PM
643 Legislative Office Building**

AGENDA

Welcome and Opening Remarks – Representative Boles, Chairing

Introduction of Pages

Bills -

BILL NO.	SHORT TITLE	SPONSOR
HB 99	Transfer ALE.	Representative McNeill Representative Boles
HB 536	ABC Omnibus Regulatory Reform.	Representative McGrady Representative Boles Representative Fisher Representative Hardister

Other Business

Adjournment

**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

ALCOHOLIC BEVERAGE CONTROL COMMITTEE REPORT

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

Representative Chuck McGrady, Co-Chair

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 99

Transfer ALE.

Draft Number: H99-PCS40443-TT-15

Serial Referral: **RULES, CALENDAR, AND
OPERATIONS OF THE HOUSE**

Recommended Referral: None

Long Title Amended: No

Floor Manager: McNeill

TOTAL REPORTED: 1



* C M R 3 6 9 - V - 1 *

**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

ALCOHOLIC BEVERAGE CONTROL COMMITTEE REPORT

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

Representative Chuck McGrady, Co-Chair

FAVORABLE COM SUB , UNFAVORABLE ORIGINAL BILL AND RE-REFERRED

HB 536

ABC Omnibus Regulatory Reform.

Draft Number: H536-PCS30439-SAf-29

Serial Referral: **FINANCE**

Recommended Referral: None

Long Title Amended: No

Floor Manager: McGrady

TOTAL REPORTED: 1



* C M R 3 9 1 - V - 1 *

4/30/19

Speakers ABC Com

ATTACHMENT #1

Rev. Mark Creech

Sarah Potter

Richard Greene NC Craft Brewers -
Council

Deans Eatman NC DOT

Patrick Ballantyne Distillers Assoc

Lynn Minges NCRLA

David Farrell NC Spirits Assoc

Jon Carr NC Association of
ABC Boards

DIANE RUISE - SELF

Renee Metz ABC Commission

Jim Albright NC APA

Andy Miller

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

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**HOUSE BILL 99
PROPOSED COMMITTEE SUBSTITUTE H99-CSTT-15 [v.8]
04/15/2019 08:37:31 PM**

Short Title: Transfer ALE.

(Public)

Sponsors:

Referred to:

February 19, 2019

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH ALCOHOL LAW ENFORCEMENT AS A SEPARATE DIVISION OF THE DEPARTMENT OF PUBLIC SAFETY AND TO CLARIFY THE JURISDICTION AND PRIMARY RESPONSIBILITIES OF ALCOHOL LAW-ENFORCEMENT AGENTS.

The General Assembly of North Carolina enacts:

SECTION 1. The Alcohol Law Enforcement Branch of the State Bureau of Investigation shall be relocated as a division of the Department of Public Safety. The Department of Public Safety shall continue to consolidate ALE and SBI regions and regional offices in the same manner so that all district offices remain co-located.

SECTION 2. Part 4 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new Subpart to read:

"Subpart F. Alcohol Law Enforcement Division.

"§ 143B-990. Creation of Alcohol Law Enforcement Division of the Department of Public Safety.

There is created and established a division to be known as the Alcohol Law Enforcement Division of the Department of Public Safety with the organization, powers, and duties defined in Article 1 of this Chapter and G.S. 18B-500, except as modified in this Part."

SECTION 3. G.S. 143B-928 is repealed.

SECTION 4. G.S. 18B-500 reads as rewritten:

"§ 18B-500. Alcohol law-enforcement agents.

"§ 18B-500. Alcohol law-enforcement agents.

(a) Appointment. – The Secretary of Public Safety shall appoint and supervise the Director of the Division of Alcohol Law Enforcement of the Department of Public Safety. The Director of the State Bureau of Investigation shall Division of Alcohol Law Enforcement of the Department of Public Safety may appoint alcohol law-enforcement agents and other enforcement personnel, and supervise a sufficient number of assistants who shall be competent and qualified to do the work of the Division. The Director may also appoint regular employees of the Commission as alcohol law-enforcement agents, shall be responsible for making all hiring and personnel decisions of the Division. Notwithstanding the provisions of this Chapter or Chapter 143A of the General Statutes, the Director may hire or fire personnel and transfer personnel within the Division. The Director may also appoint a regular employee of the Commission as an ALE Agent providing the employee was employed by the ABC Commission and serving as an ALE Agent on January 1, 2019. Alcohol law-enforcement agents shall be designated as "alcohol law-enforcement agents". Persons serving as reserve alcohol law-enforcement agents are considered employees of the Alcohol Law Enforcement Branch Division for workers'



1 compensation purposes while performing duties assigned or approved by the ~~Head-Director~~ of
2 the ~~Alcohol Law Enforcement Branch-Division~~ or the ~~Head's-Director's~~ designee.

3 (b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace officer, an
4 alcohol law-enforcement agent shall have authority to arrest and take other investigatory and
5 enforcement actions for any criminal offense. ~~The primary responsibility of an agent shall be~~
6 ~~enforcement of the ABC and lottery laws and G.S. 14-313 regarding youth access to tobacco~~
7 ~~products offense:~~

8 (1) Occurring, encountered, or otherwise discovered on the premises of, or
9 elsewhere when such conduct relates to a location under application for, or
10 holding a permit issued by, the North Carolina Alcoholic Beverage Control
11 Commission or the North Carolina Education Lottery Commission.

12 (2) Encountered or otherwise discovered while investigating or enforcing matters
13 for the North Carolina Alcoholic Beverage Control Commission or the North
14 Carolina Education Lottery Commission, or encountered or otherwise
15 discovered while investigating or enforcing the provisions of this Chapter,
16 Chapter 18C, G.S. 14-313, or Parts 1 and 2 of Article 37 of Chapter 14 of the
17 General Statutes.

18 (3) Encountered or otherwise discovered while carrying out any duty or function
19 assigned to the Division by law.

20 (4) Occurring in an agent's presence.

21 (5) When assisting another law-enforcement agency.

22 (b1) Authority. – Alcohol law-enforcement agents have full power and authority as peace
23 officers to execute criminal process, and respond to and take enforcement action for any crime
24 of violence or breach of the peace, and any additional duties as may from time to time be directed
25 by the Governor or the Secretary of the Department of Public Safety when needed for security
26 purposes at a public event, or to protect persons or property because of a disaster or state of
27 emergency.

28 (b2) Primary responsibilities. – The primary responsibility-responsibilities of an alcohol
29 law-enforcement agent shall be the enforcement of the ABC and lottery laws and G.S. 14-313
30 regarding youth access to tobacco products. this Chapter, Chapter 18C, G.S. 14-313, and Parts 1
31 and 2 of Article 37 of Chapter 14 of the General Statutes.

32 ...

33 (g) Shifting of Personnel From One District to Another. – The ~~Head-Director~~ of the
34 Alcohol Law Enforcement ~~Branch~~, under rules adopted by the Department of Public Safety
35 Division may, from time to time, shift the forces from one district to another or consolidate more
36 than one district force at any point for special purposes. Whenever an agent of the Alcohol Law
37 Enforcement ~~Section-Division~~ is transferred from one district to another for the convenience of
38 the State or for reasons other than the request of the agent, the Department shall be responsible
39 for transporting the household goods, furniture, and personal apparel of the agent and members
40 of the agent's household."

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

42 **"§ 18B-101. Definitions.**

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

44 ...

45 (3) "ABC system" means a local board-and-board, all ABC stores operated by it,
46 its law enforcement branch, and all its employees. a local board, and the
47 designated ABC law enforcement officers employed pursuant to G. S.
48 18B-501.

49 ...

50 (5) "ALE ~~Branch~~-Division" means the Alcohol Law Enforcement ~~Branch~~
51 Division of the Department of Public Safety.

...."

SECTION 6. G.S. 143-651 reads as rewritten:

"§ 143-651. Definitions.

The following definitions apply in this Article:

...

(4a) ~~Branch.~~— ~~The Alcohol Law Enforcement Branch of the State Bureau of Investigation.~~

...

(7a) Division or ALE Division. – The Alcohol Law Enforcement Division of the Department of Public Safety.

...

(23b) Sanctioned amateur match. – Any match regulated by an amateur sports organization that has been recognized and approved by the ~~Branch~~ALE Division.

...."

SECTION 7. G.S. 143-652.1 reads as rewritten:

"§ 143-652.1. Regulation of boxing, kickboxing, mixed martial arts, and toughman events.

~~The Alcohol Law Enforcement Branch of the Department of Public Safety~~ ALE Division shall regulate live boxing, kickboxing, and mixed martial arts matches, whether professional, amateur, or sanctioned amateur, or toughman events, in which admission is charged for viewing, or the contestants compete for a purse or prize of value greater than twenty-five dollars (\$25.00). The ~~Branch~~ ALE Division shall have the exclusive authority to approve and issue rules for the regulation of the conduct, promotion, and performances of live boxing, kickboxing, and mixed martial arts matches and exhibitions, whether professional, amateur, or sanctioned amateur, and toughman events in this State. The rules shall be issued pursuant to the provisions of Chapter 150B of the General Statutes and may include, without limitation, the following subjects:

...."

SECTION 8. G.S. 143-652.2 reads as rewritten:

"§ 143-652.2. Boxing Advisory Commission.

(a) Creation. – The Boxing Advisory Commission is created within the Department of Public Safety to advise the ~~Alcohol Law Enforcement Branch of the Department of Public Safety~~ ALE Division concerning matters regulated by this Article. The Commission shall consist of six voting members and two nonvoting advisory members. All the members shall be residents of North Carolina. The members shall be appointed as follows:

- (1) One voting member shall be appointed by the Governor for an initial term of two years.
- (2) One voting member shall be appointed by the President Pro Tempore of the Senate for an initial term of three years.
- (3) One voting member shall be appointed by the Speaker of the House of Representatives for an initial term of three years.
- (4) One voting member shall be appointed by the Secretary of Public Safety for an initial term of three years.
- (5) One voting member shall be appointed by the Lieutenant Governor for an initial term of two years.
- (6) One voting member shall be appointed by the Tribal Council of the Eastern Band of the Cherokee for an initial term of three years.
- (7) One nonvoting advisory member shall be appointed by the Speaker of the House of Representatives for an initial term of one year, from nominations made by the North Carolina Medical Society, which shall nominate two licensed physicians for the position.

(8) One nonvoting advisory member shall be appointed by the President Pro Tempore of the Senate for an initial term of one year, from nominations made by the North Carolina Medical Society, which shall nominate two licensed physicians for the position.

Notwithstanding the schedule above in subdivisions (1), (5), (7), and (8) of this subsection, if any former member of the North Carolina Boxing Commission is appointed to the initial membership, that person shall serve an initial term of three years. The member appointed pursuant to subdivision (6) of this subsection may serve on the Commission only if an agreement exists and remains in effect between the Tribal Council of the Eastern Band of the Cherokee and the Commission authorizing the Commission to regulate professional boxing matches within the Cherokee Indian Reservation as provided by the Professional Boxing Safety Act of 1996.

The two nonvoting advisory members appointed pursuant to subdivisions (7) and (8) of this subsection shall advise the Commission and the ~~Branch~~ ALE Division on matters concerning the health and physical condition of boxers and health issues relating to the conduct of exhibitions and boxing matches. They may prepare and submit to the Commission for its consideration and to the ~~Branch~~ ALE Division for its approval any rules that in their judgment will safeguard the physical welfare of all participants engaged in boxing.

Terms for all members of the Commission except for the initial appointments shall be for three years.

The Secretary of Public Safety shall designate which member of the Commission is to serve as chair. A member of the Commission may be removed from office by the Secretary of Public Safety for cause. Members of the Commission are subject to the conflicts of interest requirements of 15 U.S.C. § 6308 (contained in the Professional Boxing Safety Act of 1996, as amended). Each member, before entering upon the duties of a member, shall take and subscribe an oath to perform the duties of the office faithfully, impartially, and justly to the best of the member's ability. A record of these oaths shall be filed in the Department of Public Safety.

...

(d) Review Authority of the Commission. – The Commission shall review existing rules adopted under this Article and shall from time to time make recommendations to the ~~Branch~~ ALE Division for changes or addition to such rules. Any proposals for change, amendment, addition, or deletion to those rules shall be submitted by the ~~Branch~~ ALE Division to the Commission for its comments prior to approval.

...."

SECTION 9.(a) The following statutes are amended by deleting the word "Branch" wherever it appears in uppercase and substituting "Division": G.S. 18B-201, 18B-202, 18B-203, 18B-504, 18B-805, 18B-902, 18B-903, 18B-903.1, 18B-904, 18C-163, 19-2.1, and 105-259(b)(15).

SECTION 9.(b) The following statutes are amended by deleting the word "Branch" wherever it appears in uppercase and substituting "ALE Division": G.S. 143-654, 143-655, and 143-656.

SECTION 10. G.S. 143-63.1(d) reads as rewritten:

(d) Notwithstanding the provisions of this section, but subject to the provisions of G.S. 20-187.2, the North Carolina State Highway Patrol, the North Carolina Division of Adult Correction and Juvenile Justice of the Department of Public ~~Safety~~, ~~Safety~~, the ~~Alcohol Law Enforcement Division of the Department of Public Safety~~, and the North Carolina State Bureau of Investigation may sell, trade, or otherwise dispose of any or all surplus weapons they possess to any federally licensed firearm dealers. The sale, trade, or disposal of these weapons shall be in a manner prescribed by the Department of Administration. Any moneys or property obtained from the sale, trade, or disposal shall go to the general fund.

SECTION 11. G.S. 143-341(8)(i)(3) reads as rewritten:

1 "3. To require on a schedule determined by the Department all
2 State agencies to transfer ownership, custody or control of any
3 or all passenger motor vehicles within the ownership, custody
4 or control of that agency to the Department, except those motor
5 vehicles under the ownership, custody or control of the
6 Highway Patrol, the State Bureau of
7 ~~Investigation, Investigation, the Alcohol Law Enforcement~~
8 Division of the Department of Public Safety, the Samarcand
9 Training Academy, or the constituent institutions of The
10 University of North Carolina which are used primarily for
11 law-enforcement purposes."
12

SECTION 12. This act becomes effective July 1, 2019.



HOUSE BILL 99: Transfer ALE.

2019-2020 General Assembly

Committee:	House Alcoholic Beverage Control. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 30, 2019
Introduced by:	Reps. McNeill, Boles	Prepared by:	Jennifer H. Bedford
Analysis of:	PCS to First Edition H99-CSTT-15		Staff Attorney

OVERVIEW: *The PCS for House Bill 99 would create the Alcohol Law Enforcement Division, a separate division of the Department of Public Safety, and expand the jurisdiction of Alcohol Law Enforcement agents.*

[As introduced, this bill was identical to S78, as introduced by Sens. Sanderson, Britt, Horner, which is currently in Senate Judiciary.]

CURRENT LAW AND BACKGROUND: Alcohol Law Enforcement (ALE) is the lead enforcement agency for the State's alcoholic beverage control, lottery, and tobacco laws. ALE has been a branch agency of the State Bureau of Investigation (SBI) since 2014.

BILL ANALYSIS:

Section 1 of the PCS would relocate the ALE Branch of the SBI to a new Division of the Department of Public Safety (DPS).

Section 2 of the PCS would create the ALE Division of the DPS.

Section 3 of the PCS would repeal the existing law that established the ALE Branch within the SBI.

Section 4 of the PCS would:

- Authorize the Secretary of the DPS to appoint and supervise the Director of the ALE Division of the DPS.
- Allow the Director of the ALE Division to hire, appoint, transfer, supervise, and fire personnel within the new Division.

Section 4 of the PCS would also expand the jurisdiction of ALE agents to include any criminal offense:

- At a location related to a permit issued by the Alcoholic Beverage Control Commission (ABC) or the Education Lottery Commission.
- Encountered by an ALE agent acting on behalf of the ABC Commission or the Education Lottery Commission.
- Encountered while an ALE agent is carrying out a duty assigned by the ALE Division or by law.
- Occurring in the presence of an ALE agent.
- Occurring while an ALE agent is assisting another law-enforcement agency.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 99

Page 2

Section 4 of the PCS would also expand the primary responsibilities of an ALE agent to include violations of the lottery and gaming laws, and the bingo and raffle laws.

Sections 5-10 of the PCS would make conforming changes.

EFFECTIVE DATE: This act would become effective July 1, 2019.

**GENERAL ASSEMBLY OF NORTH CAROL
SESSION 2019**

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**HOUSE BILL 536
PROPOSED COMMITTEE SUBSTITUTE H536-CSSAf-29 [v.4]**

04/29/2019 11:25:01 PM

Short Title: ABC Omnibus Regulatory Reform.

(Public)

Sponsors:

Referred to:

April 3, 2019

A BILL TO BE ENTITLED
AN ACT TO MAKE VARIOUS REVISIONS TO THE ALCOHOLIC BEVERAGE CONTROL
LAWS OF THIS STATE.
The General Assembly of North Carolina enacts:

**PART I. SELF-DISTRIBUTING BREWERIES AND MALT BEVERAGES
WHOLESALE/REVISE LAW GOVERNING PRIVATE LABEL SALES**

SECTION 1. G.S. 18B-1303(b) reads as rewritten:

"(b) No Discrimination. – A wholesaler shall service all retail permit holders within his ~~the wholesaler's~~ designated territory without discrimination and shall make a good faith effort to make available to each retail permit holder in the territory each brand of malt beverage which the wholesaler has been authorized to distribute in that area. The provisions of this subsection shall not apply to retail permit holder private label brands, which, at the retail permit holder's direction, may be sold either exclusively to the retailer that owns the brand name or to all retail permit holders within each territory without discrimination. For purposes of this subsection, the term "retail permit holder private label brand" means a malt beverage product that is labeled with a brand name owned by a retailer."

PART II. CLARIFY CONTRACT BREWING LAW

SECTION 2.(a) G.S. 18B-1104(a)(6a) reads as rewritten:

"(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. subject to the rules of the Commission and the Department of Revenue. The brewery, not the contract brewery, shall be responsible for registering the contracted product with the Commission, submitting the appropriate reports regarding the malt beverages, and remitting the appropriate taxes if required by those rules. 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, in the same manner as if the malt beverages were being imported by the brewery. Contract brewing is authorized between affiliated



1 breweries, but shall not be used as a means to allocate production quantities
2 between affiliated breweries to obtain a malt beverage wholesaler permit
3 pursuant to subdivision (8) of this subsection where either brewery would not
4 otherwise qualify for a permit, and the Commission shall have no authority to
5 grant an exemption to this requirement pursuant to G.S. 18B-1116(b)."

6 **SECTION 2.(b)** This section becomes effective July 1, 2019, and applies to taxes
7 collected on or after that date.
8

9 **PART III. ALLOW MALT BEVERAGE TASTINGS AT FARMERS MARKETS**

10 **SECTION 3.** G.S. 18B-1114.5(a) reads as rewritten:

11 "(a) Authorization. – The holder of a brewery permit, a malt beverages importer permit, a
12 brewing, distillation, and fermentation course authorization, or a nonresident malt beverage
13 vendor permit may obtain a malt beverage special event permit allowing the permittee to give
14 free tastings of its malt beverages; to sell branded merchandise such as glassware, cups, signs,
15 t-shirts, hats, and other apparel; and to sell its malt beverages by the glass or in closed containers
16 at trade shows, conventions, shopping malls, malt beverage festivals, street festivals, holiday
17 festivals, agricultural festivals, farmers markets, balloon races, local fund-raisers, and other
18 similar events approved by the Commission. Except for a brewery operating under the provisions
19 of G.S. 18B-1104(a)(8), all malt beverages sampled or sold pursuant to this section must be
20 purchased from a licensed malt beverages wholesaler."
21

22 **PART IV. ALLOW TRANSFERS OF MALT BEVERAGES BETWEEN PERMITTEES**
23 **UNDER COMMON OWNERSHIP OR CONTROL**

24 **SECTION 4.** G.S. 18B-1001 reads as rewritten:

25 **"§ 18B-1001. Kinds of ABC permits; places eligible.**

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

- 28 (1) On-Premises Malt Beverage Permit. – An on-premises malt beverage permit
29 authorizes (i) the retail sale of malt beverages for consumption on the
30 premises, (ii) the retail sale of malt beverages in the manufacturer's original
31 container for consumption off the premises, and (iii) the retail sale of malt
32 beverages in a cleaned and sanitized container that is filled or refilled and
33 sealed for consumption off the premises and that identifies the permittee and
34 the date the container was filled or refilled. The permit also authorizes the
35 permittee to transfer malt beverages, not more than four times per calendar
36 year, to another on-premises malt beverage permittee that is under common
37 ownership or control as the transferor. Except as authorized by this
38 subdivision, transfers of malt beverages by on-premises malt beverage
39 permittees, purchases of malt beverages by a retail permittee from another
40 retail permittee for the purpose of resale, and sale of malt beverages by a retail
41 permittee to another retail permittee for the purpose of resale are unlawful. In
42 addition, a particular brand of malt beverages may be transferred only if both
43 the transferor and transferee are located within the territory designated
44 between the brewery and the wholesaler on file with the Commission. Prior to
45 or contemporaneous with any such transfer, the transferor shall notify each
46 wholesaler who distributes the transferred product of the transfer. The notice
47 shall be in writing or verifiable electronic format and shall identify the
48 transferor and transferee, the date of the transfer, quantity, and items
49 transferred. It also authorizes the holder of the permit to ship malt beverages
50 in closed containers to individual purchasers inside and outside the State. The
51 permit may be issued for any of the following:

- ...
- (2) Off-Premises Malt Beverage Permit. – An off-premises malt beverage permit authorizes (i) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, (ii) the retail sale of malt beverages in a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled, and (iii) the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit also authorizes the permittee to transfer malt beverages, not more than four times per calendar year, to another off-premises malt beverage permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of malt beverages by off-premises malt beverage permittees, purchases of malt beverages by a retail permittee from another retail permittee for the purpose of resale, and sale of malt beverages by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of malt beverages may be transferred only if both the transferor and transferee are located within the territory designated between the brewery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The permit may be issued for any of the following:
-"

PART V. ALLOW THE SALE OF MALT BEVERAGES AND WINE FOR ON-PREMISES CONSUMPTION AT SPORTS AND ENTERTAINMENT VENUES LOCATED ON THE CAMPUS OF A COLLEGE OR UNIVERSITY

SECTION 5. G.S. 18B-1006(a) reads as rewritten:

"(a) School and College Campuses. – No permit for the sale of alcoholic beverages shall be issued to a business on the campus or property of a public school, college, or university. This subsection shall not apply to the following:

- (1) A regional facility as defined by G.S. 160A-480.2 operated by a facility authority under Part 4 of Article 20 of Chapter 160A of the General Statutes; ~~unless the permit is for a public school or public college or university function.~~ Statutes.
- (2) Property owned by a local board of education and leased for 99 years or more to a nonprofit auditorium authority created prior to 1991 whose governing board is appointed by a city governing board, a county board of commissioners, or a local school board.
- (3) A hotel.
- (4) A nonprofit alumni organization.
- (5) Restaurants, eating establishments, food businesses, or retail businesses on the property defined by G.S. 116-198.33(4).
- (6) Any golf courses owned or leased by the public college or university and open to the public for use.
- (7) The sale of malt beverages, unfortified wine, or fortified wine at the following:
 - a. Performing arts centers located on property owned or leased by the public college or university.

- b. Any stadiums that support a NASCAR-sanctioned one-fourth mile asphalt flat oval short track, that are owned or leased by the public college or university, and that only sell malt beverages, unfortified wine, or fortified wine at events that are not sponsored or funded by the public college or university.
- (8) Special one-time permits as described in G.S. 18B-1002(a)(5) for the Loudermilk Center for Excellence facility at the University of North Carolina at Chapel Hill.
- (9) A stadium, athletic facility, or arena on the campus or property of a public college or university, if the Board of Trustees of the public college or university has voted to allow the issuance of permits for use at that stadium, athletic facility, or arena. For purposes of this subdivision, the term "public college or university" does not include a community college. If a Board of Trustees votes to allow the issuance of permits in accordance with this subdivision, the Board of Trustees shall provide written notice to the Commission that it has voted to allow the issuance of permits. Any permit described in G.S. 18B-1001, 18B-1002(a)(2), or 18B-1002(a)(5) may be issued pursuant to this subdivision to applicants meeting the requirements for the requested permit. Notwithstanding the issuance of a mixed beverages permit pursuant to G.S. 18B-1001(10), this subdivision does not authorize the sale of mixed beverages when the stadium, athletic facility, or arena is being used for a sports event sponsored by the public college or university. This subdivision does not apply to any sales authorized under subdivisions (1) through (8) of this subsection. For purposes of this subdivision, the premises of a stadium, athletic facility, or arena shall include any area that meets all of the following requirements:
- a. Is within 500 feet of the furthest exterior building wall, perimeter fence, or permanent fixed perimeter.
- b. Is designated by the stadium, athletic facility, or arena in a map or written description that clearly defines the boundary of the area, and that map or written description is included in the permit application.
- c. Can be designated in a manner that enables the stadium, athletic facility, or arena to ensure compliance with the provisions of this Chapter."

PART VI. ALLOW SALES OF ALCOHOLIC BEVERAGES ON TRAINS AND FERRIES

SECTION 6.(a) G.S. 18B-108 reads as rewritten:

"§ 18B-108. Sales on ~~trains~~trains and ferries.

(a) Trains. – Alcoholic beverages may be sold on railroad trains in this State upon compliance with Article 2C of Chapter 105 of the General Statutes. Malt beverages, unfortified wine, and fortified wine may be sold and delivered by any wholesaler ~~or retailer~~ licensed in this State to an officer or agent of a rail line that carries at least 60,000 passengers annually.

(b) Ferries. – Alcoholic beverages may be sold on ferries established pursuant to Article 6 of Chapter 136 of the General Statutes upon compliance with Article 2C of Chapter 105 of the General Statutes. The authorization set forth in this subsection only applies to the passenger-only ferry traveling on the route from Hatteras to Ocracoke and does not include the return trip from Ocracoke to Hatteras. Malt beverages, unfortified wine, and fortified wine may be sold and delivered to an officer or agent of the Department of Transportation for sale on the ferry only by the wholesaler whose designated territory includes the Hatteras Ferry Terminal.

(c) ABC Violations. – For purposes of G.S. 18B-502, the railroad trains and ferry authorized to sell alcoholic beverages under this section shall be deemed a "licensed premises for which an ABC permit has been issued."

(d) Rules. – The Commission, in consultation with the Department of Transportation, may adopt rules regulating the sale of alcoholic beverages under this section."

SECTION 6.(b) This section becomes effective July 1, 2019, and applies to sales made on or after that date.

PART VII. ALLOW BARS TO OBTAIN ON-PREMISES ABC PERMITS

SECTION 7.(a) G.S. 18B-1000 reads as rewritten:

"§ 18B-1000. Definitions concerning establishments.

The following requirements and definitions shall apply to this Chapter:

(1) Bar. – An establishment substantially engaged in the business of serving alcoholic beverages for consumption on the premises. To qualify as a bar, an establishment's gross receipts from alcoholic beverages for consumption on the premises shall be not less than seventy-five percent (75%) of the establishment's total gross receipts.

(1a) Community theatre. – An establishment owned and operated by a bona fide nonprofit organization that is engaged solely in the business of sponsoring or presenting amateur or professional theatrical events to the public. A permit issued for a community theatre is valid only during regularly scheduled theatrical events sponsored by such nonprofit organization.

~~(1a)~~(1b) Convention center. – An establishment that meets either of the following requirements:

- a. A publicly owned or operated establishment that is engaged in the business of sponsoring or hosting conventions and similar large gatherings, including auditoriums, armories, civic centers, convention centers, and coliseums.
- b. A privately owned facility located in a city that has a population of at least 200,000 but not more than 250,000 by the 2000 federal census and is located in a county that has previously authorized the issuance of mixed beverage permits by referendum. To qualify as a convention center under this subdivision, the facility shall meet each of the following requirements:
 1. The facility shall be certified by the appropriate local official as being consistent with the city's redevelopment plan for the area in which the facility is located.
 2. The facility shall contain at least 7,500 square feet of floor space that is available for public use and shall be used exclusively for banquets, receptions, meetings, and similar gatherings.
 3. The facility's annual gross receipts from the sale of alcoholic beverages shall be less than fifty percent (50%) of the gross receipts paid to all providers at permitted functions for food, nonalcoholic beverages, alcoholic beverages, service, and facility usage fees (excluding receipts or charges for entertainment and ancillary services not directly related to providing food and beverage service). The person to whom a permit has been issued for a privately owned facility shall be required to maintain copies of all contracts and invoices for

items supplied by providers for a period of three years from the date of the event.

A permit issued for a convention center shall be valid only for those parts of the building used for conventions, banquets, receptions, and other events, and only during scheduled activities.

(1b)(1c) Cooking school. – An establishment substantially engaged in the business of operating a school in which cooking techniques are taught for a fee.

...."

SECTION 7.(b) G.S. 18B-1001, as amended by Section 1 of this act, 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) On-Premises Malt Beverage Permit. – An on-premises malt beverage permit authorizes (i) the retail sale of malt beverages for consumption on the premises, (ii) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of malt beverages in a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. The permit also authorizes the permittee to transfer malt beverages, not more than four times per calendar year, to another on premises malt beverage permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of malt beverages by on premises malt beverage permittees, purchases of malt beverages by a retail permittee from another retail permittee for the purpose of resale, and sale of malt beverages by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of malt beverages may be transferred only if both the transferor and transferee are located within the territory designated between the brewery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. It also authorizes the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:

...

k. Bars.

...

(3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine permit authorizes (i) the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, (ii) the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another on-premises unfortified wine permittee that is under common

ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The holder of the permit is authorized to ship unfortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

...

l. Bars.

...
(5)

On-Premises Fortified Wine Permit. – An on-premises fortified wine permit authorizes the retail sale of fortified wine for consumption on the premises, either alone or mixed with other beverages, and the retail sale of fortified wine in the manufacturer's original container for consumption off the premises. The permit also authorizes the permittee to transfer fortified wine, not more than four times per calendar year, to another on-premises fortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises fortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The holder of the permit is authorized to ship fortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

...

g. Bars.

...
(7)

Brown-Bagging Permit. – A brown-bagging permit authorizes each individual patron of an establishment, with the permission of the permittee, to bring up to eight liters of fortified wine or spirituous liquor, or eight liters of the two

combined, onto the premises and to consume those alcoholic beverages on the premises. The permit may be issued for any of the following:

...

f. Bars.

- (8) Special Occasion Permit. – A special occasion permit authorizes the host of a reception, party or other special occasion, with the permission of the permittee, to bring fortified wine and spirituous liquor onto the premises of the business and to serve the same to his guests. The permit may be issued for any of the following:

...

f. Bars.

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

...

i. Bars.

...."

SECTION 7.(c) G.S. 130A-247 is amended by adding a new subdivision to read:

"(1b) "Bar" is as defined in G.S. 18B-1000(1)."

SECTION 7.(d) G.S. 130A-248(a) reads as rewritten:

"(a) For the protection of the public health, the Commission shall adopt rules governing the sanitation of establishments that prepare or serve drink or food for pay and establishments that prepare and sell meat food products or poultry products. However, any establishment that prepares or serves food or drink to the public, regardless of pay, shall be subject to the provisions of this Article if the establishment that prepares or serves food or drink holds an ABC permit, as defined in G.S. 18B-101, meets any of the definitions in G.S. 18B-1000, and does not meet the definition of a bar as provided in G.S. 130A-247(1b) or a private club as provided in G.S. 130A-247(2)."

PART VIII. ALLOW DISTILLERIES TO SELL SPIRITUOUS LIQUOR DISTILLED BY THE DISTILLER DIRECTLY TO CONSUMERS IN OTHER STATES

SECTION 8.(a) G.S. 18B-1105(a) reads as rewritten:

"(a) The holder of a distillery permit may do any of the following:

...

- (2) Sell, deliver and ship spirituous liquor in closed containers as follows:

a. ~~at~~ At wholesale to exporters and local boards within the ~~State, State.~~

b. ~~and, subject~~ Subject to the laws of other jurisdictions, at wholesale or retail to consumers, private or public agencies—agencies, or establishments of establishments, in other states or nations.

...."

SECTION 8.(b) This section becomes effective July 1, 2019, and applies to sales made on or after that date.

PART IX. REVISE LAW AUTHORIZING DISTILLERS TO SELL SPIRITUOUS LIQUOR DISTILLED BY THE DISTILLER FOR CONSUMPTION OFF THE PREMISES

1 **SECTION 9.(a)** G.S. 18B-1105(a)(4) reads as rewritten:

2 "(4) Sell spirituous liquor distilled at the distillery in closed containers to visitors
3 ~~who tour the distillery for consumption off the premises. Sales under this~~
4 subdivision are allowed only in a county where the establishment of a county
5 or municipal ABC store has been approved pursuant to G.S. 18B-602(g) and
6 are subject to the time and day restrictions in G.S. 18B-802. Spirituous liquor
7 sold under this subdivision shall (i) be listed as a code item for sale in the
8 State, (ii) be sold at the price ~~set by the Commission for the code item pursuant~~
9 ~~to G.S. 18B-804(b), that complies with the requirement set forth in~~
10 G.S. 18B-804(b1), and (iii) have affixed to its bottle a sticker that bears the
11 ~~words "North Carolina Distillery Tour Commemorative Spirit" in addition to~~
12 ~~any other labeling requirements set by law. Consumers purchasing spirituous~~
13 ~~liquor under this subdivision are limited to purchasing, and the selling~~
14 ~~distillery is limited to selling to each consumer, no more than five bottles of~~
15 ~~spirituous liquor per 12 month period. The distillery shall use a commonly~~
16 ~~adopted standard point of sale system to maintain searchable electronic~~
17 ~~records captured at the point of sale, to include the purchaser's name, drivers~~
18 ~~license number, and date of birth for at least 12 months from the date of~~
19 ~~purchase. The Commission shall adopt rules regulating the retail sale of~~
20 ~~spirituous liquor under this subdivision."~~

21 **SECTION 9.(b)** G.S. 18B-804(b1) reads as rewritten:

22 "(b1) Price of Spirituous Liquor Sold at Distillery. – When the holder of a distillery permit
23 sells spirituous liquor distilled at the distillery pursuant to G.S. 18B-1105(a)(4), G.S. 18B-1105,
24 the retail price of the spirituous liquor shall be the uniform State price set by subsection (a) of
25 this section. However, the holder of the distillery permit shall not be required to remit the
26 components of the price set forth by subdivisions (2), (3), (5), (6), (6a), (6b), and (7) of subsection
27 (b) of this section."

28 **SECTION 9.(c)** G.S. 18B-1116(a) reads as rewritten:

29 "(a) Prohibitions. – It shall be unlawful for any manufacturer, bottler, or wholesaler of any
30 alcoholic beverages, or for any officer, director, or affiliate thereof, either directly or indirectly
31 to:

32 ...

33 A brewery qualifying under subdivision (7) or (8) of G.S. 18B-1104(a) is not subject to the
34 provisions of this section concerning financial interests in, and lending or giving things of value
35 to, a wholesaler or retailer with respect to the brewery's transactions with the retail business on
36 its premises or other retail locations allowed under G.S. 18B-1104(a)(8). The brewery is subject
37 to the provisions of this subsection, however, with respect to its transactions with all other
38 wholesalers and retailers.

39 A distillery is not subject to the provisions of this section concerning financial interests in,
40 and lending or giving things of value to, a retailer with respect to the distillery's transactions with
41 the retail business allowed on its premises under G.S. 18B-1105(a)(4). The distillery is subject
42 to the provisions of this subsection, however, with respect to its transactions with all other
43 retailers."

44 **SECTION 9.(d)** This section becomes effective July 1, 2019, and applies to sales
45 made on or after that date.

46
47 **PART X. MALT BEVERAGES AND WINE/INCREASE DISCOUNT ON PRICE FROM**
48 **25% TO 35% OF THE RETAIL PRICE**

49 **SECTION 10.(a)** Definition. – "Discount Rule" means 14B NCAC 15B .1004
50 (General Prohibitions) for purposes of this section and its implementation.

1 **SECTION 10.(b)** Discount Rule. – Until the effective date of the revised permanent
2 rule that the Alcoholic Beverage Control Commission is required to adopt pursuant to subsection
3 (d) of this section, the Commission shall implement the Discount Rule as provided in subsection
4 (c) of this section.

5 **SECTION 10.(c)** Implementation. – Notwithstanding any provision of subsection
6 (b) of 14B NCAC 15B .1004 to the contrary, all of the following shall apply:

- 7 (1) A combination of the use of a coupon, a rebate, or a permittee's loyalty card,
8 discount card, or membership card shall not exceed thirty-five percent (35%)
9 of the advertised retail price for the purchase of a malt beverage or wine.
- 10 (2) A coupon or rebate shall not provide a discount exceeding thirty-five percent
11 (35%) of the advertised retail price for the purchase of a malt beverage or
12 wine.
- 13 (3) A loyalty card, discount card, or membership card shall not provide a discount
14 exceeding thirty-five percent (35%) of the advertised retail price for the
15 purchase of a malt beverage or wine.

16 **SECTION 10.(d)** Adoption. – The Commission shall adopt rules to amend the
17 Discount Rule consistent with subsection (c) of this section by no later than September 1, 2019.
18 The Commission may adopt temporary rules to comply with the deadline set in this subsection.
19 Any temporary rules adopted in accordance with this subsection shall remain in effect until
20 permanent rules that replace the temporary rules become effective.

21 **SECTION 10.(e)** Sunset. – This section expires when permanent rules adopted as
22 required by subsection (d) of this section become effective.

23 24 **PART XI. CLARIFY DEFINITION OF "PREMISES" AND THE PROHIBITION ON** 25 **SEXUALLY EXPLICIT CONDUCT ON LICENSED PREMISES**

26 **SECTION 11.(a)** G.S. 18B-101(12a) reads as rewritten:

27 "(12a) "Premises" means a fixed permanent establishment, including all areas,
28 ~~whether areas~~ inside or outside the licensed ~~premises, establishment,~~ where
29 the permittee has control ~~of the property~~ through a lease, deed, or other legal
30 process."

31 **SECTION 11.(b)** G.S. 18B-1005.1(a) reads as rewritten:

32 "(a) It shall be unlawful on a licensed premises for a permittee or ~~his a~~ permittee's agent
33 or employee to knowingly allow or engage in any ~~of the following kinds of conduct on his~~
34 ~~licensed premises:~~

- 35 (1) ~~Any conduct or entertainment by any person whose~~ where (i) human genitals
36 are exposed or ~~who (ii) a person~~ is wearing transparent clothing that reveals
37 the ~~genitals his or her~~
- 38 (2) ~~Any conduct or entertainment that includes or simulates sexual intercourse,~~
39 ~~masturbation, sodomy, bestiality, oral copulation, flagellation, or any act that~~
40 ~~includes or simulates the penetration, however slight, by any object into the~~
41 ~~genital or anal opening of a person's body; or~~
- 42 (3) ~~Any conduct or entertainment that includes the fondling of the breasts,~~
43 ~~buttocks, anus, vulva, or genitals."~~

44 **SECTION 11.(c)** Subsection (b) of this section becomes effective July 1, 2019, and
45 applies to offenses committed on or after that date.

46 47 **PART XII. AUTHORIZE SALE AND DELIVERY OF MORE THAN ONE DRINK AT A** 48 **TIME TO A SINGLE PATRON**

49 **SECTION 12.(a)** Article 10 of Chapter 18B of the General Statutes is amended by
50 adding a new section to read:

51 "§ 18B-1010. Sale and delivery of more than one drink at a time to a single patron."

1 Except as otherwise provided in this section, the holder of an on-premises malt beverage
2 permit, on-premises unfortified wine permit, on-premises fortified wine permit, or mixed
3 beverages permit issued under G.S. 18B-1001 may sell and deliver more than one alcoholic
4 beverage drink, but not more than four alcoholic beverage drinks, at a time to a single patron for
5 consumption on the premises. This section does not apply to the sale of alcoholic beverages (i)
6 at a stadium, athletic facility, or arena on the campus or property of a public college or university,
7 or (ii) during a sports event sponsored by a public college or university."

8 **SECTION 12.(b)** This section becomes effective July 1, 2019, and applies to sales
9 made on or after that date.

10
11 **PART XIII. ALLOW SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES AT**
12 **BINGO GAMES**

13 **SECTION 13.(a)** G.S. 18B-308 is repealed.

14 **SECTION 13.(b)** G.S. 14-309.14(3) is repealed.

15 **SECTION 13.(c)** G.S. 18B-112(b)(3) reads as rewritten:

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

18 **SECTION 13.(d)** This section becomes effective July 1, 2019, and applies to
19 offenses committed on or after that date.

20
21 **PART XIV. FOOD AND LODGING FACILITY SANITATION**
22 **REGULATIONS/EXEMPT BREWERIES NOT ENGAGED IN THE PREPARATION**
23 **OF FOOD**

24 **SECTION 14.(a)** G.S. 130A-250 reads as rewritten:

25 **"§ 130A-250. Exemptions.**

26 The following shall be exempt from this Part:

27 ...

28 (16) A brewery licensed under G.S. 18B-1104 that is not engaged in the
29 preparation of food on the premises. For purposes of this subdivision, the term
30 "food" does not include beverages."

31 **SECTION 14.(b)** Penalties imposed and fees charged before the effective date of
32 this section are not abated or affected by this section, and the statutes that would be applicable
33 but for this section remain applicable to those penalties and fees.

34
35 **PART XV. ABC STORE HOURS AND DAYS OF OPERATION/LOCAL OPTION**

36 **SECTION 15.(a)** G.S. 18B-802 reads as rewritten:

37 **"§ 18B-802. When stores operate.**

38 (a) Time. – No ABC store shall be open, and no ABC store employee shall sell alcoholic
39 beverages, ~~between 9:00 P.M. and 9:00 A.M. The local board shall otherwise determine opening~~
40 ~~and closing hours of its stores except between (i) 9:00 A.M. and 9:00 P.M. on Monday through~~
41 Saturday and (ii) 12:00 P.M. and 5:00 P.M. on Sunday.

42 (b) Days. – ~~No~~ Except as authorized under G.S. 153A-145.9 for a county ABC store or
43 G.S. 160A-205.5 for a city ABC store, no ABC store shall be open, and no ABC store employee
44 shall sell alcoholic beverages, on any Sunday, New Year's Day, Fourth of July, Labor Day,
45 Thanksgiving Day, or Christmas Day. A local board may otherwise determine the days on which
46 its stores shall be closed."

47 **SECTION 15.(b)** Article 6 of Chapter 153A of the General Statutes is amended by
48 adding a new section to read:

49 **"§ 153A-145.9. Days on which ABC stores operate.**

1 A county may adopt an ordinance authorizing its ABC stores to be open, and authorizing its
2 ABC store employees to sell alcoholic beverages, on any or all days otherwise prohibited under
3 G.S. 18B-802(b)."

4 **SECTION 15.(c)** Article 8 of Chapter 160A of the General Statutes is amended by
5 adding a new section to read:

6 **"§ 160A-205.5. Days on which ABC stores operate.**

7 A city may adopt an ordinance authorizing its ABC stores to be open, and authorizing its
8 ABC store employees to sell alcoholic beverages, on any or all days otherwise prohibited under
9 G.S. 18B-802(b)."

10
11 **PART XVI. ABC STORES/ALLOW IN-STORE SPIRITUOUS LIQUOR TASTINGS**

12 **SECTION 16.(a)** G.S. 18B-1114.7(a) reads as rewritten:

13 "(a) Authorization. – The holder of a supplier representative permit, brokerage
14 representative permit, or distillery permit issued under G.S. 18B-1105 may obtain a spirituous
15 liquor special event permit allowing the permittee to give free tastings of its spirituous liquors at
16 ABC stores where the local ABC board has approved the tasting, trade shows, conventions,
17 shopping malls, street festivals, holiday festivals, agricultural festivals, balloon races, local
18 fund-raisers, and other similar events approved by the Commission."

19 **SECTION 16.(b)** G.S. 18B-1114.7(b) reads as rewritten:

20 "(b) Limitations. – Any consumer tasting is subject to the following limitations:

21 ...
22 (3) Each consumer shall be limited to one ~~0.25-ounce~~-tasting sample containing
23 0.25 ounces of any product made available for sampling at the consumer
24 tasting, and the total amount of the tasting samples offered to and consumed
25 by each consumer shall not exceed 1.0 ounce of spirituous liquor in any
26 calendar day.

27 ...
28 ~~(7) A venue allowing tastings shall designate a tasting area within the venue that~~
29 ~~enables the permit holder to ensure that the consumer tasting is being~~
30 ~~conducted in compliance with this section. Consumers shall only be allowed~~
31 ~~to consume tasting samples within the designated tasting area.~~

32 ...
33 (11) For tastings conducted in an ABC store, the local board shall establish and
34 implement a policy whereby distillery permit holders are given the right of
35 first refusal for a certain number, as determined by the Commission, of the
36 dates and times made available in a month by the local board for holding
37 tastings authorized under this section. Any policy established under this
38 subdivision shall set forth the date for each month by which a distillery permit
39 holder must exercise the right of first refusal before the reserved dates and
40 times are made available to all eligible spirituous liquor special event permit
41 holders."

42 **SECTION 16.(c)** G.S. 18B-301(f)(1) reads as rewritten:

43 "(1) Any person to consume fortified wine, spirituous liquor, or mixed beverages
44 or to offer such beverages to another person at any of the following places:
45 a. ~~On~~Unless a consumer tasting authorized by G.S. 18B-1114.7 is being
46 conducted, on the premises of an ABC store.
47 b. Upon any property used or occupied by a local board.
48 c. On any public road, street, highway, or sidewalk, unless a consumer
49 tasting authorized by G.S. 18B-1114.7 is being conducted."
50

**PART XVII. ALLOW ELECTRONIC PAYMENT FOR SPIRITUOUS LIQUOR
PURCHASED BY MIXED BEVERAGES PERMITTEES**

SECTION 17.(a) G.S. 18B-404 is amended by adding a new subsection to read:

"(e) Electronic Payment. – A local board shall accept electronic payments for any spirituous liquor purchased by a mixed beverages permittee. A local board may not charge a fee for accepting electronic payments under this subsection. For purposes of this subsection, the term "electronic payment" means payment by charge card, credit card, debit card, or by electronic funds transfer as defined in G.S. 105-228.90."

SECTION 17.(b) This section becomes effective October 1, 2019, and applies to sales made on or after that date.

**PART XVIII. ABC COMMISSION/REQUIRE ACCEPTANCE OF PAYMENTS AND
FORMS ELECTRONICALLY**

SECTION 18.(a) Article 9 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-907. Allow electronic submission of payments and forms.

(a) Forms. – The Commission shall make all forms required by the Commission to apply for and receive a permit available on the Commission's Web site, and the Commission shall, to the extent practicable, allow for the electronic submission of these forms. Any form required by the Commission to apply for and receive a permit that requires a signature may be submitted with an electronic signature in accordance with Article 40 of Chapter 66 of the General Statutes.

(b) Payments. – The Commission shall accept electronic payments for any fee required under this Chapter to receive a permit. . For purposes of this subsection, the term "electronic payment" means payment by charge card, credit card, debit card, or by electronic funds transfer as defined in G.S. 105-228.90.

(c) Fee. –The Commission may charge a fee to be used to cover costs incurred by the Commission in processing forms electronically and accepting payments electronically. The fee authorized under this subsection may not exceed five dollars (\$5.00)."

SECTION 18.(b) This section becomes effective July 1, 2019, and applies to permits applied for on or after that date.

PART XIX. CREATION OF COMMON AREA ENTERTAINMENT PERMIT

SECTION 19.(a) G.S. 18B-1000 reads as rewritten:

"§ 18B-1000. Definitions concerning establishments.

The following requirements and definitions shall apply to this Chapter:

(4) Hotel. – An establishment substantially engaged in the business of furnishing lodging. A hotel shall have a restaurant either on or closely associated with the premises. The restaurant and hotel need not be owned or operated by the same person.

(4e) Multi-tenant establishment. – A building or structure, or multiple buildings and structures on the same property and under common ownership or control, that contain or contains multiple businesses that sell food, goods, services, or a combination of food, goods, and services, and that are connected by common areas.

...."

SECTION 19.(b) G.S. 18B-1001 is amended by adding a new subdivision to read:

"(21) Common Area Entertainment Permit. – A permit under this subdivision may be issued to the owner of a multi-tenant establishment that has at least two tenants that holds a permit issued under subdivisions (1), (3), (5), or (10) of this section. A common area entertainment permit authorizes a customer of a

multi-tenant establishment tenant holding a permit issued under subdivisions (1), (3), (5), or (10) of this section to exit that licensed premises with an open container of the alcoholic beverage sold by the tenant holding the permit and consume the alcoholic beverage within the confines of any indoor or outdoor common area on the premises of the multi-tenant establishment designated by the owner of the multi-tenant establishment for consumption of alcoholic beverages. Additionally, a permit issued under this subdivision is subject to all of the following conditions:

- a. The owner of the multi-tenant establishment shall designate the common area in which alcoholic beverages may be consumed. Additionally, the owner of the multi-tenant establishment shall post signs in conspicuous locations on the multi-tenant establishment property indicating which common area is the designated common area. The owner of the multi-tenant establishment shall submit to the Commission for review and approval (i) a plat of the multi-tenant establishment property for a designated outdoor common area with the common area designated for alcohol consumption clearly marked or (ii) a detailed map of the relevant building on the multi-tenant establishment property for a designated indoor common area with the common area designated for alcohol consumption clearly marked. The Commission shall reject any plat or map submitted under this sub-subdivision that does not meet the requirements of this subdivision or any rule adopted by the Commission. The owner of the multi-tenant establishment must submit a plat or map as required under this sub-subdivision for each renewal of the permit issued under this subdivision and at least 10 days prior to making any adjustments to the designated common area.
- b. Alcoholic beverages sold for consumption in a designated common area shall be dispensed only in a paper or plastic cup bearing the name, logo, or name and logo of the licensed premises from which the beverage was purchased. The amount of alcoholic beverage dispensed into a cup under this sub-subdivision shall not exceed 16 fluid ounces.
- c. A customer is not allowed to possess or consume more than one alcoholic beverage at a time while within the designated common area.
- d. Alcoholic beverages may only be consumed within the designated common area during the hours in which the alcoholic beverage may be sold under G.S. 18B-1004, and the owner of the multi-tenant establishment may further limit the days and times in which an alcoholic beverage may be consumed in a designated common area. The owner of the multi-tenant establishment shall post signs in conspicuous locations on the multi-tenant establishment property indicating the days and times in which a person may consume an alcoholic beverage in a designated common area.
- e. A customer in the designated common area shall dispose of any alcoholic beverage in his or her possession prior to exiting the designated common area. A person is not allowed to exit a designated common area with any alcoholic beverage he or she was consuming within the area.
- f. A customer is not allowed to bring and consume alcoholic beverages not purchased from a tenant of the multi-tenant establishment holding an applicable permit.

g. Any additional conditions imposed by the Commission. Any additional conditions imposed by the Commission shall be posted on the Commission's Web site."

SECTION 19.(c) G.S. 18B-902(d) reads as rewritten:

"(d) Fees. – An application for an ABC permit shall be accompanied by payment of the following application fee:

...

(46) Common area entertainment permit – \$750.00."

PART XX. CREATION OF DELIVERY SERVICE PERMIT

SECTION 20.(a) Article 10 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-1001.4. Authorization of delivery service permit.

(a) Authorization. – The holder of a delivery service permit, or the permit holder's employee or independent contractor, may deliver malt beverages, unfortified wine, or fortified wine on behalf of a retailer holding a permit issued pursuant to subdivisions (1) through (6) and (16) of G.S. 18B-1001 to a location designated by the purchaser. A delivery service permittee may also facilitate delivery through technology services that connect consumers and licensed retailers through the use of the Internet, mobile applications, and other similar technology.

(b) Training and Payment. – Prior to making any deliveries, each individual delivering alcoholic beverages pursuant to a delivery service permit must successfully complete a course approved by the Commission related to the delivery of alcoholic beverages. An individual delivering alcoholic beverages pursuant to a delivery service permit shall not handle or possess funds used to purchase an alcoholic beverage that is to be delivered but may facilitate the sales transaction in a manner that does not involve taking possession of funds.

(c) Age of Recipient and Notice. –An individual may only deliver alcoholic beverages pursuant to a delivery service permit to an individual who is at least 21 years of age and who immediately takes actual possession of the alcoholic beverages purchased. A delivery of alcoholic beverages in a package that obscures the manufacturer's original packaging shall have affixed to the outside of the package a notice in 26-point type or larger stating: "CONTAINS ALCOHOLIC BEVERAGES; AGE VERIFICATION REQUIRED."

(d) Limitations. – A delivery service permittee shall deliver alcoholic beverages only within the time allowed for lawful sales and consumption in the jurisdiction where the delivery is located. No delivery shall be made to any jurisdiction within the State that has not authorized the sale of the purchased alcoholic beverages. A delivery service permittee shall not deliver alcoholic beverages to the premises of another licensed retailer or more than 50 miles from the retailer's licensed premises. Unless the governing body of an institution of higher education has given written authorization to the permittee, a delivery service permittee shall not deliver alcoholic beverages to a residence hall located on the premises of an institution of higher education. Only alcoholic beverages purchased for personal consumption and from a licensed retailer's existing inventory located on the retailer's premises may be delivered pursuant to a delivery service permit.

(e) Scope and Construction. – A delivery service permit is not required for a common carrier lawfully transporting or shipping alcoholic beverages. Nothing in this section shall be construed as exempting the delivery of alcoholic beverages pursuant to a delivery service permit from the requirements set forth in Article 4 of Chapter 18B of the General Statutes."

SECTION 20.(b) G.S. 18B-902(d), as amended by Section 21(c) of this act, reads as rewritten:

"(d) Fees. – An application for an ABC permit shall be accompanied by payment of the following application fee:

...

(47) Delivery service permit – \$400.00."

SECTION 20.(c) This section becomes effective October 1, 2019.

PART XXI. BREWERY SALES AUTHORIZATION

SECTION 21.(a) G.S. 18B-1104 reads as rewritten:

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

(a) Authorized Acts. – 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 (i) dealers in other states or (ii) wholesalers licensed under this Chapter as authorized by the ABC laws.
- (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 customers, visitors, and employees for consumption on its premises. Nothing in this subdivision shall be construed as excluding customers and visitors at the brewery as part of a paid or complimentary tour of the brewery.
- (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, in the same manner as if the malt beverages were being imported by the brewery. Contract brewing is 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 subdivision (8) of this subsection 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).
- (7) In an area where the sale of any type of alcoholic beverage is authorized by law, and upon receiving the appropriate permit under G.S. 18B-1001, sell at the brewery, and any additional retail location authorized under subdivision (8) of this subsection, any or all of the following:

- a. The brewery's malt beverages that have been approved by the Commission for sale in North Carolina.
- b. Malt beverages manufactured by the permittee in some other state that have been approved by the Commission for sale in North Carolina.
- c. Any other alcoholic beverages approved by the Commission for sale in North Carolina, if sale of the alcoholic beverage is otherwise authorized in that area.

(7a) ~~In an area where the sale of malt beverages has not been authorized, a brewery that produces agricultural products, including barley, other grains, hops, or fruit, used by the brewery in the manufacture of malt beverages may sell the malt beverages owned by the brewery and approved by the Commission for sale in North Carolina at the brewery for on- or off-premise consumption upon (i) obtaining the appropriate permit under G.S. 18B-1001 and (ii) receiving approval from the governing body of the city where the brewery is located or, if the brewery is not located in a city, the governing body of the county where the brewery is located. Approval may be granted only pursuant to a resolution of the governing body adopted at a regular meeting. Before adopting a resolution approving the sale of malt beverages under this subdivision, a governing board shall hold a public hearing. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice of the public hearing shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.~~

(7b) Regardless of the results of any local malt beverage election, sell the malt beverages owned by the brewery at the brewery for on- or off-premise consumption upon obtaining the appropriate permit under G.S. 18B-1001.

(8) Obtain a malt beverage wholesaler permit to sell, deliver, and ship at wholesale only malt beverages manufactured by the brewery. The authorization of this subdivision applies to a brewery that sells, to consumers at the brewery, to wholesalers, to retailers, and to exporters, fewer than 25,000 barrels of malt beverages produced by it per year. A brewery not exceeding the sales quantity limitations in this subdivision may also sell the malt beverages manufactured by the brewery, and malt beverages produced under subdivision (6a) of this subsection, at not more than three other locations in the State, where the sale is legal, upon obtaining the appropriate permits under G.S. 18B-1001. A brewery operating any additional retail location pursuant to this subdivision under a different trade name than that used at the brewery shall also offer for sale at that location a reasonable selection of competitive malt beverage products. A sale at any additional retail location under this subdivision shall not be considered a wholesale sale for the purposes of Article 13 of this Chapter.

(b) Sales or Gifts. – A sale or gift under subdivision (5) or (6) of subsection (a) of this section shall not be considered a retail or wholesale sale under the ABC laws.

(c) Tax Compliance. – By October 1 of each year, the Commission shall confirm that the holder of a brewery permit is in compliance with G.S. 18B-900(a)(8). The provisions of G.S. 18B-900(f) apply to the confirmation required under this subsection, except that the Commission may suspend a person's brewery permit until the Commission receives notice from the Department of Revenue that the person is in compliance.

(d) Sales Report Upon Commission Request. – Within 60 days of a request by the Commission, a holder of a brewery permit who obtains a malt beverage wholesaler permit

pursuant to subdivision (8) of subsection (a) of this section shall provide a sales report to the Commission. The report shall list separately all of the following for the 12-month period preceding the date of the request:

- (1) The number of barrels of malt beverages sold by the permit holder that were produced by the permit holder.
- (2) The quantity and dollar amount of malt beverages sold by the permit holder under subdivision (7) of subsection (a) of this section.
- (3) The quantity and dollar amount of malt beverages sold on-premises under subdivision (8) of subsection (a) of this section.
- (4) The quantity and dollar amount of malt beverages sold off-premises under subdivision (8) of subsection (a) of this section.
- (5) The quantity and dollar amount of malt beverages sold under G.S. 18B-1114.5.
- (6) The quantity and dollar amount of malt beverages destroyed, spoiled, or otherwise rendered unsalable.

The Commission shall not request more than one sales report from a brewery within a 12-month period. The Commission shall keep all information provided pursuant to this subsection confidential except as required by law or requested by the Department of Revenue. The information shall not be a public record under Chapter 132 of the General Statutes.

(e) Definition. – For purposes of this section, the term "barrels" is as defined in G.S. 81A-9."

SECTION 21.(b) This act becomes effective October 1, 2019.

PART XXII. ADMINISTRATIVE PENALTY PROCESS/PED STUDY

SECTION 22.(a) Study. – The Joint Legislative Program Evaluation Oversight Committee shall revise the biennial 2019-2020 work plan for the Program Evaluation Division to include a study of the actions the Alcoholic Beverage Control Commission is authorized to take under G.S. 18B-104 for violations of Chapter 18B of the General Statutes. The study required under this subsection shall include an examination of (i) the proportionality of the punishment that may be imposed under G.S. 18B-104 in relation to the violation, (ii) the remainder of the law set forth in G.S. 18B-104 to identify any areas in which the law may be lacking, and (iii) the process utilized and punishment authorized by other alcoholic beverage control states for violations of their alcoholic beverage laws.

SECTION 22.(b) Cooperation. – Upon request, the Commission shall provide any necessary information, data, or documents within their possession, ascertainable from their records, or otherwise available to them, to the Program Evaluation Division to complete the study required under subsection (a) of this section.

SECTION 22.(c) Report. – The Program Evaluation Division shall report its findings and recommendations from the study required under subsection (a) of this section to the Joint Legislative Program Evaluation Oversight Committee by March 15, 2020.

PART XXIII. SEVERABILITY CLAUSE

SECTION 23. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end, the provisions of this act are severable.

PART XXIV. RULES

SECTION 24. The Alcoholic Beverage Control Commission shall amend its rules consistent with the provisions of this act. The Commission may adopt temporary rules to implement the requirements of this act. Any temporary rules adopted in accordance with this

1 section shall remain in effect until permanent rules that replace the temporary rules become
2 effective.

3

4 **PART XXV. EFFECTIVE DATE**

5 **SECTION 25.** Sections 22 and 25 of this act are effective when it becomes law.

6 Except as otherwise provided, this act becomes effective July 1, 2019.



HOUSE BILL 536: ABC Omnibus Regulatory Reform.

2019-2020 General Assembly

Committee:	House Alcoholic Beverage Control. If favorable, re-refer to Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 30, 2019
Introduced by:	Reps. McGrady, Boles, Fisher, Hardister	Prepared by:	Susan Sitze
Analysis of:	PCS to First Edition H536-CSSAf-29		Staff Attorney

OVERVIEW: *The Proposed Committee Substitute (PCS) for House Bill 536 would make various revisions to the Alcoholic Beverage Control laws.*

[As introduced, this bill was identical to S592, as introduced by Sen. Gunn, which is currently in Senate Rules and Operations of the Senate.]

BILL ANALYSIS:

Part I would allow retail permit holder private label brands of malt beverage to be sold exclusively to the retailer that owns the brand name or to all retail permit holders within each territory without discrimination, at the retail permit holder's discretion.

Part II would provide that a contract brewery that manufactures malt beverages shall be responsible for all aspects associated with manufacturing the product, subject to the rules of the ABC Commission (Commission) and the Department of Revenue. The brewery, not the contract brewery, shall be responsible for registering the contracted product with the Commission, submitting the appropriate reports regarding the malt beverages, and remitting the appropriate taxes if required by those rules. This part becomes effective July 1, 2019, and applies to taxes collected on or after that date.

Part III would allow malt beverage tastings at farmers markets.

Part IV would expand the authorization of on-premises and off-premises malt beverage permit holders to allow permittees to transfer malt beverages to another on-premises malt beverage permittee that is under common ownership or control of the transferor. The permittee would be limited to no more than four such transfers per calendar year. Other transfers by on-premises malt beverage permittees, the purchase of malt beverages by a retail permittee from another retail permittee for the purpose of resale, and the sale of malt beverages by a retail permittee to another retail permittee for the purpose of resale would be unlawful. Transfers of a particular brand of malt beverages may only be between transferors and transferees located within the territory designated between the brewery and the wholesaler on file with the Commission. The transferor would be required to notify each wholesaler who distributes the product of the transfer prior to or contemporaneous with the transfer, in writing or verifiable electronic format, and identify the transferor, the transferee, the transfer date, quantity, and items transferred.

Part V would create a new exception to authorize the issuance of permits for the sale of alcoholic beverages at stadiums, athletic facilities, or arenas on the campus or property of a public college or university if (i) the Board of Trustees has voted to allow the issuance of permits at that particular stadium,

Karen Cochrane-Brown
Director



Legislative Analysis
Division
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athletic facility, or arena, and (ii) the Board has notified the Alcoholic Beverage Control Commission of that vote. This exception would not apply to community colleges.

If the Board of Trustees has authorized the issuance of permits, permits for the sale and serving of alcohol could be issued to applicants that meet the requirements for the requested permit. However, if a mixed beverage permit is issued, sales of mixed beverages would not be allowed when the stadium, athletic facility, or arena is being used for a sports event sponsored by the public college or university. Sales that are already allowed under the current statutory exceptions would not be affected by the provisions of this exception.

For the purpose of issuing permits pursuant to this exception, the premises of a stadium, athletic facility, or arena could include any area within 500 feet of the facility, designated by the facility in a written description or map that clearly defines the boundary of the area, and that can be designated in a way to ensure compliance with the alcohol laws. The written description or map of the area must be included in the permit application.

Part VI would allow the sale of malt beverages, unfortified wine, and fortified wine on the passenger-only ferry traveling from Hatteras to Ocracoke. Sales would not be allowed on the return trip from Ocracoke to Hatteras. This part would become effective July 1, 2019, and apply to sales made on or after that date.

Part VII would define a "bar" as a new type of ABC establishment substantially engaged in the business of serving alcoholic beverages for consumption on the premises. A bar must have gross receipts from alcoholic beverages for consumption on the premises of not less than 75% of the total gross receipts. Bars would be authorized to obtain permits for on-premises malt beverage, on-premises unfortified wine, on-premises fortified wine, brown-bagging, special occasion, and mixed beverages. Bars would not be subject to health code regulations governing the sanitation of establishments that prepare or serve drink or food for pay.

Part VIII would allow distilleries to sell, deliver, and ship spirituous liquor directly to consumers in other states if the other state's laws allow. This part would become effective July 1, 2019, and apply to sales made on or after that date.

Part IX would remove the current restrictions on what distilleries can sell at the distillery for off-premises consumption (currently limited to 5 bottles per person in a 12 month period, and requires that person "tour" the facility). This part would also provide that a distillery is not subject to the prohibitions against holding financial interests in, and lending or giving things of value to, a retailer with respect to the distillery's transactions with the retail business allowed on its premises. This section would become effective July 1, 2019, and apply to sales on or after that date.

Part X would require the Commission to modify the rule on discounts for malt beverages or wine, to increase the allowed discount from 25% to 35%.

Part XI would define "premises" to mean a fixed permanent establishment, including all areas inside or outside the licensed establishment, where the permittee has control through a lease, deed, or other legal process.

This part would also amend GS 18B-1005.1 to conform to the 4th Circuit Court of Appeals ruling in *Carandola* that found subdivisions (a)(2) and (a)(3) of that statute unconstitutional and would specify that it is unlawful for a permittee or permittee's agent or employer to knowingly allow or engage in any conduct or entertainment on a licensed premises where human genitals are exposed or a person is

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wearing transparent clothing that reveals his or her genitals. This portion would become effective July 1, 2019, and apply to offenses committed on or after that date.

Part XII would authorize the sale of more than one alcoholic drink to a patron at one time, but no more than four at one time. This provision would not apply at a stadium, athletic facility, or arena on the campus or property of a public college or university; or during a sports event sponsored by a public college or university. This part would become effective July 1, 2019, and apply to sales made on or after that date.

Part XIII would allow the sale and consumption of alcohol at bingo games. This section would become effective July 1, 2019, and apply to offenses committed on or after that date.

Part XIV would exempt breweries not engaged in the preparation of food on the premises from the health code regulations governing the sanitation of establishments that prepare or serve drink or food for pay.

Part XV would allow ABC stores to be open on Sundays from 12:00 noon to 5:00 P.M. if authorized by the county or city where the board is located.

Part XVI would allow spirituous liquor tastings to be conducted in ABC stores. A local board holding tastings must give right of first refusal to a certain number of North Carolina distillery permit holders, the number to be determined by the Commission.

Part XVII would require local ABC boards to accept electronic payments for any spirituous liquor purchased by a mixed beverage permittee. No fee may be charged for accepting electronic payments. This part becomes effective October 1, 2019, and applies to sales made on or after that date.

Part XVIII would require the Commission to make all forms required to apply for and receive a permit available on the Commission's web site, and allow for electronic submission of those forms to the extent practicable, including submission with an electronic signature. This section also requires the Commission to accept electronic payments for any permit fees. The Commission may charge a fee of not more than \$5 to cover the costs of processing forms and accepting payments electronically. This part would become effective July 1, 2019, and apply to permits applied for on or after that date.

Part XIX would authorize a common area entertainment permit for common areas in multi-tenant establishments, which would allow customers to exit a permitted premises with an open container and consume the alcohol in the common area of a multi-tenant establishment. This part would provide requirements for the common area, limits patrons to one alcoholic drink at a time, requires a paper or plastic cup, and establishes other restrictions for this permit. The fee for a common area entertainment permit would be \$750.

Part XX would create a delivery service permit that would allow a permit holder's employee or independent contractor to deliver malt beverages, unfortified wine, or fortified wine on behalf of a retailer to an individual purchaser. This part has requirements for training, handling of funds, age verification, and package labeling. Deliveries may only be made during lawful sales times for the jurisdiction and may not be made to jurisdictions that have not authorized the sale of the alcoholic beverages. A delivery service permittee may not deliver to the premises of another licensed retailer or more than 50 miles from the retailer's licensed premises. No deliveries may be made to residence halls on the premises of an institution of higher education without written authorization of the governing body of that institution. The fee for a delivery service permit would be \$400. This part would become effective October 1, 2019.

Part XXI would allow breweries to sell the malt beverages owned by the brewery for on- or off-premises consumption, regardless of the results of any malt beverage election, upon obtaining the appropriate permit. This part would repeal the existing farm brewery provision that allows sales in jurisdictions where sale of malt beverages has not been authorized. This part becomes effective October 1, 2019.

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Part XXII would direct the Program Evaluation Division (PED) to study the actions the Alcoholic Beverage Control Commission is authorized to take for violations of Chapter 18B of the General Statutes. The study shall include an examination of (i) the proportionality of the punishment that may be imposed under G.S. 18B-104 in relation to the violation, (ii) the remainder of the law set forth in G.S. 18B-104 to identify any areas in which the law may be lacking, and (iii) the process utilized and punishment authorized by other alcoholic beverage control states for violations of their alcoholic beverage laws. PED shall report their findings to the Joint Legislative Program Evaluation Oversight Committee by March 15, 2020.

Part XXIII would provide that if any portion of this act is found invalid, other provisions that can be given effect without the invalid provision shall still be effective.

Part XXIV would require the Commission to adopt rules consistent with the provisions of this act.

EFFECTIVE DATE: Sections 22 and 25 would be effective when the act becomes law. Except as otherwise provided and stated above, the remainder of the act would become effective July 1, 2019.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

1

HOUSE BILL 536

Short Title: ABC Omnibus Regulatory Reform. (Public)

Sponsors: Representatives McGrady, Boles, Fisher, and Hardister (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, if favorable, Rules, Calendar, and Operations of the House

April 3, 2019

A BILL TO BE ENTITLED
AN ACT TO MAKE VARIOUS REVISIONS TO THE ALCOHOLIC BEVERAGE CONTROL
LAWS OF THIS STATE.

The General Assembly of North Carolina enacts:

**PART I. SELF-DISTRIBUTING BREWERIES AND MALT BEVERAGES
WHOLESALE/REVISE LAW GOVERNING PRIVATE LABEL SALES**

SECTION 1. G.S. 18B-1303(b) reads as rewritten:

"(b) No Discrimination. – A wholesaler shall service all retail permit holders within his designated territory without discrimination and shall make a good faith effort to make available to each retail permit holder in the territory each brand of malt beverage which the wholesaler has been authorized to distribute in that area. The provisions of this subsection shall not apply to retail permit holder private label brands, which, at the retail permit holder's direction, may be sold either exclusively to the retailer that owns the brand name or to all retail permit holders within each territory without discrimination. For purposes of this subsection, the term "retail permit holder private label brand" means a malt beverage product that is labeled with a brand name owned by a retailer."

PART II. CLARIFY CONTRACT BREWING LAW

SECTION 2.(a) G.S. 18B-1104(a)(6a) reads as rewritten:

"(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 Except as otherwise provided in this subdivision, 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. records. The brewery that contracted with the contract brewery shall obtain label approval and remit 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, in the same manner as if the malt beverages were being imported by the brewery. Contract brewing is authorized between



1 affiliated breweries, but shall not be used as a means to allocate production
2 quantities between affiliated breweries to obtain a malt beverage wholesaler
3 permit pursuant to subdivision (8) of this subsection where either brewery
4 would not otherwise qualify for a permit, and the Commission shall have no
5 authority to grant an exemption to this requirement pursuant to
6 G.S. 18B-1116(b)."

7 **SECTION 2.(b)** This section becomes effective July 1, 2019, and applies to taxes
8 collected on or after that date.
9

10 **PART III. ALLOW MALT BEVERAGE TASTINGS AT FARMERS MARKETS**

11 **SECTION 3.** G.S. 18B-1114.5(a) reads as rewritten:

12 "(a) Authorization. – The holder of a brewery permit, a malt beverages importer permit, a
13 brewing, distillation, and fermentation course authorization, or a nonresident malt beverage
14 vendor permit may obtain a malt beverage special event permit allowing the permittee to give
15 free tastings of its malt beverages; to sell branded merchandise such as glassware, cups, signs,
16 t-shirts, hats, and other apparel; and to sell its malt beverages by the glass or in closed containers
17 at trade shows, conventions, shopping malls, malt beverage festivals, street festivals, holiday
18 festivals, agricultural festivals, farmers markets, balloon races, local fund-raisers, and other
19 similar events approved by the Commission. Except for a brewery operating under the provisions
20 of G.S. 18B-1104(a)(8), all malt beverages sampled or sold pursuant to this section must be
21 purchased from a licensed malt beverages wholesaler."
22

23 **PART IV. ALLOW TRANSFERS OF MALT BEVERAGES BETWEEN PERMITTEES** 24 **UNDER COMMON OWNERSHIP OR CONTROL**

25 **SECTION 4.** G.S. 18B-1001 reads as rewritten:

26 **"§ 18B-1001. Kinds of ABC permits; places eligible.**

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

- 29 (1) On-Premises Malt Beverage Permit. – An on-premises malt beverage permit
30 authorizes (i) the retail sale of malt beverages for consumption on the
31 premises, (ii) the retail sale of malt beverages in the manufacturer's original
32 container for consumption off the premises, and (iii) the retail sale of malt
33 beverages in a cleaned and sanitized container that is filled or refilled and
34 sealed for consumption off the premises and that identifies the permittee and
35 the date the container was filled or refilled. The permit also authorizes the
36 permittee to transfer malt beverages, not more than four times per calendar
37 year, to another on-premises malt beverage permittee that is under common
38 ownership or control as the transferor. Except as authorized by this
39 subdivision, transfers of malt beverages by on-premises malt beverage
40 permittees, purchases of malt beverages by a retail permittee from another
41 retail permittee for the purpose of resale, and sale of malt beverages by a retail
42 permittee to another retail permittee for the purpose of resale are unlawful. In
43 addition, a particular brand of malt beverages may be transferred only if both
44 the transferor and transferee are located within the territory designated
45 between the brewery and the wholesaler on file with the Commission. Prior to
46 or contemporaneous with any such transfer, the transferor shall notify each
47 wholesaler who distributes the transferred product of the transfer. The notice
48 shall be in writing or verifiable electronic format and shall identify the
49 transferor and transferee, the date of the transfer, quantity, and items
50 transferred. It also authorizes the holder of the permit to ship malt beverages

in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:

...

- (2) Off-Premises Malt Beverage Permit. – An off-premises malt beverage permit authorizes (i) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, (ii) the retail sale of malt beverages in a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled, and (iii) the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit also authorizes the permittee to transfer malt beverages, not more than four times per calendar year, to another off-premises malt beverage permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of malt beverages by off-premises malt beverage permittees, purchases of malt beverages by a retail permittee from another retail permittee for the purpose of resale, and sale of malt beverages by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of malt beverages may be transferred only if both the transferor and transferee are located within the territory designated between the brewery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The permit may be issued for any of the following:

...."

PART V. ALLOW THE SALE OF MALT BEVERAGES AND WINE FOR ON-PREMISES CONSUMPTION AT SPORTS AND ENTERTAINMENT VENUES LOCATED ON THE CAMPUS OF A COLLEGE OR UNIVERSITY

SECTION 5. G.S. 18B-1006(a) reads as rewritten:

"(a) School and College Campuses. – No permit for the sale of alcoholic beverages shall be issued to a business on the campus or property of a public school, college, or university. This subsection shall not apply to the following:

- (1) A regional facility as defined by G.S. 160A-480.2 operated by a facility authority under Part 4 of Article 20 of Chapter 160A of the General ~~Statutes, unless the permit is for a public school or public college or university function.~~ Statutes.
- (2) Property owned by a local board of education and leased for 99 years or more to a nonprofit auditorium authority created prior to 1991 whose governing board is appointed by a city governing board, a county board of commissioners, or a local school board.
- (3) A hotel.
- (4) A nonprofit alumni organization.
- (5) Restaurants, eating establishments, food businesses, or retail businesses on the property defined by G.S. 116-198.33(4).
- (6) Any golf courses owned or leased by the public college or university and open to the public for use.
- (7) The sale of malt beverages, unfortified wine, or fortified wine at the following:

- 1 a. Performing arts centers located on property owned or leased by the
2 public college or university.
- 3 b. Any stadiums that support a NASCAR-sanctioned one-fourth mile
4 asphalt flat oval short track, that are owned or leased by the public
5 college or university, and that only sell malt beverages, unfortified
6 wine, or fortified wine at events that are not sponsored or funded by
7 the public college or university.
- 8 (8) Special one-time permits as described in G.S. 18B-1002(a)(5) for the
9 Loudermilk Center for Excellence facility at the University of North Carolina
10 at Chapel Hill.
- 11 (9) A stadium, athletic facility, or arena on the campus or property of a public
12 college or university, if the Board of Trustees of the public college or
13 university has voted to allow the issuance of permits for use at that stadium,
14 athletic facility, or arena. For purposes of this subdivision, the term "public
15 college or university" does not include a community college. If a Board of
16 Trustees votes to allow the issuance of permits in accordance with this
17 subdivision, the Board of Trustees shall provide written notice to the
18 Commission that it has voted to allow the issuance of permits. Any permit
19 described in G.S. 18B-1001, 18B-1002(a)(2), or 18B-1002(a)(5) may be
20 issued pursuant to this subdivision to applicants meeting the requirements for
21 the requested permit. Notwithstanding the issuance of a mixed beverages
22 permit pursuant to G.S. 18B-1001(10), this subdivision does not authorize the
23 sale of mixed beverages when the stadium, athletic facility, or arena is being
24 used for a sports event sponsored by the public college or university. This
25 subdivision does not apply to any sales authorized under subdivisions (1)
26 through (8) of this subsection. For purposes of this subdivision, the premises
27 of a stadium, athletic facility, or arena shall include any area that meets all of
28 the following requirements:
- 29 a. Is within 500 feet of the furthest exterior building wall, perimeter
30 fence, or permanent fixed perimeter.
- 31 b. Is designated by the stadium, athletic facility, or arena in a map or
32 written description that clearly defines the boundary of the area, and
33 that map or written description is included in the permit application.
- 34 c. Can be designated in a manner that enables the stadium, athletic
35 facility, or arena to ensure compliance with the provisions of this
36 Chapter."

37
38 **PART VI. ALLOW SALES OF ALCOHOLIC BEVERAGES ON TRAINS AND**
39 **FERRIES**

40 **SECTION 6.(a) G.S. 18B-108 reads as rewritten:**

41 **"§ 18B-108. Sales on ~~trains~~,trains and ferries.**

42 (a) Trains. – Alcoholic beverages may be sold on railroad trains in this State upon
43 compliance with Article 2C of Chapter 105 of the General Statutes. Malt beverages, unfortified
44 wine, and fortified wine may be sold and delivered by any wholesaler or ~~retailer~~-licensed in this
45 State to an officer or agent of a rail line that carries at least 60,000 passengers annually.

46 (b) Ferries. – Alcoholic beverages may be sold on ferries established pursuant to Article
47 6 of Chapter 136 of the General Statutes upon compliance with Article 2C of Chapter 105 of the
48 General Statutes. The authorization set forth in this subsection only applies to the passenger-only
49 ferry traveling on the route from Hatteras to Ocracoke and does not include the return trip from
50 Ocracoke to Hatteras. Malt beverages, unfortified wine, and fortified wine may be sold and

delivered to an officer or agent of the Department of Transportation for sale on the ferry only by the wholesaler whose designated territory includes the Hatteras Ferry Terminal.

(c) ABC Violations. – For purposes of G.S. 18B-502, the railroad trains and ferry authorized to sell alcoholic beverages under this section shall be deemed a "licensed premises for which an ABC permit has been issued."

(d) Rules. – The Commission, in consultation with the Department of Transportation, may adopt rules regulating the sale of alcoholic beverages under this section."

SECTION 6.(b) This section becomes effective July 1, 2019, and applies to sales made on or after that date.

PART VII. ALLOW BARS TO OBTAIN ON-PREMISES ABC PERMITS

SECTION 7.(a) G.S. 18B-1000 reads as rewritten:

"§ 18B-1000. Definitions concerning establishments.

The following requirements and definitions shall apply to this Chapter:

(1) Bar. – An establishment substantially engaged in the business of serving alcoholic beverages for consumption on the premises. To qualify as a bar, an establishment's gross receipts from alcoholic beverages for consumption on the premises shall be not less than seventy-five percent (75%) of the establishment's total gross receipts.

(1a) Community theatre. – An establishment owned and operated by a bona fide nonprofit organization that is engaged solely in the business of sponsoring or presenting amateur or professional theatrical events to the public. A permit issued for a community theatre is valid only during regularly scheduled theatrical events sponsored by such nonprofit organization.

~~(1a)~~(1b) Convention center. – An establishment that meets either of the following requirements:

a. A publicly owned or operated establishment that is engaged in the business of sponsoring or hosting conventions and similar large gatherings, including auditoriums, armories, civic centers, convention centers, and coliseums.

b. A privately owned facility located in a city that has a population of at least 200,000 but not more than 250,000 by the 2000 federal census and is located in a county that has previously authorized the issuance of mixed beverage permits by referendum. To qualify as a convention center under this subdivision, the facility shall meet each of the following requirements:

1. The facility shall be certified by the appropriate local official as being consistent with the city's redevelopment plan for the area in which the facility is located.

2. The facility shall contain at least 7,500 square feet of floor space that is available for public use and shall be used exclusively for banquets, receptions, meetings, and similar gatherings.

3. The facility's annual gross receipts from the sale of alcoholic beverages shall be less than fifty percent (50%) of the gross receipts paid to all providers at permitted functions for food, nonalcoholic beverages, alcoholic beverages, service, and facility usage fees (excluding receipts or charges for entertainment and ancillary services not directly related to providing food and beverage service). The person to whom a permit has been issued for a privately owned facility shall be

required to maintain copies of all contracts and invoices for items supplied by providers for a period of three years from the date of the event.

A permit issued for a convention center shall be valid only for those parts of the building used for conventions, banquets, receptions, and other events, and only during scheduled activities.

~~(1b)~~(1c) Cooking school. – An establishment substantially engaged in the business of operating a school in which cooking techniques are taught for a fee.

...."

SECTION 7.(b) G.S. 18B-1001, as amended by Section 1 of this act, 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) On-Premises Malt Beverage Permit. – An on-premises malt beverage permit authorizes (i) the retail sale of malt beverages for consumption on the premises, (ii) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of malt beverages in a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. The permit also authorizes the permittee to transfer malt beverages, not more than four times per calendar year, to another on premises malt beverage permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of malt beverages by on premises malt beverage permittees, purchases of malt beverages by a retail permittee from another retail permittee for the purpose of resale, and sale of malt beverages by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of malt beverages may be transferred only if both the transferor and transferee are located within the territory designated between the brewery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. It also authorizes the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:

...

k. Bars.

...

- (3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine permit authorizes (i) the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, (ii) the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to

another on-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The holder of the permit is authorized to ship unfortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

...

L. Bars.

...

- (5) On-Premises Fortified Wine Permit. – An on-premises fortified wine permit authorizes the retail sale of fortified wine for consumption on the premises, either alone or mixed with other beverages, and the retail sale of fortified wine in the manufacturer's original container for consumption off the premises. The permit also authorizes the permittee to transfer fortified wine, not more than four times per calendar year, to another on-premises fortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises fortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The holder of the permit is authorized to ship fortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

...

g. Bars.

...

- (7) Brown-Bagging Permit. – A brown-bagging permit authorizes each individual patron of an establishment, with the permission of the permittee, to bring up

to eight liters of fortified wine or spirituous liquor, or eight liters of the two combined, onto the premises and to consume those alcoholic beverages on the premises. The permit may be issued for any of the following:

...

f. Bars.

- (8) Special Occasion Permit. – A special occasion permit authorizes the host of a reception, party or other special occasion, with the permission of the permittee, to bring fortified wine and spirituous liquor onto the premises of the business and to serve the same to his guests. The permit may be issued for any of the following:

...

f. Bars.

...

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

...

i. Bars.

...."

PART VIII. ALLOW DISTILLERIES TO SELL SPIRITUOUS LIQUOR DISTILLED BY THE DISTILLER DIRECTLY TO CONSUMERS IN OTHER STATES

SECTION 8.(a) G.S. 18B-1105(a) reads as rewritten:

- "(a) The holder of a distillery permit may do any of the following:

...

- (2) Sell, deliver and ship spirituous liquor in closed containers as follows:

a. ~~at~~ ~~At~~ wholesale to exporters and local boards within the ~~State~~, State.

b. ~~and, subject~~ Subject to the laws of other jurisdictions, at wholesale or retail to consumers, private or public ~~agencies~~ agencies, or ~~establishments of establishments~~, in other states or nations.

...."

SECTION 8.(b) This section becomes effective July 1, 2019, and applies to sales made on or after that date.

PART IX. REVISE LAW AUTHORIZING DISTILLERS TO SELL SPIRITUOUS LIQUOR DISTILLED BY THE DISTILLER FOR CONSUMPTION OFF THE PREMISES

SECTION 9.(a) G.S. 18B-1105(a)(4) reads as rewritten:

- "(4) Sell spirituous liquor distilled at the distillery in closed containers to visitors ~~who tour the distillery~~ for consumption off the premises. Sales under this subdivision are allowed only in a county where the establishment of a county or municipal ABC store has been approved pursuant to G.S. 18B-602(g) and are subject to the time and day restrictions in G.S. 18B-802. Spirituous liquor sold under this subdivision shall (i) be listed as a code item for sale in the State, (ii) be sold at the price ~~set by the Commission for the code item pursuant to G.S. 18B-804(b)~~, that complies with the requirement set forth in G.S. 18B-804(b1), 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 five bottles 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 9.(b) G.S. 18B-804(b1) reads as rewritten:

"(b1) Price of Spirituous Liquor Sold at Distillery. – When the holder of a distillery permit sells spirituous liquor distilled at the distillery pursuant to ~~G.S. 18B-1105(a)(4)~~, G.S. 18B-1105, the retail price of the spirituous liquor shall be the uniform State price set by subsection (a) of this section. However, the holder of the distillery permit shall not be required to remit the components of the price set forth by subdivisions (2), (3), (5), (6), (6a), (6b), and (7) of subsection (b) of this section."

SECTION 9.(c) G.S. 18B-1116(a) reads as rewritten:

"(a) Prohibitions. – It shall be unlawful for any manufacturer, bottler, or wholesaler of any alcoholic beverages, or for any officer, director, or affiliate thereof, either directly or indirectly to:

...

A brewery qualifying under subdivision (7) or (8) of G.S. 18B-1104(a) is not subject to the provisions of this section concerning financial interests in, and lending or giving things of value to, a wholesaler or retailer with respect to the brewery's transactions with the retail business on its premises or other retail locations allowed under G.S. 18B-1104(a)(8). The brewery is subject to the provisions of this subsection, however, with respect to its transactions with all other wholesalers and retailers.

A distillery is not subject to the provisions of this section concerning financial interests in, and lending or giving things of value to, a retailer with respect to the distillery's transactions with the retail business allowed on its premises under G.S. 18B-1105(a)(4). The distillery is subject to the provisions of this subsection, however, with respect to its transactions with all other retailers."

SECTION 9.(d) This section becomes effective July 1, 2019, and applies to sales made on or after that date.

PART X. MALT BEVERAGES AND WINE/INCREASE DISCOUNT ON PRICE FROM 25% TO 35% OF THE RETAIL PRICE

SECTION 10.(a) Definition. – "Discount Rule" means 14B NCAC 15B .1004 (General Prohibitions) for purposes of this section and its implementation.

SECTION 10.(b) Discount Rule. – Until the effective date of the revised permanent rule that the Alcoholic Beverage Control Commission is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Discount Rule as provided in subsection (c) of this section.

SECTION 10.(c) Implementation. – Notwithstanding any provision of subsection (b) of 14B NCAC 15B .1004 to the contrary, all of the following shall apply:

- (1) A combination of the use of a coupon, a rebate, or a permittee's loyalty card, discount card, or membership card shall not exceed thirty-five percent (35%) of the advertised retail price for the purchase of a malt beverage or wine.

(2) A coupon or rebate shall not provide a discount exceeding thirty-five percent (35%) of the advertised retail price for the purchase of a malt beverage or wine.

(3) A loyalty card, discount card, or membership card shall not provide a discount exceeding thirty-five percent (35%) of the advertised retail price for the purchase of a malt beverage or wine.

SECTION 10.(d) Adoption. – The Commission shall adopt rules to amend the Discount Rule consistent with subsection (c) of this section by no later than September 1, 2019. The Commission may adopt temporary rules to comply with the deadline set in this subsection. Any temporary rules adopted in accordance with this subsection shall remain in effect until permanent rules that replace the temporary rules become effective.

SECTION 10.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

PART XI. CLARIFY DEFINITION OF "PREMISES" AND THE PROHIBITION ON SEXUALLY EXPLICIT CONDUCT ON LICENSED PREMISES

SECTION 11.(a) G.S. 18B-101(12a) reads as rewritten:

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

SECTION 11.(b) G.S. 18B-1005.1(a) reads as rewritten:

"(a) It shall be unlawful on a licensed premises for a permittee or ~~his~~ a permittee's agent or employee to knowingly allow or engage in any ~~of the following kinds of conduct on his licensed premises:~~

(1) ~~Any conduct or entertainment by any person whose~~ where (i) human genitals are exposed or ~~who (ii) a person~~ is wearing transparent clothing that reveals the genitals his or her

(2) ~~Any conduct or entertainment that includes or simulates sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any act that includes or simulates the penetration, however slight, by any object into the genital or anal opening of a person's body; or~~

(3) ~~Any conduct or entertainment that includes the fondling of the breasts, buttocks, anus, vulva, or genitals."~~

SECTION 11.(c) Subsection (b) of this section becomes effective July 1, 2019, and applies to offenses committed on or after that date.

PART XII. AUTHORIZE SALE AND DELIVERY OF MORE THAN ONE DRINK AT A TIME TO A SINGLE PATRON

SECTION 12.(a) Article 10 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-1010. Sale and delivery of more than one drink at a time to a single patron.

Except as otherwise provided in this section, the holder of an on-premises malt beverage permit, on-premises unfortified wine permit, on-premises fortified wine permit, or mixed beverages permit issued under G.S. 18B-1001 may sell and deliver more than one alcoholic beverage drink, but not more than four alcoholic beverage drinks, at a time to a single patron for consumption on the premises. This section does not apply to the sale of alcoholic beverages (i) at a stadium, athletic facility, or arena on the campus or property of a public college or university, (ii) during a sports event sponsored by a public college or university, or (iii) at a stadium, athletic facility, arena, or other establishment with a seating capacity of 3,000 or more."

1 **SECTION 12.(b)** This section becomes effective July 1, 2019, and applies to sales
2 made on or after that date.

3
4 **PART XIII. ALLOW SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES AT**
5 **BINGO GAMES**

6 **SECTION 13.(a)** G.S. 18B-308 is repealed.

7 **SECTION 13.(b)** G.S. 14-309.14(3) is repealed.

8 **SECTION 13.(c)** G.S. 18B-112(b)(3) reads as rewritten:

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

11 **SECTION 13.(d)** This section becomes effective July 1, 2019, and applies to
12 offenses committed on or after that date.

13
14 **PART XIV. FOOD AND LODGING FACILITY SANITATION**
15 **REGULATIONS/EXEMPT BREWERIES NOT ENGAGED IN THE PREPARATION**
16 **OF FOOD**

17 **SECTION 14.(a)** G.S. 130A-250 reads as rewritten:

18 **"§ 130A-250. Exemptions.**

19 The following shall be exempt from this Part:

20 ...

21 (16) A brewery licensed under G.S. 18B-1104 that is not engaged in the
22 preparation of food on the premises. For purposes of this subdivision, the term
23 "food" does not include beverages."

24 **SECTION 14.(b)** Penalties imposed and fees charged before the effective date of
25 this section are not abated or affected by this section, and the statutes that would be applicable
26 but for this section remain applicable to those penalties and fees.

27
28 **PART XV. ABC STORE HOURS AND DAYS OF OPERATION/LOCAL OPTION**

29 **SECTION 15.(a)** G.S. 18B-802 reads as rewritten:

30 **"§ 18B-802. When stores operate.**

31 (a) Time. – No ABC store shall be open, and no ABC store employee shall sell alcoholic
32 beverages, between (i) 9:00 P.M. and 9:00 A.M. The local board shall otherwise determine
33 opening and closing hours of its stores on Monday through Saturday and (ii) 12:00 P.M. and 5:00
34 P.M. on Sunday.

35 (b) Days. – No Except as authorized under G.S. 153A-145.9 for a county ABC store or
36 G.S. 160A-205.5 for a city ABC store, no ABC store shall be open, and no ABC store employee
37 shall sell alcoholic beverages, on any Sunday, New Year's Day, Fourth of July, Labor Day,
38 Thanksgiving Day, or Christmas Day. A local board may otherwise determine the days on which
39 its stores shall be closed."

40 **SECTION 15.(b)** Article 6 of Chapter 153A of the General Statutes is amended by
41 adding a new section to read:

42 **"§ 153A-145.9. Days on which ABC stores operate.**

43 A county may adopt an ordinance authorizing its ABC stores to be open, and authorizing its
44 ABC store employees to sell alcoholic beverages, on any or all days otherwise prohibited under
45 G.S. 18B-802(b)."

46 **SECTION 15.(c)** Article 8 of Chapter 160A of the General Statutes is amended by
47 adding a new section to read:

48 **"§ 160A-205.5. Days on which ABC stores operate.**

49 A city may adopt an ordinance authorizing its ABC stores to be open, and authorizing its
50 ABC store employees to sell alcoholic beverages, on any or all days otherwise prohibited under
51 G.S. 18B-802(b)."

PART XVI. ABC STORES/ALLOW IN-STORE SPIRITUOUS LIQUOR TASTINGS

SECTION 16.(a) G.S. 18B-1114.7(a) reads as rewritten:

"(a) Authorization. – The holder of a supplier representative permit, brokerage representative permit, or distillery permit issued under G.S. 18B-1105 may obtain a spirituous liquor special event permit allowing the permittee to give free tastings of its spirituous liquors at ABC stores where the local ABC board has approved the tasting, trade shows, conventions, shopping malls, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission."

SECTION 16.(b) G.S. 18B-1114.7(b) reads as rewritten:

"(b) Limitations. – Any consumer tasting is subject to the following limitations:

(3) Each consumer shall be limited to one ~~0.25 ounce~~ 0.25 ounces tasting sample containing 0.25 ounces of any product made available for sampling at the consumer tasting, and the total amount of the tasting samples offered to and consumed by each consumer shall not exceed 1.0 ounce of spirituous liquor in any calendar day.

~~(7) A venue allowing tastings shall designate a tasting area within the venue that enables the permit holder to ensure that the consumer tasting is being conducted in compliance with this section. Consumers shall only be allowed to consume tasting samples within the designated tasting area.~~

(11) For tastings conducted in an ABC store, the local board shall establish and implement a policy whereby distillery permit holders are given the right of first refusal for a certain number, as determined by the Commission, of the dates and times made available in a month by the local board for holding tastings authorized under this section. Any policy established under this subdivision shall set forth the date for each month by which a distillery permit holder must exercise the right of first refusal before the reserved dates and times are made available to all eligible spirituous liquor special event permit holders."

SECTION 16.(c) G.S. 18B-301(f)(1) reads as rewritten:

"(1) Any person to consume fortified wine, spirituous liquor, or mixed beverages or to offer such beverages to another person at any of the following places:

- a. ~~On~~ Unless a consumer tasting authorized by G.S. 18B-1114.7 is being conducted, on the premises of an ABC store.
- b. Upon any property used or occupied by a local board.
- c. On any public road, street, highway, or sidewalk, unless a consumer tasting authorized by G.S. 18B-1114.7 is being conducted."

PART XVII. ALLOW ELECTRONIC PAYMENT FOR SPIRITUOUS LIQUOR PURCHASED BY MIXED BEVERAGES PERMITTEES

SECTION 17.(a) G.S. 18B-404 is amended by adding a new subsection to read:

"(e) Electronic Payment. – A local board shall accept electronic payments for any spirituous liquor purchased by a mixed beverages permittee. A local board may not charge a fee for accepting electronic payments under this subsection. For purposes of this subsection, the term "electronic payment" is as defined in G.S. 147-86.20.

SECTION 17.(b) This section becomes effective July 1, 2019, and applies to sales made on or after that date.

PART XVIII. ABC COMMISSION/REQUIRE ACCEPTANCE OF PAYMENTS AND FORMS ELECTRONICALLY

SECTION 18.(a) Article 9 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-907. Allow electronic submission of payments and forms.

(a) Forms. – The Commission shall make all forms required by the Commission to apply for and receive a permit available on the Commission's Web site, and the Commission shall, to the extent practicable, allow for the electronic submission of these forms. Any form required by the Commission to apply for and receive a permit that requires a signature may be submitted with an electronic signature in accordance with Article 40 of Chapter 66 of the General Statutes.

(b) Payments. – The Commission shall accept electronic payments for any fee required under this Chapter to receive a permit. For purposes of this subsection, the term "electronic payment" is as defined in G.S. 147-86.20.

(c) Fee. – Except as otherwise provided in G.S. 18B-404(e), the Commission may charge a fee to be used to cover costs incurred by the Commission in processing forms electronically and accepting payments electronically. The fee authorized under this subsection may not exceed five dollars (\$5.00)."

SECTION 18.(b) This section becomes effective July 1, 2019, and applies to permits applied for on or after that date.

PART XIX. CREATION OF COMMON AREA ENTERTAINMENT PERMIT

SECTION 19.(a) G.S. 18B-1000 reads as rewritten:

"§ 18B-1000. Definitions concerning establishments.

The following requirements and definitions shall apply to this Chapter:

...

(4) Hotel. – An establishment substantially engaged in the business of furnishing lodging. A hotel shall have a restaurant either on or closely associated with the premises. The restaurant and hotel need not be owned or operated by the same person.

(4e) Multi-tenant establishment. – A building or structure, or multiple buildings and structures on the same property and under common ownership or control, that contain or contains multiple businesses that sell food, goods, services, or a combination of food, goods, and services, and that are connected by common areas.

...."

SECTION 19.(b) G.S. 18B-1001 is amended by adding a new subdivision to read:

"(21) Common Area Entertainment Permit. – A permit under this subdivision may be issued to the owner of a multi-tenant establishment that has at least two tenants that holds a permit issued under subdivisions (1), (3), (5), or (10) of this section. A common area entertainment permit authorizes a customer of a multi-tenant establishment tenant holding a permit issued under subdivisions (1), (3), (5), or (10) of this section to exit that licensed premises with an open container of the alcoholic beverage sold by the tenant holding the permit and consume the alcoholic beverage within the confines of any indoor or outdoor common area on the premises of the multi-tenant establishment designated by the owner of the multi-tenant establishment for consumption of alcoholic beverages. Additionally, a permit issued under this subdivision is subject to all of the following conditions:

a. The owner of the multi-tenant establishment shall designate the common area in which alcoholic beverages may be consumed. Additionally, the owner of the multi-tenant establishment shall post

1 signs in conspicuous locations on the multi-tenant establishment
2 property indicating which common area is the designated common
3 area. The owner of the multi-tenant establishment shall submit to the
4 Commission for review and approval (i) a plat of the multi-tenant
5 establishment property for a designated outdoor common area with the
6 common area designated for alcohol consumption clearly marked or
7 (ii) a detailed map of the relevant building on the multi-tenant
8 establishment property for a designated indoor common area with the
9 common area designated for alcohol consumption clearly marked. The
10 Commission shall reject any plat or map submitted under this
11 sub-subdivision that does not meet the requirements of this
12 subdivision or any rule adopted by the Commission. The owner of the
13 multi-tenant establishment must submit a plat or map as required under
14 this sub-subdivision for each renewal of the permit issued under this
15 subdivision and at least 10 days prior to making any adjustments to the
16 designated common area.

17 b. Alcoholic beverages sold for consumption in a designated common
18 area shall be dispensed only in a paper or plastic cup bearing the name,
19 logo, or name and logo of the licensed premises from which the
20 beverage was purchased. The amount of alcoholic beverage dispensed
21 into a cup under this sub-subdivision shall not exceed 16 fluid ounces.

22 c. A customer is not allowed to possess or consume more than one
23 alcoholic beverage at a time while within the designated common area.

24 d. Alcoholic beverages may only be consumed within the designated
25 common area during the hours in which the alcoholic beverage may
26 be sold under G.S. 18B-1004, and the owner of the multi-tenant
27 establishment may further limit the days and times in which an
28 alcoholic beverage may be consumed in a designated common area.
29 The owner of the multi-tenant establishment shall post signs in
30 conspicuous locations on the multi-tenant establishment property
31 indicating the days and times in which a person may consume an
32 alcoholic beverage in a designated common area.

33 e. A customer in the designated common area shall dispose of any
34 alcoholic beverage in his or her possession prior to exiting the
35 designated common area. A person is not allowed to exit a designated
36 common area with any alcoholic beverage he or she was consuming
37 within the area.

38 f. A customer is not allowed to bring and consume alcoholic beverages
39 not purchased from a tenant of the multi-tenant establishment holding
40 an applicable permit.

41 g. Any additional conditions imposed by the Commission. Any
42 additional conditions imposed by the Commission shall be posted on
43 the Commission's Web site."

44 **SECTION 19.(c)** G.S. 18B-902(d) reads as rewritten:

45 "(d) Fees. – An application for an ABC permit shall be accompanied by payment of the
46 following application fee:

47 ...

48 (46) Common area entertainment permit – \$750.00."
49

50 **PART XX. CREATION OF DELIVERY SERVICE PERMIT**

1 **SECTION 20.(a)** Article 10 of Chapter 18B of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 18B-1001.4. Authorization of delivery service permit.**

4 (a) Authorization. – The holder of a delivery service permit, or the permit holder's
5 employee or independent contractor, may deliver malt beverages, unfortified wine, or fortified
6 wine to a location designated by the purchaser on behalf of a retailer holding a permit issued
7 pursuant to subdivisions (1) through (6) and (16) of G.S. 18B-1001. A delivery service permittee
8 may also facilitate delivery through technology services that connect consumers and licensed
9 retailers through the use of the Internet, mobile applications, and other similar technology.

10 (b) Training and Payment. – Prior to making any deliveries, each person delivering
11 alcoholic beverages pursuant to a delivery service permit must successfully complete a course
12 approved by the Commission related to the delivery of alcoholic beverages. A person delivering
13 alcoholic beverages pursuant to a delivery service permit shall not handle or possess funds used
14 to purchase an alcoholic beverage that is to be delivered but may facilitate the sales transaction
15 in a manner that does not involve taking possession of funds.

16 (c) Age of Recipient and Notice. – A person may only deliver alcoholic beverages
17 pursuant to a delivery service permit to a person who is at least 21 years of age and who
18 immediately takes actual possession of the alcoholic beverages purchased. A delivery of
19 alcoholic beverages in a package that obscures the manufacturer's original packaging shall have
20 affixed to the outside of the package a notice in 26-point type or larger stating: "CONTAINS
21 ALCOHOLIC BEVERAGES; AGE VERIFICATION REQUIRED."

22 (d) Limitations. – A delivery service permittee shall deliver alcoholic beverages only
23 within the time allowed for lawful sales and consumption in the jurisdiction where the delivery
24 is located. No delivery shall be made to any jurisdiction within the State that has not authorized
25 the sale of the purchased alcoholic beverages. A delivery service permittee shall not deliver
26 alcoholic beverages more than 50 miles from the retailer's licensed premises or to the premises
27 of another licensed retailer. Only alcoholic beverages purchased for personal consumption and
28 from a licensed retailer's existing inventory located on the retailer's premises may be delivered
29 pursuant to a delivery service permit.

30 (e) Scope and Construction. – A delivery service permit is not required for a common
31 carrier lawfully transporting or shipping alcoholic beverages. Nothing in this section shall be
32 construed as exempting the delivery of alcoholic beverages pursuant to a delivery service permit
33 from the requirements set forth in Article 4 of Chapter 18B of the General Statutes."

34 **SECTION 20.(b)** G.S. 18B-902(d), as amended by Section 21(c) of this act, reads
35 as rewritten:

36 "(d) Fees. – An application for an ABC permit shall be accompanied by payment of the
37 following application fee:

38 ...

39 (47) Delivery service permit – \$400.00."

40
41 **PART XXI. ADMINISTRATIVE PENALTY/INCREASE COMPROMISE AMOUNT**

42 **SECTION 21.(a)** G.S. 18B-104(b) reads as rewritten:

43 "(b) Compromise. – In any case in which the Commission is entitled to suspend or revoke
44 a permit, the Commission may accept from the permittee an offer in compromise to pay a penalty
45 of not more than ~~five thousand dollars (\$5,000).~~ ten thousand dollars (\$10,000). The Commission
46 may either accept a compromise or revoke a permit, but not both. The Commission may accept
47 a compromise and suspend the permit in the same case."

48 **SECTION 21.(b)** This act becomes effective July 1, 2019, and applies to violations
49 committed on or after that date.

50
51 **PART XXII. ADMINISTRATIVE PENALTY PROCESS/PED STUDY**

1 **SECTION 22.(a)** Study. – The Joint Legislative Program Evaluation Oversight
2 Committee shall revise the biennial 2019-2020 work plan for the Program Evaluation Division
3 to include a study of the actions the Alcoholic Beverage Control Commission is authorized to
4 take under G.S. 18B-104 for violations of Chapter 18B of the General Statutes. The study
5 required under this subsection shall include an examination of (i) the proportionality of the
6 punishment that may be imposed under G.S. 18B-104 in relation to the violation, (ii) the
7 remainder of the law set forth in G.S. 18B-104 to identify any areas in which the law may be
8 lacking, and (iii) the process utilized and punishment authorized by other alcoholic beverage
9 control states for violations of their alcoholic beverage laws.

10 **SECTION 22.(b)** Cooperation. – Upon request, the Commission shall provide any
11 necessary information, data, or documents within their possession, ascertainable from their
12 records, or otherwise available to them, to the Program Evaluation Division to complete the study
13 required under subsection (a) of this section.

14 **SECTION 22.(c)** Report. – The Program Evaluation Division shall report its findings
15 and recommendations from the study required under subsection (a) of this section to the Joint
16 Legislative Program Evaluation Oversight Committee by March 15, 2020.

17 18 **PART XXIII. SEVERABILITY CLAUSE**

19 **SECTION 23.** If any provision of this act or its application is held invalid, the
20 invalidity does not affect other provisions or applications of this act that can be given effect
21 without the invalid provisions or application, and to this end, the provisions of this act are
22 severable.

23 24 **PART XXIV. RULES**

25 **SECTION 24.** The Alcoholic Beverage Control Commission shall amend its rules
26 consistent with the provisions of this act. The Commission may adopt temporary rules to
27 implement the requirements of this act. Any temporary rules adopted in accordance with this
28 section shall remain in effect until permanent rules that replace the temporary rules become
29 effective.

30 31 **PART XXV. EFFECTIVE DATE**

32 **SECTION 25.** Sections 22 and 25 of this act are effective when it becomes law.
33 Except as otherwise provided, this act becomes effective July 1, 2019.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 536

H536-ASA-26 [v.1]

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

Page 1 of 1

Amends Title [NO]
H536-CSSAf-29

Date April 30, 2019

Representative Hurley

- 1 moves to amend the bill on page 4, line 36 through page 5, line 7, by deleting those lines.

SIGNED *Pat Hurley*
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



* H 5 3 6 - A S A - 2 6 - V - 1 *



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 536

AMENDMENT NO. 2
(to be filled in by
Principal Clerk)

H536-ASA-27 [v.2]

Page 1 of 1

Amends Title [NO]
H536-CSSAf-29

Date April 30, 2019

Representative Hurley

- 1 moves to amend the bill on page 8, line 49 through page 9, line 45 by deleting those lines.

SIGNED Pat Hurley
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____



* H 5 3 6 - A S A - 2 7 - V - 2 *



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 536

AMENDMENT NO. 3
(to be filled in by
Principal Clerk)

H536-ASA-32 [v.1]

Page 1 of 1

Amends Title [NO]
H536-CSSAf-29

Date April 30, 2019

McGrady
Representative Hurley

- 1 moves to amend the bill on page 10, lines ³¹~~24~~-45 by deleting those lines.

SIGNED

Pat Hurley
Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED



FAILED

TABLED



* H 5 3 6 - A S A - 3 2 - V - 1 *



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 536

AMENDMENT NO. 4
(to be filled in by
Principal Clerk)

Page 1 of 1

H536-ASA-28 [v.1]

Amends Title [NO]
H536-CSSAf-29

Date April 30, 2019

Representative Hurley

- 1 moves to amend the bill on page 10, line 47 through page 11, line 9 by deleting those lines.

SIGNED

Pat Hurley
Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

FAILED



TABLED



* H 5 3 6 - A S A - 2 8 - V - 1 *



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 536

H536-ATQ-18 [v.1]

AMENDMENT NO. 5
(to be filled in by
Principal Clerk)

Page 1 of 1

Amends Title [NO]
H536-CSSAf-29

Date April 30, 2019

Representative Hurley

1 moves to amend the bill on page 11, line 35, through page 12, line 9, by deleting those lines.
2
3

SIGNED

Pat Hurley
Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

FAILED



TABLED



* H 5 3 6 - A T Q - 1 8 - V - 1 *



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 536

AMENDMENT NO. 6
(to be filled in by
Principal Clerk)

H536-ASA-31 [v.1]

Page 1 of 1

Amends Title [NO]
H536-CSSAf-29

Date April 30, 2019

Representative Hurley

- 1 moves to amend the bill on page 12, line 41
2 by rewriting that line to read:
3 " holders.
4 (12) Any tasting conducted in an ABC store shall be the sole responsibility of the
5 permit holder. No employee of a local board may participate in or conduct a
6 tasting in an ABC store."

SIGNED

Pat Hurley
Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED



FAILED

TABLED



* H 5 3 6 - A S A - 3 1 - V - 1 *



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 536

H536-ASA-30 [v.1]

AMENDMENT NO. 17
(to be filled in by
Principal Clerk)

Page 1 of 1

Amends Title [NO]
H536-CSSAf-29

Date April 30, 2019

Representative Hurley

- 1 moves to amend the bill on page 13, line 32 through page 15, line 8 by deleting those lines.

SIGNED

Pat Hurley
Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

FAILED

TABLED

Delete Part 19
Common Area
Permit



* H 5 3 6 - A S A - 3 0 - V - 1 *

Committee Sergeants at Arms

NAME OF COMMITTEE Alcoholic Beverage Control

DATE: April 30, 2019 Room: 643

House Sgt-At Arms:

1. Name: Joe Crook

2. Name: Glen Wall

Name: ~~Will Crocker~~ Thomas Terry

4. Name: Dean Marshbourne

5. Name: _____

Senate Sgt-At Arms:

1. Name: _____

2. Name: _____

3. Name: _____

4. Name: _____

Name: _____

**House Pages
Assignments
Tuesday, April 30, 2019
Session: 9:30 AM**

Committee	Room	Time	Staff	Comments	Member
Homelessness, Foster Care, and Dependency	425	2:00 PM	Isabelle Lam		Rep. Debra Conrad
Rules, Calendar, and Operations of the House	1228/1327	2:30 PM	Gerald Blohm		Rep. John Fraley
			Jacob Dillman		Rep. Cecil Brockman
Alcoholic Beverage Control	643	3:00 PM	Stephon Dixon		Rep. Kandie D. Smith
Banking	422	3:00 PM	Bronwyn McVeigh		Rep. James L. Boles, Jr.
			Colin Vess		Rep. Jon Hardister
Homeland Security, Military, and Veterans Affairs	425	3:00 PM	Ethan Brooks		Speaker Tim Moore
			Mya Hernandez		Rep. Tim Moore

VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control

4/30/2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Terrence Merriweather	NC ABC Commission
Kim Siomkiss	Publix Super Markets Inc
Lindsey Dowling	TSS
Marissa Turner	TSS
Deans Eatman	DOT
Courtney Crowder	CCC
Erlynd Hawthorne	CEU

VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control
Name of Committee

4/30/2019

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Susanna Davis	NC DPS
Kris Gardner	NC BEER & WINE WHOLESALE ASSOC.
Tim Kent	NC BEER & WINE
Jon Carr	NC Assoc. ABC Board
Alex Miller	AMGA
Cassidy Robertson	AMGA
Richard Greene	NC CRAFT BREWERS Guild
Ang Elle	NC CRAFT
Bill Scobbin	TS
Beth Bost	UNC Charlotte
Onko	OK

VISITOR REGISTRATION SHEET

Alcoholic Beverage Control Committee

Name of Committee

4/30/19

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Logan Padgett	JMI
Sarah Wolfe	MWC
Hampton Billips	KTS
Joe Best	CRBA
Resha Fortson	SEANL
Flint Benson	SEANL
Charles Washington	TWN
Gentry Lassiter	LA SSITER DISTILLING CO
Jim Albright	ACRFE
Rick Zechini	Williams M/Lbr

VISITOR REGISTRATION SHEET

Alcoholic Beverage Control Committee
Name of Committee

4-30-19
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Rhaegan Jackson	Focus Public Affairs
Demetrius Deloatch	NC League
Sarah Potter	APNC
DIANE RIBE	SELF - CHAPEL HILL
REV. MARK CREECH	CAL
Tirrell Listonboe	CAL
Jack Cozart	NSS
Eddie Greene	Wyrick Robbins
John Ay	NA
Julie Robinson	RCG
Jonathan Brubaker	Brubaker Assoc

VISITOR REGISTRATION SHEET

Alcoholic Beverage Control Committee

Name of Committee

4/30/19

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Adam Ridemore	NCAcc
Bruce Mildworth	NCSBA
Margo Metzger	NCRLA
Ryan Meyer	NCRLA
Isabel Villa Garcia	NCRLA
Dino Radosta	White Street Brewing Co.
Lexi Arthur	DISCUS
CSOB	BCI
Jennifer Morgan	Williams Mullen
Sarah Patterson	WM
Becki Gray	g x g

VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control

4/30/2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Bryan House	ALF
Jason Locklear	ALF
Renee Metz	ABC Commission
Rachel Spears	ABC Commission
Missy P. Welch	ABC Commission
Lucius Jones	Wake ABC
Bryan Hicks	Wake ABC
Kevin Lawrence	Wake ABC
Scott Broadwell	Wake ABC
Alicia Davis	NEPS
Claudia Shoemaker	Grow

VISITOR REGISTRATION SHEET

House Committee on Alcoholic Beverage Control

4/30/2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Lisa Mank	Cap Ad
Joe Nolan	Cap Ad
Dodie Renfer	Nelson Mullins
Amy RUTH	UNC-CH
Erin Robinson	NORMA
Kara Weishaar	SA
Rae Rye	NP
Bo Heath	McGuire Woods
LT McCrimmon	DKHS
Andy Elle	NCKM
ISRAEL MORROW	NC ALE

**House Committee on Alcoholic Beverage Control
Tuesday, May 21 at 3:00 PM
Room 1228/1327 of the Legislative Building**

MINUTES

The House Committee on Alcoholic Beverage Control met at 3:00 PM on May 21, 2019 in Room 1228/1327 of the Legislative Building. Representatives Alexander, Boles, Dahle, Fisher, Hardister, Hurley, Johnson, Lucas, McGrady, Meyer, Saine, Turner, Willingham, Yarborough and Zachary attended.

Representative Chuck McGrady, Chair, presided and called the meeting to order at 3:03 p.m.

The Chair recognized the Sergeant at Arms and Pages in attendance and welcomed everyone.

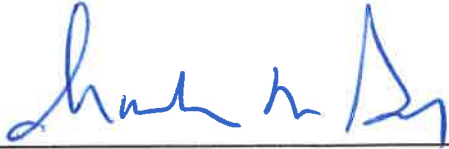
The following bills were considered:

HB 476	Reduce ABC Fees Paid by VFW Post	(Representative Bumgardner)
HB 995	Hard Cider/Revise Excise Tax Rate	(Representative McGrady)

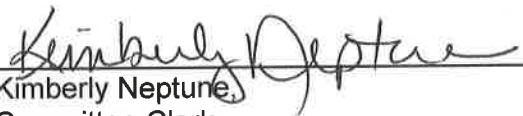
Chairman McGrady introduced Representative Bumgardner to present HB 476 Reduce ABC Fees Paid by VFW Post. At the conclusion of the presentation, Chairman McGrady opened the floor for questions and discussion. Representative Hardister made a motion for a favorable report of HB 476 with a serial referral to the Finance Committee. The motion passed.

Chairman McGrady turned over the meeting to Chairman Boles to preside, in order for Representative McGrady to introduce HB995 Hard Cider/Revise Excise Tax Rate (Attachment 4). At the conclusion of the presentation, Chairman Boles opened the floor for questions and discussion. Representative Lucas made a motion for a favorable report of HB995 with a serial referral to the Finance Committee. The motion passed. Chairman Boles turned the committee meeting back over to Chairman McGrady to close the meeting.

There being no further business, the committee adjourned at 3:23 p.m.



Representative Chuck McGrady,
Chair Presiding



Kimberly Neptune,
Committee Clerk

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

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

DAY & DATE: Tuesday, May 21, 2019
TIME: 3:00 PM
LOCATION: 1228/1327 LB
COMMENTS: Rep. Chuck McGrady presiding.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 995</u>	Hard Cider/Revise Excise Tax Rate.	Representative McGrady
<u>HB 476</u>	Reduce ABC Fees Paid by VFW Post.	Representative Bumgardner

Respectfully,

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

I hereby certify this notice was filed by the committee assistant at the following offices at 10:54 AM on Wednesday, May 15, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Kimberly Neptune (Committee Assistant)

**House Committee on Alcoholic Beverage Control
Tuesday, May 21, 2019, 3:00 PM
1228/1327 Legislative Building**

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 995	Hard Cider/Revise Excise Tax Rate.	Representative McGrady
HB 476	Reduce ABC Fees Paid by VFW Post.	Representative Bumgardner

Presentations

Other Business

Adjournment

**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

ALCOHOLIC BEVERAGE CONTROL COMMITTEE REPORT

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

Representative Chuck McGrady, Co-Chair

FAVORABLE AND RE-REFERRED

HB 476

Reduce ABC Fees Paid by VFW Post.

Draft Number: None

Serial Referral: FINANCE

Recommended Referral: None

Long Title Amended: No

Floor Manager: Bumgardner

TOTAL REPORTED: 1



* C M R 4 7 0 - V - 1 *

**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

ALCOHOLIC BEVERAGE CONTROL COMMITTEE REPORT

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

Representative Chuck McGrady, Co-Chair

FAVORABLE AND RE-REFERRED

HB 995

Hard Cider/Revise Excise Tax Rate.

Draft Number: None

Serial Referral: FINANCE

Recommended Referral: None

Long Title Amended: No

Floor Manager: McGrady

TOTAL REPORTED: 1



* C M R 4 7 1 - V - 1 *



HOUSE BILL 476: Reduce ABC Fees Paid by VFW Post.

2019-2020 General Assembly

Committee:	House Alcoholic Beverage Control. If favorable, re-refer to Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	May 21, 2019
Introduced by:	Rep. Bumgardner	Prepared by:	Jennifer H. Bedford
Analysis of:	First Edition		Staff Attorney

OVERVIEW: *House Bill 476 would reduce certain fees assessed by the Alcohol Beverage Control Commission to a Veterans of Foreign Wars post.*

CURRENT LAW:

G.S. 18B-903(b) requires a permittee to pay a renewal application fee of \$1000 for each mixed beverages permit.

G.S. 18B-903(b1) requires a permittee to pay a registration and inspection fee of \$400 for each malt beverage, fortified wine, or unfortified wine permit held.

BILL ANALYSIS: House Bill 476 would:

- Reduce the renewal application fee for a mixed beverages permit by 90% (from \$1000 to \$100) for a VFW post.
- Reduce the registration and inspection fees related to a malt beverage, fortified wine, or unfortified wine permit by 90% (from \$400 to \$40) for each permit held by a VFW post.
- Clarify that the registration and inspection fees, like the renewal application fee, are nonrefundable.

EFFECTIVE DATE: This act would be effective July 1 2019, and apply to renewals and registration on or after that date.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

1

HOUSE BILL 476

Short Title: Reduce ABC Fees Paid by VFW Post.

(Public)

Sponsors: Representative Bumgardner.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Alcoholic Beverage Control, if favorable, Finance, if favorable, Rules, Calendar, and Operations of the House

March 28, 2019

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE AMOUNT OF CERTAIN FEES ASSESSED BY THE ABC
COMMISSION TO A VETERANS OF FOREIGN WARS POST.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-903 reads as rewritten:

"§ 18B-903. Duration of permit; renewal and transfer.

...

(b) Renewal. – Application for renewal of an ABC permit shall be on a form provided by the Commission. An application for renewal shall be accompanied by ~~an~~ a nonrefundable application fee. The application fee shall be the same amount as the initial fee set in G.S. 18B-902, except that (i) the renewal application fee for each wine shop permit shall be five hundred dollars (\$500.00), ~~and (ii) the renewal application fee for each mixed beverages permit and each guest room cabinet permit shall be one thousand dollars (\$1,000). A renewal fee shall not be refundable. (\$1,000), and (iii) the renewal application fee for any permit issued to a Veterans of Foreign Wars post shall be reduced by ninety percent (90%).~~

(b1) Registration. – Each person holding a malt beverage, fortified wine, or unfortified wine permit issued pursuant to G.S. 18B-902(d)(1) through G.S. 18B-902(d)(6) shall register by May 1 of each year on a form provided by the Commission, in order to provide information needed by the State in enforcing this Chapter and to support the costs of that enforcement. The registration required by this subsection shall be accompanied by ~~an~~ a nonrefundable annual registration and inspection fee of four hundred dollars (\$400.00) for each permit ~~held~~ held, ~~except that the annual registration and inspection fee for each permit held by a Veterans of Foreign Wars post is forty dollars (\$40.00). The fee shall be paid by May 1 of each year. A registration fee shall not be refundable.~~ Failure to pay the annual registration and inspection fee shall result in revocation of the permit.

...."

SECTION 2. This act becomes effective July 1, 2019, and applies to renewals and registrations on or after that date.





NORTH CAROLINA GENERAL ASSEMBLY

Session 2019

Legislative Fiscal Note

Short Title: Reduce ABC Fees Paid by VFW Post.
Bill Number: House Bill 476 (First Edition)
Sponsor(s): Representative Bumgardner

SUMMARY TABLE

FISCAL IMPACT OF H.B. 476, V.1 (\$ in thousands)					
	<u>FY 2019-20</u>	<u>FY 2020-21</u>	<u>FY 2021-22</u>	<u>FY 2022-23</u>	<u>FY 2023-24</u>
State Impact					
General Fund Revenue	(25.2)	(25.2)	(25.2)	(25.2)	(25.2)
Less Expenditures	-	-	-	-	-
General Fund Impact	(25.2)	(25.2)	(25.2)	(25.2)	(25.2)
NET STATE IMPACT	(\$25.2)	(\$25.2)	(\$25.2)	(\$25.2)	(\$25.2)

FISCAL IMPACT SUMMARY

Fiscal Research finds that the changes in this bill would lead to a reduction in permitting fees collected by the ABC Commission of \$25,200 annually. These funds would otherwise be remitted to the General Fund.

FISCAL ANALYSIS

Section 1 would reduce the renewal application fee for any Veterans of Foreign Wars (VFW) post by 90% from \$1,000 to \$100. Section 1 would further reduce the registration and inspection fee for any VFW post from \$400 to \$40.

Fiscal Research anticipates that the changes in this bill would lead to a reduction of \$25,200 in fees collected by the ABC Commission. Because there are 20 VFW posts holding permits, ABC currently collects \$28,000 from VFW application fees and registration and inspection fees (20 times \$1,000 equals \$20,000 and 20 times \$400 equals \$8,000). After a 90% reduction, ABC would instead collect \$2,800 from VFW posts, an annual reduction of \$25,200. ABC remits all permitting fees to the General Fund.

TECHNICAL CONSIDERATIONS

N/A.



DATA SOURCES

ABC COMMISSION

LEGISLATIVE FISCAL NOTE – PURPOSE AND LIMITATIONS

This document is an official fiscal analysis prepared pursuant to Chapter 120 of the General Statutes and rules adopted by the Senate and House of Representatives. The estimates in this analysis are based on the data, assumptions, and methodology described in the Fiscal Analysis section of this document. This document only addresses sections of the bill that have projected direct fiscal impacts on State or local governments and does not address sections that have no projected fiscal impacts.

CONTACT INFORMATION

Questions on this analysis should be directed to the Fiscal Research Division at (919) 733-4910.

ESTIMATE PREPARED BY

William Childs

ESTIMATE APPROVED BY

Mark Trogdon, Director of Fiscal Research
Fiscal Research Division
April 12, 2019



Signed copy located in the NCGA Principal Clerk's Offices





HOUSE BILL 995: Hard Cider/Revise Excise Tax Rate.

2019-2020 General Assembly

Committee:	House Alcoholic Beverage Control. If favorable, re-refer to Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	May 21, 2019
Introduced by:	Rep. McGrady	Prepared by:	Chris Saunders
Analysis of:	First Edition		Committee Counsel

OVERVIEW: *House Bill 995 would treat hard cider the same as malt beverages, rather than unfortified wine, for the purpose of excise taxation.*

CURRENT LAW: Under current law, the Alcoholic Beverage Control Commission and the Department of Revenue regulate alcoholic cider as unfortified wine. Unfortified wine is defined as "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."

Under current law, the excise tax rate for malt beverages is 61.71 cents per gallon, and the excise tax rate for unfortified wine is 26.34 cents per liter (about 99.71 cents per gallon). The excise taxes collected each year from the sale of malt beverages and wine are distributed to the counties or cities in which the retail sale of those beverages is authorized are to be distributed as follows:

- 20.47% of the tax on malt beverages is distributed to the local governments where retail sale of malt beverages is authorized.
- 49.44% of the tax on unfortified wine is distributed to the local governments where retail sale of unfortified wine is authorized.

If malt beverages or unfortified wine may be sold both in a county and a city located in the county, both the county and city receive a portion of the amount distributed, to be determined on the basis of population.

BILL ANALYSIS:

Section 1 of House Bill 995 would define hard cider as a wine that meets all of the following requirements:

- Contains not more than sixty-four hundredths (0.64) of a gram of carbon dioxide per hundred milliliters of wine.
- Is derived primarily from (i) apples or pears or (ii) water and apple juice concentrate or pear juice concentrate.
- Contains no fruit product or fruit flavoring other than apples, pears, or apple or pear juice concentrate.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House Bill 995

Page 2

- Contains between 0.5% and 8.50% alcohol by volume.

Section 2 would provide that the excise tax on hard cider is the 61.71 cent per gallon tax levied on the sale of malt beverages.

Section 3 would provide that 20.47% of the tax collected on the sale of hard cider must be distributed to local governments where the sale of malt beverages is allowed, rather than the 49.44% for unfortified wine.

Section 4 would make conforming changes regarding payment of excise taxes. This act would not limit the ability of a wine shipper permittee to ship hard cider directly to consumers, but the excise tax rate levied on the hard cider would still be the same as the excise tax rate levied on malt beverages.

EFFECTIVE DATE: This act would become effective October 1, 2019, and would apply to hard cider sold on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 995

Short Title: Hard Cider/Revise Excise Tax Rate. (Public)

Sponsors: Representative McGrady.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Alcoholic Beverage Control, if favorable, Finance, if favorable, Rules, Calendar, and Operations of the House

April 26, 2019

A BILL TO BE ENTITLED
AN ACT TO MAKE THE EXCISE TAX RATE LEVIED ON HARD CIDER THE SAME AS
THE EXCISE TAX RATE LEVIED ON MALT BEVERAGES.
The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-113.68(a) reads as rewritten:

"(a) Definitions. – The following definitions apply in this Article:

...

(5a) Hard cider. – A wine that meets all of the following requirements:

- a. Contains not more than sixty-four hundredths (0.64) of a gram of carbon dioxide per hundred milliliters of wine.
- b. Is derived primarily from (i) apples or pears or (ii) water and apple juice concentrate or pear juice concentrate.
- c. Contains no fruit product or fruit flavoring other than what is authorized under sub-subdivision b. of this subdivision.
- d. Contains at least one-half of one percent (0.50%) alcohol by volume and less than eight and one-half percent (8.50%) alcohol by volume.

...."

SECTION 2. G.S. 105-113.80 reads as rewritten:

"§ 105-113.80. Excise taxes on beer, wine, and liquor.

(a) ~~Beer.~~ Beer and Hard Cider. – An excise tax of sixty-one and seventy-one hundredths cents (61.71¢) per gallon is levied on the sale of malt ~~beverages.~~ beverages and hard cider.

(b) Wine. – An excise tax of twenty-six and thirty-four hundredths cents (26.34¢) per liter is levied on the sale of unfortified wine, and an excise tax of twenty-nine and thirty-four hundredths cents (29.34¢) per liter is levied on the sale of fortified wine. For purposes of this subsection, the term "unfortified wine" does not include hard cider.

...."

SECTION 3. G.S. 105-113.82 reads as rewritten:

"§ 105-113.82. Distribution of part of beer and wine taxes.

(a) Amount. – The Secretary must distribute annually a percentage of the net amount of excise taxes collected on the sale of malt beverages and wine during the preceding 12-month period ending March 31 to the counties or cities in which the retail sale of these beverages is authorized in the entire county or city. The percentages to be distributed are as follows:

- (1) Of the tax on malt beverages and hard cider levied under G.S. 105-113.80(a), twenty and forty-seven hundredths percent (20.47%).



- 1 (2) Of the tax on unfortified wine levied under G.S. 105-113.80(b), forty-nine and
2 forty-four hundredths percent (49.44%). For purposes of this subdivision, the
3 term "unfortified wine" does not include hard cider.
4 (3) Of the tax on fortified wine levied under G.S. 105-113.80(b), eighteen percent
5 (18%).

6 (a1) Method. – If malt beverages, hard cider, unfortified wine, or fortified wine may be
7 licensed to be sold at retail in both a county and a city located in the county, both the county and
8 city receive a portion of the amount distributed, that portion to be determined on the basis of
9 population. If one of these beverages may be licensed to be sold at retail in a city located in a
10 county in which the sale of the beverage is otherwise prohibited, only the city receives a portion
11 of the amount distributed, that portion to be determined on the basis of population. The amounts
12 distributable under subsection (a) of this section must be computed separately. For purposes of
13 this subsection, the term "unfortified wine" does not include hard cider.

14"

15 **SECTION 4.** G.S. 105-113.83(b) reads as rewritten:

16 "(b) Beer-Malt Beverages, Hard Cider, and Wine. – The excise taxes on malt ~~beverages~~
17 ~~beverages, hard cider, and wine~~ levied under G.S. 105-113.80(a) and ~~(b)~~, respectively, ~~(b)~~ are
18 payable to the Secretary by the resident wholesaler or importer who first handles the beverages
19 in this State. The excise taxes levied under ~~G.S. 105-113.80(b)~~ G.S. 105-113.80(a) or (b) on hard
20 cider or wine shipped directly to consumers in this State pursuant to G.S. 18B-1001.1 must be
21 paid by the wine shipper permittee. The taxes on malt ~~beverages-beverages, hard cider, and wine~~
22 are payable only once on the same beverages. Unless otherwise provided, the tax is due on or
23 before the 15th day of the month following the month in which the beverage is first sold or
24 otherwise disposed of in this State by the wholesaler, importer, or wine shipper permittee. When
25 excise taxes are paid on ~~wine-wine, hard cider, or malt beverages~~, the wholesaler or importer
26 must submit to the Secretary verified reports on forms provided by the Secretary detailing sales
27 records for the month for which the taxes are paid. The report must indicate the amount of excise
28 tax due, contain the information required by the Secretary, and indicate separately any
29 transactions to which the excise tax does not apply. A wine shipper permittee shall submit
30 verified reports once a year on forms provided by the Secretary detailing sales records for the
31 year the taxes are paid. The verified report is due on or before the fifteenth day of the first month
32 of the following calendar year."

33 **SECTION 5.** This act becomes effective October 1, 2019, and applies to hard cider
34 sold on or after that date.



NORTH CAROLINA GENERAL ASSEMBLY

Session 2019

Legislative Fiscal Note

Short Title: Hard Cider/Revise Excise Tax Rate.
Bill Number: House Bill 995 (First Edition)
Sponsor(s): Representative McGrady

SUMMARY TABLE

FISCAL IMPACT OF H.B.995, V.1					
	<u>FY 2019-20</u>	<u>FY 2020-21</u>	<u>FY 2021-22</u>	<u>FY 2022-23</u>	<u>FY 2023-24</u>
State Impact					
General Fund Revenue	(39,000)	(40,000)	(40,000)	(41,000)	(41,000)
Less Expenditures	-	-	-	-	-
General Fund Impact	(39,000)	(40,000)	(40,000)	(41,000)	(41,000)
NET STATE IMPACT	(\$39,000)	(40,000)	(40,000)	(41,000)	(41,000)
Local Impact					
Local Revenue	(1,074,000)	(1,087,000)	(1,100,000)	(1,113,000)	(1,126,000)
Less Local Expenditures	-	-	-	-	-
NET LOCAL IMPACT	(\$1,074,000)	(1,087,000)	(1,100,000)	(1,113,000)	(1,126,000)

FISCAL IMPACT SUMMARY

H995 reduces the excise tax on hard cider, as defined in the bill, from 26.34¢/liter to 61.71¢/gallon, a tax rate reduction of approximately 38%. It also changes how hard cider tax proceeds are shared between the State and local governments, increasing the State share and decreasing the local share.

FISCAL ANALYSIS

Change in Revenue Collections

Under current tax law, hard cider meets the definition of "unfortified wine" and is taxed at the unfortified wine excise tax rate: 26.34¢/liter. H995 carves hard cider out from the definition of unfortified wine and applies to it a tax rate of 61.71¢/gallon, which is the existing tax rate for beer. For comparison, the current tax rate of 26.34¢/liter equates to approximately 99.71¢/gallon; the new rate of 61.71¢/gallon represents a tax rate decrease of approximately 38%.



In FY 2017-18, net collections of the unfortified wine tax totaled \$28.7 million, with proceeds split between the State (\$14.8 million) and locals (\$14.0). The State Department of Revenue does not collect data about the proportion of this tax that came from traditional unfortified wine versus hard cider; however, other data sources can help approximate the potential fiscal impact of the change.

According to the National Beer Wholesalers Association, just under 193 million gallons of beer were sold in North Carolina in calendar year 2018 and of that, an estimated 1.5% (or approximately 2.9 million gallons) was hard cider that would be affected by the bill. Based on this data, total tax revenue would have been approximately \$1.1 lower in 2018 had the proposed rate been in effect.

	<u>Current Law</u>	<u>HB 995</u>
Est. Gallons Sold	2,893,000	2,893,000
Tax Rate	<u>0.9971</u>	<u>0.6171</u>
Tax Revenue	2,885,000	1,785,000

For future years, the estimated revenue loss has been calculated taking into account the growth rate in malt beverage tax gross proceeds over the past 3 years, which is 1.21%.

Change in Revenue Distributions

The bill also changes how tax proceeds on hard cider sales are shared between the State and local governments. Under current law, the State retains 50.56% of all unfortified wine net tax proceeds, with local governments receiving 49.44%. Under the bill, the State would retain 79.53% of hard cider net tax proceeds; local governments would receive 20.47%.

This change in distribution almost entirely mitigates the State's revenue loss from the rate change; however, local governments lose funds both from the rate decrease and from the change in the distribution formula.

TECHNICAL CONSIDERATIONS

N/A.

DATA SOURCES

North Carolina Department of Revenue; National Beer Wholesalers Association - Industry Affairs, 2019

LEGISLATIVE FISCAL NOTE – PURPOSE AND LIMITATIONS

This document is an official fiscal analysis prepared pursuant to Chapter 120 of the General Statutes and rules adopted by the Senate and House of Representatives. The estimates in this analysis are based on the data, assumptions, and methodology described in the Fiscal Analysis section of this document. This document only addresses sections of the bill that have projected direct fiscal impacts on State or local governments and does not address sections that have no projected fiscal impacts.



CONTACT INFORMATION

Questions on this analysis should be directed to the Fiscal Research Division at (919) 733-4910.

ESTIMATE PREPARED BY

Denise Canada

ESTIMATE APPROVED BY

Mark Trogdon, Director of Fiscal Research
Fiscal Research Division
May 21, 2019



Signed copy located in the NCGA Principal Clerk's Offices

Committee Sergeants at Arms

House Committee on Alcoholic Beverage Control

NAME OF COMMITTEE _____

DATE: 5/21/2019

Room: 1228/1327

House Sgt-At Arms:

1. Name: Rex Foster
2. Name: Ken Gilbert
3. Name: Russell Salisbury
4. Name: David Leighton
5. Name: _____

Senate Sgt-At Arms:

1. Name: _____
2. Name: _____
3. Name: _____
4. Name: _____
5. Name: _____

**House Pages
Assignments
Tuesday, May 21, 2019
Session: 2:00 PM**

Committee	Room	Time	Staff	Comments	Member
Wildlife Resources	1228/1327	1:00 PM	Chadwick Carpenter		Rep. Amos Quick III
			John McDowell		Rep. Dean Arp
			Luke West		Rep. John Sauls
			Jacob Zampino		Rep. Sydney Batch
ABC Agriculture	1228/1327	3:00 PM	Rachel Gilbert		Rep. Rachel Hunt
			Harrison Gobble		Rep. Larry Potts
		Matthew	David Hafer	Matthew Hafer	Rep. Mitchell S. Setzer
			Leah Hayes		Rep. Kyle Hall

VISITOR REGISTRATION SHEET

H C on Alcoholic Beverage Control

5/21/2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

JASON JOYNER	NEW FRAME
Bryan Hicks	Wake County ABC
B Young	OSA
Renee Metz	ABC Commission
Lindsey Dawling	TSS
Marissa Turner	TSS
Margo Metzger	NCRLA
Tim KENT	NC Beer & Wine
Kary Kij	NCRLA
Elizabeth Roberson	NCRLA
Ed HAWES JR	The Hines Group

VISITOR REGISTRATION SHEET

H C on Alcoholic Beverage Control5/21/2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jason Crockett MCN, FNPC	NCNA Nurse of the Day
Hampton Billips	KTS
Sarah Wolfe	MWC
Evan Harrell	Department of Labor
Jennifer Haigwood	NC Bell
Cassidy Robinson	AMOA
Claudia Swannaker	governors ofc
Jon Carr	NC Assn. ABC Boards
Andrew Robinson	NCRMA
Jacob Orman	Fetzer Lee
Clay Vick	Fetzer Lee

VISITOR REGISTRATION SHEET

H C on Alcoholic Beverage Control

5/21/2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Demetrius DeLoach

NCLM

April Neumann

MWC

Rhaegen Jackson

FPA

Rev. Mark Creech

CAL

VISITOR REGISTRATION SHEET

H C on Alcoholic Beverage Control

Name of Committee

5/21/2019

Date _____

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

Arthur J. Farnell

FL

House Committee on Alcoholic Beverage Control
Thursday, June 27, 2019 at 11:00 A.M.
Room 415

MINUTES

The House Committee on Alcoholic Beverage Control met at 11:00 A.M. on Thursday, June 27, 2019 in Room 415. Representatives Alexander, Boles, Dahle, Fisher, Holley, Hurley, Jones, McGrady, Meyer, Saine, Turner, and Willingham attended.

Representative Jamie Boles, Co-Chair, presided. He introduced the Sergeant at Arms and asked pages to make self-introductions to the Committee.

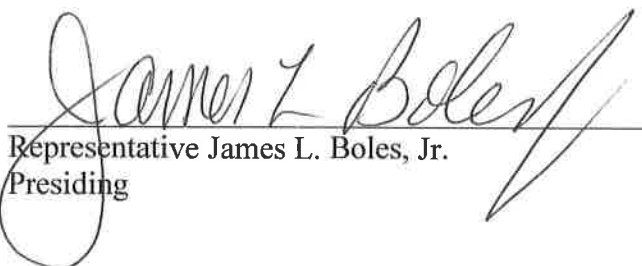
Representative Boles recognized Senator Rick Gunn to explain bill **SB290, Distiller Regulatory Reform**. After his explanation to the Committee, Representative Hurley brought forth two amendments to be considered. (Amendments are made a part of the Minutes, See Attachment 1)

S290-ATQ-63[v.2] – Representative Hurley – Adopted
S290-ATQ-64[v.1] – Representative Hurley – Adopted

Senator Gunn requested to continue with additional information about the bill, after which members asked questions. Answers were given by staff, other members, and Scott Maitland, ABC Board.

A motion was made by Representative McGrady for a favorable report to the new PCS with Amendments rolled in, unfavorable to the original bill. The motion passed.

The meeting adjourned at 11:44 A.M.


Representative James L. Boles, Jr.
Presiding


Dina Long, Committee Clerk

Updated #2: SB290 Added to Calendar

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

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

DAY & DATE: Thursday, June 27, 2019
TIME: 11:00 AM
LOCATION: 415 LOB
COMMENTS: Representative Boles, Presiding Chair

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>SB 290</u>	Distiller Regulatory Reform Bill.	Senator Gunn Senator Blue Senator Harrington

Respectfully,

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

I hereby certify this notice was filed by the committee assistant at the following offices at 6:18 PM on Wednesday, June 26, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Dina Long (Committee Assistant)

Updated #1: Time Changed to 11 A.M.

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

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

DAY & DATE: Thursday, June 27, 2019

TIME: 11:00 AM

LOCATION: 415 LOB

COMMENTS: Bills to be determined. Representative Boles, Presiding Chair

Respectfully,

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

I hereby certify this notice was filed by the committee assistant at the following offices at 5:28 PM on Wednesday, June 26, 2019.

____ Principal Clerk

____ Reading Clerk – House Chamber

Dina Long (Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

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

DAY & DATE: Thursday, June 27, 2019

TIME: 9:00 AM

LOCATION: 415 LOB

COMMENTS: Bills to be determined. Representative Boles, Presiding Chair

Respectfully,

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

Representative Chuck McGrady, Co-Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 6:05 PM on Tuesday, June 25, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Dina Long (Committee Assistant)

**House Committee on Alcoholic Beverage Control
Thursday, June 27, 2019, 11:00 AM
415 Legislative Office Building**

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 290	Distiller Regulatory Reform Bill.	Senator Gunn Senator Blue Senator Harrington

Presentations

Other Business

Adjournment

**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

ALCOHOLIC BEVERAGE CONTROL COMMITTEE REPORT

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

Representative Chuck McGrady, Co-Chair

FAVORABLE HOUSE COM SUB, UNFAVORABLE SENATE COM SUB AND RE-REFERRED

SB 290 (CS#1)

Distiller Regulatory Reform Bill.

Draft Number: S290-PCS15382-TQ-26

**Serial Referral: RULES, CALENDAR, AND
OPERATIONS OF THE HOUSE**

Recommended Referral: None

Long Title Amended: No

Floor Manager: Boles

TOTAL REPORTED: 1



* C M R 6 8 0 - V - 1 *

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 290
Commerce and Insurance Committee Substitute Adopted 6/12/19
Third Edition Engrossed 6/25/19

Short Title: Distiller Regulatory Reform Bill.

(Public)

Sponsors:

Referred to:

March 19, 2019

A BILL TO BE ENTITLED

AN ACT TO ALLOW A DISTILLERY TO SELL MALT BEVERAGES AND UNFORTIFIED
AND FORTIFIED WINE; TO ALLOW CERTAIN ORDERS OF ELIGIBLE DISTILLERY
PRODUCTS; TO REVISE THE LAW GOVERNING THE SALE OF SPIRITUOUS
LIQUOR BY A DISTILLERY TO VISITORS FOR CONSUMPTION OFF THE
PREMISES; TO ALLOW A DISTILLERY TO ISSUE PURCHASE-TRANSPORTATION
PERMITS FOR SPIRITUOUS LIQUOR SOLD BY THE DISTILLERY; AND TO ALLOW
SPIRITUOUS LIQUOR TASTINGS AT AN ABC STORE.

The General Assembly of North Carolina enacts:

**PART I. ALLOW DISTILLERIES TO SELL MALT BEVERAGES AND UNFORTIFIED
AND FORTIFIED WINE**

SECTION 1.(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) On-Premises Malt Beverage Permit. – An on-premises malt beverage permit
authorizes (i) the retail sale of malt beverages for consumption on the
premises, (ii) the retail sale of malt beverages in the manufacturer's original
container for consumption off the premises, and (iii) the retail sale of malt
beverages in a cleaned and sanitized container that is filled or refilled and
sealed for consumption off the premises and that identifies the permittee and
the date the container was filled or refilled. It also authorizes the holder of the
permit to ship malt beverages in closed containers to individual purchasers
inside and outside the State. The permit may be issued for any of the
following:

...

k. The holder of a distillery permit authorized under G.S. 18B-1105.

...

- (3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine
permit authorizes (i) the retail sale of unfortified wine for consumption on the
premises, either alone or mixed with other beverages, (ii) the retail sale of
unfortified wine in the manufacturer's original container for consumption off
the premises, and (iii) the retail sale of unfortified wine dispensed from a tap
connected to a pressurized container utilizing carbon dioxide or similar gas



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

24 ...

25 l. The holder of a distillery permit authorized under G.S. 18B-1105.

26 ...
27 (5)

28 On-Premises Fortified Wine Permit. – An on-premises fortified wine permit
29 authorizes the retail sale of fortified wine for consumption on the premises,
30 either alone or mixed with other beverages, and the retail sale of fortified wine
31 in the manufacturer's original container for consumption off the premises. The
32 permit also authorizes the permittee to transfer fortified wine, not more than
33 four times per calendar year, to another on-premises fortified wine permittee
34 that is under common ownership or control as the transferor. Except as
35 authorized by this subdivision, transfers of wine by on-premises fortified wine
36 permittees, purchases of wine by a retail permittee from another retail
37 permittee for the purpose of resale, and sale of wine by a retail permittee to
38 another retail permittee for the purpose of resale are unlawful. In addition, a
39 particular brand of wine may be transferred only if both the transferor and
40 transferee are located within the territory designated between the winery and
41 the wholesaler on file with the Commission. Prior to or contemporaneous with
42 any such transfer, the transferor shall notify each wholesaler who distributes
43 the transferred product of the transfer. The notice shall be in writing or
44 verifiable electronic format and shall identify the transferor and transferee, the
45 date of the transfer, quantity, and items transferred. The holder of the permit
46 is authorized to ship fortified wine in closed containers to individual
47 purchasers inside and outside the State. Orders received by a winery by
48 telephone, Internet, mail, facsimile, or other off-premises means of
49 communication shall be shipped pursuant to a wine shipper permit and not
50 pursuant to this subdivision. The permit may be issued for any of the
51 following:

...

- 1 g. The holder of a distillery permit authorized under G.S. 18B-1105.
- 2 ...
- 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 purchase-transportation
- 6 permit under G.S. 18B-403 and 18B-404, (ii) to obtain an antique spirituous
- 7 liquor permit under subdivision (20) of this section, and (iii) to use for culinary
- 8 purposes spirituous liquor lawfully purchased for use in mixed beverages. The
- 9 permit may be issued for any of the following:
- 10 ...
- 11 i. The holder of a distillery permit authorized under G.S. 18B-1105.
- 12 "

13 **SECTION 1.(b)** G.S. 18B-1105(a) is amended by adding a new subdivision to read:

- 14 "(6) Sell malt beverages, unfortified wine, and fortified wine, for consumption on
- 15 the premises upon obtaining the appropriate permit under G.S. 18B-1001."
- 16

17 **PART II. ALLOW DISTILLERIES TO SELL MIXED BEVERAGES**

18 **SECTION 2.** G.S. 18B-1105(a) is amended by adding a new subdivision to read:

- 19 "(4a) In an area where the sale of mixed beverages is authorized by law, sell mixed
- 20 beverages for consumption on the premises. If a distillery elects to sell mixed
- 21 beverages containing spirituous liquor other than that produced at the
- 22 distillery, the distillery shall obtain a mixed beverages permit pursuant to
- 23 G.S. 18B-1001."
- 24

25 **PART III. ALLOW CERTAIN ORDERS OF ELIGIBLE DISTILLERY PRODUCTS**

26 **SECTION 3.(a)** G.S. 18B-800 is amended by adding two new subsections to read:

27 "(c1) Special Orders of Special Items. – Through the process established by rule of the

28 Commission for special orders of spirituous liquor that are on the special item list approved by

29 the Commission, ABC stores shall allow the purchase of individual bottles of spirituous liquor.

30 ABC stores may sell in store any bottles it receives from a special item case in excess of what

31 was purchased by the requesting customer.

32 (c2) Orders of Eligible Distillery Products by Mixed Beverages Permittees. – A local

33 board shall fulfill an order by a mixed beverages permittee for individual bottles or cases of

34 spirituous liquor produced by an eligible distillery that are listed as a regular code item for sale

35 in the State. If a local board cannot fulfill an order of a mixed beverages permittee for individual

36 bottles or cases of spirituous liquor produced by an eligible distillery that are listed as a regular

37 code item for sale in the State because the product ordered is not in the local board's stock

38 inventory or the order cannot otherwise be fulfilled within the time period requested by the

39 permittee, the local board shall notify the Commission within 48 hours of the request for the

40 order and request authorization for direct shipment. The Commission shall then determine if the

41 eligible distillery desires to directly ship the ordered product directly to the local board, and if so

42 the Commission shall authorize the eligible distillery to ship the spirituous liquor ordered to the

43 local board for the fulfillment of the mixed beverages permittee's order. Merchandise authorized

44 to be shipped by direct shipment under this subsection shall be consigned by the State ABC

45 warehouse to the distiller's account in care of the local board. The local board shall acknowledge

46 receipt of the merchandise on the shipping documents and forward them to the State ABC

47 warehouse for processing through the accounting system as though the merchandise were

48 shipped from the State ABC warehouse. As used in this subsection, an "eligible distillery" is a

49 distillery (i) that sells, to consumers at the distillery, to exporters, to local boards, and to private

50 or public agencies or establishments of other states or nations, fewer than 10,000 proof gallons

51 of in-house brand spirituous liquors distilled and manufactured by it at the permit holder's

1 distillery per year, and (ii) that is either the holder of a distillery permit pursuant to G.S. 18B-1105
2 or is a business located outside the State that is licensed or permitted to manufacture spirituous
3 liquor in the jurisdiction where the business is located and whose products are lawfully sold in
4 this State."

5 **SECTION 3.(b)** In order to facilitate the sale of any remainders of a special item
6 case, increase customer access to products, and allow local ABC boards to more effectively
7 manage inventory, the ABC Commission shall develop and implement an Internet-based system
8 to facilitate the sale and purchase of regular approved list items and special order list items of
9 spirituous liquor by and among local ABC boards.

10 **SECTION 3.(c)** The ABC Commission shall amend its rules consistent with this
11 section.

12 **SECTION 3.(d)** Subsection (a) of this section becomes effective August 1, 2019,
13 and applies to special orders placed on or after that date. The remainder of this section is effective
14 when it becomes law.

15
16 **PART IV. REVISE LAW AUTHORIZING DISTILLERS TO SELL SPIRITUOUS**
17 **LIQUOR DISTILLED BY THE DISTILLER FOR CONSUMPTION OFF THE**
18 **PREMISES**

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

20 "(4) Sell spirituous liquor distilled at the distillery in closed containers to visitors
21 who tour the distillery for consumption off the premises. Sales under this
22 subdivision are allowed only in a county where the establishment of a county
23 or municipal ABC store has been approved pursuant to G.S. 18B-602(g) and
24 are subject to the time and day restrictions in G.S. 18B-802. Spirituous liquor
25 sold under this subdivision shall (i) be listed as a code item for sale in the
26 State, (ii) be sold at the price set by the Commission for the code item pursuant
27 to G.S. 18B-804(b), and (iii) have affixed to its bottle ~~a sticker that bears the~~
28 ~~words "North Carolina Distillery Tour Commemorative Spirit" in addition to~~
29 ~~any other labeling requirements set by law. Consumers purchasing spirituous~~
30 ~~liquor under this subdivision are limited to purchasing, and the selling~~
31 ~~distillery is limited to selling to each consumer, no more than five bottles of~~
32 ~~spirituous liquor per 12 month period. The distillery shall use a commonly~~
33 ~~adopted standard point of sale system to maintain searchable electronic~~
34 ~~records captured at the point of sale, to include the purchaser's name, drivers~~
35 ~~license number, and date of birth for at least 12 months from the date of~~
36 ~~purchase. The Commission shall adopt rules regulating the retail sale of~~
37 ~~spirituous liquor under this subdivision."~~

38 **SECTION 4.(b)** G.S. 18B-804(b1) reads as rewritten:

39 "(b1) Price of Spirituous Liquor Sold at Distillery. – When the holder of a distillery permit
40 sells spirituous liquor distilled at the distillery pursuant to ~~G.S. 18B-1105(a)(4), G.S. 18B-1105,~~
41 the retail price of the spirituous liquor shall be the uniform State price set by subsection (a) of
42 this section. However, the holder of the distillery permit shall not be required to remit the
43 components of the price set forth by subdivisions (2), (3), (5), (6), (6a), (6b), and (7) of subsection
44 (b) of this section."

45 **SECTION 4.(c)** G.S. 18B-1116(a) reads as rewritten:

46 "(a) Prohibitions. – It shall be unlawful for any manufacturer, bottler, or wholesaler of any
47 alcoholic beverages, or for any officer, director, or affiliate thereof, either directly or indirectly
48 to:

49 ...

50 A brewery qualifying under subdivision (7) or (8) of G.S. 18B-1104(a) is not subject to the
51 provisions of this section concerning financial interests in, and lending or giving things of value

to, a wholesaler or retailer with respect to the brewery's transactions with the retail business on its premises or other retail locations allowed under G.S. 18B-1104(a)(8). The brewery is subject to the provisions of this subsection, however, with respect to its transactions with all other wholesalers and retailers.

A distillery is not subject to the provisions of this section concerning financial interests in, and lending or giving things of value to, a wholesaler or retailer with respect to the distillery's transactions with the retail business allowed on its premises under G.S. 18B-1105(a)(4). The distillery is subject to the provisions of this subsection, however, with respect to its transactions with all other wholesalers and retailers."

SECTION 4.(d) This section becomes effective August 1, 2019, and applies to sales made on or after that date.

PART V. ALLOW DISTILLERIES TO ISSUE PURCHASE-TRANSPORTATION PERMITS FOR SPIRITUOUS LIQUOR SOLD BY THE DISTILLERY

SECTION 5.(a) G.S. 18B-403 reads as rewritten:

"§ 18B-403. Purchase-transportation permit.

...

(b) Issuance of Permit. – A purchase-transportation permit may be issued ~~by~~by any of the following:

- (1) The local board ~~chairman~~chairman.
- (2) A member of the local ~~board~~board.
- (3) The general manager or supervisor of the local ~~board~~or board.
- (4) The manager or assistant manager of an ABC store, if he or she is authorized to issue permits by the local board chairman.
- (5) For spirituous liquor sold by the distillery only, the owner, or an employee designated by the owner, of a distillery authorized to sell spirituous liquor under G.S. 18B-1105.

(c) Disqualifications. – A purchase-transportation permit shall not be issued to a person ~~who~~who meets any of the following requirements:

- (1) Is not sufficiently identified or known to the ~~issuer~~issuer.
- (2) Is known or shown to be an alcoholic or ~~bootlegger~~bootlegger.
- (3) Has been convicted within the previous three years of an offense involving the sale, possession, or transportation of nontaxpaid alcoholic ~~beverages~~or beverages.
- (4) Has been convicted within the previous three years of an offense involving the sale of alcoholic beverages without a permit.

...

(e) Restrictions on Permit. – A purchase may be made only from the store or distillery named on the permit. One copy of the permit shall be kept by the issuing person, one by the purchaser, and one by the store or distillery from which the purchase is made. The purchaser shall display his copy of the permit to any law-enforcement officer upon request. A permit for the purchase and transportation of spirituous liquor may be issued only by an authorized agent of the local board for the jurisdiction in which the purchase will be ~~made~~made or in accordance with subdivision (5) of subsection (b) of this section.

...."

SECTION 5.(c) G.S. 18B-901(a) reads as rewritten:

"(a) Who Issues. – All ABC permits shall be issued by the Commission. Purchase-transportation permits shall be issued by local boards or distilleries under G.S. 18B-403."

SECTION 5.(d) G.S. 18B-1007(a) reads as rewritten:

"(a) Purchases. – A mixed beverages permittee may purchase spirituous liquor for resale as mixed beverages and a guest room cabinet permittee may purchase spirituous liquor for resale from a guest room cabinet only at an ABC store designated by a local ~~board~~ board, or a distillery when purchasing spirituous liquor directly from the distillery in accordance with G.S. 18B-1105, and only with a purchase-transportation permit issued by that local board or distillery under G.S. 18B-403 and 18B-404."

SECTION 5.(e) This section becomes effective August 1, 2019, and applies to purchases made on or after that date.

PART VI. ABC STORES/ALLOW IN-STORE SPIRITUOUS LIQUOR TASTINGS

SECTION 6.(a) G.S. 18B-1114.7(a) reads as rewritten:

"(a) Authorization. – The holder of a supplier representative permit, brokerage representative permit, or distillery permit issued under G.S. 18B-1105 may obtain a spirituous liquor special event permit allowing the permittee to give free tastings of its spirituous liquors at ABC stores where the local ABC board has approved the tasting, trade shows, conventions, shopping malls, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission."

SECTION 6.(b) G.S. 18B-1114.7(b) reads as rewritten:

"(b) Limitations. – Any consumer tasting is subject to the following limitations:

...

(3) Each consumer shall be limited to one ~~0.25 ounce tasting sample~~ tasting sample containing 0.25 ounces of any product made available for sampling at the consumer tasting, and the total amount of the tasting samples offered to and consumed by each consumer shall not exceed 1.0 ounce of spirituous liquor in any calendar day.

...

(7) ~~A venue allowing tastings shall designate a tasting area within the venue that enables the permit holder to ensure that the consumer tasting is being conducted in compliance with this section. Consumers shall only be allowed to consume tasting samples within the designated tasting area.~~

...

(11) For tastings conducted in an ABC store, the Commission shall adopt rules to ensure that holders of distillery permits issued under G.S. 18B-1105 are provided by local ABC boards reasonable opportunities to conduct tastings."

SECTION 6.(c) G.S. 18B-301(f)(1) reads as rewritten:

"(1) Any person to consume fortified wine, spirituous liquor, or mixed beverages or to offer such beverages to another person at any of the following places:

- ~~On~~ Unless a consumer tasting authorized by G.S. 18B-1114.7 is being conducted, on the premises of an ABC store.
- Upon any property used or occupied by a local board.
- On any public road, street, highway, or sidewalk, unless a consumer tasting authorized by G.S. 18B-1114.7 is being conducted."

PART VII. RULES

SECTION 7. The Alcoholic Beverage Control Commission shall amend its rules consistent with the provisions of this act. The Commission may use the procedure set forth in G.S. 150B-21.1 to amend any rules as required under this section.

PART VIII. SEVERABILITY CLAUSE

SECTION 8. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect

1 without the invalid provisions or application, and to this end the provisions of this act are
2 severable.

3
4 **PART IX. EFFECTIVE DATE**

5 **SECTION 9.** Except as otherwise provided, this act becomes effective August 1,
6 2019.



SENATE BILL 290: Distiller Regulatory Reform Bill.

2019-2020 General Assembly

Committee:	House Alcoholic Beverage Control	Date:	June 27, 2019
Introduced by:	Sens. Gunn, Blue, Harrington	Prepared by:	Chris Saunders
Analysis of:	Third Edition		Committee Counsel

OVERVIEW: *Senate Bill 290 would (i) expand the types and amounts of products that distilleries could sell at the distillery, (ii) allow certain orders of distillery products, (iii) allow distilleries to issue purchase-transportation permits, and (iv) allow ABC stores to conduct in-store spirituous liquor tastings.*

[As introduced, this bill was identical to H378, as introduced by Reps. McGrady, Hardister, Fisher, B. Turner, which is currently in House Alcoholic Beverage Control.]

CURRENT LAW AND BILL ANALYSIS:

Section 1 would allow the holder of a distillery permit to obtain permits for on-premises malt beverage, on-premises unfortified wine, on-premises fortified wine, and mixed beverages and sell those types of alcoholic beverages for consumption at the distillery.

Section 2 would allow the holder of a distillery permit to sell mixed beverages for consumption at the distillery. If a distillery elects to sell mixed beverages containing spirituous liquor other than that produced at the distillery, the distillery must obtain a mixed beverages permit.

Section 3 would authorize ABC stores to allow the purchase of individual bottles of spirituous liquor purchased through the special order process, and to sell in store any bottles received in excess of what was purchased by the requesting customer.

This section would also direct local ABC boards to fulfill an order by a mixed beverages permittee for individual bottles or cases of spirituous liquor produced by an eligible distillery that are listed a regular code item for sale in the State. If the local board could not fulfill the order because it was not in the local board's stock inventory or the order could not otherwise be fulfilled within the time period requested by the permittee, the local board would be required to notify the Commission within 48 hours of the request for the order and request authorization for direct shipment. The Commission would then determine if the eligible distillery desires to directly ship the ordered product directly to the local board, and if so the Commission would be required to allow the eligible distillery to ship the spirituous liquor ordered to the local board for the fulfillment of the mixed beverages permittee's order. The local board would be required to acknowledge receipt of the merchandise on the shipping documents and forward them to the State ABC warehouse for processing through the accounting system as though the merchandise were shipped from the State ABC warehouse.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

Senate Bill 290

Page 2

For purposes of this section, an "eligible distillery" would be defined as a distillery that (i) sells, to consumers at the distillery, to exporters, to local boards, and to private or public agencies or establishments of other states or nations, fewer than 10,000 proof gallons of in-house brand spirituous liquors distilled and manufactured by it at the permit holder's distillery per year, and (ii) that is either the holder of a distillery permit pursuant to G.S. 18B-1105 or is a business located outside the State that is licensed or permitted to manufacture spirituous liquor in the jurisdiction where the business is located and whose products are lawfully sold in this State."

This section would also direct the Commission to develop and implement an Internet-based system to facilitate the sale and purchase of regular approved list items and special order list items of spirituous liquor by and among local ABC boards

This section would become effective August 1, 2019, and the special order provision would apply to orders placed on or after that date.

Section 4 would remove current restrictions on what distilleries can sell at the distillery for off-premises consumption to a visitor who takes a tour (currently limited to 5 bottles per person in a 12 month period, and requires a "North Carolina Distillery Tour Commemorative Spirit" sticker). This section would also provide that a distillery is not subject to the prohibitions against holding financial interests in, and lending or giving things of value to, a retailer with respect to the distillery's transactions with the retail business allowed on its premises.

This section would become effective August 1, 2019, and apply to sales made on or after that date.

Section 5 would allow distilleries to issue purchase-transportation permits for spirituous liquor sold by the distillery. A purchase-transportation permit allows a person to purchase and transport an amount of spirituous liquor greater than eight liters.

This section would become effective August 1, 2019, and would apply to purchases made on or after that date.

Section 6 would allow spirituous liquor tastings to be conducted in ABC stores where the local ABC board has approved the tasting. A local board holding tastings must give a reasonable opportunity to a certain number of North Carolina distillery permit holders, the number to be determined by the Commission.

EFFECTIVE DATE: Except as otherwise provided, this act becomes effective August 1, 2019.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 290

S290-ATQ-64 [v.1]

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

Page 1 of 1


Amends Title [NO]
Third Edition

Date June 27, 2019Representative Hurley

1 moves to amend the bill on page 5, line 23, by rewriting the line to read:
2

3 "(4) ~~The manager or assistant manager~~ Any employee of an ABC store, if he or she is
4 authorized".
5
6

SIGNED


Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED



FAILED

TABLED





NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 290

AMENDMENT NO. 2
(to be filled in by
Principal Clerk)

S290-ATQ-63 [v.2]

Page 1 of 1

Amends Title [NO]
Third Edition

Date June 27, 2019

Representative Hurley

1 moves to amend the bill on page 6, line 34, by rewriting the line to read:

2
3 "provided by local ABC boards reasonable opportunities to conduct tastings.
4 (12) Any tasting conducted in an ABC store shall be the sole responsibility of the
5 permit holder. No employee of a local board may participate in or conduct a
6 tasting in an ABC store."
7
8

SIGNED

Pat Hurley
Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED



FAILED

TABLED



* S 2 9 0 - A T Q - 6 3 - V - 2 *

**House Pages
Assignments
Thursday, June 27, 2019
Session: 2:00 PM**

Committee	Room	Time	Staff	Comments	Member
Health	643	9:00 AM	Caroline Bull		Rep. Darren G. Jackson
			Eleanor Castoral		Speaker Tim Moore
			Joshua-James Claybon		Rep. Darren G. Jackson
			Alice Connor		Rep. John Autry
			Margaret Scott		Rep. Donna McDowell White
Judiciary I	544	9:30 AM	Joseph Crane		Speaker Tim Moore
			Madison Goodwin		Rep. Joe John
			Laura LeGlue		Rep. Allen McNeill
			Rylie Ponder		Rep. Mark Brody
Alcoholic Beverage Control	415	11:00 AM	Benjamin Bryner		Rep. Chuck McGrady
			JAKE PATTERSON		REP. CHUCK McGRADY
			Jackson Carter		Rep. Terence Everitt
			Peyton Miranda		Rep. John Szoka
			William Roberts		Speaker Tim Moore
			Jackson Wade		Speaker Tim Moore

Wade Ferrell →

Committee Sergeants at Arms

NAME OF COMMITTEE House Committee on Alcoholic Beverage

DATE: Thursday, June 27, 2019 **Room:** 415 LOB

House Sgt-At Arms:

1. Name: Bill Riley

2. Name: Joe Crook

3. Name: William Moore

4. Name: Glen Wall

5. Name: _____

Senate Sgt-At Arms:

1. Name: _____

2. Name: _____

3. Name: _____

4. Name: _____

5. Name: _____

VISITOR REGISTRATION SHEET

Alcoholic Beverage Control Committee

Name of Committee

6/27/19

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Jacqueline Scott	Williams Muller
DANIEL BAUM	Travis Sanders
Becki Gray	John Locke Foundation
Margo Metzger	NCRLA
Leri Arthur	DISCUS
Ann Edmundson	NCRMIA
KRIS GARDNER	NC Beer & Wine Wholesalers Assoc.
Harold Brubaker	Brubaker & Associates
Dimitrios Delvatch	NCLM
Tyler Ford	MWC
Adam Fildemore	NCRAC

VISITOR REGISTRATION SHEET

Alcoholic Beverage Control Committee

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

Eric McLean

WAKE COUNTY ABC

Scott Broadwell

Wake Co ABC

Hampton Billips

 kT_S

SCOTT MAITLAND

Topoorganic prints / DANC

RANDY BARNHART

SOUTHERN GLAZERS
WINE & SPIRITS

David Ferrer II

NP

House Committee on Alcoholic Beverage Control
Tuesday, July 23, 2019 at 3:00 PM
Room 1228/1327 of the Legislative Building

MINUTES

The House Committee on Alcoholic Beverage Control met at 3:00 PM on Tuesday, July 23, 2019 in Room 1228/1327 of the Legislative Building. Representatives Alexander, Boles, Dahle, Fisher, Hardister, Hurley, Johnson, McGrady, Saine, Turner, Willingham, and Zachary attended.

Representative Chuck McGrady, Chair, presided and called the meeting to order at 3:13 p.m. He recognized the Sergeant-at-Arms and Pages in attendance and welcomed everyone. He explained that SB124 [Small Town Mixed Beverage Election Reqs] had been pulled from the calendar.

He then turned the chair over to Chairman Boles to conduct the meeting.

The following bills was considered for discussion only:

HB 971 Modern Licensure Model for Alcohol Control
(Representatives McGrady, Saine, Hardister and Harrison)

Chairman Boles introduced Representative McGrady to present HB971 Modern Licensure Model for Alcohol Control. Representative McGrady acknowledged that the bill is a work in progress and stated that the bill is for discussion only to generate areas that need to be addressed in ongoing work. He gave an overview of the decision to look at the licensure model and asked the committee members to analyze the Proposed Committee Substitute and give feedback.

Representative McGrady introduced Chris Saunders, Legislative Analysis, to explain the bill.

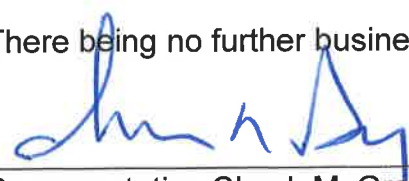
William Childs, Fiscal Research, explained the effect of this bill on ABC Commission, as noted in the Fiscal Memo (Attachment).

Mark White, Fiscal Research, explained the impact on alcohol law enforcement, as presented in the Fiscal Memo.

Denise Canada, Fiscal Research, explained the revenue changes in the bill and the revenue distribution, as presented in the Fiscal Memo.

Chairman Boles opened up the floor for discussion and questions from the committee.

There being no further business, the committee adjourned at 4:33 p.m.



Representative Chuck McGrady,
Chair Presiding

Kimberly Neptune,
Committee Clerk

Updated #1: Added SB124

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

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

DAY & DATE: Tuesday, July 23, 2019
TIME: 3:00 PM
LOCATION: 1228/1327 LB
COMMENTS: Rep. Chuck McGrady presiding.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>SB 124</u>	Small Town Mixed Beverage Election Reqs.	Senator J. Alexander
<u>HB 971</u>	Modern Licensure Model for Alcohol Control. FOR DISCUSSION ONLY	Representative McGrady Representative Saine Representative Hardister Representative Harrison

Respectfully,

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

I hereby certify this notice was filed by the committee assistant at the following offices at 9:08 AM on Tuesday, July 23, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Kimberly Neptune (Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2019-2020 SESSION**

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

DAY & DATE: Tuesday, July 23, 2019

TIME: 3:00 PM

LOCATION: 1228/1327 LB

COMMENTS: Rep. Chuck McGrady presiding. The bill will be for discussion only.

The following bills will be considered:

BILL NO.	SHORT TITLE	SPONSOR
<u>HB 971</u>	Modern Licensure Model for Alcohol Control.	Representative McGrady Representative Saine Representative Hardister Representative Harrison

Respectfully,

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

I hereby certify this notice was filed by the committee assistant at the following offices at 3:51 PM on Wednesday, July 17, 2019.

____ Principal Clerk
____ Reading Clerk – House Chamber

Kimberly Neptune (Committee Assistant)

House Committee on Alcoholic Beverage Control
Tuesday, July 23, 2019, 3:00 PM
1228/1327 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR	
SB 124	Small Town Mixed Beverage Election Reqs.	Senator J. Alexander	Removed due to sponsor unable to be present.
HB 971	Modern Licensure Model for Alcohol Control. FOR DISCUSSION ONLY	Representative McGrady Representative Saine Representative Hardister Representative Harrison	7/23/19 KMN

Presentations

Other Business

Adjournment



HOUSE BILL 971: Modern Licensure Model for Alcohol Control.

2019-2020 General Assembly

Committee:	House Alcoholic Beverage Control. If favorable, re-refer to Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	July 23, 2019
Introduced by:	Reps. McGrady, Saine, Hardister, Harrison	Prepared by:	Chris Saunders
Analysis of:	PCS to First Edition H971-CSTQf-19		Committee Counsel

OVERVIEW: *The Proposed Committee Substitute (PCS) to House Bill 971 would phase out the existing ABC system for the sale of spirituous liquor in the State, and would allow the ABC Commission to issue licenses for private retailers to sell spirituous liquor for off-premises consumption.*

CURRENT LAW: Under current law, the ABC Commission (Commission) determines which spirituous liquor products may be sold in North Carolina and establishes Statewide prices. The Commission contracts with a private vendor to operate the ABC warehouse system, which stores products approved by the Commission and delivers the products to local ABC stores. ABC stores are owned and operated by local ABC boards, which are formed by local elections. In North Carolina, spirituous liquor may only be sold for off-premises consumption by ABC stores, except at licensed distilleries.

BILL ANALYSIS:

PART I. AMEND ABC ELECTIONS TO ALLOW OFF-PREMISES SPIRITUOUS LIQUOR ELECTIONS AND PHASE OUT ABC STORE ELECTIONS

Section 1 of the PCS would, effective July 1, 2020, eliminate local elections for ABC stores and allow local elections for off-premises spirituous liquor sales. Any city or county that has authorized the establishment and operation of an ABC store by local election as of July 1, 2020 would be deemed to have authorized off-premises spirituous liquor sales, unless the city or county votes against authorizing off-premises spirituous liquor sales before July 1, 2021. A city or county that operates an ABC store that votes against off-premises spirituous liquor sales may continue to operate ABC stores until January 1, 2022.

PART II. PHASE-IN OF OFF-PREMISES SPIRITUOUS LIQUOR AND SPIRITUOUS LIQUOR WHOLESALER PERMITS

Section 2 would authorize the ABC Commission to issue an off-premises spirituous liquor permit, with a fee of \$1,000; a spirituous liquor wholesaler permit, with a fee of \$1,000; and a nonresident spirituous liquor vendor permit, with a fee of \$5,000. This section would also make several conforming changes.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

House PCS 971

Page 2

Section 3 would:

- Define a "package store" as a new type of establishment that may receive certain ABC permits. A package store would be defined as "an establishment that derives fifty percent (50%) or more of the establishment's total gross receipts from the sale of alcoholic beverages for consumption off the premises." A package store would be eligible to obtain any of the following permits:
 - Off-premises malt beverage permit.
 - On-premises unfortified wine permit.
 - Off-premises unfortified wine permit.
 - Off-premises fortified wine permit.
 - Off-premises spirituous liquor permit.

No package store may be located within 500 yards of another package store, except that a business that holds an off-premises malt beverage permit or an off-premises fortified wine permit on July 1, 2020, and that derives fifty percent (50%) or more of its total gross receipts from the sale of alcoholic beverages for consumption off the premises, may obtain an off-premises spirituous liquor permit regardless of its proximity to another package store.

- Allow food businesses and retail businesses to obtain an off-premises spirituous liquor permit.
- Require off-premises spirituous liquor permittees to display warning signs, to be developed and distributed by the Commission, on the store's premises to inform the public of the effects of alcohol consumption during pregnancy.

Section 4 would:

- Allow distillery permittees to (i) sell, deliver, and ship spirituous liquor to licensed wholesalers, (ii) receive and sell spirituous liquor produced under contract with a contract distillery, and (iii) for distillers that sell fewer than 100,000 proof gallons of spirituous liquor per year, self-distribute up to 50,000 proof gallons of spirituous liquor per year to unaffiliated retailers and operate up to three affiliated retail locations. Distillers would be required to provide a sales report to the Commission upon request.
- Allow liquor importer/bottler permittees to import spirituous liquor and sell it to wholesalers for resale.
- Allow the holder of a spirituous liquor wholesaler permit to:
 - Receive, possess, and transport shipments of spirituous liquor.
 - Sell, deliver, and ship spirituous liquor of any brand it offers in its territory.
 - Furnish and sell spirituous liquor of any brand it offers in its territory to its employees.
 - Furnish spirituous liquor of any brand it offers in its territory to guests and any other person who does not hold an ABC permit for promotional purposes.
- Allow a nonresident spirituous liquor vendor permittee to sell, deliver, and ship spirituous liquor to wholesalers, imports, and bottlers. The liquor must be held at a spirituous liquor wholesaler's licensed premises before being resold to a retailer.
- Make conforming changes.

Section 5 would establish spirituous liquor franchise laws to govern the relationship between spirituous liquor wholesalers and distilleries. This would require a three-tiered system of distribution of spirituous liquor involving distillers, wholesalers, and retailers. This regime would largely mirror the statutes governing wine distribution agreements in Article 12 of Chapter 18B.

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Section 6 would direct the ABC Commission to cease operation of the State warehouse on January 1, 2022, and direct local ABC boards to cease operations and liquidate all assets by public auction to the highest qualified bidder between July 1, 2021 and January 1, 2022. After ceasing operations, the local ABC boards may only sell the spirituous liquor in their possession to a permitted spirituous liquor wholesaler. Funds received would be paid to the general fund of the local government for which the local ABC board is established for any public purpose.

Sections 7 would provide that Sections 2 through 5 become effective January 1, 2021. The Commission would be allowed to issue spirituous liquor wholesaler and off-premises spirituous liquor permits beginning January 1, 2021. However, the licenses would be limited such that a spirituous liquor wholesaler may not sell spirituous liquor to any retailer until March 1, 2021, and an off-premises spirituous liquor permittee may not sell spirituous liquor until July 1, 2021.

PART III. REVISIONS TO CHAPTER 18B OF THE GENERAL STATUTES BEFORE PHASE-OUT OF ABC STORES

Sections 8, 9, and 10 would make conforming changes to the statutes governing general provisions applicable to alcoholic beverages, administration of the ABC Commission, and sale and consumption of alcohol to reflect the elimination of ABC stores and allowance of off-premises spirituous liquor sales.

These sections would become effective July 1, 2021, and would expire December 31, 2021.

Section 11 would allow the holder of a retail permit, or the permittee's designated employee, to issue a purchase-transportation permit and make conforming changes to the statutes governing purchase-transportation permits.

This section would become effective July 1, 2021, and would expire December 31, 2021.

Section 12 would allow seized beverages to be sold by public auction to spirituous liquor retail permittees.

This section would become effective July 1, 2021, and would expire December 31, 2021.

Section 13 would repeal the antique spirituous liquor permit and make conforming changes to the statutes governing issuance of permits to reflect the elimination of ABC stores and allowance of off-premises spirituous liquor sales.

This section would become effective July 1, 2021.

Section 14 would make conforming changes to the statutes governing retail permits.

This section would become effective July 1, 2021.

PART IV. REVISIONS TO CHAPTER 18B OF THE GENERAL STATUTES AFTER PHASE-OUT OF ABC STORES

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Section 16 would repeal numerous definitions related to the ABC system and local boards, and make conforming changes to the statutes governing general provisions applicable to alcoholic beverages to reflect the repeal of the ABC system.

This section would become effective January 1, 2022.

Section 17 would repeal references to local boards in the statutes governing claims for relief for sales to underage persons to reflect the repeal of the ABC system.

This section would become effective January 1, 2022.

Section 18 would repeal the powers of the ABC Commission related to local boards and the administration of the ABC system, repeal the statutes related to the State warehouse, and make other conforming changes to the statutes governing State administration of the ABC system to reflect the repeal of the ABC system.

This section would become effective January 1, 2022.

Section 19 would make conforming changes to the statutes governing sale, possession, and consumption of alcoholic beverages to reflect the creation of the off-premises spirituous liquor permit and the repeal of the ABC system.

This section would become effective January 1, 2022.

Section 20 would make conforming changes to the statutes governing transportation of alcoholic beverages to reflect the repeal of the ABC system.

This section would become effective January 1, 2022.

Section 21 would repeal the statutes related to local ABC officers. Under current law, local boards are required to hire one or more ABC enforcement officers. Some boards hire local ABC officers directly, while others contract with local law enforcement agencies to provide ABC enforcement. These officers have primary subject matter jurisdiction over the ABC laws and the Controlled Substances Act, but may arrest and take other investigatory and enforcement actions for any criminal offense. This section would also make other conforming changes.

This section would become effective January 1, 2022.

Section 22 would repeal the statutes governing local ABC boards.

This section would become effective January 1, 2022.

Section 23 would repeal the statutes governing operation of ABC boards.

This section would become effective January 1, 2022.

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Section 24 would amend the statute governing ABC permit applications by deleting a reference to local ABC officers.

This section would become effective January 1, 2022.

PART V. REVISIONS TO CHAPTER 105 OF THE GENERAL STATUTES

Section 26 would make the following changes to the tax laws concerning spirituous liquor:

- Classify resident distilleries that produce fewer than 100,000 proof gallons of spirituous liquor per year as wholesalers for tax purposes.
- Impose an annual \$15.00 tax for city off-premises spirituous liquor licenses and \$25.00 for county off-premises spirituous liquor licenses.
- Impose an excise tax of \$28.00 per gallon on the sale of spirituous liquor. Under current law, the excise tax on spirituous liquor is 30%.
- Provide that 30% of the net amount of excise taxes on spirituous liquor must be distributed to the counties and cities that authorize the retail sale of spirituous liquor. For malt beverages the amount is 20.47%, for unfortified wine the amount is 49.44%, and for fortified wine, the amount is 18%.
- Provide that of the funds distributed to a county or city for taxes levied on spirituous liquor, the funds must be distributed as follows:
 - 4% for treatment of alcoholism and substance abuse.
 - 15% for research or education on alcohol or substance abuse.
 - 11% for costs incurred by local law enforcement agencies from enforcing the alcohol laws.
 - Any remaining funds may be used for any public purpose.
- In addition to the funds distributed to a city or county for taxes levied on spirituous liquor, the Secretary of Revenue would also be required to distribute \$3,000,000 per year to the Department of Health and Human Services for treatment of alcoholism or substance abuse, or research or education on alcohol or substance abuse, and \$8,500,000 per year to the ABC Commission to be used for the operating and administrative costs of the Commission.
- Provide that the excise tax on spirituous liquor must be paid monthly by the resident wholesaler or importer who first handles the liquor in the State.
- Make various conforming changes to reflect the repeal of the ABC system.

This section would be effective for taxable years beginning on or after July 1, 2021.

PART VI. OTHER CONFORMING REVISIONS

Section 27 would make conforming changes to statutes in various chapters of the General Statutes to reflect the repeal of the ABC system.

This section would become effective January 1, 2022.

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Sections 28.(a) and 28.(b) would make conforming changes to other tax laws to reflect that certain distilleries may be considered wholesalers.

Section 28.(a) would become effective July 1, 2021, and would expire on January 1, 2022. Section 28.(b) would become effective January 1, 2022.

Section 29 would make conforming changes to allow local governments to adopt an ordinance allowing for the sale of spirituous liquor beginning at 10:00AM on Sundays.

This section would become effective July 1, 2021.

EFFECTIVE DATE: Except as otherwise provided, this act would become effective July 1, 2021.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

D

HOUSE BILL 971
PROPOSED COMMITTEE SUBSTITUTE H971-CSTQf-19 [v.11]

07/22/2019 03:30:09 PM

Short Title: Modern Licensure Model for Alcohol Control.

(Public)

Sponsors:

Referred to:

April 26, 2019

1 aaA BILL TO BE ENTITLED
2 AN ACT TO MODERNIZE THE LICENSURE MODEL UTILIZED BY THE STATE FOR
3 THE SALE OF SPIRITUOUS LIQUOR.

4 The General Assembly of North Carolina enacts:

5
6 **PART I. AMEND ABC ELECTIONS TO ALLOW OFF-PREMISES SPIRITUOUS**
7 **LIQUOR ELECTIONS AND PHASE OUT ABC STORE ELECTIONS**

8 **SECTION 1.(a)** Article 6 of Chapter 18B of the General Statutes reads as rewritten:

9 "Article 6.

10 "Elections.

11 **"§ 18B-600. Places eligible to hold alcoholic beverage elections.**

12 (a) Kinds of Elections. – ~~The Any of the~~ following kinds of alcoholic beverage elections
13 shall be permitted:

14 (1) Malt ~~beverage;~~beverage.

15 (2) Unfortified ~~wine;~~wine.

16 (3) ~~ABC store; and~~Off-premises spirituous liquor.

17 (4) Mixed beverage.

18 (b) County Elections. – Any county may hold a malt beverage, unfortified wine, or ~~ABC~~
19 ~~store-off-premises spirituous liquor~~ election. A county may hold a mixed beverage election only
20 if the county already ~~operates at least one county ABC store~~ allows the off-premises sale of
21 spirituous liquor or a county election on ~~ABC stores-off-premises spirituous liquor~~ is to be held
22 at the same time as the mixed beverage election.

23 (c) City Malt Beverage and Unfortified Wine Elections. – A city may hold a malt
24 beverage or unfortified wine election only if the county in which the city is located has already
25 held such an election, the vote in the last county election was against the sale of that kind of
26 alcoholic beverage, and one or more of the following apply:

27 (1) The city has a population of 500 or more according to the most recent federal
28 decennial census.

29 (2) The city ~~operates an ABC store~~ already allows the off-premises sale of
30 spirituous liquor.

31 (3) The city has a population of 400 or more but less than 500 according to the
32 most recent federal decennial census and had a population of 500 or more
33 according to the prior federal decennial census.

34 (c1) Certain City Malt Beverage and Unfortified Wine Elections. – A city may hold a malt
35 beverage or unfortified wine election only if all of the following criteria are met:



- 1 (1) The county in which more than fifty percent (50%) of the area of the primary
2 corporate limits of the city is located has already held such an election, and
3 the vote in the last county election was against the sale of that kind of alcoholic
4 beverage.
- 5 (2) The city has a population of 200 or more.
- 6 (3) The county in which more than fifty percent (50%) of the area of the primary
7 corporate limits of the city is located also contains three or more other cities
8 that have previously voted to allow malt beverage or unfortified wine sales.
- 9 (d) City ABC Store Elections. – A city may hold an ~~ABC store off-premises spirituous~~
10 liquor election only if:
- 11 (1) The city has at least 1,000 registered voters; and
- 12 (2) The county in which the city is located does not ~~operate ABC stores; allow the~~
13 off-premises sale of spirituous liquor.
- 14 (e) City Mixed Beverage Elections. – A city may hold a mixed beverage election if the
15 city has at least 500 registered voters. ~~Provided, that if a city that qualifies for an election under~~
16 ~~this subsection approves the sale of mixed beverages, mixed beverages permittees in the city may~~
17 ~~purchase liquor from the ABC store designated by the local ABC board that has been approved~~
18 ~~by the Commission for this purpose.~~
- 19 (e1) Small City Mixed Beverage Elections. – A city may also hold a mixed beverage
20 election if the city has at least 300 registered voters and is located in a county with at least one
21 other city that has approved the sale of mixed beverages. ~~Provided, that if a city that qualifies for~~
22 ~~an election under this subsection approves the sale of mixed beverages, mixed beverages~~
23 ~~permittees in the smaller city may purchase liquor from the ABC store designated by any local~~
24 ~~ABC board in any other city that has approved the sale of mixed beverages.~~
- 25 This subsection shall not apply to Alamance, Avery, Burke, Caldwell, Carteret, Cleveland,
26 Henderson, Onslow, Polk, Robeson, Rowan, Rutherford, and Wilkes Counties.
- 27 (e2) Ski Resorts ABC Elections. – Notwithstanding any other provisions of this section,
28 any city that provides governmental services to as many as 1,000 snow skiers weekly during the
29 normal ski season from December 1 through March 15, may hold an election authorized by
30 subdivision (a)(1), (2), or (4) of this section. ~~If the sale of mixed beverages is approved,~~
31 ~~purchase transportation permits shall be issued and the sales of liquor shall be made by any local~~
32 ~~board designated by the State ABC Commission.~~
- 33 (e3) Small Town Mixed Beverage Elections. – A town may hold a mixed beverage election
34 if the town has at least 200 registered voters and is located in a county bordering the Neuse River
35 and Pamlico Sound that has not approved the sale of mixed beverages and that county has only
36 one city that has approved the sale of mixed beverages. ~~Provided, that if a town that qualifies for~~
37 ~~an election under this subsection approves the sale of mixed beverages, mixed beverages~~
38 ~~permittees in the town may purchase liquor from the ABC store designated by any local ABC~~
39 ~~board in any other city that has approved the sale of mixed beverages.~~
- 40 (e4) Multicounty/City ABC Elections. – If a city is located in two or more counties, the
41 following provisions shall apply:
- 42 (1) The city may hold a malt beverage or unfortified wine election if any county
43 in which a portion of the city is located has already held such an election, the
44 vote in the last election of the particular type was against the sale of that type
45 of alcoholic beverage, and the city has a population of 500 or more.
- 46 (2) The city may hold a mixed beverage election if the city has at least 500
47 registered voters and a county in which a portion of the city is located ~~operates~~
48 ~~ABC stores; allows the off-premises sale of spirituous liquor,~~ or a municipality
49 in either county in which the city is located ~~operates an ABC store; allows the~~
50 off-premises sale of spirituous liquor.

- (3) If an election is held by a city under this subsection, all of the city voters may vote in the election. If the vote is for approval, alcoholic beverages may be sold on the basis of that approval and under the provisions of this Chapter. ~~If the sale of mixed beverages is approved, the mixed beverage permittees shall purchase their liquor from one or more ABC stores located within the city that have been designated by the local boards for those purchases. The remaining gross receipts shall be distributed in accordance with existing law applicable to those ABC stores, except that after the applicable distributions have been made pursuant to G.S. 18B-805(b), (c), and (d), the local share of the mixed beverages surcharge and the guest room cabinet surcharge required by G.S. 18B-804(b)(8) and (9) shall be distributed one half to the general fund of the city where the mixed beverage permittees are located and one half to the local ABC boards from whose stores liquor is purchased.~~

(e5) Small Resort Town ABC Elections. – A town may hold a mixed beverage election if ~~it~~ it meets all of the following requirements:

- (1) ~~Was~~ The town was incorporated after 1990 and prior to the effective date of this subsection;
- (2) ~~Has~~ The town has at least 100 residents;
- (3) ~~Is~~ The town is located in a county that borders another state and that has two other municipalities which ~~have ABC stores;~~ voted to allow the off-premises sale of spirituous liquor; and
- (4) At the time of the election, the town has corporate boundaries that border or include land in three counties.

~~Provided, that if a town that qualifies for an election under this subsection approves the sale of mixed beverages, mixed beverage permittees in the town may purchase liquor from the ABC store designated by any local ABC board in any other city that has approved the sale of mixed beverages.~~

(f) Township Elections. – An election may be called on any of the propositions listed in G.S. 18B-602 in any township located within:

- (1) A county where ~~ABC stores have the off-premises sale of spirituous liquor~~ has heretofore been established by petition pursuant to law.
- (2) A county where ~~ABC stores have the off-premises sale of spirituous liquor~~ has been established pursuant to law, in which county according to data from the North Carolina Department of Commerce: (i) one-third or more of the employment is travel related, (ii) spending on travel exceeds four hundred million dollars (\$400,000,000) per year, and where the entirety of two townships consists of one island (and several smaller islands not making up more than one percent (1%) of the total land area of the two townships) where that island:
 - a. Has a population of 4,000 or over according to the most recent decennial federal census;
 - b. Is located with one side facing the ocean and another side facing a coastal sound.

- (3) Repealed by Session Laws 2004-203, s. 24, effective August 17, 2004.

An election may be called on any of the propositions listed in G.S. 18B-602(a), (d), and (h) in any township located within a county where the population of all cities in the county that have previously approved the sale of any kind of alcoholic beverages comprises more than twenty percent (20%) of the total county population as of the most recent federal census. In the case of subdivision (2) of this section, an election may be called in the two townships voting together on the proposition contained in G.S. 18B-602(h).

1 The election shall be held by the county board of elections upon request of the county board
2 of commissioners or upon petition of twenty-five percent (25%) of the registered voters of the
3 township, or in the case of subdivision (2) of this section, of the two townships taken together.
4 The election shall be conducted and the results determined in the same manner as county
5 elections held under this Article. For purposes of this Article, townships holding any election
6 under this subsection shall be treated on the same basis as counties, and municipalities located
7 within those townships shall be treated on the same basis as cities. In the case of an election under
8 subdivision (2) of this subsection, the votes of the two townships counted together shall
9 determine the result of the election.

10 For purposes of this subsection, the name and boundary of a township is as it is shown on the
11 Redistricting Census 2000 TIGER Files with modifications made by the Legislative Services
12 Office on its computer database as of May 1, 2001.

13 In any township election held under this subsection, the area within any incorporated
14 municipality is excluded, and no permits may be issued under this subsection in any excluded
15 area.

16 In order for an establishment to qualify for a permit under this subsection, the establishment's
17 gross receipts from food and nonalcoholic beverages shall be greater than its gross receipts from
18 alcoholic beverages.

19 (g) Beautification District Elections. – In a county where ~~ABC stores have the sale of~~
20 off-premises spirituous liquor has been approved by an election and a beautification district has
21 been created after May, 1984, and prior to June 30, 1990, an election authorized by subsection
22 (a) of this section may be called in the beautification district. The election shall be called in
23 accordance with G.S. 18B-601(b), conducted, and the results determined in the same manner as
24 county elections held under this Article. For purposes of this Article, beautification districts
25 holding any election shall be treated on the same basis as counties, and municipalities located
26 within those beautification districts shall be treated on the same basis as cities.

27 ...
28 **"§ 18B-602. Form of ballots.**

29 ...
30 (g) ~~ABC Store Off-Premises Spirituous Liquor Elections.~~ – The ballot for ~~an ABC store~~
31 an off-premises spirituous liquor election shall state the proposition as follows:

32 To permit the ~~operation of ABC stores.~~ "off-premises" sale of spirituous liquor.

33 ☐ FOR

34 ☐ AGAINST

35 ...
36 **"§ 18B-603. Effect of alcoholic beverage elections on issuance of permits.**

37 ...
38 (c) ~~ABC Store Off-Premises Spirituous Liquor Elections.~~ – If ~~an ABC store an~~
39 off-premises spirituous liquor election is held under G.S. 18B-602(g) and the ~~establishment of~~
40 ABC stores off-premises sale of spirituous liquor is approved, each of the following shall be
41 authorized in the jurisdiction that held the election:

42 (1) ~~The jurisdiction that held the election may establish and operate ABC stores~~
43 ~~in the manner described in Articles 7 and 8.~~

44 (1a) The Commission may issue off-premises spirituous liquor permits to qualified
45 persons and establishments in the jurisdiction.

46 ...
47 (d2) If a county or city holds a mixed beverage election and ~~an ABC store an off-premises~~
48 spirituous liquor election at the same time and the voters do not approve the ~~establishment of an~~
49 ABC store, off-premises sale of spirituous liquor, the Commission may issue mixed beverages
50 permits in that county or city. ~~The mixed beverages purchase transportation permit authorized~~
51 ~~by G.S. 18B-404(b) shall be issued by a local board operating a store located in the county.~~

...
(f2) Permits for Special ABC Areas. – The Commission may issue the permits provided for in G.S. 18B-1001(1), G.S. 18B-1001(2), G.S. 18B-1001(3), G.S. 18B-1001(4), G.S. 18B-1001(5), G.S. 18B-1001(6), and G.S. 18B-1001(10) to qualified persons and establishments located within a Special ABC area as defined in G.S. 18B-101, provided that: (i) if such area is a municipal corporation, the area shall conduct an election authorized by subdivision (a)(4) of G.S. 18B-600, which election may be held regardless of the number of registered voters located within the municipal corporation; or (ii) if such area is unincorporated but has within such area a private association or club, the board of such private association or club shall call and conduct a special meeting at which meeting a majority of private association members, club members, lot and home owners, votes and approves the sale of mixed beverages, and the board certifies the results of such meeting to the Alcoholic Beverage Control Commission. ~~The mixed beverages purchase transportation permit authorized by G.S. 18B-404(b) shall be issued by a local board operating a store located in the same county as the Special ABC area.~~

...
(h) Permits Based on Existing Permits. – In any county which borders on the Atlantic Ocean and where (i) the sale of malt beverage on and off premises, the sale of unfortified wine on and off premises, the sale of mixed beverages, and the ~~operation of an ABC system~~ off-premises sale of spirituous liquor has been allowed in at least six cities in the county, or in any county adjacent to that county in which ~~an ABC system~~ the off-premises sale of spirituous liquor has been allowed, or (ii) the sale of malt beverage on and off premises, the sale of unfortified wine on and off premises, the sale of mixed beverages, and the ~~operation of an ABC system~~ off-premises sale of spirituous liquor has been allowed in at least eight cities in the county, the Commission may issue permits to sports clubs as defined in G.S. 18B-1000(8) throughout the county.

The Commission may issue any of the following permits:

- (1) On and Off Premises Malt ~~Beverage;~~ Beverage.
- (2) On and Off Premises Unfortified ~~Wine;~~ Wine.
- (3) On and Off Premises Fortified ~~Wine; or~~ Wine.
- (4) Mixed ~~Beverages;~~ Beverages.
- (5) Off Premises Spirituous Liquor.

The Commission may also issue on-premises malt beverage, unfortified wine, fortified wine and mixed beverages permits to a sports club located in a county adjacent to any county that has approved the sale of mixed beverages pursuant to G.S. 18B-603(d1), if the county in which the sports club is located borders another state and has at least one city that has approved the sale of mixed beverages. ~~Sports clubs holding mixed beverages permits shall purchase their spirituous liquor at the nearest ABC system store that is located in the county.~~

The Commission may further issue on-premises malt beverage and on-premises unfortified wine permits to a sports club located in a county bordering on another state that is adjacent to any county in which permits were issued pursuant to this subsection prior to August 1, 1993. The sports clubs must be located in the unincorporated areas of a county, in which the sale of malt beverages and unfortified wine is not permitted, and where there are six or more municipalities in that county where the sale of malt beverages and unfortified wine is permitted.

"§ 18B-604. Timing and effect of subsequent elections.

...
(b) Effect of Favorable County Vote on City or Township. – If a majority of voters vote in favor of certain alcoholic beverage sales in a county election, sale of that kind of alcoholic beverage shall be lawful throughout the county, regardless of the vote in any city or township at that or any previous or subsequent election, and regardless of any local act making sales unlawful in that city or township, unless the local act was ratified before the effective date of Article II,

Section 24(1)(j) of the Constitution of North Carolina. A county malt beverage or unfortified wine election in favor of a particular ballot proposition which is more restrictive than the form of sale already allowed in a city or township within that county shall not affect the legality of those previously authorized sales in the city or township.

...
"§ 18B-605. Local act elections.

If a jurisdiction has lawfully voted in favor of ~~ABC stores~~ the off-premises sale of spirituous liquor or in favor of the sale of some kind of alcoholic beverage, and the jurisdiction would not be eligible to hold another election under the conditions set by G.S. 18B-600, then that jurisdiction may continue to hold elections as though qualified under G.S. 18B-600. Except for the authority to hold the election, however, the procedures of this Chapter shall apply to any subsequent election.

..."

SECTION 1.(b) Any city or county that has authorized the establishment and operation of an ABC store in accordance with Article 6 of Chapter 18B of the General Statutes as of the effective date of this section shall be deemed to have authorized the off-premises sale of spirituous liquor for purposes of Article 6 of Chapter 18B of the General Statutes, as amended by subsection (a) of this section, unless the city or county votes against authorizing off-premises spirituous liquor sales before July 1, 2021. A city or county that votes against off-premises spirituous liquor sales before January 1, 2022, may continue to operate ABC stores until January 1, 2022.

SECTION 1.(c) This section becomes effective July 1, 2020, and applies to elections held on or after that date.

PART II. PHASE-IN OF OFF-PREMISES SPIRITUOUS LIQUOR AND SPIRITUOUS LIQUOR WHOLESALE PERMITS

SECTION 2. Article 9 of Chapter 18B of the General Statutes reads as rewritten:

"Article 9.

"Issuance of Permits.

"§ 18B-900. Qualifications for permit.

...
(d) Manager of Off-Premises Establishment. – Although he or she need not otherwise meet the requirements of this section, the manager of an establishment operated by a corporation and holding off-premises permits for malt beverages, unfortified wine, ~~or~~ fortified wine-wine, or spirituous liquor shall be at least 19 years old and shall meet the requirements of subdivisions (3), (4), (5) and (6) of subsection (a).

...
"§ 18B-901. Issuance of permits.

(a) Who Issues. – All ABC permits shall be issued by the Commission. Purchase-transportation permits shall be issued ~~by local boards under G.S. 18B-403 in~~ accordance with G.S. 18B-403 or G.S. 18B-403.1.

...
"§ 18B-902. Application for permit; fees.

...
(d) Fees. – An application for an ABC permit shall be accompanied by payment of the following application fee:

...
(6) Off-premises fortified wine permit – \$400.00.

(6a) Off-premises spirituous liquor permit – \$1,000.

...
(18) Wine importer permit – \$300.00.

- (19) Wine wholesaler permit – \$300.00.
(20) Malt beverage importer permit – \$300.00.
(21) Malt beverage wholesaler permit – \$300.00.
(21a) Spirituuous liquor wholesaler permit – \$1,000.
...
(25) Nonresident malt beverage vendor permit – \$100.00.
(26) Nonresident wine vendor permit – \$100.00.
(26a) Nonresident spirituous liquor vendor permit – \$5,000.

SECTION 3. Article 10 of Chapter 18B of the General Statutes reads as rewritten:

"Article 10.

"Retail Activity.

"§ 18B-1000. Definitions concerning establishments.

The following requirements and definitions shall apply to this Chapter:

- ...
(4a) Package store. – An establishment that derives fifty percent (50%) or more of the establishment's total gross receipts from the sale of alcoholic beverages for consumption off the premises.
...
(7) Retail business. – An establishment establishment, other than a package store, that is engaged in any retail business, regardless of whether food is sold on the premises.

"§ 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:

- ...
(2) Off-Premises Malt Beverage Permit. – An off-premises malt beverage permit authorizes (i) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, (ii) the retail sale of malt beverages in a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled, and (iii) the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:
a. Restaurants.
b. Hotels.
c. Eating establishments.
d. Food businesses.
e. Retail businesses.
f. The holder of a brewing, distillation, and fermentation course authorization under G.S. 18B-1114.6. A school obtaining a permit under this subdivision is authorized to sell malt beverages manufactured during its brewing, distillation, and fermentation program at one noncampus location in a county where the permittee holds and offers classes on a regular full-time basis in a facility owned by the permittee.
g. Package stores.
(3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine permit authorizes (i) the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, (ii) the retail sale of

unfortified wine in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another on-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The holder of the permit is authorized to ship unfortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

- a. Restaurants.
- b. Hotels.
- c. Eating establishments.
- d. Private clubs.
- e. Convention centers.
- f. Cooking schools.
- g. Community theatres.
- h. Wineries.
- i. Wine producers.
- j. Retail businesses.
- k. Sports and entertainment venues.
- l. Package stores.

- (4) Off-Premises Unfortified Wine Permit. – An off-premises unfortified wine permit authorizes (i) the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises, (ii) the retail sale of unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled, and (iii) the holder of the permit to ship unfortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for retail ~~businesses~~ businesses or package stores. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another off-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this

subdivision, transfers of wine by off-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The permit may also be issued to the holder of a viticulture/enology course authorization under G.S. 18B-1114.4. A school obtaining a permit under this subdivision is authorized to sell wines manufactured during its viticulture/enology program at one non-campus location in a county where the permittee holds and offers classes on a regular full-time basis in a facility owned by the permittee. The permit may also be issued for a winery or a wine producer for sale of its own unfortified wine during hours when the winery or wine producer's premises is open to the public, subject to any local ordinance adopted pursuant to G.S. 18B-1004(d) concerning hours for the retail sale of unfortified wine. A winery obtaining a permit under this subdivision is authorized to sell wine manufactured by the winery at one additional location in the county under the same conditions specified in G.S. 18B-1101(5) for the sale of wine at the winery; provided, however, that no other alcohol sales shall be authorized at the additional location. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision.

...

- (6) Off-Premises Fortified Wine Permit. – An off-premises fortified wine permit authorizes the retail sale of fortified wine in the manufacturer's original container for consumption off the premises and it authorizes the holder of the permit to ship fortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for food ~~businesses, businesses or package stores.~~ The permit may also be issued for a winery for sale of its own fortified wine. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit also authorizes the permittee to transfer fortified wine, not more than four times per calendar year, to another off-premises fortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by off-premises fortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the

transferor and transferee, the date of the transfer, quantity, and items transferred.

(6a) Off-Premises Spirituous Liquor Permit. – An off-premises spirituous liquor permit authorizes (i) the retail sale of spirituous liquor in the manufacturer's original container for consumption off the premises and (ii) the holder of the permit to ship spirituous liquor in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:

- a. Food businesses.
- b. Package stores.
- c. Retail businesses.

...

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

...

"§ 18B-1002. Special one-time permits.

(a) Kinds of Permits. – In addition to the other permits authorized by this Chapter, the Commission may issue permits for the following activities:

- ...
- (4) A permit may be issued to a collector of ~~wine, wine or~~ wine, wine or decorative decanters of spirituous ~~liquor, or antique spirituous~~ liquor authorizing that person to bring into the State, transport, or possess as a collector, a greater amount of those alcoholic beverages than is otherwise authorized by this Chapter, or to sell those alcoholic beverages in a manner prescribed by the Commission.

...

"§ 18B-1003. Responsibilities of permittee.

...

(c) Certain Employees Prohibited. – A permittee shall not knowingly employ in the sale or distribution of alcoholic beverages any person who has been:

- (1) Convicted of a felony within three ~~years;~~ years.
- (2) Convicted of a felony more than three years previously and has not had his citizenship ~~restored;~~ restored.
- (3) Convicted of an alcoholic beverage offense within two ~~years;~~ or years.
- (4) Convicted of a misdemeanor controlled substances offense within two ~~years;~~ or years.
- (5) A past permit holder under Chapter 18B of the General Statutes whose permit had been revoked within the last 18 months and who had been the permit holder at the location where the person would be employed.

For purposes of this subsection, "conviction" has the same meaning as in G.S. 18B-900(b). To avoid undue hardship, the Commission may, in its discretion, exempt persons on a case-by-case basis from this subsection.

...

"§ 18B-1003.1. Warning signs regarding dangers of alcohol consumption during pregnancy required; posting.

(a) Each off-premises spirituous liquor permittee shall display or cause to be displayed warning signs that meet the requirements of this section on the store's premises to inform the public of the effects of alcohol consumption during pregnancy.

(b) The Commission shall develop the warning signs in accordance with subsection (c) of this section and provide for their distribution and replacements to off-premises spirituous liquor permittees subject to the requirement of this section. The Commission may charge a reasonable fee, not to exceed twenty-five dollars (\$25.00), for each sign, including replacement signs.

(c) The signs required by this section shall:

(1) Be composed of black, capital letters printed on white paper at the minimum weight of 110-pound index. The letters comprising the word "WARNING" shall be highlighted black lettering and shall be larger than all other lettering on the sign.

(2) Contain the message: "WARNING: Pregnancy and alcohol do not mix. Drinking alcohol during pregnancy can cause birth defects."

(3) Be at least 8.5 inches by 14 inches.

(4) Contain a graphic depiction of the message to assist nonreaders in understanding the message. The depiction of a pregnant female shall be universal and shall not reflect a specific race or culture.

(5) Be in both English and Spanish.

(d) The Commission shall ensure that each off-premises spirituous liquor permittee displays the warning sign in an open and prominent place in the store within 30 days of receipt of the sign from the Commission.

"§ 18B-1004. Hours for sale and consumption.

(a) Hours. – Except as otherwise provided in this section, it shall be unlawful to sell malt beverages, unfortified wine, fortified wine, ~~or mixed beverages~~ or spirituous liquor between the hours of 2:00 A.M. and 7:00 A.M., or to consume any of those alcoholic beverages between the hours of 2:30 A.M. and 7:00 A.M., in any place that has been issued a permit under G.S. 18B-1001.

...

(d) Local Option. – A city may adopt an ordinance prohibiting in the city the retail sale of malt beverages, unfortified wine, ~~and fortified wine~~ and spirituous liquor during any or all of the hours from 12:00 Noon on Sunday until 7:00 A.M. on the following Monday. A county may adopt an ordinance prohibiting, in the parts of the county outside any city, the retail sale of malt beverages, unfortified wine, ~~and fortified wine~~ and spirituous liquor during any or all of the hours from 12:00 Noon on Sunday until 7:00 A.M. on the following Monday. Neither a city nor a county, however, may prohibit those sales in establishments having brown-bagging or mixed beverages permits.

(e) This section does not prohibit at any time the wholesale delivery and sale of unfortified wine, fortified wine, ~~and malt beverages~~ and spirituous liquor to retailers issued permits pursuant to G.S. 18B-1001 or G.S. 18B-1002(a)(2) or (5).

...

"§ 18B-1006. Miscellaneous provisions on permits.

...

(h) Purchase Restrictions. – A retail permittee may purchase malt beverages, unfortified wine, ~~or fortified wine~~ or spirituous liquor only from a wholesaler who maintains a place of business in this State and has the proper permit.

...

(j) Recreation Districts. – Notwithstanding the provisions of Article 6 of this Chapter, the Commission may issue permits for the sale of malt beverages, unfortified wine, fortified wine, spirituous liquor, and mixed beverages to qualified businesses in a recreation district.

A "recreation district" is an area that meets any of the following requirements:

- (1) An area that is located in a county that has not approved the issuance of permits, has at least two cities that have approved the sale of malt ~~beverages,~~ beverages and wine, and the operation of an ABC store, off-premises sale of spirituous liquor is lawful, and contains a facility of at least 450 acres where five or more public auto racing events are held each year.

...

(m) Interstate Interchange Economic Development Zones. –

- (1) The Commission may issue permits listed in G.S. 18B-1001(10), without approval at an election, to qualified establishments defined in G.S. 18B-1000(4), (6), and (8) located within one mile of an interstate highway interchange located in a county that:

...

- b. ~~Operates ABC stores;~~ The off-premises sale of spirituous liquor is lawful;

...

(n) National Historic Landmark District. – The Commission may issue permits listed in G.S. 18B-1001(10), without approval at an election, to qualified establishments defined in G.S. 18B-1000(4) and (6) located within a National Historical Landmark as defined in 16 U.S.C. § 470a(a)(1)(B) located in a county that meets all of the following requirements:

- (1) Has approved the sale of malt beverages and unfortified wine but not mixed beverages.
- (2) Has at least one city ~~that has approved the operation of an ABC store~~ (i) in which the off-premises sale of spirituous liquor is lawful and (ii) has approved the sale of mixed beverages.
- (3) Has at least 150,000 population based on the last federal census.

...

"§ 18B-1010. Additional provisions concerning off-premises spirituous liquor permits.

(a) Except as provided in subsection (b) of this section, no package store may be located within 500 yards of another package store.

(b) A business that holds an off-premises malt beverage permit or an off-premises unfortified wine permit on July 1, 2020, and that that derives fifty percent (50%) or more of its total gross receipts from the sale of alcoholic beverages for consumption off the premises, shall be eligible to obtain an off-premises spirituous liquor permit regardless of its proximity to another package store."

SECTION 4. Article 11 of Chapter 18B of the General Statutes reads as rewritten:

"Article 11.

"Commercial Activity.

"§ 18B-1100. Commercial permits.

The Commission may issue the following commercial permits:

...

(10) Malt beverages wholesaler

(10a) Spirituous liquor wholesaler

...

(15) Nonresident wine vendor

(15a) Nonresident spirituous liquor vendor

...

"§ 18B-1105. Authorization of distillery permit.

(a) The holder of a distillery permit may do any of the following:

- (1) Manufacture, purchase, import, possess and transport ingredients and equipment used in the distillation of spirituous liquor.

- (2) Sell, deliver and ship spirituous liquor in closed containers at wholesale to exporters and local boards within the State, and, subject to the laws of other jurisdictions, at wholesale or retail to private or public agencies or establishments of other states or nations to wholesalers licensed under this Chapter as authorized by the ABC laws, except that spirituous liquor 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 distillery permit from selling spirituous liquor to a nonresident wholesaler, nonresident spirituous liquor vendor, bottler, or other similar party for resale in this State if the spirituous liquor is shipped from the distillery to wholesalers licensed under this Chapter.
- (3) Transport into or out of the distillery the maximum amount of liquor allowed under federal law, if the transportation is related to the distilling process.
- (4) Sell spirituous liquor distilled at the distillery in closed containers to visitors who tour the distillery for consumption off the premises. Sales under this subdivision are allowed only in a county where the ~~establishment of a county or municipal ABC store off-premises sale of spirituous liquor~~ has been approved pursuant to G.S. 18B-602(g) and are subject to the time and day restrictions in G.S. 18B-802. Spirituous liquor sold under this subdivision shall (i) ~~be listed as a code item for sale in the State,~~ (ii) ~~be sold at the price set by the Commission for the code item 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 five bottles 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.
- (4a) Receive, in closed containers, and sell at the distillery, spirituous liquor produced inside or outside North Carolina under contract with a contract distillery. The contract distillery that manufactures the spirituous liquor 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 spirituous liquor may be sold also at affiliated retail outlets of the distillery physically located on or adjacent to the distillery. Any spirituous liquor received from a contract distillery under this subdivision shall be made available for sale by the distillery to wholesalers for distribution to retailers, without discrimination, in the same manner as if the spirituous liquor was being imported by the distillery. Contract distilling is authorized between affiliated distilleries, but shall not be used as a means to allocate production quantities between affiliated distilleries to obtain a spirituous liquor wholesaler permit pursuant to subdivision (6) of this subsection where either distillery 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).
- ...
- (6) Obtain a spirituous liquor wholesaler permit to sell, deliver, and ship at wholesale up to 50,000 proof gallons of spirituous liquor manufactured by the

distillery per year to unaffiliated retail permittees. The authorization of this subdivision applies to a distillery that sells, to consumers at the distillery, to wholesalers, to retailers, and to exporters, fewer than 100,000 proof gallons of spirituous liquor produced by it per year. The proof gallon limitations set forth in this subdivision apply regardless of the number or type of permits that may be issued to a distillery under this Chapter. A distillery not exceeding the sales quantity limitations in this subdivision may also sell the spirituous liquor manufactured by the distillery, and spirituous liquor produced under subdivision (4a) of this subsection, at not more than three other locations in the State, where the sale is legal, upon obtaining the appropriate permits under G.S. 18B-1001. A distillery operating any additional retail location pursuant to this subdivision under a different trade name than that used at the distillery shall also offer for sale at that location a reasonable selection of competitive spirituous liquor products. A sale at any additional retail location under this subdivision shall not be considered a wholesale sale for the purposes of Article 14 of this Chapter.

...

(d) Sales Report Upon Commission Request. – Within 60 days of a request by the Commission, a holder of a distillery permit who obtains a spirituous liquor wholesaler permit pursuant to subdivision (6) of subsection (a) of this section shall provide a sales report to the Commission. The report shall list separately all of the following for the 12-month period preceding the date of the request:

- (1) The number of proof gallons of spirituous liquor sold by the permit holder that were produced by the permit holder.
- (2) The quantity and dollar amount of spirituous liquor sold on-premises under subdivision (6) of subsection (a) of this section.
- (3) The quantity and dollar amount of spirituous liquor sold off-premises under subdivision (6) of subsection (a) of this section.
- (4) The quantity and dollar amount of spirituous liquor destroyed, spoiled, or otherwise rendered unsalable.

The Commission shall not request more than one sales report from a distillery within a 12-month period. The Commission shall keep all information provided pursuant to this subsection confidential except as required by law or requested by the Department of Revenue. The information shall not be a public record under Chapter 132 of the General Statutes.

"§ 18B-1105.1. Authorization of liquor importer/bottler permit.

The holder of a liquor importer/bottler permit may:

- (1) ~~Receive-Import spirituous liquor in closed containers into foreign trade zones at the State Port facilities in Morehead City and Wilmington from ships docked at the State Port facilities for the purpose of bottling, packaging, or labeling from outside the United States in closed containers.~~
- (2) ~~Bottle, package, or label in this State spirituous liquor imported or received into a foreign trade zone pursuant to this section.~~
- (3) ~~Receive spirituous liquor in closed containers into the foreign trade zones at the State Port facilities in Morehead City and Wilmington from ships docked at the State Port facilities for storage, sale, shipment, and transshipment to the State or a local ABC board warehouse or, subject to the laws of other jurisdictions, to private or public agencies or establishments of other states or nations.~~
- (4) ~~Subject to the record-keeping requirements of G.S. 18B-1115, transport into or out of the foreign trade zones at the State Port facilities in Morehead City and Wilmington, the maximum amount of liquor allowed under federal law,~~

if the transportation is related to the bottling, packaging, labeling, sale, or storage permitted by this section.

(5) Store the spirituous liquor.

(6) Sell the spirituous liquor to spirituous liquor wholesalers for purposes of resale.

...

"§ 18B-1109.1. Authorization of spirituous liquor wholesaler permit.

(a) Authorization. – The holder of a spirituous liquor wholesaler permit may do any or all of the following:

(1) Receive, possess, and transport shipments of spirituous liquor.

(2) Sell, deliver, and ship, in closed containers and in quantities of one case or container or more, spirituous liquor of any brand filed pursuant to G.S. 18B-1403(a) to wholesalers or retailers licensed under this Chapter, as authorized by the ABC laws.

(3) Furnish and sell spirituous liquor filed pursuant to G.S. 18B-1403(a) to its employees subject to the rules of the Commission and the Department of Revenue.

(4) In locations where the sale is legal, furnish spirituous liquor of any brand filed pursuant to G.S. 18B-1403(a) to guests and any other person who does not hold an ABC permit, for promotional purposes, subject to the rules of the Commission.

...

"§ 18B-1111. Authorization of salesman permit.

(a) Authorized Acts. – The holder of a salesman permit may sell and transport (i) malt beverages for a malt beverage wholesaler or wholesaler, (ii) sell and transport unfortified and fortified wine for a wine wholesaler, wholesaler, or (iii) sell and transport spirituous liquor for a spirituous liquor wholesaler.

...

"§ 18B-1113.1. Authorization of nonresident spirituous liquor vendor permit.

The holder of a nonresident spirituous liquor vendor permit may sell, deliver, and ship spirituous liquor in this State only to wholesalers, importers, and bottlers licensed under this Chapter, as authorized by the ABC laws. The spirituous liquor shall come to rest at the licensed premises of a spirituous liquor wholesaler in this State before being resold to a retailer. A nonresident spirituous liquor vendor permit may be issued to a distillery, an importer, or a bottler outside North Carolina who desires to sell, deliver, and ship spirituous liquor into this State.

...

"§ 18B-1115. Commercial transportation.

(b) When Transportation Legal. – No person may obtain a permit under this section to transport spirituous liquor unless the transportation is for delivery to a federal reservation over which North Carolina has ceded jurisdiction to the United States, for delivery to an ABC store, a spirituous liquor wholesaler, for delivery to an off-premises spirituous liquor permit holder, for delivery to a mixed beverages permit holder, or for transport through this State to another state.

...

(e) Transportation of Spirituous Liquor. – In addition to the requirements of subsection (d), motor vehicle carriers engaged in transporting spirituous liquor shall:

(1) Deposit with the Commission a surety bond for one thousand dollars (\$1,000) conditioned that the carrier will not unlawfully transport spirituous liquor into or through this State. The bond, which shall be approved by the Commission, shall be payable to the State of North Carolina. If the bonded carrier is convicted of a violation covered by the bond, the proceeds of the forfeited

1 bond shall be paid to the school fund of the county in which the liquor was
2 seized.

3 (2) ~~Include in its bill of lading, invoice or other memorandum of shipment the~~
4 ~~North Carolina code numbers of the spirituous liquor being transported.~~

5 (3) Include in its bill of lading, invoice or other memorandum of shipment the
6 route which the vehicle will follow, and the vehicle shall not vary substantially
7 from that stated route.

8 (f) ~~Malt Beverages and Wine Beverages, Wine, and Spirituous Liquor~~ Transported by
9 Boats. – The owner or operator of any boat may transport malt beverages, unfortified ~~wine and~~
10 ~~wine, fortified wine-wine, and spirituous liquor~~ over the waters of this State if ~~he the owner~~
11 satisfies all requirements of subsection (d).

12 (g) ~~State Warehouse Carrier.~~ – The Commission may exempt a carrier for the State or a
13 ~~local board warehouse from any of the requirements of this section provided that it determines~~
14 ~~that the requirements of this section are otherwise satisfied.~~

15 ...

16 **"§ 18B-1118. Purchase restrictions.**

17 The holder of a malt beverage wholesaler, wine wholesaler, spirituous liquor wholesaler, malt
18 beverage importer, wine importer, liquor importer/bottler, or bottler permit may not purchase
19 malt ~~beverages or wine beverages, wine, or spirituous liquor~~ for resale in this State from a
20 nonresident who does not have the proper nonresident vendor permit.

21 ..."

22 SECTION 5. Chapter 18B of the General Statutes is amended by adding a new
23 Article to read:

24 "Article 14.

25 "Spirituous Liquor Franchise Law.

26 **"§ 18B-1400. Construction; findings and purpose; exceptions.**

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

29 (b) The underlying purposes and policies of the Article are all of the following:

30 (1) To promote the compelling interest of the public in fair business relations
31 between spirituous liquor wholesalers and distilleries and in the continuation
32 of spirituous liquor wholesalerships on a fair basis.

33 (2) To protect spirituous liquor wholesalers against unfair treatment by
34 distilleries.

35 (3) To provide spirituous liquor wholesalers with rights and remedies in addition
36 to those existing by contract or common law.

37 (4) To govern all spirituous liquor wholesalerships, including any renewals or
38 amendments, to the full extent consistent with the Constitution of this State
39 and the United States.

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

43 (d) A North Carolina distillery holding a valid spirituous liquor wholesaler permit issued
44 pursuant to G.S. 18B-1105 and G.S. 18B-1109.1, when acting as its own master wholesaler, shall
45 not be subject to the provisions of G.S. 18B-1404, 18B-1405, and 18B-1407.

46 **"§ 18B-1401. Definitions.**

47 As used in this Article, unless the context requires otherwise:

48 (1) Agreement. – A commercial relationship between a spirituous liquor
49 wholesaler and a distillery. The agreement may be of a definite or indefinite
50 duration and is not required to be in writing. Any of the following constitutes
51 prima facie evidence of an "agreement" within the meaning of this definition:

- a. A relationship whereby the spirituous liquor wholesaler is granted the right to offer and sell a brand offered by a distillery.
 - b. A relationship whereby the spirituous liquor wholesaler, as an independent business, constitutes a component of a distillery's distribution system.
 - c. A relationship whereby the spirituous liquor wholesaler's business is substantially associated with a brand offered by a distillery.
 - d. A relationship whereby the spirituous liquor wholesaler's business is substantially reliant on a distillery for the continued supply of spirituous liquor.
 - e. The shipment, preparation for shipment, or acceptance of any order by any distillery or its agent for any spirituous liquor or beverages to a spirituous liquor wholesaler within this State.
 - f. The payment by a spirituous liquor wholesaler and the acceptance of payment by any distillery or its agent for the shipment of any order of wine or beverages intended for sale within this State.
- (2) Distillery. – Any holder of a distillery permit or nonresident spirituous liquor vendor permit issued under the authority of this Chapter.
 - (3) Spirituous liquor wholesaler. – Any holder of a spirituous liquor wholesaler permit or a liquor importer/bottler permit issued under the authority of this Chapter.
 - (4) Territory or sales territory. – The area of primary sales responsibility expressly or implicitly designated by any agreement between any spirituous liquor wholesaler and distillery for a brand offered by any distillery.

"§ 18B-1402. No inducement, coercion, or discrimination.

No distillery may do any of the following:

- (1) Induce, coerce, or attempt to induce or coerce any spirituous liquor wholesaler to accept delivery of any alcoholic beverage or any other commodity which has not been ordered by the spirituous liquor wholesaler.
- (2) Induce, coerce, or attempt to induce or coerce any spirituous liquor wholesaler to do any illegal act by any means, including threatening to amend, cancel, terminate, or refuse to renew any agreement existing between a distillery and a spirituous liquor wholesaler.
- (3) Require a spirituous liquor wholesaler to assent to any condition, stipulation, or provision limiting the wholesaler in his or her privilege to sell a product offered by any other distillery.
- (4) Unlawfully discriminate on the basis of race, color, creed, sex, religion, or national origin in awarding or maintaining agreements covered by this Article. Distilleries who contract with wholesalers in this State shall make reasonable efforts to establish and maintain agreements with wholesalers who are females and members of minority groups.

"§ 18B-1403. Primary area of responsibility; no discrimination.

(a) Each agreement shall designate the sales territory of the wholesaler. No distillery may enter into more than one agreement for each brand of spirituous liquor or beverage it offers in any territory. A wholesaler shall not distribute any brand of spirituous liquor to a retailer whose premises are located outside the territory designated in the wholesaler's agreement for that brand. With the approval of the Commission, a wholesaler may distribute spirituous liquor outside the wholesaler's designated territory during periods of temporary service interruption when requested to do so by the distillery and the wholesaler whose service is interrupted. Unless the distillery and spirituous liquor wholesaler agree otherwise in writing, the territory designated as the wholesaler's "area of primary sales responsibility" as of the effective date of this section shall be

the wholesaler's designated sales territory. Redesignations of sales territories occurring after January 1, 2021, shall be reported to the Commission within 30 days.

(b) A wholesaler shall service retail permit holders within its designated territory without discrimination. Upon request from a retail permit holder, each wholesaler shall make a good-faith effort to make available any brand of spirituous liquor the wholesaler is authorized to distribute in the territory.

"§ 18B-1404. Cancellation.

Notwithstanding the terms, provisions, or conditions of any agreement, no distillery may amend, cancel, terminate, or refuse to continue to renew any agreement, or cause a wholesaler to resign from an agreement, unless good cause exists for amendment, termination, cancellation, nonrenewal, noncontinuation, or resignation. "Good cause" does not include a change in ownership of a distillery. "Good cause" does include any of the following:

- (1) Revocation of the wholesaler's permit or license to do business in this State.
- (2) Bankruptcy or receivership of the wholesaler.
- (3) Assignment for the benefit of creditors or similar disposition of the assets of the wholesaler.
- (4) Failure of the wholesaler to comply substantially, without reasonable excuse or justification, with any reasonable and material requirement imposed upon him or her by the distillery, including a substantial failure by a wine wholesaler to do any of the following:
 - a. Maintain a sales volume of the brands offered by the distillery.
 - b. Render services comparable in quality, quantity, or volume to the sales volumes maintained and services rendered by other wholesalers of the same brands within the State.
- (5) Fraudulent conduct by the wholesaler in its dealings with the distillery.
- (6) Failure of the wholesaler to pay for the distillery's products according to the established terms of the distillery.

In any determination as to whether a wholesaler has failed to comply substantially, without reasonable excuse or justification, with any reasonable and material requirement imposed upon him or her by the distillery, consideration shall be given to the relative size, population, geographical location, number of retail outlets, demand for the products applicable to the territory of the wholesaler in question and to comparable territories, and any reasonable sales quota set by the agreement. The burden of proving good cause for amendment, termination, cancellation, nonrenewal, noncontinuation, or resignation is on the distillery.

"§ 18B-1405. Notice of intent to terminate.

(a) Except as provided in subsection (c) of this section, a distillery shall provide a wholesaler at least 90 days' prior written notice of any intention to amend, terminate, cancel, or not renew any agreement. The notice, a copy of which shall be mailed at the same time to the Commission, shall state all the reasons for the intended amendment, termination, cancellation, or nonrenewal.

(b) When the reasons relate to conditions that can be rectified by the wholesaler, he or she has 60 days in which to do so. If the wholesaler rectifies the conditions within the 60-day period, he or she shall give written notice thereof to the distillery and to the Commission. If the wholesaler has rectified the conditions, the proposed amendment, termination, cancellation, or nonrenewal is void, except that when the distillery contends that the wholesaler has not completely rectified the conditions, the distillery may, within 15 days after the expiration of the 60-day period, request a hearing before the Commission to determine if the wholesaler has rectified all the conditions.

(c) When the reasons relate to conditions that cannot be rectified by the wholesaler within the 60-day period, the wholesaler may request a hearing before the Commission to determine if the distillery has good cause for the amendment, termination, cancellation, or nonrenewal of the

1 agreement. The burden of proving good cause for the amendment, termination, cancellation, or
2 nonrenewal is on the distillery.

3 (d) Upon receiving a written request from the distillery or wholesaler for a hearing, the
4 Commission shall, after notice and hearing, determine if the wholesaler has rectified the
5 conditions or if good cause exists for the amendment, termination, cancellation, or nonrenewal
6 of the agreement, as appropriate. In any case in which a petition is made to the Commission for
7 such a determination, the agreement in question shall continue in effect, pending the
8 Commission's decision and any judicial review thereof.

9 (e) In all proceedings before the Commission, the Commission shall ensure that no
10 agreements covered by this Article result in unlawful discrimination on the basis of race, color,
11 creed, sex, religion, or national origin.

12 (f) No notice is required and an agreement may be immediately terminated, amended,
13 canceled, or allowed to expire if the reason for the amendment, termination, cancellation, or
14 nonrenewal is any of the following:

15 (1) The bankruptcy or receivership of the wholesaler.

16 (2) An assignment for the benefit of creditors or similar disposition of the assets
17 of the business.

18 (3) Revocation of the wholesaler's permit or license.

19 (4) Fraudulent conduct by the wholesaler in its dealings with the distillery.

20 (5) Failure of the wholesaler to pay for the distillery's products according to the
21 established terms of the distillery.

22 **"§ 18B-1406. Transfer of business.**

23 (a) No distillery may unreasonably withhold or delay consent to any transfer of the
24 wholesaler's business or transfer of the stock or other interest in the wholesaleship whenever the
25 wholesaler to be substituted meets the material and reasonable qualifications and standards
26 required of the distillery's wholesalers.

27 (b) Notwithstanding subsection (a) of this section, no distillery may withhold consent to,
28 or in any manner retain a right of prior approval of, the transfer of the wholesaler's business to a
29 member or members of the family of the wholesaler. Subsequent to such a transfer, the rights and
30 obligations of the wholesaleship and its owners are in all respects governed by the provisions of
31 this Chapter. As used in this subsection, "family" means the spouse, parents, siblings, and lineal
32 descendants, including those by adoption, of the wholesaler.

33 **"§ 18B-1407. Judicial remedies.**

34 (a) If a distillery violates any provision of this Article, a wholesaler may maintain a suit
35 against the distillery. The court may grant injunctive and other appropriate relief, including
36 damages to compensate the wholesaler for the value of the agreement and any good will, to
37 remedy violations of this Article.

38 (b) Any distillery that amends, cancels, terminates, or refuses to renew any distillery
39 agreement, or causes a wholesaler to resign from an agreement, shall compensate the spirituous
40 liquor wholesaler for the spirituous liquor wholesaler's spirituous liquor inventory. The amount
41 of compensation shall include the F.O.B. costs of the spirituous liquor inventory and any freight
42 charges incurred by the spirituous liquor wholesaler in receiving them.

43 (c) For any violation of the provisions of this Article, the Commission may take any of
44 the following actions against the distillery:

45 (1) Suspend the distillery's permit for a specific period of time no longer than
46 three years.

47 (2) Revoke the distillery's permit.

48 (3) Issue an order suspending the shipment of the distillery's products to one or
49 more designated sales territories previously served by the wholesaler who has
50 been terminated or who is the successor in interest to a wholesaler who sold
51 the distillery's products in the designated territory.

- (4) Impose a monetary penalty up to fifteen thousand dollars (\$15,000) for a first offense and up to thirty-five thousand dollars (\$35,000) for the second offense. The clear proceeds of monetary penalties imposed pursuant to this subdivision shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

In any case in which the Commission is entitled to suspend or revoke a permit, the Commission may accept from the distillery an offer in compromise to pay a monetary penalty. The Commission may either accept a compromise or revoke a permit, but not both. The Commission may accept a compromise and suspend the permit in the same case.

(d) Notwithstanding the choice of forum agreed to by the parties, venue for all actions under this Article shall be determined by the trial judge based upon the convenience of witnesses and the promotion of the ends of justice.

"§ 18B-1408. Price of product.

No distillery, whether by means of a term or condition of an agreement or otherwise, may directly or indirectly fix or maintain the prices at which the wholesaler may sell any spirituous liquor or beverage.

"§ 18B-1409. Retaliatory action prohibited.

No distillery may take retaliatory action against a wholesaler who files or manifests an intention to file a complaint alleging that the distillery violated a State or federal law or rule. Retaliatory action includes refusal without good cause to continue the agreement or a material reduction in the quality of service or quantity of products available to the wholesaler under the agreement.

"§ 18B-1410. Management.

No distillery may require or prohibit any change in management or personnel of any wholesaler unless the current or potential management or personnel fails to meet reasonable qualifications and standards required by the distillery.

"§ 18B-1411. No discrimination.

No distillery may discriminate among its wholesalers in any business dealings, including the price of spirituous liquor sold to the wholesaler, unless the classification among its wholesalers is based upon reasonable grounds.

"§ 18B-1412. No waiver.

No distillery may require any wholesaler to waive compliance with any provision of this Chapter. Nothing in this Chapter, however, may be construed to limit or prohibit good-faith settlements of disputes voluntarily entered into between the parties.

"§ 18B-1413. Obligations of purchaser.

The purchaser of a distillery, and any successor to the import rights of a distillery, is obligated to all the terms and conditions of an agreement in effect on the date of the purchase or other acquisition of the right to distribute a brand, except for good cause, which includes any of the following:

- (1) Revocation of the wholesaler's permit or license to do business in this State.
- (2) Bankruptcy or insolvency of the wholesaler.
- (3) Assignment for the benefit of creditors or similar disposition of the assets of the wholesaler.
- (4) Failure by the wholesaler to comply substantially, without reasonable excuse or justification, with any reasonable and material requirement imposed upon the wholesaler by the distillery.

As used in this Article, "purchase" includes the sale of stock, sale of assets, merger, lease, transfer, or consolidation.

"§ 18B-1414. Prohibited practices enumerated.

It is a violation of this Article for any distillery, directly or indirectly, to engage in any of the following practices:

- (1) To restrict the sale of any equity or indebtedness or the transfer of any securities of any wholesaler or in any way prevent or attempt to prevent the transfer, sale, or issuance of shares of stock or indebtedness to employees, personnel of the wholesaler, or heirs of the principal owner, as long as basic financial requirements of the distillery are complied with and the sale, transfer, or issuance does not have the effect of accomplishing a sale of the wholesaler.
- (2) To impose unreasonable standards of performance upon a wholesaler.
- (3) To prohibit directly or indirectly the right of free association among wholesalers for any lawful purpose.

"§ 18B-1415. Intent of nondiscrimination.

It is the intent of this Article that there shall be no unlawful discrimination based on race, color, creed, sex, religion, or national origin in any aspect of the awarding or maintaining of agreements covered by this Article.

"§ 18B-1416. Relation of Article to other laws.

Nothing in this Article relieves a winery or wholesaler of any obligation, duty, or prohibition imposed by any other provision of this Chapter or by G.S. 75-1.1 or by any other provision of State law, and the remedies provided in this Article are nonexclusive."

SECTION 6.(a) On January 1, 2022, the ABC Commission shall cease the operation of the State warehouse authorized under G.S. 18B-204.

SECTION 6.(b) On or after July 1, 2021, but no later than January 1, 2022, the local ABC boards shall cease operations and liquidate all assets by public sale to the highest qualified bidder or bidders. After ceasing operations, the local ABC boards shall only sell the spirituous liquor within their possession to a spirituous liquor wholesaler permitted under G.S. 18B-1109.1, as enacted by Part II of this act. Nothing in this subsection shall be construed as relieving local ABC boards of, or assigning to the State, any liabilities arising or remaining from the liquidation required under this subsection. Any funds received under this subsection shall be paid to the general fund of the county or municipality for which the local ABC board is established to be used for any public purpose.

SECTION 7. Sections 2 through 5 of this act become effective January 1, 2021. The Commission may issue spirituous liquor wholesaler and off-premises spirituous liquor permits beginning January 1, 2021, but shall limit the permits such that a spirituous liquor wholesaler may not sell spirituous liquor to any retailer until March 1, 2021 and an off-premises spirituous liquor permittee may not sell spirituous liquor until July 1, 2021. Sections 6 and 7 of this act are effective when they become law.

PART III. REVISIONS TO CHAPTER 18B OF THE GENERAL STATUTES BEFORE PHASE-OUT OF ABC STORES

SECTION 8. Article 1 of Chapter 18B of the General Statutes reads as rewritten:

"Article 1.

"General Provisions.

...

"§ 18B-101. Definitions.

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

...

(13a) (See note) "Special ABC area" means an area that meets the following requirements:

Either:

a. The area has fewer than 500 permanent residents, and the area:

1. Is located in a county that borders another state, that has at least one city ~~that has approved the operation of an ABC store, in~~ which the off-premises sale of spirituous liquor is lawful, and

in which the sale of unfortified wine and malt beverages is permitted countywide or in one city; and

b. The area has more than 500 permanent residents, and the area:

1. Is located in a county:

I. Where ~~ABC stores have heretofore been established~~ the off-premises sale of spirituous liquor is lawful, but in which the sale of mixed beverages has not been approved;

III. Borders on a county where ~~ABC stores have heretofore been established by petition pursuant to law; the~~ off-premises sale of spirituous liquor is lawful; and

c. The area is an area of a county where the following requirements are met:

2. ~~ABC stores have been established~~ The off-premises sale of spirituous liquor is lawful in the county and the sale of mixed beverages is allowed in six or more municipalities;

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

(b1) In accordance with G.S. 18B-1004(c), the Eastern Band of Cherokee Indians tribe may adopt an ordinance allowing for the sale of malt beverages, unfortified wine, fortified wine, ~~and mixed beverages~~ and spirituous liquor beginning at 10:00 A.M. on Sunday pursuant to the licensed premises' permit issued under the authority of G.S. 18B-112(d).

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

..."

SECTION 9. Article 2 of Chapter 18B of the General Statutes reads as rewritten:

"Article 2.

"State Administration.

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

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

(1) Administer the ABC laws;

- 1 (2) Provide for enforcement of the ABC laws, in conjunction with the ALE
- 2 Branch;
- 3 (3) Set the prices of alcoholic beverages sold in local ABC stores as provided in
- 4 Article 8;
- 5 (4) Require reports and audits from local boards as provided in G.S. 18B-205;
- 6 (5) Determine what brands of alcoholic beverages may be sold in this ~~State~~State
- 7 at ABC stores;
- 8 (6) Contract for State ABC warehousing, as provided in G.S. 18B-204;
- 9 (7) Dispose of damaged alcoholic beverages, as provided in G.S. 18B-806;
- 10 (8) Remove for cause any member or employee of a local board;
- 11 (9) Supervise or disapprove purchasing by any local board and inspect all records
- 12 of purchases by local boards;
- 13 (10) Approve or disapprove rules adopted by any local board;
- 14 ~~(11) Approve or disapprove the opening and location of ABC stores, as provided~~
- 15 ~~in Article 8;~~
- 16 (12) Issue ABC permits, and impose sanctions against permittees;
- 17 (13) Provide for the testing of alcoholic beverages, as provided in G.S. 18B-206;
- 18 (14) Fix the amount of bailment charges and bailment surcharges to be assessed on
- 19 liquor shipped from a Commission warehouse;
- 20 (15) Collect bailment charges and bailment surcharges from local boards;
- 21 ~~(16) Notwithstanding any law to the contrary, enter into contracts for design and~~
- 22 ~~construction of a warehouse or warehouses and supervise work and materials~~
- 23 ~~used in the construction, as provided in G.S. 18B-204;~~
- 24 ~~(17) Provide for the distribution of spirituous liquor to installations of the Armed~~
- 25 ~~Forces of the United States within this State for resale on the installation and~~
- 26 ~~to the Eastern Band of Cherokee Indians for resale on Indian Country lands~~
- 27 ~~within this State under the jurisdiction of the Eastern Band of Cherokee~~
- 28 ~~Indians.~~
- 29 (18) Provide for the distribution and posting of warning signs to local ABC boards
- 30 and spirituous liquor permittees regarding the dangers of alcohol consumption
- 31 during pregnancy as required under G.S. 18B-808;
- 32 (19) Recognize the holder of a wine importer permit or nonresident wine vendor
- 33 permit as a primary American source of supply for the wine of a winery. To
- 34 be considered a primary American source of supply, a wine importer must
- 35 establish that it has lawfully purchased the wine from the winery, or from an
- 36 agent of the winery, and by written contract or otherwise has been authorized
- 37 by the winery to distribute the wine to wholesalers in the United States.
- 38 (20) Promulgate rules to establish performance standards for local boards.
- 39 Performance standards established pursuant to this subdivision shall include,
- 40 but not be limited to, standards that address enforcement of ABC laws, store
- 41 appearance, operating efficiency, solvency, and customer service.
- 42 (21) Promulgate rules to establish mandatory training requirements for local board
- 43 members, finance officers, and general managers. If personal attendance is
- 44 required, the Commission shall not require more than four hours of training
- 45 and shall provide up to two hours of training at convenient locations around
- 46 the State in conjunction with ethics training.
- 47 (22) Provide for the purchase of spirituous liquor from another ABC board by
- 48 mixed beverage permittees when an ABC system becomes insolvent, closes,
- 49 or is closed by the Commission and the county or municipality in which the
- 50 system is located has approved the sale of mixed beverages.
- 51 ...

"§ 18B-208. ABC Commission bonds and funds.

(a) ~~Issuance of Bonds. — As a means of raising the funds needed from time to time in the design, acquisition, construction, equipping, maintenance and operation of a warehouse under G.S. 18B-204(a)(3), the Commission may, with the approval of the Governor, at one time or from time to time issue negotiable revenue bonds of the Commission. The issuance of revenue bonds shall not directly or indirectly or contingently obligate the State to levy or to pledge any form of taxation or to make any appropriation for their payment. Revenue bonds issued pursuant to this subsection shall be repaid from the bailment surcharge as provided in subsection (b). These bonds and the income from them are exempt from all taxation within the State.~~

(b) ~~Special Fund. — A special fund in the office of the State Treasurer, the ABC Commission Fund, is created. On and after November 1, 1982, all moneys derived from the collection of bailment charges and bailment surcharges shall be deposited in the ABC Commission Fund for the purpose of carrying out the provisions of this Chapter. The ABC Commission Fund shall be subject to the provisions of the State Budget Act except that no unexpended surplus of this fund shall revert to the General Fund. The Commission shall fix the level of the bailment surcharges at an amount calculated to cover operating expenses of the Commission and the retirement of bonds issued for construction of a Commission warehouse and offices. Upon payment of the bonds issued pursuant to this section, the Commission shall reduce the bailment surcharge to an amount no greater than necessary to pay operating expenses of the Commission as authorized by the General Assembly.~~

All moneys credited to the ABC Commission Fund shall be used to carry out the intent and purposes of the ABC law in accordance with plans approved by the North Carolina ABC Commission and the Director of the Budget. The moneys in the Fund shall be expended only upon an appropriation by an act of the General Assembly.

..."

SECTION 10. Article 3 of Chapter 18B of the General Statutes reads as rewritten:

"Article 3.

"Sale, Possession, and Consumption.

...

"§ 18B-301. Possession and consumption of fortified wine and spirituous liquor.

...

(e) ~~Incident to Sale. — It shall be lawful to possess fortified wine and spirituous liquor at any place, such as an ABC store, place where possession is a necessary incident to lawful sale. Consumption at such a place shall be unlawful unless the establishment has a permit authorizing consumption on the premises as well as sale.~~

(f) ~~Unlawful Possession or Use. — As illustration, but not limitation, of the general prohibition stated in G.S. 18B-102(a), it shall be unlawful for:~~

(1) Any person to consume fortified wine, spirituous liquor, or mixed beverages or to offer such beverages to another person at any of the following places:

- a. On the premises of an ABC store.
- b. Upon any property used or occupied by a local board.
- c. On any public road, street, highway, or sidewalk, unless a consumer tasting authorized by G.S. 18B-1114.7 is being conducted.
- d. On the premises of a food business, retail business, or package store holding an off-premises spirituous liquor permit pursuant to G.S. 18B-1001.

..."

SECTION 11. Article 4 of Chapter 18B of the General Statutes reads as rewritten:

"Article 4.

"Transportation.

...

"§ 18B-403. Purchase-transportation permit.

- ...
- (b) Issuance of Permit. – A purchase-transportation permit may be issued by:
- (1) The local board chairman;
 - (2) A member of the local board;
 - (3) The general manager or supervisor of the local board; ~~or~~
 - (4) The manager or assistant manager of an ABC store, if he is authorized to issue permits by the local board ~~chairman; chairman; or~~
 - (5) The holder of a permit issued pursuant to G.S. 18B-1001 that allows the sale of the applicable alcoholic beverage, or an employee designated by the permittee.

...

"§ 18B-404. Additional provisions for purchase and transportation by mixed beverage permittees.

...

(b) Issuance. – If mixed beverages sales have been approved for an establishment under G.S. 18B-603(d1) or under G.S. 18B-603(e), or for an establishment located in a township in which mixed beverages have been approved the purchase-transportation permit for that establishment may be issued by the local board of any city located in the same county as the ~~establishment, establishment or an off-premises spirituous liquor permittee in accordance with G.S. 18B-403, provided the city has approved the sale of mixed beverages. Otherwise a licensed establishment may obtain a mixed beverages purchase-transportation permit only from the local board for the jurisdiction in which it is located. If there is no ABC store within the establishment's jurisdiction, then the mixed beverages permittee shall obtain a mixed beverages purchase-transportation permit from the nearest and most convenient ABC store.~~

(c) ~~Designated Store. – A local board may designate a store within its system to make sales to mixed beverages permittees.~~

...

"§ 18B-405. Transportation by permittee.

The holder of a permit for the retail sale of malt beverages, unfortified wine, ~~or~~ fortified wine wine, or spirituous liquor may transport in the course of ~~his~~ the holder's business any amount of the alcoholic beverage ~~he~~ the holder is authorized to sell, without a purchase-transportation permit or a commercial transportation permit under G.S. 18B-1115.

..."

SECTION 12. Article 5 of Chapter 18B of the General Statutes reads as rewritten:

"Article 5.

"Law Enforcement.

...

"§ 18B-503. Disposition of seized alcoholic beverages.

...

(e) Sale Procedure. – The sale of unfortified ~~wine or wine~~, fortified ~~wine~~ wine, and spirituous liquor shall be by public auction unless those wines or spirituous liquor would likely become spoiled or lose value in the time required to arrange a public auction. If spoilage or loss of value is likely, the judge ordering the sale or the Commission may authorize sale at the prevailing wholesale price, as determined by the Commission, to one or more persons holding the appropriate retail wine or spirituous liquor permits in the county in which the wine or spirituous liquor was seized, or in a neighboring county if there are no such persons in the county in which the wine or spirituous liquor was seized. ~~Spirituous liquor may be sold only to the local ABC board serving the city or county in which the liquor was seized, or, if there is no local board for that city or county, to the nearest local board. The sale price shall be at least ten percent (10%)~~

1 ~~less than the price the local board would pay for the same liquor bought through the State~~
2 ~~warehouse.~~

3 ..."

4 **SECTION 13.** Article 9 of Chapter 18B of the General Statutes, as amended by
5 Section 2 of this act, reads as rewritten:

6 "Article 9.

7 "Issuance of Permits.

8 **"§ 18B-900. Qualifications for permit.**

9 ...

10 (d) Manager of Off-Premises Establishment. – Although he need not otherwise meet the
11 requirements of this section, the manager of an establishment operated by a corporation and
12 holding off-premises permits for malt beverages, unfortified wine, ~~or fortified wine~~ wine, or
13 spirituous liquor shall be at least 19 years old and shall meet the requirements of subdivisions
14 (3), (4), (5) and (6) of subsection (a).

15 ...

16 **"§ 18B-901. Issuance of permits.**

17 (a) Who Issues. – All ABC permits shall be issued by the Commission.
18 Purchase-transportation permits shall be issued ~~by local boards under G.S. 18B-403 in~~
19 accordance with G.S. 18B-403 or G.S. 18B-403.1.

20 ...

21 **"§ 18B-902. Application for permit; fees.**

22 ...

23 (d) Fees. – An application for an ABC permit shall be accompanied by payment of the
24 following application fee:

25 ...

26 ~~(43) Antique spirituous liquor permit – \$100.00.~~

27 ...

28 **"§ 18B-904. Miscellaneous provisions concerning permits.**

29 ...

30 (d) Notice of Issuance. – Upon issuing a permit the Commission shall send notice of the
31 issuance, with the name and address of the permittee and the establishment, to:

32 (1) The Department of Revenue;

33 ~~(2) The local board, if one exists, for the city or county in which the establishment~~
34 ~~is located;~~

35 (3) The governing body, sheriff, and tax collector of the county in which the
36 establishment is located;

37 (4) If the establishment is located inside a city, the governing body, chief of
38 police, and tax collector for the city; and

39 (5) The ALE Branch.

40 ...

41
42 **SECTION 14.** Article 10 of Chapter 18B of the General Statutes, as amended by
43 Section 3 of this act, reads as rewritten:

44 "Article 10.

45 "Retail Activity.

46 ...

47 **"§ 18B-1001. Kinds of ABC permits; places eligible.**

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

50 ...

(20) ~~Antique spirituous liquor permit. — A permit under this subdivision may be issued to a holder of a mixed beverages permit issued under subdivision (10) of this section. Notwithstanding any law to the contrary, the permit holder may sell at retail antique spirituous liquor for use in mixed beverages for consumption on premises. The acquisition of antique spirituous liquor on or after September 1, 2015, shall be in accordance with the process established by rule of the Commission for special orders of spirituous liquor that is not on the list approved by the Commission.~~

"§ 18B-1006. Miscellaneous provisions on permits.

(k) ~~Residential Private Club and Sports Club Permits. — The Commission may issue the permits listed in G.S. 18B-1001, without approval at an election, to a residential private club or a sports club, except if the sale of mixed beverages is not lawful within a jurisdiction and that locality has voted against the sale of mixed beverages in a referendum conducted on or after September 1, 2001. If the issuance of permits is prohibited by the exception in the previous sentence, the Commission may renew existing permits and may continue to issue permits for a business location that had previously held permits under this subsection. No permit may be issued to any residential private club or sports club that practices discrimination on the basis of race, gender or ethnicity.~~

~~The mixed beverages purchase transportation permit authorized by G.S. 18B-404(b) shall be issued by a local board operating a store located in the county.~~

"§ 18B-1007. Additional requirements for mixed beverages permittees.

(a) ~~Purchases. — A mixed beverages permittee may purchase spirituous liquor for resale as mixed beverages and a guest room cabinet permittee may purchase spirituous liquor for resale from a guest room cabinet only at an ABC store designated by a local board and only with a purchase transportation permit issued by that local board under G.S. 18B-403 and 18B-404.~~

(b) ~~Handling Bottles. — It shall be unlawful for a mixed beverages permittee or the permittee's agent or employee to do any of the following:~~

- ~~(1) Store any other spirituous liquor with liquor possessed for resale in mixed beverages or from a guest room cabinet.~~
- ~~(2) Refill any spirituous liquor container having a mixed beverages tax stamp with any other alcoholic beverage, or add to the contents of such a container any other alcoholic beverage.~~
- ~~(3) Transfer from one container to another a mixed beverages tax stamp.~~
- ~~(4) Possess any container of spirituous liquor not bearing a mixed beverages tax stamp, except for containers being brought onto the premises by the host of a private function under a special occasion permit.~~

(d) ~~When a temporary mixed beverages permit has been issued to a new permittee for the continuation of a business at the same location, the permittee going out of business may sell existing mixed beverages inventory to the new permittee, and the Commission may request that the local ABC board restamp the inventory with the mixed beverages tax stamp assigned by the local board to the new mixed beverages permittee.~~

SECTION 15. Sections 8 through 15 of this act become effective July 1, 2021. Sections 8 through 12 of this act expire December 31, 2021.

PART IV. REVISIONS TO CHAPTER 18B OF THE GENERAL STATUTES AFTER PHASE-OUT OF ABC STORES

SECTION 16. Article 1 of Chapter 18B of the General Statutes reads as rewritten:

"Article 1.

"General Provisions.

...
"§ 18B-101. Definitions.

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

...
(3) ~~"ABC system" means a local board and all ABC stores operated by it, its law enforcement branch, and all its employees.~~

...
(5a) ~~"Antique spirituous liquor" means 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).~~

(5b) ~~"Antique spirituous liquor seller" means a person who sells antique spirituous liquor to an ABC Board.~~

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

...
(6a) ~~"Finance officer" means the local board employee, other than a general manager, who is responsible for keeping the accounts of the local board, receiving and depositing receipts, disbursing funds, and any other duties assigned by the local board or Commission.~~

...
(7a) ~~"General manager" means the local board employee who is responsible for the oversight of daily operations of the ABC system and any other duties assigned by the local board or Commission. The board may designate only one employee to be the general manager.~~

...
(8) ~~"Local board" means a city or county ABC board, or local board created pursuant to the provisions of G.S. 18B-703. A local board is an independent local political subdivision of the State. Nothing in this Chapter shall be construed as constituting a local board the agency of a city or county or of the Commission.~~

...
(13a) (See note) "Special ABC area" means an area that meets the following requirements:

Either:

a. The area has fewer than 500 permanent residents, and the area:

1. Is located in a county that borders another state, that has at least one city that has approved the operation of an ABC store, in which the off-premises sale of spirituous liquor is lawful, and in which the sale of unfortified wine and malt beverages is permitted countywide or in one city; and

...
b. The area has more than 500 permanent residents, and the area:

1. Is located in a county:

I. Where ~~ABC stores have heretofore been established~~
the off-premises sale of spirituous liquor is lawful, but
in which the sale of mixed beverages has not been
approved;

...
III. Borders on a county where ~~ABC stores have heretofore~~
~~been established by petition pursuant to law; the~~
off-premises sale of spirituous liquor is lawful; and

...
c. The area is an area of a county where the following requirements are
met:

...
2. ~~ABC stores have been established~~ The off-premises sale of
spirituous liquor is lawful in the county and the sale of mixed
beverages is allowed in six or more municipalities;

...
"§ 18B-110. Emergency.

When the Governor finds that an emergency, as that term is defined in G.S. 166A-19.3, exists
anywhere in this State, the Governor may

- (1) ~~Order the closing of all ABC stores; and~~
(2) ~~Order~~ order the cessation of all sales, transportation, manufacture, and bottling
of alcoholic beverages.

The Governor's order shall apply in those portions of the State designated in the order, for
the duration of the state of emergency. Any order by the Governor under this section shall be
directed to the Chairman of the Commission and to the Secretary of Public Safety.

...
"§ 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.

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

...
(b1) In accordance with G.S. 18B-1004(c), the Eastern Band of Cherokee Indians tribe
may adopt an ordinance allowing for the sale of malt beverages, unfortified wine, fortified wine,
~~and mixed beverages~~ beverages, and spirituous liquor beginning at 10:00 A.M. on Sunday
pursuant to the licensed premises' permit issued under the authority of G.S. 18B-112(d).

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

1 ~~wine-beer, wine, and spirituous liquor~~ by wholesalers to the retail outlets located on Indian
2 Country lands. The fees generated by the tribal alcoholic beverage control commission for the
3 issuance of retail permits may be retained by the Eastern Band of Cherokee Indians to offset costs
4 of operating the tribal alcoholic beverage control commission.

5 ...
6 (f) Authority of the North Carolina Alcoholic Beverage Control Commission. – The
7 North Carolina Alcoholic Beverage Control Commission shall have the authority to enter into
8 agreements with the tribal alcoholic beverage control commission to provide for the sale,
9 delivery, and distribution of spirituous liquor to the tribal alcoholic beverage control commission.
10 The tribal alcoholic beverage control commission shall purchase spirituous liquor for resale by
11 the tribal alcoholic beverage control commission exclusively from the North Carolina Alcoholic
12 Beverage Control Commission at the same price and on the same basis that such spirits are
13 purchased by local boards. To the extent there is a conflict between the tribal alcoholic beverage
14 control commission's authority or purpose and the North Carolina Alcoholic Beverage Control
15 Commission's authority or purpose, the North Carolina Alcoholic Beverage Control Commission
16 shall prevail.

17 ..."

18 SECTION 17. Article 1A of Chapter 18B of the General Statutes reads as rewritten:

19 "Article 1A.

20 "Compensation for Injury Caused by Sales to Underage Persons.

21 ...

22 **"§ 18B-121. Claim for relief created for sale to underage person.**

23 An aggrieved party has a claim for relief for damages against a permittee ~~or local Alcoholic~~
24 ~~Beverage Control Board~~ if:

- 25 (1) The permittee or ~~his~~ the permittee's agent or employee ~~or the local board or its~~
26 ~~agent or employee~~ negligently sold or furnished an alcoholic beverage to an
27 underage person; and
28 (2) The consumption of the alcoholic beverage that was sold or furnished to an
29 underage person caused or contributed to, in whole or in part, an underage
30 driver's being subject to an impairing substance within the meaning of
31 G.S. 20-138.1 at the time of the injury; and
32 (3) The injury that resulted was proximately caused by the underage driver's
33 negligent operation of a vehicle while so impaired.

34 ...
35 **"§ 18B-124. Joint and several liability.**

36 The liability of the negligent driver or owner of the vehicle that caused the injury and the
37 permittee ~~or ABC board which that~~ sold or furnished the alcoholic beverage shall be joint and
38 several, with right of contribution but not indemnification.

39 ..."

40 SECTION 18. Article 2 of Chapter 18B of the General Statutes reads as rewritten:

41 "Article 2.

42 "State Administration.

43 ...

44 **"§ 18B-201. Conflict of interest; gifts.**

45 (a) Financial Interests Restricted. – No person shall be appointed to or employed by the
46 ~~Commission, a local board, Commission~~ or the ALE Branch if that person or a member of that
47 person's family related to that person by blood or marriage to the first degree has or controls,
48 directly or indirectly, a financial interest in any commercial alcoholic beverage enterprise,
49 including any business required to have an ABC permit. The Commission may exempt from this
50 provision any person, other than a Commission member, when the financial interest in question
51 is so insignificant or remote that it is unlikely to affect the person's official actions in any way.

1 Exemptions may be granted only to individuals, not to groups or classes of people, and each
2 exemption shall be in writing, be available for public inspection, and contain a statement of the
3 financial interest in question.

4 (b) Self-dealing. – The provisions of G.S. 14-234 shall apply to the ~~Commission and local~~
5 ~~boards.~~ Commission.

6 (c) Dealing for Family Members. – ~~Neither the~~ The Commission ~~nor any local board~~
7 shall not contract or otherwise deal in any business matter so that a member, member's spouse or
8 any person related to the member by blood to a degree of first cousin or closer in any way
9 financially benefits, directly or indirectly, from the transaction unless:

10 ...
11 (3) The next annual audit of the Commission ~~or local board~~ specifically notes the
12 member and the amount involved in each transaction occurring during the year
13 covered by the audit; and

14 (4) ~~If the transaction is by a local board, the Commission is notified at least two~~
15 ~~weeks before final board approval of the transaction.~~

16 (d) Gifts Generally. – The provisions of G.S. 133-32 shall apply to the ~~Commission and~~
17 ~~local boards.~~ Commission.

18 (e) Conflicts of Interest for the Commission. – The provisions of Article 7 of Chapter
19 163A of the General Statutes shall apply to the Commission.

20 (f) ~~Conflicts of Interest for Local Boards. – Except as permitted under subsection (h) of~~
21 ~~this section, a local ABC board member shall not knowingly use the local ABC board member's~~
22 ~~position on the board in any way that will result in financial benefit to the local ABC board~~
23 ~~member, the local ABC board member's spouse, any person related to the local ABC board~~
24 ~~member by blood to a degree of first cousin or closer, or any business with which the local ABC~~
25 ~~board member is associated.~~

26 ...
27 (h) ~~Notwithstanding subsection (f) of this section, a local ABC board member may~~
28 ~~participate in an action of the local ABC board under any of the following circumstances except~~
29 ~~as specifically limited:~~

30 (1) ~~The financial benefit that accrues to the local ABC board member, the local~~
31 ~~ABC board member's spouse or any person related to the local ABC board~~
32 ~~member by blood to a degree of first cousin or closer, or a business with which~~
33 ~~the local ABC board member is associated is one that is accrued as a member~~
34 ~~of a profession, occupation, or general class and is no greater than that which~~
35 ~~could reasonably be foreseen to accrue to all members of that profession,~~
36 ~~occupation, or general class.~~

37 (2) ~~The financial benefit derived by a local ABC board member, the local ABC~~
38 ~~board member's spouse or any person related to the local ABC board member~~
39 ~~by blood to a degree of first cousin or closer, or a business with which the~~
40 ~~local ABC board member is associated is one that would be enjoyed to an~~
41 ~~extent no greater than that which other citizens of the State would or could~~
42 ~~enjoy.~~

43 (3) ~~The financial benefit derived by a local ABC board member, the local ABC~~
44 ~~board member's spouse or any person related to the local ABC board member~~
45 ~~by blood to a degree of first cousin or closer, or a business with which the~~
46 ~~local ABC board member is so remote, tenuous, insignificant, or speculative~~
47 ~~that a reasonable person would conclude under the circumstances that the local~~
48 ~~ABC board member's ability to protect the public interest and perform the~~
49 ~~local ABC board member's duties would not be compromised.~~

50 (4) ~~When an action affects or would affect the local ABC board member's~~
51 ~~compensation as a local ABC board member.~~

- 1 (5) ~~Before the local ABC board member participated in the action, the board~~
2 ~~member requested and received from the ABC Commission a written advisory~~
3 ~~opinion that authorized the participation. In authorizing the participation~~
4 ~~under this subdivision, the ABC Commission shall consider the need for the~~
5 ~~local ABC board member's particular contribution, such as special knowledge~~
6 ~~of the subject matter and the effective functioning of the local ABC board.~~
7 (6) ~~When action is ministerial only and does not require the exercise of discretion.~~
8 (7) ~~When the local ABC board records in its minutes that it cannot obtain a~~
9 ~~quorum in order to take the action because the local ABC board member is~~
10 ~~disqualified from acting, the local ABC board member may be counted for~~
11 ~~purposes of a quorum but shall otherwise abstain from taking any further~~
12 ~~action.~~

13 ...
14 (j) ~~A local board member shall not improperly use or improperly disclose any~~
15 ~~confidential information.~~

16 (k) ~~A local board member shall have an affirmative duty to promptly disclose in writing~~
17 ~~to the local board any conflict of interest or potential conflict of interest.~~

18 **"§ 18B-202. Discharge upon conviction.**

19 In addition to imposing any other penalty authorized by law, a judge may remove from office
20 or discharge from employment any Commission ~~or local board~~ member or employee, or any ALE
21 agent, who is convicted of a violation of any provision of this Chapter or of any felony and may
22 declare that person ineligible for membership or employment with the ~~Commission, any local~~
23 ~~board, Commission~~ or the ALE Branch, for a period of not longer than three years. ~~Conviction~~
24 ~~of a crime under this Chapter or of any felony shall also be grounds for the Commission to remove~~
25 ~~from office or discharge from employment any local board member or employee. In addition to~~
26 ~~imposing any other penalty authorized by law, a judge may prohibit an individual convicted of a~~
27 ~~violation of this Chapter, or of any felony, from participating in any contract to enforce the ABC~~
28 ~~laws for a local board if that individual is a designated officer of an agency which holds a contract~~
29 ~~to enforce the ABC laws for a local board. A judge may also prohibit an individual convicted of~~
30 ~~a violation of this Chapter, or of any felony, from being designated as an officer that enforces the~~
31 ~~ABC law under a contract with any local board for a period of not longer than three years.~~

32 **"§ 18B-203. Powers and duties of the Commission.**

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

- 34 (1) Administer the ABC laws;
35 (2) Provide for enforcement of the ABC laws, in conjunction with the ALE
36 Branch;
37 (3) ~~Set the prices of alcoholic beverages sold in local ABC stores as provided in~~
38 ~~Article 8;~~
39 (4) ~~Require reports and audits from local boards as provided in G.S. 18B-205;~~
40 (5) ~~Determine what brands of alcoholic beverages may be sold in this State;~~
41 (6) ~~Contract for State ABC warehousing, as provided in G.S. 18B-204;~~
42 (7) ~~Dispose of damaged alcoholic beverages, as provided in G.S. 18B-806;~~
43 (8) ~~Remove for cause any member or employee of a local board;~~
44 (9) ~~Supervise or disapprove purchasing by any local board and inspect all records~~
45 ~~of purchases by local boards;~~
46 (10) ~~Approve or disapprove rules adopted by any local board;~~
47 (11) ~~Approve or disapprove the opening and location of ABC stores, as provided~~
48 ~~in Article 8;~~
49 (12) Issue ABC permits, and impose sanctions against permittees;
50 (13) Provide for the testing of alcoholic beverages, as provided in G.S. 18B-206;

- 1 (14) Fix the amount of bailment charges and bailment surcharges to be assessed on
2 liquor shipped from a Commission warehouse;
3 (15) Collect bailment charges and bailment surcharges from local boards;
4 (16) ~~Notwithstanding any law to the contrary, enter into contracts for design and~~
5 ~~construction of a warehouse or warehouses and supervise work and materials~~
6 ~~used in the construction, as provided in G.S. 18B-204;~~
7 (17) Provide for the distribution of spirituous liquor to installations of the Armed
8 Forces of the United States within this State for resale on the installation and
9 to the Eastern Band of Cherokee Indians for resale on Indian Country lands
10 within this State under the jurisdiction of the Eastern Band of Cherokee
11 Indians.
12 (18) Provide for the distribution and posting of warning signs to local ABC boards
13 off-premises spirituous liquor permittees regarding the dangers of alcohol
14 consumption during pregnancy as required under G.S. 18B-808;
15 (19) Recognize the holder of a wine importer permit or nonresident wine vendor
16 permit as a primary American source of supply for the wine of a winery. To
17 be considered a primary American source of supply, a wine importer must
18 establish that it has lawfully purchased the wine from the winery, or from an
19 agent of the winery, and by written contract or otherwise has been authorized
20 by the winery to distribute the wine to wholesalers in the United States.
21 (20) ~~Promulgate rules to establish performance standards for local boards.~~
22 ~~Performance standards established pursuant to this subdivision shall include,~~
23 ~~but not be limited to, standards that address enforcement of ABC laws, store~~
24 ~~appearance, operating efficiency, solvency, and customer service.~~
25 (21) ~~Promulgate rules to establish mandatory training requirements for local board~~
26 ~~members, finance officers, and general managers. If personal attendance is~~
27 ~~required, the Commission shall not require more than four hours of training~~
28 ~~and shall provide up to two hours of training at convenient locations around~~
29 ~~the State in conjunction with ethics training.~~
30 (22) Provide for the purchase of spirituous liquor from another ABC board by
31 mixed beverage permittees when an ABC system becomes insolvent, closes,
32 or is closed by the Commission and the county or municipality in which the
33 system is located has approved the sale of mixed beverages.

34 **"§ 18B-204. State warehouse.**

- 35 (a) ~~Contracting for Private Warehouse.~~ The Commission shall provide for the receipt,
36 storage, and distribution of spirituous liquor by one of the following methods:
37 (1) ~~By negotiated contract with a privately owned warehouse;~~
38 (2) ~~By negotiated contract with privately owned warehouses in several regions of~~
39 ~~the State. The Commission shall choose locations for the warehouses to~~
40 ~~promote efficient distribution of spirituous liquor to all local boards, to~~
41 ~~maintain control of that liquor, and to insure the Commission's supervision of~~
42 ~~warehousing procedures; or~~
43 (3) ~~By the construction of a warehouse, and by contracting for receipt, storage~~
44 ~~and distribution of spirituous liquor by an independent contractor, by~~
45 ~~negotiated contract or by the use of procedures for purchase and contract by~~
46 ~~State agencies, for the operation of that warehouse.~~
47 (b) ~~Audits and Inspections.~~ Contracts entered into pursuant to this section shall provide
48 the following:
49 (1) ~~That an annual audited financial statement be prepared and submitted to the~~
50 ~~Commission by the person contracting with the Commission;~~

(2) — That all warehouse records be available for inspection at all times by the Commission and the Department of Revenue; and

(3) — That all warehouse accounts relating to the receipt, storage, or distribution of spirituous liquor be subject to audit by the State Auditor.

(e) — Emergency or Temporary Operation. — If the independent operator of a warehouse changes, or if some other occurrence results in substantially impeded distribution of spirituous liquor from a warehouse, the Commission may operate that warehouse on an interim emergency or temporary basis.

(d) — Rules. — The Commission may adopt rules regarding warehouse operations, and violations of those rules by a party with whom the Commission contracts shall be grounds for termination by the Commission of a contract entered into under this section.

"§ 18B-205. Accounts and reports required.

(a) — Accounts and Reports. — The Commission may require local boards to submit quarterly mixed beverage reports, quarterly and annual audits, monthly sales records, and any other reports or audits relating to the operations of the local ABC systems.

(b) — Accounting System. — The Commission may require local boards to use generally accepted accounting standards and a chart of accounts prescribed by the Commission in the operation of ABC stores, and to record all information necessary and useful to the Commission in auditing the operation of ABC systems and administering the ABC law.

(c) — Audits. — The Commission may audit the operation of any local ABC store or board, and the books of those stores and boards shall remain open to the Commission for inspection.

...

"§ 18B-208. ABC Commission bonds and funds.

(a) Issuance of Bonds. — As a means of raising the funds needed from time to time in the design, acquisition, construction, equipping, maintenance and operation of a warehouse under G.S. 18B-204(a)(3), the Commission may, with the approval of the Governor, at one time or from time to time issue negotiable revenue bonds of the Commission. The issuance of revenue bonds shall not directly or indirectly or contingently obligate the State to levy or to pledge any form of taxation or to make any appropriation for their payment. Revenue bonds issued pursuant to this subsection shall be repaid from the bailment surcharge as provided in subsection (b). These bonds and the income from them are exempt from all taxation within the State.

(b) Special Fund. — A special fund in the office of the State Treasurer, the ABC Commission Fund, is created. On and after November 1, 1982, all moneys derived from the collection of bailment charges and bailment surcharges shall be deposited in the ABC Commission Fund for the purpose of carrying out the provisions of this Chapter. The ABC Commission Fund shall be subject to the provisions of the State Budget Act except that no unexpended surplus of this fund shall revert to the General Fund. The Commission shall fix the level of the bailment surcharges at an amount calculated to cover operating expenses of the Commission and the retirement of bonds issued for construction of a Commission warehouse and offices. Upon payment of the bonds issued pursuant to this section, the Commission shall reduce the bailment surcharge to an amount no greater than necessary to pay operating expenses of the Commission as authorized by the General Assembly.

All moneys credited to the ABC Commission Fund shall be used to carry out the intent and purposes of the ABC law in accordance with plans approved by the North Carolina ABC Commission and the Director of the Budget. The moneys in the Fund shall be expended only upon an appropriation by an act of the General Assembly.

..."

SECTION 19. Article 3 of Chapter 18B of the General Statutes reads as rewritten:

"Article 3.

"Sale, Possession, and Consumption.

"§ 18B-301. Possession and consumption of fortified wine and spirituous liquor.

(e) Incident to Sale. – It shall be lawful to possess fortified wine and spirituous liquor at any ~~place, such as an ABC store, place~~ where possession is a necessary incident to lawful sale. Consumption at such a place shall be unlawful unless the establishment has a permit authorizing consumption on the premises as well as sale.

(f) Unlawful Possession or Use. – As illustration, but not limitation, of the general prohibition stated in G.S. 18B-102(a), it shall be unlawful for:

(1) Any person to consume fortified wine, spirituous liquor, or mixed beverages or to offer such beverages to another person at any of the following places:

- a. On the premises of an ABC store; a food business or retail business holding an off-premises spirituous liquor permit pursuant to G.S. 18B-1001.
- b. ~~Upon any property used or occupied by a local board.~~
- c. On any public road, street, highway, or sidewalk, unless a consumer tasting authorized by G.S. 18B-1114.7 is being conducted.

"§ 18B-305. Other prohibited sales.

(a) Sale to Intoxicated Person. – It shall be unlawful for a permittee or his employee ~~or for an ABC store employee~~ to knowingly sell or give alcoholic beverages to any person who is intoxicated.

..."

SECTION 20. Article 4 of Chapter 18B of the General Statutes reads as rewritten:

"Article 4.

"Transportation.

"§ 18B-403. Purchase-transportation permit.

(b) Issuance of Permit. – A purchase-transportation permit may be issued by:

- (1) ~~The local board chairman;~~
- (2) ~~A member of the local board;~~
- (3) ~~The general manager or supervisor of the local board; or~~
- (4) The manager or assistant manager of an ABC store, if he is authorized to issue permits by the local board chairman, by a holder of a permit issued pursuant to G.S. 18B-1001 that allows the sale of the applicable alcoholic beverage.

(e) Restrictions on Permit. – A purchase may be made only from the store named on the permit. One copy of the permit shall be kept by the issuing person, one by the purchaser, and one by the store from which the purchase is made. The purchaser shall display his copy of the permit to any law-enforcement officer upon request. ~~A permit for the purchase and transportation of spirituous liquor may be issued only by an authorized agent of the local board for the jurisdiction in which the purchase will be made.~~

"§ 18B-404. Additional provisions for purchase and transportation by mixed beverage permittees.

(b) Issuance. – If mixed beverages sales have been approved for an establishment under G.S. 18B-603(d1) or under G.S. 18B-603(e), or for an establishment located in a township in which mixed beverages have been approved the purchase-transportation permit for that establishment may be issued by ~~the local board of any city located in the same county as the establishment,~~ an off-premises spirituous liquor permittee in accordance with G.S. 18B-403,

provided the city has approved the sale of mixed beverages. ~~Otherwise a licensed establishment may obtain a mixed beverages purchase-transportation permit only from the local board for the jurisdiction in which it is located. If there is no ABC store within the establishment's jurisdiction, then the mixed beverages permittee shall obtain a mixed beverages purchase-transportation permit from the nearest and most convenient ABC store.~~

(e) ~~Designated Store.~~—A local board may designate a store within its system to make sales to mixed beverages permittees.

...
"§ 18B-405. Transportation by permittee.

The holder of a permit for the retail sale of malt beverages, unfortified wine, ~~or fortified wine~~ wine, or spirituous liquor may transport in the course of ~~his-the holder's~~ business any amount of the alcoholic beverage ~~he-the holder~~ is authorized to sell, without a purchase-transportation permit or a commercial transportation permit under G.S. 18B-1115.

..."

SECTION 21. Article 5 of Chapter 18B of the General Statutes reads as rewritten:

"Article 5.

"Law Enforcement.

...

"§ 18B-501. Local ABC officers.

(a) ~~Appointment.~~—Except as provided in subsection (f), each local board shall hire one or more ABC enforcement officers. Local ABC enforcement officers shall be designated as "ABC Officers". The local board may designate one officer as the chief ABC officer for that board.

(b) ~~Subject Matter Jurisdiction.~~—After taking the oath prescribed for a peace officer, a local ABC officer may arrest and take other investigatory and enforcement actions for any criminal offense; however, the primary responsibility of a local ABC officer is enforcement of the ABC laws and Article 5 of Chapter 90 (The Controlled Substances Act).

(c) ~~Territorial Jurisdiction.~~—A local ABC officer has jurisdiction anywhere in the county in which he is employed except that a city ABC officer's territorial jurisdiction is subject to any limitation included in any local act governing that city ABC system. A local ABC officer may pursue outside his normal territorial jurisdiction anyone who commits an offense within that jurisdiction, as provided in G.S. 15A-402(d).

(d) ~~Assisting Other Local Agencies.~~—The local ABC officers employed by a local board shall constitute a "law enforcement agency" for purposes of G.S. 160A-288, and a local board shall have the same authority as a city or county governing body to approve cooperation between law enforcement agencies under that section.

(e) ~~Assisting State and Federal Enforcement.~~—A local ABC officer may assist State and federal law enforcement agencies in the investigation of criminal offenses in North Carolina, under the following conditions:

(1) ~~The local board employing the officer has adopted a resolution approving such assistance and stating the conditions under which it may be provided;~~

(2) ~~The State or federal agency has made a written request for assistance from that local board, either for a particular investigation or for any investigation that might require assistance within a certain period of time;~~

(3) ~~The local ABC officer is supervised by someone in the requesting agency; and~~

(4) ~~As soon as practical after the assistance begins, an acknowledgement of the action is placed in the records of the local board.~~

~~A local ABC officer shall have territorial jurisdiction throughout North Carolina while assisting a State or federal agency under this section. While providing that assistance the officer shall continue to be considered an employee of the local board for purposes of salary, worker's~~

1 compensation, and other benefits, unless a different arrangement is negotiated between the local
2 board and the requesting agency.

3 (f) ~~Contracts with Other Agencies.~~ Instead of hiring local ABC officers, a local board
4 may contract to pay its enforcement funds to a sheriff's department, city police department, or
5 other local law enforcement agency for enforcement of the ABC laws within the
6 law enforcement agency's territorial jurisdiction. Enforcement agreements may be made with
7 more than one agency at the same time. When such a contract for enforcement exists, the
8 designated officers of the contracting law enforcement agency shall have the same authority to
9 inspect under G.S. 18B-502 that an ABC officer employed by that local board would have. An
10 agency contracted to provide ABC law enforcement shall designate no more than five officers to
11 conduct inspections pursuant to this section and G.S. 18B-502. If a city located in two or more
12 counties approves the sale of some type of alcoholic beverage pursuant to the provisions of G.S.
13 18B-600(e4), and there are no local ABC boards established in the city and one of the counties
14 in which the city is located, the local ABC board of any county in which the city is located may
15 enter into an enforcement agreement with the city's police department for enforcement of the
16 ABC laws within the entire city, including that portion of the city located in the county of the
17 ABC board entering into the enforcement agreement.

18 (f1) ~~Accountability; Enforcement Reports.~~ To ensure accountability to the appointing
19 authority and the Commission, every local board's ABC officers and those law enforcement
20 agencies subject to an enforcement agreement entered into pursuant to subsection (f) of this
21 section shall report to the local board, by the fifth business day of each month, on a form
22 developed by the Commission, the following:

- 23 (1) ~~The number of arrests made for ABC law, Controlled Substance Act, or other~~
24 ~~violations, by category, at ABC permitted outlets.~~
- 25 (2) ~~The number of arrests made for ABC law, Controlled Substance Act, or other~~
26 ~~violations, by category, at other locations.~~
- 27 (3) ~~The number of agencies assisted with ABC law or controlled substance-related~~
28 ~~matters.~~
- 29 (4) ~~The number of alcohol education and responsible server programs presented.~~

30 The local board shall submit a copy of the enforcement report to the appointing authority and
31 the Commission not later than five business days after receipt of the enforcement report by the
32 local board. The Commission shall publish this information, by local board and enforcement
33 agency, on a public Internet Web site maintained by the Commission.

34 (g) ~~Discharge.~~ Local ABC officers and the designated officers of agencies which
35 contract with local boards for enforcement of the ABC laws are subject to the discharge and
36 ineligibility provisions of G.S. 18B-202.

37 **"§ 18B-502. Inspection of licensed premises.**

38 (a) Authority. – To procure evidence of violations of the ABC law, alcohol
39 law-enforcement agents, ~~agents and~~ employees of the Commission, local ABC officers, and
40 officers of local law enforcement agencies that have contracted to provide ABC enforcement
41 under G.S. 18B-501(f) ~~Commission~~ shall have authority to investigate the operation of each
42 licensed premises for which an ABC permit has been issued, to make inspections that include
43 viewing the entire premises, and to examine the books and records of the permittee. The
44 inspection authorized by this section may be made at any time it reasonably appears that someone
45 is on the premises. Alcohol law-enforcement agents are also authorized to be on the premises to
46 the extent necessary to enforce the provisions of Article 68 of Chapter 143 of the General
47 Statutes.

48 ...
49 **"§ 18B-503. Disposition of seized alcoholic beverages.**
50 ...

(e) Sale Procedure. – The sale of unfortified ~~wine or wine~~, fortified ~~wine-wine~~, and ~~spirituous liquor~~ shall be by public auction unless those wines or spirituous liquor would likely become spoiled or lose value in the time required to arrange a public auction. If spoilage or loss of value is likely, the judge ordering the sale or the Commission may authorize sale at the prevailing wholesale price, as determined by the Commission, to one or more persons holding the appropriate retail wine or spirituous liquor permits in the county in which the wine or spirituous liquor was seized, or in a neighboring county if there are no such persons in the county in which the wine or spirituous liquor was seized. ~~Spirituous liquor may be sold only to the local ABC board serving the city or county in which the liquor was seized, or, if there is no local board for that city or county, to the nearest local board. The sale price shall be at least ten percent (10%) less than the price the local board would pay for the same liquor bought through the State warehouse.~~

...
"§ 18B-504. Forfeiture.

...
(f) Disposition of Forfeited Property. – A judge ordering forfeiture of property may order any one of the following dispositions:

- (1) Sale at public auction;
- (2) Sale at auction after notice to certain named individuals or groups, if only a limited number of people would have use for that property;
- (3) Delivery to a named State or local law-enforcement agency, if the property is not suited for sale, with preference to be given in the following order, to: the agency that seized the property, the ALE Branch, the Commission, ~~the local board of the jurisdiction in which the property was seized~~, and the Department of Justice; or
- (4) Destruction, if possession of the property would be unlawful and it could not be used or is not wanted for law enforcement, or if sale or other disposition is not practical.

... "

SECTION 22. Article 7 of Chapter 18B of the General Statutes is repealed.

SECTION 23. Article 8 of Chapter 18B of the General Statutes is repealed.

SECTION 24. Article 9 of Chapter 18B of the General Statutes, as amended by Sections 2 and 13 of this act, reads as rewritten:

"Article 9.

"Issuance of Permits.

...
"§ 18B-902. Application for permit; fees.

(a) Form. – An application for an ABC permit shall be on a form prescribed by the Commission and shall be notarized. Each person required to qualify under G.S. 18B-900(c) shall sign and swear to the application and shall submit a full set of fingerprints with the application.

(b) Investigation. – Before issuing a new permit, the Commission, with the assistance of the ALE Branch, shall investigate the applicant and the premises for which the permit is requested. ~~The Commission may request the assistance of local ABC officers in investigating applications.~~ An applicant shall cooperate fully with the investigation.

The Department of Public Safety may provide a criminal record check to the ALE Branch for a person who has applied for a permit through the Commission. The ALE Branch shall provide to the Department of Public Safety, along with the request, the fingerprints of the applicant, any additional information required by the Department of Public Safety, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The

applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The ALE Branch and the Commission shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Public Safety may charge each applicant a fee for conducting the checks of criminal history records authorized by this subsection.

..."

SECTION 25. Sections 16 through 25 of this act become effective January 1, 2022.

PART V. REVISIONS TO CHAPTER 105 OF THE GENERAL STATUTES

SECTION 26.(a) Article 2C of Chapter 105 of the General Statutes reads as rewritten:

"Article 2C.

"Alcoholic Beverage License and Excise Taxes.

"Part 1. General Provisions.

"§ 105-113.68. Definitions; scope.

(a) Definitions. – The following definitions apply in this Article:

...

~~(4a) — Antique spirituous liquor. Defined in G.S. 18B-101.~~

...

(13) Wholesaler or importer. – When used with reference to wholesalers or importers of ~~wine or wine~~, malt beverages, or spirituous liquor, the term includes (i) resident wineries that sell their wines at ~~retail and retail~~, (ii) resident breweries that produce fewer than 25,000 barrels of malt beverages per year, and (iii) resident distilleries that produce fewer than 100,000 proof gallons of spirituous liquor per year.

...

"Part 3. Local Licenses.

"§ 105-113.77. City ~~beer and wine~~ beer, wine, and spirituous liquor retail licenses.

(a) License and Tax. – A person holding any of the following retail ABC permits for an establishment located in a city shall obtain from the city a city license for that activity. The annual tax for each license is as stated.

ABC Permit	Tax for Corresponding License
On-premises malt beverage.....	\$15.00
Off-premises malt beverage	5.00
On-premises unfortified wine,	
on-premises fortified wine, or both	15.00
Off-premises unfortified wine,	
off-premises fortified wine, or both	10.00
<u>Off-premises spirituous liquor</u>	<u>15.00</u>

"§ 105-113.78. County ~~beer and wine~~ beer, wine, and spirituous liquor retail licenses.

A person holding any of the following retail ABC permits for an establishment located in a county shall obtain from the county a county license for that activity. The annual tax for each license is as stated.

ABC Permit	Tax for Corresponding License
On-premises malt beverage.....	\$25.00
Off-premises malt beverage	5.00
On-premises unfortified wine,	

1	on-premises fortified wine, or both.....	25.00
2	Off-premises unfortified wine,	
3	off-premises fortified wine, or both	25.00
4	Off-premises spirituous liquor	25.00

5 **"§ 105-113.79. City wholesaler license.**

6 A city may require city malt ~~beverage and wine beverage~~, wine, and spirituous liquor
7 wholesaler licenses for businesses located inside the city, but may not require a license for a
8 business located outside the city, regardless whether that business sells or delivers malt ~~beverages~~
9 ~~or wine beverages~~, wine, or spirituous liquor inside the city. The city may charge an annual tax
10 of not more than thirty-seven dollars and fifty cents (\$37.50) for a city malt beverage ~~wholesaler~~
11 ~~or wholesaler license~~, a city wine wholesaler ~~license~~, or a city spirituous liquor wholesaler
12 license.

13 "Part 4. Excise Taxes, Distribution of Tax Revenue.

14 **"§ 105-113.80. Excise taxes on beer, wine, and liquor.**

15 (a) Beer. – An excise tax of sixty-one and seventy-one hundredths cents (61.71¢) per
16 gallon is levied on the sale of malt beverages.

17 (b) Wine. – An excise tax of twenty-six and thirty-four hundredths cents (26.34¢) per
18 liter is levied on the sale of unfortified wine, and an excise tax of twenty-nine and thirty-four
19 hundredths cents (29.34¢) per liter is levied on the sale of fortified wine.

20 (c) Liquor. – An excise tax of ~~thirty percent (30%)~~ twenty-eight dollars (\$28.00) per
21 gallon is levied on the sale of spirituous liquor and antique spirituous liquor sold in ABC stores
22 and in permitted distilleries. Pursuant to G.S. 18B-804(b), the price of liquor on which this tax is
23 computed is the distiller's or the antique spirituous liquor seller's price plus (i) the State ABC
24 warehouse freight and bailment charges and (ii) a markup for local ABC boards liquor.

25 **"§ 105-113.81. Exemptions.**

26 (a) Major Disaster. – Wholesalers and importers of malt ~~beverages and wine beverages~~,
27 wine, and spirituous liquor are not required to remit excise taxes on malt ~~beverages or wine~~
28 beverages, wine, or spirituous liquor rendered unsalable by a major disaster. To qualify for this
29 exemption, the wholesaler or importer shall prove to the satisfaction of the Secretary that a major
30 disaster occurred. A major disaster is the destruction, spoilage, or rendering unsalable of 50 or
31 more cases, or the equivalent, of malt beverages or 25 or more cases, or the equivalent, of
32 wine, wine or spirituous liquor.

33 (b) Sales to Oceangoing Vessels. – Wholesalers and importers of malt ~~beverages and~~
34 wine beverages, wine, and spirituous liquor are not required to remit excise taxes on malt
35 ~~beverages and wine beverages, wine, and spirituous liquor~~ sold and delivered for use on
36 oceangoing vessels. An oceangoing vessel is a ship that plies the high seas in interstate or foreign
37 commerce, in the transport of freight or passengers, or both, for hire exclusively. To qualify for
38 this exemption the beverages shall be delivered to an officer or agent of the vessel for use on that
39 vessel. Sales made to officers, agents, crewmen, or passengers for their personal use are not
40 exempt.

41 (c) Sales to Armed Forces of the United States. – Wholesalers and importers of malt
42 ~~beverages and wine beverages, wine, and spirituous liquor~~ are not required to remit excise taxes
43 on malt ~~beverages and wine beverages, wine, and spirituous liquor~~ sold to the Armed Forces of
44 the United States. The Secretary may require malt ~~beverages and wine beverages, wine, and~~
45 spirituous liquor sold to the Armed Forces of the United States to be marked "For Military Use
46 Only" to facilitate identification of those beverages.

47 (d) Out-of-State Sales. – Wholesalers and importers of malt ~~beverages and wine~~
48 beverages, wine, and spirituous liquor are not required to remit excise taxes on malt ~~beverages~~
49 and wine beverages, wine, and spirituous liquor shipped out of this State for resale outside the
50 State.

51 ...

1 **"§ 105-113.82. Distribution of part of ~~beer and wine~~ beer, wine, and spirituous liquor taxes.**

2 (a) Amount. – The Secretary must distribute annually a percentage of the net amount of
3 excise taxes collected on the sale of malt ~~beverages and wine~~ beverages, wine, and spirituous
4 liquor during the preceding 12-month period ending March 31 to the counties or cities in which
5 the retail sale of these beverages is authorized in the entire county or city. The percentages to be
6 distributed are as follows:

- 7 (1) Of the tax on malt beverages levied under G.S. 105-113.80(a), twenty and
8 forty-seven hundredths percent (20.47%).
9 (2) Of the tax on unfortified wine levied under G.S. 105-113.80(b), forty-nine and
10 forty-four hundredths percent (49.44%).
11 (3) Of the tax on fortified wine levied under G.S. 105-113.80(b), eighteen percent
12 (18%).
13 (4) Of the tax on spirituous liquor levied under G.S. 105-113.80(c), thirty percent
14 (30%).

15 (a1) Method. – If malt beverages, unfortified wine, ~~or fortified wine~~ wine, or spirituous
16 liquor may be licensed to be sold at retail in both a county and a city located in the county, both
17 the county and city receive a portion of the amount distributed, that portion to be determined on
18 the basis of population. If one of these beverages may be licensed to be sold at retail in a city
19 located in a county in which the sale of the beverage is otherwise prohibited, only the city receives
20 a portion of the amount distributed, that portion to be determined on the basis of population. The
21 amounts distributable under subsection (a) of this section must be computed separately.

22 ...
23 (c) Exception. – Notwithstanding subsections (a) and (a1) of this section, in a county in
24 which ~~ABC stores have been established by petition, the off-premises sale of spirituous liquor is~~
25 lawful, the revenue shall be distributed as though the entire county had approved the retail sale
26 of a beverage whose retail sale is authorized in part of the county.

27 ...
28 (g) ~~Use of Funds.~~ Funds Distributed to a County or City. – Funds distributed to a county
29 or city under this section for taxes levied on malt beverages, unfortified wine, and fortified wine
30 may be used for any public purpose. Funds distributed to a county or city under this section for
31 taxes levied on spirituous liquor shall be used as follows:

- 32 (1) Four percent (4%) of the funds for the treatment of alcoholism or substance
33 abuse.
34 (2) Fifteen percent (15%) of the funds for research or education on alcohol or
35 substance abuse.
36 (3) Eleven percent (11%) of the funds for costs incurred by local law enforcement
37 agencies from enforcing the laws set forth in Chapter 18B of the General
38 Statutes.
39 (4) Any remaining funds may be used for any public purpose.

40 (g1) Additional Distribution; Use. – In addition to the amount distributed under subsection
41 (a) of this section, the Secretary must distribute annually a portion of the net amount of excise
42 taxes collected on the sale of spirituous liquor during the preceding 12-month period ending
43 March 31 as follows:

- 44 (1) Three million dollars (\$3,000,000) to the Department of Health and Human
45 Services to be used for the treatment of alcoholism or substance abuse, or for
46 research or education on alcohol or substance abuse.
47 (2) Eight million five hundred thousand dollars (\$8,500,000) to the Alcoholic
48 Beverage Control Commission to be used for the operating and administrative
49 costs of the Commission.

50 ...

51 "Part 5. Administration.

"§ 105-113.83. Payment of excise taxes.

(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. Secretary by the resident wholesaler or importer who first handles the liquor in this State.~~ The tax shall be paid on or before the 15th day of the month following the month in which the ~~tax was collected.~~ liquor is first sold or otherwise disposed of in this State by the wholesaler or importer. The taxes on liquor are payable only once on the same liquor. When excise taxes are paid on liquor, the wholesaler or importer must submit to the Secretary verified reports on forms provided by the Secretary detailing sales records for the month for which the taxes are paid. The report must indicate the amount of excise tax due, contain the information required by the Secretary, and indicate separately any transactions to which the excise tax does not apply. The verified report is due on or before the fifteenth day of the first month of the following calendar year.

...."

SECTION 26.(b) G.S. 105-164.4(a) reads as rewritten:

"(a) A privilege tax is imposed on a retailer engaged in business in the State at the percentage rates of the retailer's net taxable sales or gross receipts, listed in this subsection. The general rate of tax is four and three-quarters percent (4.75%). The percentage rates are as follows:

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

...."

SECTION 26.(c) G.S. 105-113.106 reads as rewritten:**"§ 105-113.106. Definitions.**

The following definitions apply in this Article:

- (3) Dealer. – Any of the following:

d. ~~A person who in violation of Chapter 18B of the General Statutes possesses an illicit mixed beverage for sale.~~

- (4a) ~~Illicit mixed beverage. – A mixed beverage, as defined in G.S. 18B-101, composed in whole or in part from spirituous liquor on which the charge imposed by G.S. 18B-804(b)(8) has not been paid, but not including a premixed cocktail served from a closed package containing only one serving.~~

- (9) Unauthorized substance. – A controlled substance, ~~an illicit mixed beverage,~~ illicit spirituous liquor, or mash."

SECTION 26.(d) G.S. 105-113.107 reads as rewritten:**"§ 105-113.107. Excise tax on unauthorized substances.**

(d) ~~Illicit Mixed Beverages. – A tax is levied on illicit mixed beverages sold by a dealer at the rate of twenty dollars (\$20.00) on each four liters and a proportional sum on lesser quantities."~~

SECTION 26.(e) G.S. 105-113.108 reads as rewritten:**"§ 105-113.108. Reports; revenue stamps.**

(b) Reports. – Every local law enforcement agency and every State law enforcement agency must report to the Department within 48 hours after seizing an unauthorized substance,

1 or making an arrest of an individual in possession of an unauthorized substance, listed in this
2 subsection upon which a stamp has not been affixed. The report must be in the form prescribed
3 by the Secretary and it must include the time and place of the arrest or seizure, the amount,
4 location, and kind of substance, the identification of an individual in possession of the substance
5 and that individual's social security number, and any other information prescribed by the
6 Secretary. The report must be made when the arrest or seizure involves any of the following
7 unauthorized substances upon which a stamp has not been affixed as required by this Article:

- 8 (1) More than 42.5 grams of marijuana.
- 9 (2) Seven or more grams of any other controlled substance that is sold by weight.
- 10 (3) Ten or more dosage units of any other controlled substance that is not sold by
11 weight.
- 12 (4) ~~Any illicit mixed beverage.~~
- 13 (5) Any illicit spirituous liquor.
- 14 (6) Mash."

15 **SECTION 26.(f)** This section is effective for taxes imposed for taxable years
16 beginning on or after July 1, 2021.

17 18 **PART VI. OTHER CONFORMING REVISIONS**

19 **SECTION 27.(a)** G.S. 20-187.2(a) reads as rewritten:

20 "(a) Surviving spouses, or in the event such members die unsurvived by a spouse,
21 surviving children of members of North Carolina State, city and county law-enforcement
22 agencies killed in the line of duty or who are members of such agencies at the time of their deaths,
23 and retiring members of such agencies shall receive upon request and at no cost to them, the
24 badge worn or carried by such deceased or retiring member. The governing body of a
25 law-enforcement agency may, in its discretion, also award to a retiring member or surviving
26 relatives as provided herein, upon request, the service side arm of such deceased or retiring
27 members, at a price determined by such governing body, upon determining that the person
28 receiving the weapon is not ineligible to own, possess, or receive a firearm under the provisions
29 of State or federal law, or if the weapon has been rendered incapable of being fired. Governing
30 body shall mean for county and local alcohol beverage control officers, the ~~county or local board~~
31 ~~of alcoholic control; county;~~ for all other law-enforcement officers with jurisdiction limited to a
32 municipality or town, the city or town council; for all other law-enforcement officers with
33 countywide jurisdiction, the board of county commissioners; for all State law-enforcement
34 officers, the head of the department."

35 **SECTION 27.(b)** G.S. 147-69.3(b) reads as rewritten:

36 "(b) Any official, board, commission, other public authority, local government, school
37 administrative unit, ~~local ABC board,~~ or community college of the State having custody of any
38 funds not required by law to be deposited with and invested by the State Treasurer may deposit
39 all or any portion of those funds with the State Treasurer for investment in one of the investment
40 programs established pursuant to this section, subject to any provisions of law with respect to
41 eligible investments, provided that any occupational licensing board as defined in G.S. 93B-1
42 may participate in one of the investment programs established pursuant to this section regardless
43 of whether or not the funds were required by law to be deposited with and invested by the State
44 Treasurer. In the absence of specific statutory provisions to the contrary, any of those funds may
45 be invested in accordance with the provisions of G.S. 147-69.2 and 147-69.3. Upon request from
46 any depositor eligible under this subsection, the State Treasurer may authorize moneys invested
47 pursuant to this subsection to be withdrawn by warrant on the State Treasurer."

48 **SECTION 27.(c)** This section becomes effective January 1, 2022.

49 **SECTION 28.(a)** G.S. 105-251.2(b) reads as rewritten:

50 "(b) Alcohol Vendor. – An alcohol vendor must give information to the Secretary when
51 the Secretary requests the information. The Secretary may not request the information more than

one time per calendar year. The Secretary may request the alcohol vendor to provide on a return, a report, or otherwise, for a permittee to which the alcohol vendor provides alcohol, a permittee's name, license number, and business address and any other information pertaining to the permittee in possession of the alcohol vendor that the Secretary deems necessary to determine the permittee's compliance with this Chapter. This subsection applies to the following alcohol vendors:

- (1) An ABC store in the ABC system, as defined in G.S. 18B-101.
- (2) A wine wholesaler, as defined in G.S. 18B-1201.
- (3) A wholesaler, as defined in ~~G.S. 18B-1301~~ G.S. 18B-1301 and G.S. 18B-1401.
- (4) The holder of an unfortified winery permit, a fortified winery permit, a brewery permit, or a distillery permit under G.S. 18B-1100."

SECTION 28.(b) G.S. 105-251.2(b) reads as rewritten:

"(b) Alcohol Vendor. – An alcohol vendor must give information to the Secretary when the Secretary requests the information. The Secretary may not request the information more than one time per calendar year. The Secretary may request the alcohol vendor to provide on a return, a report, or otherwise, for a permittee to which the alcohol vendor provides alcohol, a permittee's name, license number, and business address and any other information pertaining to the permittee in possession of the alcohol vendor that the Secretary deems necessary to determine the permittee's compliance with this Chapter. This subsection applies to the following alcohol vendors:

- (1) ~~An ABC store in the ABC system, as defined in G.S. 18B-101.~~
- (2) A wine wholesaler, as defined in G.S. 18B-1201.
- (3) A wholesaler, as defined in ~~G.S. 18B-1301~~ G.S. 18B-1301 and G.S. 18B-1401.
- (4) The holder of an unfortified winery permit, a fortified winery permit, a brewery permit, or a distillery permit under G.S. 18B-1100."

SECTION 28.(c) Subsection (a) of this section becomes effective July 1, 2021, and expires January 1, 2022. Subsection (b) of this section becomes effective January 1, 2022. The remainder of this section is effective when it becomes law.

SECTION 29.(a) G.S. 153A-145.7 reads as rewritten:

"§ 153A-145.7. Hours of certain alcohol sales.

In accordance with G.S. 18B-1004(c), a county may adopt an ordinance allowing for the sale of malt beverages, unfortified wine, fortified wine, spirituous liquor, and mixed beverages beginning at 10:00 A.M. on Sunday pursuant to the licensed premises' permit issued under G.S. 18B-1001."

SECTION 29.(b) G.S. 160A-205.3 reads as rewritten:

"§ 160A-205.3. Hours of certain alcohol sales.

In accordance with G.S. 18B-1004(c), a city may adopt an ordinance allowing for the sale of malt beverages, unfortified wine, fortified wine, spirituous liquor, and mixed beverages beginning at 10:00 A.M. on Sunday pursuant to the licensed premises' permit issued under G.S. 18B-1001."

SECTION 29.(c) This section becomes effective July 1, 2021.

EFFECTIVE DATE

SECTION 30. Except as otherwise provided, this act becomes effective July 1, 2021.



NORTH CAROLINA GENERAL ASSEMBLY

Session 2019

Fiscal Analysis Memorandum

CONFIDENTIAL

Requestor: Representative McGrady
Analyst(s): Denise Canada, William Childs, and Mark White
RE: House Bill 971 (PCS - H971-CSTQf-19)

SUMMARY TABLE

FISCAL IMPACT OF PCS to H971 (\$ in millions)					
	<u>FY 2019-20</u>	<u>FY 2020-21</u>	<u>FY 2021-22</u>	<u>FY 2022-23</u>	<u>FY 2023-24</u>
State Impact					
<u>Revenue Changes</u>					
Permit Fee Revenue			No Estimate Available - Refer to Fiscal Analysis Section		
ABC Fee for Electronic Forms			No Estimate Available - Refer to Fiscal Analysis Section		
Excise Taxes			Refer to Fiscal Analysis Section		
Sales Taxes			Revenue Loss - Refer to Fiscal Analysis Section		
<u>Mixed Beverage Charges</u>			<u>Revenue Loss - Refer to Fiscal Analysis Section</u>		
General Fund Impact		-	-	-	-
Special Fund Revenues	-	-	-	-	-
Less Expenditures	-	-	-	-	-
Special Fund Impact		Estimate Available - Refer to Fiscal Analysis Section			

NET STATE IMPACT

Refer to Fiscal Analysis

Local Impact

Sale of Assets	Revenue Gain - Refer to Fiscal Analysis Section
Permit Fee Revenue	No Estimate Available - Refer to Fiscal Analysis Section
Permitting-Related Expenditures	No Estimate Available - Refer to Fiscal Analysis Section
State Excise Tax Distribution	Revenue Gain - Refer to Fiscal Analysis Section
Sales Taxes	Revenue Gain - Refer to Fiscal Analysis Section
Mixed Beverage Charges	Revenue Loss - Refer to Fiscal Analysis Section
<u>Store Profits and Related Revenue</u>	<u>No Estimate Available - Refer to Fiscal Analysis Section</u>

NET LOCAL IMPACT

Refer to Fiscal Analysis

STATE POSITIONS

No Estimate Available - Refer to Fiscal Analysis Section

TECHNICAL CONSIDERATIONS:

See Technical Considerations Section



FISCAL IMPACT SUMMARY

EXPENDITURES

The bill would direct the ABC Commission to cease operations at the ABC Warehouse, leading to a reduction in State expenses of \$4.4 million in FY 2021-22, which would annualize to \$8.8 million thereafter. Fiscal Research estimates that the ABC Commission would need additional staff to handle the increase in its regulatory oversight over permittees, but cannot estimate whether the additional staff would be in excess of the receipts provided to the ABC Commission in the bill.

The bill would eliminate G.S. 18B-501, which creates local ABC law enforcement officers and specifies their jurisdiction, powers, and responsibilities. As written, the bill would likely shift this responsibility to the Alcohol Law Enforcement (ALE) branch of the State Bureau of Investigation at the Department of Public Safety. Based on current levels of ABC officer staffing, ALE could require up to an additional 197 agents, carrying a total cost of \$18.4 million recurring for the positions and an additional \$12.5 million nonrecurring costs for one-time purchases of equipment, vehicles, etc. However, the bill further specifies that some of the tax funds distributed to local governments shall be used for costs incurred by local law enforcement agencies from enforcing alcohol laws. Some of this funding would presumably offset the staffing and enforcement needs identified by ALE. Fiscal Research cannot estimate the extent to which the local law enforcement actions would substitute for the increased responsibilities to ALE.

REVENUE

The bill would make multiple changes to the General Statutes to authorize additional permits with associated fees, to change the excise tax rate on spirituous liquor, to eliminate the mixed beverage tax, and to change how the State distributes revenue. Some of these changes also impact local government revenue.

Additionally, the bill would make spirituous liquor sales subject to local and State sales taxes; currently, they are subject to the State combined general rate of tax. This change shifts tax revenue from the State to local governments.

BILL ANALYSIS

The Proposed Committee Substitute (PCS) for the bill would eliminate local ABC boards by January 1, 2022, liquidate local ABC stores and the State ABC warehouse by the same date, and move the ABC Commission (Commission) into a regulatory role over licensed sellers of spirituous liquor starting on January 1, 2021.

Part I

Part I (Section 1) of the bill would amend Article 6 of Chapter 18B to allow off-premises spirituous liquor elections while phasing out ABC store elections. Any city or county that votes against off-premises spirituous liquor sales before January 1, 2022 may continue to operate ABC stores until that time.



Part II

Section 2

Section 2 of the bill would amend Article 9 of Chapter 18B to phase in off-premises spirituous liquor and spirituous liquor wholesaler permits and establish fees for these permits and for the nonresident spirituous liquor vendor permit.

Section 3

Section 3 of the bill would amend Article 10 of Chapter 18B to create a package store as an eligible permittee for a number of ABC permits. The section would further create a permit for off-premises spirituous liquor sales.

Section 4

Section 4 of the bill would amend Article 11 of Chapter 18B to allow distillers of spirituous liquor to sell spirituous liquor produced under contract by another distillery. This section would further allow a holder of a distillery permit to obtain a wholesaler permit, capped at 50,000 proof gallons of spirituous liquor, and to operate at three additional locations in the State. The distillery permittee must report information about sales to the Commission, but the Commission may only request this information once per year.

The section would further create new G.S. 18B-1109.1, which authorizes issuance of a spirituous liquor wholesaler permit, and G.S. 18B-1113.1, which authorizes issuance of a nonresident spirituous liquor vendor permit; the fees for these permits are established in Section 2.

Section 5

Section 5 of the bill would create new Article 14 of Chapter 18B, Spirituous Liquor Franchise Law, governing relations between a spirituous liquor distillery and a spirituous liquor wholesaler.

Section 6

Section 6 of the bill would direct the ABC Commission to cease operation of the State warehouse by January 1, 2022. This section would further direct the local ABC boards to cease operations and liquidate all assets by public sale between July 1, 2021 and January 1, 2022. Any funds raised by the latter action are to be paid to the general fund of the county or municipality for which the local ABC board is established and may be used for any public purpose.

Section 7

Section 7 of the bill establishes that Sections 2 through 5 are effective January 1, 2021, but spirituous liquor wholesalers may not sell to any retailer until March 1, 2021 and off-premises spirituous liquor permittees may not sell until July 1, 2021.

Part III

Part III (Sections 8-15) of the bill would make conforming changes to Chapter 18B prior to the phase-out of ABC stores on January 1, 2022. The changes in Sections 8 through 15 are effective July 1, 2021 and expire December 31, 2021.



Part IV

Part IV (Sections 16-25) of the bill would make conforming changes to Chapter 18B after the phase-out of ABC stores on January 1, 2022. Among the changes in this Part are the repeal of Article 7 of Chapter 18B, which governs local ABC boards, and Article 8 of Chapter 18B, which governs the operations of ABC stores. The changes in Sections 16 through 25 are effective January 1, 2022.

Part V

Part V (Section 26) would modify Chapter 105 of the General Statutes to address related licensure taxes and excise taxes on spirituous liquor.

Section 26 would amend G.S. 105-113.80 to change the excise tax on the sale of spirituous liquor to \$28 per gallon from the current 30% excise tax rate, which is levied on the sum of i) the seller price, ii) ABC freight and bailment charges, and iii) local markup.

Section 26 would also amend G.S. 105-113.82 to direct the ABC Commission to distribute 30% of the excise tax receipts to counties or cities where the liquor is sold. Of these distributions, the bill would direct local recipients to use 4% for treatment of alcoholism or substance abuse, 15% for research or education on alcohol or substance abuse, and 11% for costs incurred by local law enforcement agencies in the enforcement of Chapter 18B. The bill would direct the Commission to distribute \$3 million annually to the Department of Health and Human Services to be used for the treatment of alcoholism or substance abuse or for research or education related to alcoholism or substance abuse. The bill would also direct the Commission to distribute \$8.5 million to itself for operating and administrative costs. The remainder of Part V primarily would make conforming changes to Chapter 105 of the General Statutes.

Part VI

Part VI (Sections 27-30) of the bill would make other conforming revisions to various General Statutes.

FISCAL ANALYSIS

EXPENDITURE CHANGES

ABC Commission

The bill would make a number of changes to the operations of the ABC Commission (Commission). Under current law, the Commission has broad authority to administer and enforce ABC laws, including ABC Store location and pricing, local ABC board operations and training, ABC warehousing, issuance of permits, establishment and collection of bailment charges and surcharges, issuance of bonds, and distribution of alcohol to local ABC boards, military installations, and the Eastern Band of Cherokee Indians.



The bill would eliminate or modify many of the Commission's authorities. The Commission would continue to have broad authority to administer and enforce ABC laws, but the Commission would primarily retain regulatory oversight over permittees. The Commission would cease operations of the ABC warehouse.

The bill would fix the receipts for the annual operations of the ABC Commission at \$8,500,000, in Section 26. As the following table shows, the actual annual operating expenses for the ABC Commission over the last three fiscal years averaged \$6,679,963.

Budget Code 54551 ABC Enterprise Account	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Actual	FY 2018-19 Authorized	FY 2019-20 Base
ABC Commission Operating Expenditures	\$7,191,561	\$6,707,984	\$6,140,343	\$9,277,138	\$9,023,893
ABC Commission Operating Receipts	\$8,927,334	\$9,666,987	\$10,059,800	\$9,063,092	\$9,023,893

Source: NCAS, Recommended Base Budget (Worksheet I) 02/16/19

The personal services base budget for ABC in each year of the 2019-21 Biennium is \$3,516,520. This budget includes 44 FTE, whose roles broadly fall into the following categories:

ABC Division	FTE
ABC Commission Chair	1
Administration & Policy	7
Audit & Pricing	16
Education Outreach	4
Legal	5
Permitting	11
Total	44

Source: BEACON

Because the number of permits could increase significantly, ABC would likely need to expand staff related to Audit (to ensure regulatory compliance with ABC laws) and Permitting. Fiscal cannot estimate the expansion needs at this time. It is unknown whether the expansion needs could be addressed under the fixed receipts of \$8.5 million. Any positions created would be supported by the ABC Enterprise Account 54551 rather than the General Fund.

ABC Warehouse

The bill would direct the ABC Commission to cease operations of the ABC Warehouse. Annual expenditures for the actual operating expenses of the ABC Warehouse have averaged \$8,159,070 over the last three fiscal years. The bill would lead to a reduction in State expenses of \$8.8 million from ABC Enterprise Account 54551. It is assumed that the revenues currently directed to the ABC Enterprise Account 54551 for the support of the ABC Warehouse would instead be subsumed into the General Fund disbursement.

Budget Code 54551 ABC Enterprise Account	FY 2015-16 Actual	FY 2016-17 Actual	FY 2017-18 Actual	FY 2018-19 Authorized	FY 2019-20 Base
ABC Warehouse Expenditures	\$7,718,293	\$8,580,871	\$8,178,047	\$8,808,623	\$8,808,623
ABC Warehouse Receipts	\$8,310,556	\$8,928,023	\$9,220,381	\$8,808,623	\$8,808,623

Source: NCAS, Recommended Base Budget (Worksheet I) 02/16/19

Department of Public Safety – Alcohol Law Enforcement

The bill will have a number of impacts on the Alcohol Law Enforcement (ALE) branch of the State Bureau of Investigation.

First, ALE is currently directed to investigate the background of all applicants for ABC permits. The bill would create new permit applications for off-premises spirituous liquor sales permits, as well as permits for spirituous liquor wholesalers and nonresident spirituous liquor. Fiscal Research estimates that the increased background investigation for off-premises spirituous liquor permit applicants could lead to a need for additional sworn agents. Fiscal Research further estimates that the increased background work for spirituous liquor wholesale permit applicants would lead to the need for one additional administrative position.

Second, it is likely as a result of this bill that the number of permitted establishments will increase across the State, although it is unknown by what percentage. Fiscal Research estimates that the increased number of alcohol permits across the State would lead to other increases in the ALE workload, as well.

Third, the bill as written may result in a reduction of local law enforcement efforts related to alcohol and, as a result, increase the burden on ALE. Currently, 15 of the 167 ABC boards employ law enforcement officers directly while the remaining 152 contract with a local law enforcement agency. These officers have the same general duties with respect to enforcing alcohol laws and inspecting permitted establishments as ALE officers, but with a limited jurisdiction. This bill, as written, would eliminate these local ABC officers.

ALE provided Fiscal Research with an estimate for the costs the agency would likely incur in order to keep current levels of alcohol law enforcement in place if all local ABC officers were to be eliminated. ALE estimated a need of 197 new officers, which would represent the current 45 officers directly employed by the 15 ABC boards that currently follow that structure, along with one officer for each of the 152 contract boards. This would cost approximately \$18.4 million recurring for position costs and \$12.5 million nonrecurring for one-time hiring costs such as a vehicle, equipment, and training. This would nearly triple the size of the Alcohol Law Enforcement branch. It is also unlikely that ALE would be able to hire 197 new agents in a single year; as a result, these costs would likely be spread out over several years.

The bill specifies that beginning in FY 2021-22, 11% of tax funds distributed to cities or counties from the sale of spirituous liquor shall be used for costs incurred by local law enforcement agencies from enforcing alcohol laws (Chapter 18B of the General Statutes). For FY 2021-22, this amount is estimated to be \$18.0 million, compared to a current-law estimate of \$10.5 million for the same

year. (More information can be found later in this memo in the section “Revenue Distribution for State and Local Governments.”)

Some of this funding would presumably offset the staffing and enforcement needs identified by ALE above; however, Fiscal Research cannot estimate the extent to which this funding would offset ALE’s hiring needs. The bill also eliminates some of the specific duties and regulations attached to local ABC law enforcement, and it is unclear how effectively local law enforcement agencies may apply this funding for specific alcohol-related purposes.

REVENUE CHANGES

Revenue Generated

State and Local Revenue Generated From Permit and License Revenue

The bill would authorize the following new permits and licenses that have the potential to increase State and local revenue:

Type	Description	Fee	Notes and Estimated Revenue
Permit	Off-Premises Spirituous Liquor	\$1,000	Permit authorized in Section 2 of the bill. To be issued by Commission; proceeds are State revenue. Up to 1,500 permits may be issued in the first year; additional permits may be issued in future years based on a formula in statute. Each permit would need to be renewed annually. Estimated revenue: \$1.5 million annually in the first full year of implementation and higher in future years as additional permits are issued. Revenue could theoretically range from \$0 to \$1.5 million, but this memo assumes all 1,500 permits will be issued in the first full fiscal year of implementation.
Permit	Spirituous Liquor Wholesaler	\$1,000	Permit authorized in Section 2. To be issued by Commission; proceeds are State revenue. No revenue estimate available. Each permit would need to be renewed annually.
Permit	Nonresident Spirituous Liquor Vendor	\$5,000	Permit authorized in Section 2. To be issued by Commission; proceeds are State revenue. No revenue estimate available. Each permit would need to be renewed annually.
License	City Off-Premises Spirituous Liquor	\$15	Permit authorized in Section 26. To be issued by the City; proceeds are local revenue. No revenue estimate available, but revenue is assumed to be used to offset licensing expenses.
License	County Off-Premises Spirituous Liquor	\$25	Permit authorized in Section 26. To be issued by the County; proceeds are local revenue. No revenue estimate available, but revenue is assumed to be used to offset licensing expenses.



Local Government Revenue Generated From Sale of Assets

Section 6 of the bill would require local ABC boards to liquidate all assets by public sale between July 1, 2021 and January 1, 2022. The bill would further direct that any resulting revenue be paid to the General Fund of the county or municipality for which the local ABC board is established and may be used for any public purpose.

No revenue estimate is available for the Statewide sale of local assets, but it is assumed that each affected local government would realize some one-time revenue gain.

Changes In Tax Revenue Generated

The following table summarizes the primary revenue changes projected under the PCS. Each change is discussed following this table.

Revenue Type	Projected Change in All Tax Revenue Sources (\$ in Millions)				
	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Excise Tax	-	-	135.7	240.5	239.7
State Sales Tax	-	-	(16.4)	(12.2)	(14.0)
Local Sales Tax	-	-	31.3	35.9	37.8
<u>Mixed Beverage Charges</u>	-	-	(20.5)	(43.2)	(45.6)
Total Change Under the PCS	\$ -	\$ -	\$ 130.2	\$ 221.0	\$ 217.8

State Revenue Generated From Excise Taxes

Under current law, the state liquor excise tax applies to liquor sales and is calculated as 30% of the sum of:

- 1) The distiller's or liquor seller's price
- 2) The State ABC warehouse freight and bailment charges, and
- 3) A local ABC board markup.

Section 26 replaces this existing liquor excise tax with an excise tax of \$28/gallon. This change from a cost-based tax to a quantity-based tax would effectively lower taxes on more expensive liquor and raise taxes on less expensive liquor. Although research from the NCGA Program Evaluation Division, discussed subsequently, indicates that overall consumption would increase under the type of liquor control system proposed in the bill, the Fiscal Research Division cannot predict whether the types of liquor purchased would change based on the shift from a cost-based to a quantity-based tax, and this specific type of buying habit change has not been controlled for in this analysis.

To estimate the fiscal impact of the tax change, this memo compares projected tax revenue under current law and the proposed legislation:



- **Current Law Revenue Projection:** Excise tax revenue is projected based on the prior year revenue's plus 6.7% growth, which represents the average annual excise tax revenue growth from FY 2014-15 to FY 2017-18.
- **Proposed Legislation Revenue Projection:**
 - FY 2019-20 and FY 2020-21: Same as current law, because Section 26 of the bill is effective July 1, 2021.
 - FY 2021-22: Excise tax revenue is calculated at \$28/gallon. Gallons sold are based on an annual 3.8% increase over each prior year, which represents the average annual increase in gallons sold from FY 2014-15 to FY 2017-18.
 - FY 2022-23: Excise tax revenue is calculated at \$28/gallon. Gallons sold assume a 28% increase over the prior year, based on research conducted by the NCGA Program Evaluation Division in the process of researching its report "Changing How North Carolina Controls Liquor Sales Has Operational, Regulatory, and Financial Ramifications," dated 2/11/2019. The 28% growth rate was applied to FY 2022-23 because this represents the first full year of implementation.
 - FY 2023-24: Excise tax revenue is calculated at \$28/gallon. Gallons sold are based on an annual 3.8% increase over the prior year.

	Projected State Excise Tax Revenue (\$ in Millions)				
	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Excise Tax Generated					
Current Law	275.7	294.3	314.1	335.3	357.9
<u>PCS to H971</u>	<u>275.7</u>	<u>294.3</u>	<u>449.9</u>	<u>575.9</u>	<u>597.6</u>
Excise Tax Change	\$ -	\$ -	\$ 135.7	\$ 240.5	\$ 239.7

The proposed legislation increases excise tax receipts by \$240.5 million in the first full year of implementation; the increase over current law drops off slowly in future years. As discussed in later in this memo, some of the new excise tax revenue will be distributed to local governments.

State and Local Revenue Generated From Sales Taxes

Under current law, retail sales of spirituous liquor are subject to the State's combined general rate of tax (i.e., 7%) and are not subject to local sales taxes. Under the bill, retail sales of spirituous liquor would be subject to the State's 4.75% general sales tax rate, plus the applicable local rate. County sales tax rates range from 2% to 2.5%; this analysis uses the Statewide weighted average local rate of 2.27%. The analysis assumes that 80% of sales are retail sales, based on actual North Carolina liquor sales data.

To estimate the fiscal impact of the sales tax change, this memo compares projected sales tax revenue under current law and the proposed legislation:

- **Current Law Revenue Projection:** State sales tax revenue under current law is projected based on the prior year revenue's plus 6.6% growth, which represents the average annual

revenue growth from FY 2014-15 to FY 2017-18. There is no local sales tax generated under current law.

- **Proposed Legislation Revenue Projection:**

- FY 2019-20 and FY 2020-21: Same as current law, because Section 26 of the bill is effective July 1, 2021.
- FY 2021-22 and beyond: The State tax is calculated by applying the State's 4.75% sales tax rate (or, to calculate local sales tax revenue, the weighted average 2.27% rate) to the sum of:
 - (i) 80% of the annual cost of goods, as estimated based on the average annual growth in cost of goods from FY 2013-14 to FY 2017-18
 - (ii) 80% of the excise tax proceeds previously calculated for the given year
 - (iii) An average 20% wholesaler markup applied to the total of items (i) and (ii), based on industry standards obtained from the Distilled Spirits Council, and
 - (iv) An average 20% retailer markup, applied to the total of items (i) through (iii), based on industry standards obtained from the Distilled Spirits Council.

	Projected State Sales Tax Revenue (\$ in Millions)				
	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
State Sales Tax Generated					
Current Law	72.1	76.8	81.9	87.3	93.0
<u>PCS to H971</u>	<u>72.1</u>	<u>76.8</u>	<u>65.5</u>	<u>75.1</u>	<u>79.1</u>
State Sales Tax Change	\$ -	\$ -	\$ (16.4)	\$ (12.2)	\$ (14.0)

	Projected Local Sales Tax Revenue (\$ in Millions)				
	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Local Sales Tax Generated					
Current Law	-	-	-	-	-
<u>PCS to H971</u>	<u>-</u>	<u>-</u>	<u>31.3</u>	<u>35.9</u>	<u>37.8</u>
Local Sales Tax Change	\$ -	\$ -	\$ 31.3	\$ 35.9	\$ 37.8

State and Local Revenue Generated From Mixed Beverage (MXB) Charges

Under G.S. 18B-804.(b).(8) and (9), a charge of \$20 per 4 liters applies to sales of spirituous liquor (i) to a mixed beverage permittee for resale in mixed beverages, and (ii) to a guest room cabinet permittee for resale.

Section 23 of the bill repeals these charges effective January 1, 2022, 6 months after the July 1, 2021 effective date for the tax and appropriation changes found in Section 26 of the bill. To estimate the fiscal impact of the repeal, this memo compares projected revenue under current law and the proposed legislation:

- **Current Law Revenue Projection:** Revenue from MXB charges is based on the prior year revenue's plus 5.6% growth, which represents the average annual revenue growth from FY 2014-15 to FY 2017-18.



- **Proposed Legislation Revenue Projection:**

- FY 2019-20 and FY 2020-21: Same as current law.
- FY 2021-22: Revenue is calculated at 50% of the revenue under current law, due to Section 23's January 1, 2022 effective date.
- FY 2022-23 and beyond: The charges are repealed as of January 1, 2022; thus, no revenue will be generated after that date.

Under current law, the revenue from these charges is split between the State and local governments as follows:

- 50% to the State General Fund
- 45% to local governments for multiple uses including substance abuse research, education, and treatment, and
- 5% to the Department of Health and Human Services (DHHS) for substance abuse research, education, and treatment.

To replace local revenue lost from the repeal of the MXB charge, the proposed legislation earmarks a portion of the excise tax revenue for local governments and to DHHS.

	Projected MXB Charge Revenue (\$ in Millions)				
	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Mixed Beverage (MXB) Charges					
Current Law	36.7	38.7	40.9	43.2	45.6
<u>PCS to H971</u>	36.7	38.7	20.5	-	-
MXB Revenue Change	\$ -	\$ -	\$ (20.5)	\$ (43.2)	\$ (45.6)

Revenue Distributed

Tax Revenue Distributed to the State and Local Governments

The following table projects how the tax revenue described previously would be distributed under current law and under the proposed legislation for the next five fiscal years. This distribution is explained after the table.

	Projected Tax Revenue Distribution (\$ in Millions)				
	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Current Law					
State Uses:					
DHHS	2.0	2.1	2.3	2.4	2.5
ABC	21.2	23.2	25.3	27.7	30.3
<u>General Fund</u>	<u>238.7</u>	<u>252.4</u>	<u>266.8</u>	<u>282.0</u>	<u>297.9</u>
Subtotal: State	261.9	277.7	294.4	312.1	330.7
Local Uses:					
Rehabilitation	3.5	3.6	3.8	4.0	4.1
Sub. Abuse Research/Ed.	14.5	15.2	16.1	16.9	17.8
Law Enforcement	9.6	10.0	10.5	10.9	11.4
<u>Unrestricted</u>	<u>94.9</u>	<u>103.2</u>	<u>112.2</u>	<u>122.0</u>	<u>132.6</u>
Subtotal: Local	122.5	132.1	142.5	153.8	165.9
Current Law Total Revenue Distributions	384.4	409.8	436.9	465.8	496.6
Proposed Legislation					
State Uses:					
DHHS	2.0	2.1	4.0	3.0	3.0
ABC	21.2	23.2	8.5	8.5	8.5
<u>General Fund</u>	<u>238.7</u>	<u>252.4</u>	<u>379.2</u>	<u>466.7</u>	<u>485.9</u>
Subtotal: State	261.9	277.7	391.7	478.2	497.4
Local Uses:					
Rehabilitation	3.5	3.6	6.6	6.9	7.2
Sub. Abuse Research/Ed.	14.5	15.2	25.1	25.9	26.9
Law Enforcement	9.6	10.0	18.0	19.0	19.7
Unrestricted from State Excise	94.9	103.2	94.5	120.9	125.5
<u>Unrestricted from Local Sales Tax</u>	<u>0.0</u>	<u>0.0</u>	<u>31.3</u>	<u>35.9</u>	<u>37.8</u>
Subtotal: Local	122.5	132.1	175.5	208.6	217.1
PCS to H971 Total Revenue Distributions	384.4	409.8	567.2	686.8	714.5
Change From Current to Proposed					
State Uses	0.0	0.0	97.3	166.1	166.7
Local Uses	0.0	0.0	33.0	54.9	51.1
Net Change in Revenue Distributed	0.0	0.0	130.2	221.0	217.8

- **Current Law Distributions:**

- State: Distributions to DHHS and ABC were calculated based on the prior year's actual distribution plus growth, and the growth rate used was the average annual growth rate of that line item from FY 2014-15 to FY 2017-18 (e.g., DHHS: 5.8%; ABC, 9.4%). State General Fund revenue is projected as the total revenue from sales and excise



taxes and mixed beverage charges remaining net of all other State and local distributions.

- Local: Distributions for Rehabilitation, Substance Abuse Research and Education, Law Enforcement, and for unrestricted uses were calculated based on the prior year's actual distribution plus growth, and the growth rate used was the average annual growth rate of that line item from FY 2014-15 to FY 2017-18 (respectively: 4.3%, 5.4%, 4.3%, and 8.7%).

- **Proposed Legislation Distributions:**

- State: Effective July 1, 2021, the PCS sets the distribution to DHHS at \$3 million annually and to ABC at \$8.5 million annually. For these years, State General Fund revenue is calculated as total excise and State sales tax remaining after all other State and local distributions.

In addition, for FY 2021-22 only, State General Fund revenue includes 50% of MXB charges generated for the fiscal year and the DHHS distribution includes 5% of MXB charges, based on the formula found in current law. This revenue source is repealed effective January 1, 2022, six months after all other tax changes are effective.

- Local: Distributions are based on statutory formulae found in the bill draft. Specifically, 30% of State excise tax collections must be shared with local governments. Of those funds, 4% must go to Rehabilitation, 15% to Substance Abuse Research and Education, and 11% to Law Enforcement. The remaining 70% is shown in the table as unrestricted.

In addition, for FY 2021-22 only, local distributions include 45% of MXB charges generated for the fiscal year, based on the formula found in current law. These distributions have been allocated proportionally between the rehabilitation, substance abuse, and law enforcement expenditure projections.

TECHNICAL CONSIDERATIONS

Section 21: This section eliminates G.S. 18B-501, which creates Local ABC officers and specifies their jurisdiction, powers, and responsibilities. As a result, there is no clear regulation or requirements for the funding provided to local law enforcement to enforce the alcohol laws in Section 26.

Section 23: This section eliminates Article 8 of Chapter 18B, which includes charges on liquor sold for use in mixed beverages; the section also directs how this revenue is to be generated. Because this section is effective January 1, 2022, mixed beverage charges will still apply until that time and the revenue will be distributed, as directed in current law, to the State General Fund, to DHHS, and to local governments. However, the bill also sets the State appropriation to DHHS at a flat dollar amount in Section 26 of the bill, which is effective July 1, 2021.



In short, there is some uncertainty about the overlap period from July 1, 2021 until December 31, 2021, and subsequent versions of the PCS or bill may need to address this overlap period in more detail, to ensure that any revenue generated by MXB charges may legally be distributed as intended.

Section 26, amendments to G.S. 105-113.82: This section is effective July 1, 2021 and directs that 30% of the prior twelve months' excise tax revenue be distributed to local governments. The section may need phase-in language for the first year of implementation. As the PCS is currently drafted, the March 31, 2022, excise tax revenue on spirituous liquor collected "during the preceding 12-month period ending March 31" will represent only 9 months of tax proceeds (i.e., from the tax's effective date of 7/1/2021 through 3/31/2022).

DATA SOURCES

ABC Commission; Department of Public Safety – Alcohol Law Enforcement; North Carolina General Assembly – Program Evaluation Division; North Carolina Department of Revenue; the Distilled Spirits Council.

FISCAL ANALYSIS MEMORANDUM – PURPOSE AND LIMITATIONS

This document is a fiscal analysis of a bill, draft bill, amendment, committee substitute, or conference committee report that is confidential under Chapter 120 of the General Statutes. The estimates in this analysis are based on the data, assumptions, and methodology described in the Fiscal Analysis section of this document. This document only addresses sections of the bill that have projected direct fiscal impacts on State or local governments and does not address sections that have no projected fiscal impacts. This document is not an official fiscal note. If a formal fiscal note is requested, please email your request to the Fiscal Research Division at FiscalNoteRequests@ncleg.net or call (919) 733-4910.



VISITOR REGISTRATION SHEET

H C on Alcoholic Beverage Control7/23/2019

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

<i>W Harris</i>	<i>GAHA</i>
GARY PENDLETON	
NEAL HUNT	
Jim Albright	NC Alcohol Policy Alliance
Pamela Trangenstein	UNC-CH
DIANE RUIBE	ALCOHOL POLICY CONSULTING
Sarah Potter	Addiction Professionals of North Carolina
Rev. MARK CREECH	CAL
Rep Russel Crump	Former member
DAVE CLOUGH	You Hospitality Resources Group, LLC
<i>Tom Feltz</i>	FSP

VISITOR REGISTRATION SHEET

H C on Alcoholic Beverage Control

7/23/2019

Name of Committee

Date

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NAME

FIRM OR AGENCY AND ADDRESS

Neil Rower	NCMS
Hattie Gamande	DHHS
Mary Beth Cox	DPH
ALAN DELLAPENNA	DPH
DANA DANDENEAN	DPH
Tom West	NCICU
Mahe Baloch	PPAB
Sarah Patterson	WM
Sarah Bales	Proctor's Assoc.
Bryan House	ALI
Alan P. Demme	netee

Jon Carr

Jordan Price can find

Renee Metz

ABC Commission

VISITOR REGISTRATION SHEET

H C on Alcoholic Beverage Control

7/23/2019

Name of Committee

Date

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NAME	FIRM OR AGENCY AND ADDRESS
Michael Pella	Anuvia Prevention & Recovery Center 100 Billingsley Road Charlotte, NC 28211
Resha Fortson	SEANL
Austen Howell	UNC system
DAVID POWERS	PS, LLC
Ed Ham	THQ
Bo Heath	MWC
Tim Laro	CSK
Rindha Sudhini	Sec of State
Ansu Fawell	FSP
Leo John	Secy of State
Sue Forest	NCMS

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H C on Alcoholic Beverage Control

7/23/2019

Name of Committee

Date

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NAME

FIRM OR AGENCY AND ADDRESS

Lexi Arkhine	DUSHS
<i>[Signature]</i>	<i>[Signature]</i>
MARISSA TURNER	TSS
Tim KENT	NC BEER & WINE
Missy Welch	NC ABC
Andy Elle	NCRMA
Elizabeth Robb	NCR
Margo Metzger	NCKLA
Isabel Villa-Garcia	NCKLA
Deans Eatman	DNCR
Lisa Math	<i>[Signature]</i>

VISITOR REGISTRATION SHEET

H C on Alcoholic Beverage Control

7/23/2019

Name of Committee

Date

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NAME

FIRM OR AGENCY AND ADDRESS

Tyler Ford	MWC
Becki Gray	John Locke Foundation
Rev. Jimmy Dale	Mount Nelson Church Eureka, NC
Jesse P. Hanks Jr	Mount Nelson Baptist, Eureka, N.C.
Jay Boyd	N. Ridge Bible Chapel, - Christian Action L.
Rhageen Jackson	FPA
Ronnie Delroitz	NCRM

VISITOR REGISTRATION SHEET

H C on Alcoholic Beverage Control

7/23/2019

Name of Committee

Date

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NAME

FIRM OR AGENCY AND ADDRESS

Scott Broadwell	Wake Co. ABC
Kevin Lawrence	Wake Co ABC
Weston Parks	Triad ABC
DEAN CRAWFORD	TRIM ABC
Valerie Arendt	NABW-NC
Emily Oakley	APNU
Kim Morris	First Step Services
CHRIS CAMPAU	(APNC) ADDICTION PROFESSIONALS OF NORTH CAROLINA
Rachel McPherson	Murray & Associates
Amanda Donovan	KTS
Hampton Billips	KTS

VISITOR REGISTRATION SHEET

H C on Alcoholic Beverage Control

Name of Committee

7/23/2019

Date _____

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NAME _____

FIRM OR AGENCY AND ADDRESS

Cassidy Robertson

AMGA

92

1700

John Royall

NC Family

**House Pages
Assignments
Tuesday, July 23, 2019
Session: 1:00 PM**

Committee	Room	Time	Staff	Comments	Member
Education - Universities	421	11:00 AM	William Carney		Rep. Jason Saine
			Jakob Cress		Rep. Kevin Corbin
			Avery Houck		Speaker Tim Moore
			Anna Jones		Rep. Chris Humphrey
Alcoholic Beverage Control	1228/1327	3:00 PM	Jillian Russert		Rep. C. Ray Russell
			Brooke Wright		Rep. Terence Everitt
			Colin Jones		Rep. Donna McDowell White
			Nathaniel Moore		Rep. James Gaillard
Rules, Calendar, and Operations of the House	1228/1327	4:00 PM	William Carney		Rep. Jason Saine
			Carson Daly		Speaker Tim Moore
			Christa Dozier		Rep. Sydney Batch
			Jasmine Scott		Speaker Tim Moore
			Caroline Singleton		Rep. Stephen M. Ross

Committee Sergeants at Arms

NAME OF COMMITTEE H C on Alcoholic Beverage Control

DATE: 7/22/2019

Room: 1228/1327

House Sgt-At Arms:

1. Name: Rex Foster

2. Name: Ken Gilbert

3. Name: Russell Salisbury

4. Name: David Leighton

5. Name: _____

Senate Sgt-At Arms:

1. Name: _____

2. Name: _____

3. Name: _____

4. Name: _____

5. Name: _____



North Carolina General Assembly

Alcoholic Beverage Control

2019-20 Session

Chair(s)

**Representative Jamie Boles
Representative Chuck McGrady**

Co-Chair(s)

**Representative Susan Fisher
Representative Jon Hardister**

**Dina Long
Kimberly Neptune**

The Committee did not meet during the 2020 short session.

Signed Committee Chairman

A handwritten signature in black ink, appearing to be "Dina Long", written over a horizontal line.

