

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1050

Short Title: Eliminate Brown-Bagging.

(Public)

Sponsors: Representative Privette.

Referred to: Commerce.

April 6, 1989

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT BROWN-BAGGING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18B-125 reads as rewritten:

"§ 18B-125. Exceptions.

This Article does not create a claim for relief against the following:

- (1) ~~One who holds only a brown bagging permit, a special occasions permit, or a limited special occasions permit;~~
- (2) One who holds only a special one-time permit under G.S. 18B-1002;
- (3) One who holds only permits listed in G.S. 18B-1100;
- (4) One who holds any combination of the permits listed in this section."

Sec. 2. G.S. 18B-301(b) reads as rewritten:

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

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

1           Sec. 3. G.S. 18B-603 reads as rewritten:

2   **"§ 18B-603. Effect of alcoholic beverage elections on issuance of permits.**

3       (a) Malt Beverage Elections. – If a malt beverage election is held under G.S.  
4 18B-602(a) and the sale of malt beverages is approved, the Commission may issue  
5 permits to qualified persons and establishments in the jurisdiction that held the election  
6 as follows:

7           (1) If on-premises sales are approved, the Commission may issue on-  
8 premises malt beverage permits.

9           (2) If off-premises sales are approved, the Commission may issue off-  
10 premises malt beverage permits.

11           (3) If both on-premises and off-premises sales are approved, the  
12 Commission may issue both on-premises and off-premises malt  
13 beverage permits.

14           (4) If the kinds of sales described in G.S. 18B-602(a)(4) are approved, the  
15 Commission may issue on-premises malt beverage permits to  
16 restaurants and hotels only and off-premises malt beverage permits to  
17 other permittees.

18       (b) Unfortified Wine Elections. – If an unfortified wine election is held under  
19 G.S. 18B-602(d) and the sale of unfortified wine is approved, the Commission may  
20 issue permits to qualified persons and establishments in the jurisdiction that held the  
21 election as follows:

22           (1) If on-premises sales are approved, the Commission may issue on-  
23 premises unfortified wine permits.

24           (2) If off-premises sales are approved, the Commission may issue off-  
25 premises unfortified wine permits.

26           (3) If both on-premises and off-premises sales are approved, the  
27 Commission may issue both on-premises and off-premises unfortified  
28 wine permits.

29       (c) ABC Store Elections. – If an ABC store election is held under G.S. 18B-  
30 602(g) and the establishment of ABC stores is approved, each of the following shall be  
31 authorized in the jurisdiction that held the election:

32           (1) The jurisdiction that held the election may establish and operate ABC  
33 stores in the manner described in Articles 7 and 8.

34           (2) The Commission may issue on-premises and off-premises fortified  
35 wine and unfortified wine permits to qualified persons and  
36 establishments in that jurisdiction, regardless of any unfortified wine  
37 election or any local act, except that neither on-premises nor off-  
38 premises unfortified wine permits may be issued in a jurisdiction if:

39           a. The jurisdiction approved ABC stores before January 1, 1982;

40           b. The jurisdiction held an unfortified wine election before  
41 January 1, 1982; and

42           c. In that unfortified wine election, the jurisdiction did not  
43 approve either on-premises or off-premises sales of unfortified  
44 wine.

1           ~~(3) The Commission may issue brown bagging permits to restaurants,~~  
2           ~~hotels, and community theatres in the county in which the election was~~  
3           ~~held, whether the election was held by the county or by a city or other~~  
4           ~~jurisdiction within the county. Brown bagging permits may not be~~  
5           ~~issued, however, for restaurants, hotels, or community theatres in any~~  
6           ~~jurisdiction in which the sale of mixed beverages has been approved.~~

7           (d) Mixed Beverage Elections. – If a mixed beverage election is held under G.S.  
8 18B-602(h) and the sale of mixed beverages is approved, the Commission may issue  
9 permits to qualified persons and establishments in the jurisdiction that held the election  
10 as follows:

11           (1) The Commission may issue mixed beverage permits.

12           (2) The Commission may issue on-premises malt beverage, unfortified  
13 wine, and fortified wine permits for establishments with mixed  
14 beverage permits, regardless of any other election or any local act  
15 concerning sales of those kinds of alcoholic beverages.

16           (3) The Commission may issue off-premises malt beverage permits to any  
17 establishment that meets the requirements under G.S. 18B-1001(2) in  
18 any township which has voted to permit the sale of mixed beverages,  
19 regardless of any other local act concerning sales of those kinds of  
20 alcoholic beverages. The Commission may also issue off-premises  
21 unfortified wine permits to any establishment that meets the  
22 requirements under G.S. 18B-1001(4) in any township which has  
23 voted to permit the sale of mixed beverages, regardless of any other  
24 local act concerning sales of those kinds of alcoholic beverages.

25           ~~(4) The Commission may issue brown bagging permits for private clubs~~  
26           ~~but may no longer issue and may not renew brown bagging permits for~~  
27           ~~restaurants, hotels, and community theatres. A restaurant, hotel, or~~  
28           ~~community theatre may not be issued a mixed beverage permit under~~  
29           ~~subdivision (1) until it surrenders its brown bagging permit.~~

30           (5) The Commission may continue to issue culinary permits for  
31 establishments that do not have mixed beverage permits. An  
32 establishment may not be issued a mixed beverage permit under  
33 subdivision (1) until it surrenders its culinary permit.

34           In any county in which the sale of mixed beverages has been approved in elections  
35 in at least three cities that, combined, contain more than two-thirds the total county  
36 population as of the most recent federal census, the county board of commissioners may  
37 by resolution approve the sale of mixed beverages throughout the county, and the  
38 Commission may issue permits as if mixed beverages had been approved in a county  
39 election.

40           (e) Mixed Beverages at Airports. – When the sale of mixed beverages has been  
41 approved in a city election, the Commission may also issue permits under subsection (d)  
42 for qualified establishments outside the city but within the same county, if:

43           (1) The establishment is on the property of an airport;

1 (2) The airport is operated by the city or by an airport authority in which  
2 the city participates; and

3 (3) The airport services planes which board at least 150,000 passengers  
4 annually.

5 (f) Permits Not Dependent on Elections. – The Commission may issue the  
6 following kinds of permits without approval at an election:

7 (1) Special occasion permits;

8 (2) Limited special occasion permits;

9 ~~(3) Brown-bagging permits for private clubs;~~

10 (4) Culinary permits, except as restricted by subdivision (d)(5);

11 (5) Special one-time permits issued under G.S. 18B-1002;

12 (6) All permits listed in G.S. 18B-1100.

13 (f2) Permits for Unincorporated Areas – The Commission may issue the permits  
14 provided for in G.S. 18B-1001(10) to qualified persons and establishments located  
15 within an unincorporated area as defined in G.S. 18B-101 without approval at an  
16 election. The mixed beverages purchased transportation permit [purchase-  
17 transportation permit] authorized by G.S. 18B-404(b) shall be issued by a local board  
18 operating a store located in the same county as the unincorporated area.

19 (g) Miscellaneous. – The definitions in G.S. 18B-1000 shall apply to this section.

20 (h) Permits Based on Existing Permits. – In any county in which the sale of malt  
21 beverage on and off premises, the sale of unfortified wine on and off premises, the sale  
22 of mixed beverages, and the operation of an ABC system has been allowed in at least  
23 six cities in the county, the Commission may issue permits to sports clubs as defined in  
24 G.S. 18B-1000(8) throughout the county. The Commission may issue the following  
25 permits:

26 (1) On and Off Premises Malt Beverage;

27 (2) On and Off Premises Unfortified Wine;

28 (3) On and Off Premises Fortified Wine; or

29 (4) Mixed Beverage.

30 Retail establishments holding mixed beverage permits shall purchase their spirituous  
31 liquor at the nearest municipal ABC system store."

32 Sec. 4. G.S. 18B-902 reads as rewritten:

33 "**§ 18B-902. Application for permit; fees.**

34 (a) Form. – An application for an ABC permit shall be on a form prescribed by  
35 the Commission and shall be notarized. The application shall be signed and sworn to by  
36 each person required to qualify under G.S. 18B-900(c).

37 (b) Investigation. – Before issuing a new permit, the Commission, with the  
38 assistance of the ALE Division, shall investigate the applicant and the premises for  
39 which the permit is requested. The Commission may request the assistance of local  
40 ABC officers in investigating applications. An applicant shall cooperate fully with the  
41 investigation.

42 (c) False Information. – Knowingly making a false statement in an application  
43 for an ABC permit shall be grounds for denying, suspending, revoking or taking other  
44 action against the permit as provided in G.S. 18B-104 and shall also be unlawful.

1 (d) Fees. – An application for an ABC permit shall be accompanied by payment  
2 of the following application fee:

- 3 (1) On-premises malt beverage permit – \$100.00.
- 4 (2) Off-premises malt beverage permit – \$100.00.
- 5 (3) On-premises unfortified wine permit – \$100.00.
- 6 (4) Off-premises unfortified wine permit – \$100.00.
- 7 (5) On-premises fortified wine permit – \$100.00.
- 8 (6) Off-premises fortified wine permit – \$100.00.
- 9 ~~(7) Brown bagging permit – \$200.00, unless the application is for a~~  
10 ~~restaurant seating less than 50, in which case the fee shall be \$100.00.~~
- 11 (8) Special occasion permit – \$200.00.
- 12 (9) Limited special occasion permit – \$25.00.
- 13 (10) Mixed beverages permit – \$750.00.
- 14 (11) Culinary permit – \$100.00.
- 15 (12) Unfortified winery permit – \$100.00.
- 16 (13) Fortified winery permit – \$100.00.
- 17 (14) Limited winery permit – \$100.00.
- 18 (15) Brewery permit – \$100.00.
- 19 (16) Distillery permit – \$100.00.
- 20 (17) Fuel alcohol permit – \$10.00.
- 21 (18) Wine importer permit – \$100.00.
- 22 (19) Wine wholesaler permit – \$100.00.
- 23 (20) Malt beverage importer permit – \$100.00.
- 24 (21) Malt beverage wholesaler permit – \$100.00.
- 25 (22) Bottler permit – \$100.00.
- 26 (23) Salesman permit – \$25.00.
- 27 (24) Vendor representative permit – \$25.00.
- 28 (25) Nonresident malt beverage vendor permit – \$25.00.
- 29 (26) Nonresident wine vendor permit – \$25.00.
- 30 (27) Any special one-time permit under G.S. 18B-1002 –  
31 \$25.00.

32 (e) Fee for Combined Applications. – If application is made at the same time for  
33 retail malt beverage, unfortified wine and fortified wine permits for a single business  
34 location, the total fee for those applications shall be one hundred dollars (\$100.00). ~~If~~  
35 ~~application is made at the same time for brown bagging and special occasion permits for a~~  
36 ~~single business location, the total fee for those applications shall be three hundred dollars~~  
37 ~~(\$300.00).~~ If application is made at the same time for wine and malt beverage importer  
38 permits, the total fee for those applications shall be one hundred dollars (\$100.00). If  
39 application is made at the same time for wine and malt beverage wholesaler permits, the  
40 total fee for those applications shall be one hundred dollars (\$100.00). If application is  
41 made in the same year for vendor representative permits to represent more than one  
42 vendor, only one fee shall be paid. If application is made at the same time for  
43 nonresident malt beverage vendor and nonresident wine vendor permits, the total fee for  
44 those applications shall be twenty-five dollars (\$25.00).

1 (f) Fee Not Refundable. – The fee required by subsection (d) shall not be  
2 refundable even if the permit is denied or is later suspended or revoked.

3 (g) Fees to Treasurer. – All fees collected by the Commission under this or any  
4 other section of this Chapter shall be remitted to the State Treasurer for the General  
5 Fund."

6 Sec. 5. G.S. 18B-1001 reads as rewritten:

7 **"§ 18B-1001. Kinds of ABC permits; places eligible.**

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

10 (1) On-Premises Malt Beverage Permit. – An on-premises malt beverage  
11 permit authorizes the retail sale of malt beverages for consumption on  
12 the premises and the retail of sale of malt beverages in the  
13 manufacturer's original container for consumption off the premises.  
14 The permit may be issued for any of the following:

- 15 a. Restaurants;
- 16 b. Hotels;
- 17 c. Eating establishments;
- 18 d. Food businesses;
- 19 e. Retail businesses;
- 20 f. Private clubs;
- 21 g. Convention centers;
- 22 h. Community theatres.

23 The permit may also be issued to certain breweries as authorized by  
24 G.S. 18B-1104(7).

25 (2) Off-premises Malt Beverage Permit. – An off-premises malt beverage  
26 permit authorizes the retail sale of malt beverages in the  
27 manufacturer's original container for consumption off the premises.  
28 The permit may be issued for any of the following:

- 29 a. Restaurants;
- 30 b. Hotels;
- 31 c. Eating establishments;
- 32 d. Food businesses;
- 33 e. Retail businesses.

34 (3) On-Premises Unfortified Wine Permit. – An on-premises unfortified  
35 wine permit authorizes the retail sale of unfortified wine for  
36 consumption on the premises, either alone or mixed with other  
37 beverages, and the retail sale of unfortified wine in the manufacturer's  
38 original container for consumption off the premises. The permit may  
39 be issued for any of the following:

- 40 a. Restaurants;
- 41 b. Hotels;
- 42 c. Eating establishments;
- 43 d. Private clubs;
- 44 e. Convention centers;

- 1 f. Cooking schools;  
2 g. Community theatres;  
3 h. Winery.
- 4 (4) Off-Premises Unfortified Wine Permit. – An off-premises unfortified  
5 wine permit authorizes the retail sale of unfortified wine in the  
6 manufacturer's original container for consumption off the premises.  
7 The permit may be issued for retail businesses. The permit may also be  
8 issued for a winery for sale of its own unfortified wine.
- 9 (5) On-Premises Fortified Wine Permit. – An on-premises fortified wine  
10 permit authorizes the retail sale of fortified wine for consumption on  
11 the premises, either alone or mixed with other beverages, and the retail  
12 sale of fortified wine in the manufacturer's original container for  
13 consumption off the premises. The permit may be issued for any of the  
14 following:
- 15 a. Restaurants;  
16 b. Hotels;  
17 c. Private clubs;  
18 d. Community theatres;  
19 e. Winery.
- 20 (6) Off-premises Fortified Wine Permit. – An off-premises fortified wine  
21 permit shall authorize the retail sale of fortified wine in the  
22 manufacturer's original container for consumption off the premises.  
23 The permit may be issued for food businesses. The permit may also be  
24 issued for a winery for sale of its own fortified wine.
- 25 ~~(7) Brown bagging Permit. – A brown bagging permit authorizes each~~  
26 ~~individual patron of an establishment, with the permission of the~~  
27 ~~permittee, to bring up to four liters of fortified wine or spirituous~~  
28 ~~liquor, or four liters of the two combined, onto the premises and to~~  
29 ~~consume those alcoholic beverages on the premises. The permit may~~  
30 ~~be issued for any of the following:~~
- 31 ~~a. Restaurants;~~  
32 ~~b. Hotels;~~  
33 ~~c. Private clubs;~~  
34 ~~d. Community theaters;~~  
35 ~~e. Congressionally chartered veterans organizations.~~
- 36 (8) Special Occasion Permit. – A special occasion permit authorizes the  
37 host of a reception, party or other special occasion, with the permission  
38 of the permittee, to bring unfortified wine, fortified wine and  
39 spirituous liquor onto the premises of the business and to serve the  
40 same to his guests. The permit may be issued for any of the following:
- 41 a. Restaurants;  
42 b. Hotels;  
43 c. Eating establishments;  
44 d. Private clubs;

- 1 e. Convention centers.
- 2 (9) Limited Special Occasion Permit. – A limited special occasion permit  
3 authorizes the permittee to bring unfortified wine, fortified wine and  
4 spirituous liquor onto the premises of a business, with the permission  
5 of the owner of that property, and to serve those alcoholic beverages to  
6 the permittee's guests at a reception, party, or other special occasion  
7 being held there. The permit may be issued to any individual other  
8 than the owner or possessor of the premises. An applicant for a limited  
9 special occasion permit shall have the written permission of the owner  
10 or possessor of the property on which the special occasion is to be  
11 held.
- 12 (10) Mixed Beverages Permit. – A mixed beverages permit authorizes the  
13 retail sale of mixed beverages for consumption on the premises. The  
14 permit also authorizes a mixed beverages permittee to obtain a  
15 purchase-transportation permit under G.S. 18B-403 and 18B-404, and  
16 to use for culinary purposes spirituous liquor lawfully purchased for  
17 use in mixed beverages. The permit may be issued for any of the  
18 following:
- 19 a. Restaurants;  
20 b. Hotels;  
21 c. Private clubs;  
22 d. Convention centers;  
23 e. Community theatres;  
24 f. Nonprofit and political organizations.
- 25 (11) Culinary Permit. – A culinary permit authorizes a permittee to possess  
26 up to 12 liters of either fortified wine or spirituous liquor, or 12 liters  
27 of the two combined, in the kitchen of a business and to use those  
28 alcoholic beverages for culinary purposes. The permit may be issued  
29 for either of the following:
- 30 a. Restaurants;  
31 b. Hotels.  
32 c. Cooking schools.
- 33 A culinary permit may also be issued to a catering service to allow  
34 the possession of the amount of fortified wine and spirituous liquor  
35 stated above at the business location of that service and at the cooking  
36 site. The permit shall also authorize the caterer to transport those  
37 alcoholic beverages to and from the business location and the cooking  
38 site, and use them in cooking."

39 Sec. 6. G.S. 18B-1002(a)(2) reads as rewritten:

40 "(2) A permit may be issued to a nonprofit organization to allow the retail sale of  
41 malt beverages, unfortified wine, or fortified wine, ~~or to allow brown-bagging,~~ at a single  
42 fund-raising event of that organization. A permit for this purpose shall not be issued to  
43 the same organization more than once during each quarter, and shall not be issued for



1 the sale of any kind of alcoholic beverage in a jurisdiction where the sale of that  
2 alcoholic beverage is not lawful."

3 Sec. 7. G.S. 18B-1006 reads as rewritten:

4 **"§ 18B-1006. Miscellaneous provisions on permits.**

5 (a) School and College Campuses. – No permit for the sale of malt beverages,  
6 unfortified wine, or fortified wine shall be issued to a business on the campus or  
7 property of a public school or college unless that business is a hotel with a mixed  
8 beverages permit or a special occasion permit.

9 ~~(b) Lockers at Clubs. – A private club which has been issued a brown-bagging~~  
10 ~~permit may, but is not required to, provide lockers for its members to store their~~  
11 ~~alcoholic beverages. If lockers are provided, however, they shall not be shared but shall~~  
12 ~~be for individual members. Each locker and each bottle of alcoholic beverages on the~~  
13 ~~premises shall be labelled with the name of the member to whom it belongs. No more~~  
14 ~~than four liters each of malt beverages or unfortified wine may be stored by a member at~~  
15 ~~one time. No more than four liters of either fortified wine or spirituous liquor, or four~~  
16 ~~liters of the two combined, may be stored by a member at one time.~~

17 (c) Wine Sales. – Holders of retail or wholesale permits for the sale of unfortified  
18 or fortified wine may buy and sell only wines on the Commission's approved list. The  
19 Commission may authorize the importation and purchase of wines not on the approved  
20 list by permittees and others. An authorization shall state the kind and amount of wine  
21 that may be imported and purchased and the time within which the transaction shall be  
22 completed.

23 (d) Unlawful Possession or Consumption. – It shall be unlawful for a permittee to  
24 possess or consume, or allow any other person to possess or consume, on the licensed  
25 premises, any fortified wine or spirituous liquor, the possession or consumption of  
26 which is not authorized either by the permits issued to him for the premises or by any  
27 other provision of the ABC law.

28 (e) Facsimile Permit. – It shall be unlawful for any person to produce or possess  
29 any false or facsimile permit, or for a permittee to display any false or facsimile permit  
30 on his licensed premises.

31 (f) Failure to Surrender Permit. – It shall be unlawful for any person to refuse to  
32 surrender any permit to the Commission upon lawful demand of the Commission or its  
33 agents.

34 (g) Restrictions on Sales at Cooking Schools. – Retail sales of food or alcoholic  
35 beverages to be consumed on the premises of a cooking school are restricted to bona  
36 fide enrolled students of that school. Violation of this subsection is a ground for  
37 administrative action under G.S. 18B-104.

38 (h) Purchase Restrictions. – A retail permittee may purchase malt beverages,  
39 unfortified wine, or fortified wine only from a wholesaler or importer who maintains a  
40 place of business in this State and has the proper permit.

41 (i) Tour Boats. – The Commission may issue permits to boats that conduct  
42 regularly scheduled tours upon the rivers or waterways of this State under the following  
43 conditions:

- 1           (1)    A boat shall serve meals on each tour and shall have a dining area with  
2           seating for at least 36 people;
- 3           (2)    A boat's gross receipts from food and nonalcoholic beverages shall be  
4           greater than its gross receipts from alcoholic beverages;
- 5           (3)    A boat may hold the permits listed in G.S. 18B-1001(1), (3), (5), and  
6           (10), but no off-premises sales may be made pursuant to those permits;
- 7           (4)    A boat shall dock in an area where issuance of the permits listed in  
8           subdivision (3) is legal, and all passengers shall enter and leave the  
9           boat there. While tour passengers are on board, the boat may not dock  
10          at any other place except for an emergency. The boat's permits are  
11          valid during these tours, regardless of whether the boat crosses into an  
12          area where sales are not legal; and
- 13          (5)    A boat may not serve or sell any alcoholic beverages except during  
14          tours.

15          (j)    Recreation/Sports Districts. – The Commission may issue permits for the sale  
16          of malt beverages and unfortified wine in recreation/sports districts when they are  
17          wholly located in a County where there are two or more municipalities that are wholly  
18          located in the County that allow the sale of alcoholic beverages while the sale of any  
19          alcoholic beverages is prohibited in the nonincorporated areas of the County, and the  
20          area to be included in the recreation/sports district has been previously identified by one  
21          of those municipalities through a resolution of intent for annexation. The issuance of  
22          the permits shall be upon the formal written request of the City indicating the intent to  
23          annex the area or upon formal written request of the County Commissioners with the  
24          request designating the geographic boundaries of the district in which the permits may  
25          be issued.

26          For the purposes of this act a recreation/sports district shall not exceed one-half mile  
27          in diameter and shall host at least five sporting events each year."

28          Sec. 8. This act shall become effective July 1, 1989.