

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 380

Short Title: ABC Law Amendments.

(Public)

Sponsors: Senators Daniel, Ballance; Carpenter, Daughtry, Goldston, Odom, and Plyler.

Referred to: Alcoholic Beverage Control.

March 9, 1989

A BILL TO BE ENTITLED

AN ACT TO MAKE AMENDMENTS TO THE ALCOHOLIC BEVERAGE
CONTROL LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18B-102(a) reads as rewritten:

"(a) General Prohibition. – It shall be unlawful for any person to manufacture, sell, transport, import, ~~export,~~ deliver, furnish, purchase, consume, or possess any alcoholic beverages except as authorized by the ABC law."

Sec. 2. G.S. 18B-1101(2) reads as rewritten:

"(2) Sell, deliver and ship unfortified wine in closed containers to wholesalers licensed under this Chapter as authorized by the ABC laws, except that wine may be sold to exporters and nonresident wholesalers only when the purchase is not for resale in this State;"

Sec. 3. G.S. 18B-1102(2) reads as rewritten:

"(2) Sell, deliver and ship fortified wine in closed containers to wholesalers licensed under this Chapter as authorized by the ABC laws, except that wine may be sold to exporters and nonresident wholesalers only when the purchase is not for resale in this State;"

Sec. 4. G.S. 18B-1104(3) reads as rewritten:

"(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;"

Sec. 5. G.S. 18B-1105(2) reads as rewritten:

1 "(2) Sell, deliver and ship spirituous liquor in closed containers at wholesale to
2 exporters and local boards within the State, and, subject to the laws of other
3 jurisdictions, at wholesale or retail to private or public agencies or establishments of
4 other states or nations;".

5 Sec. 6. G.S. 18B-208(b) reads as rewritten:

6 "(b) Special Fund. – A special fund in the office of the State Treasurer, the ABC
7 Commission Fund, is created. On and after November 1, 1982, all moneys derived from
8 the collection of bailment charges and bailment surcharges shall be deposited in the
9 ABC Commission Fund for the purpose of carrying out the provisions of this Chapter.
10 The ABC Commission Fund shall be subject to the provisions of the Executive Budget
11 Act except that no unexpended surplus of this fund shall revert to the General Fund. The
12 Commission shall fix the level of the bailment surcharges at an amount calculated to
13 cover operating expenses of the Commission and the retirement of bonds issued for
14 construction of a Commission warehouse and offices. ~~The Commission may impose a~~
15 ~~bailment surcharge only when revenue bonds issued under this section are outstanding.~~

16 All moneys credited to the ABC Commission Fund shall be used to carry out the
17 intent and purposes of the ABC law in accordance with plans approved by the North
18 Carolina ABC Commission and the Director of the Budget, and all these funds are
19 appropriated, reserved, set aside, and made available until expended for the
20 administration of the ABC law."

21 Sec. 7. G.S. 18B-902(f) reads as rewritten:

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

24 Sec. 8. G.S. 18B-903 is amended by adding two new subsections that read:

25 "(f) Lost Permits. – The Commission will issue duplicate ABC permits for an
26 establishment when the existing valid permits have been lost or damaged. The request
27 for duplicate permits shall be on a form provided by the Commission, certified by the
28 permittee and the Alcohol Law Enforcement Division, and accompanied by a fee of ten
29 dollars (\$10.00).

30 "(g) Name Change. – The Commission will issue new permits to a permittee upon
31 application and payment of a fee of ten dollars (\$10.00) for each location when the
32 permittee's name or name of the business is changed."

33 Sec. 9. G.S. 18B-904(a) reads as rewritten:

34 "(a) Who Receives Permit.–An ABC permit shall be issued to the owner of an
35 establishment and shall authorize the permitted activity only on the premises of the
36 establishment named in the permit. An ABC permit shall be issued to the owner of the
37 business conducted on the premises, or to the management company employed to
38 independently manage and operate the business. The ABC Commission may determine
39 if a management agreement delegates sufficient managerial control and independence to
40 a manager or management company to require an ABC permit to be issued to the
41 manager."

42 Sec. 10. G.S. 18B-904 is amended by adding a new subsection to read:

43 "(e) Business or Location No Longer Suitable. – The Commission may suspend or
44 revoke any permit issued by it if, in the discretion of the Commission, after compliance

1 with the provisions of Chapter 150B of the General Statutes, the place occupied by the
2 permittee is no longer a suitable place to hold ABC permits or that the operation of the
3 business with an ABC permit at that location is detrimental to the neighborhood. No
4 order revoking or suspending an ABC permit pursuant to this section will be made
5 except upon substantial evidence admissible under G.S. 150B-29(a)."

6 Sec. 11. G.S. 18B-1001(8) reads as rewritten:

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

- 11 a. Restaurants;
- 12 b. Hotels;
- 13 c. Eating establishments;
- 14 d. Private clubs;
- 15 e. Convention centers."

16 Sec. 12. G.S. 18B-1001(9) reads as rewritten:

17 "(9) Limited Special Occasion Permit. – A limited special occasion permit
18 authorizes the permittee to bring ~~unfortified wine,~~ fortified wine and spirituous liquor
19 onto the premises of a business, with the permission of the owner of that property, and
20 to serve those alcoholic beverages to the permittee's guests at a reception, party, or other
21 special occasion being held there. The permit may be issued to any individual other than
22 the owner or possessor of the premises. An applicant for a limited special occasion
23 permit shall have the written permission of the owner or possessor of the property on
24 which the special occasion is to be held."

25 Sec. 13. G.S. 18B-1002(a)(2) reads as rewritten:

26 "(2) A permit may be issued to a nonprofit organization to allow the retail sale of
27 malt beverages, unfortified wine, or fortified wine, or to allow brown-bagging, at a
28 single fund-raising event of that organization. A permit for this purpose shall not be
29 issued ~~to the same organization more than once during each quarter, and shall not be issued~~
30 for the sale of any kind of alcoholic beverage in a jurisdiction where the sale of that
31 alcoholic beverage is not lawful."

32 Sec. 14. G.S. 18B-1002(a)(5) reads as rewritten:

33 "(5) A permit may be issued to a nonprofit organization or a political organization
34 to serve wine, malt beverages, and spirituous liquor at a ticketed event held to allow the
35 organization to raise funds. For purposes of this subdivision 'nonprofit organization'
36 means an organization that is exempt from taxation under Section 501(c)(3), 501(c)(4),
37 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the Internal Revenue Code ~~and or is~~
38 exempt under similar provisions of the General Statutes as a bona fide nonprofit
39 charitable, civic, religious, fraternal, patriotic, or veterans' organization or as a nonprofit
40 volunteer fire department, or as a nonprofit volunteer rescue squad or a bona fide
41 homeowners' or property owners' association. For purposes of this subdivision
42 'political organization' means an organization covered by the provisions of G.S. 163-
43 96(a)(1) or (2) or a campaign organization established by or for a person who is a
44 candidate who has filed a notice of candidacy, paid the filing fees or filed the required

1 petition, and been certified as a candidate ~~for one of the offices listed in G.S. 163-1~~. The
2 issuance of this permit will also allow the issuance of a purchase-transportation permit
3 under G.S. 18B-403 and 18B-404 and the use for culinary purposes of spirituous liquor
4 lawfully purchased for use in mixed beverages."

5 Sec. 15. G.S. 18B-1007 is amended by adding a new subsection to read:

6 "(d) When a temporary mixed beverages permit has been issued to a new
7 permittee for the continuation of a business at the same location, the permittee going out
8 of business may sell existing mixed beverages inventory to the new permittee, and the
9 Commission may request that the local ABC board restamp the inventory with the
10 mixed beverages tax stamp assigned by the local board to the new mixed beverages
11 permittee."

12 Sec. 16. G.S. 18B-1207 is amended by adding a new subsection to read:

13 "(c) For any violation of the provisions of this Article, the Commission may take
14 any of the following actions against the winery:

- 15 (1) Suspend the winery's permit for a specific period of time no longer
16 than three years;
- 17 (2) Revoke the winery's permit;
- 18 (3) Issue an order suspending the shipment of the winery's products to one
19 or more designated sales territories previously served by the
20 wholesaler who has been terminated or who is the successor in interest
21 to a wholesaler who sold the winery's products in the designated
22 territory.
- 23 (4) Fine the winery up to twenty-five thousand dollars (\$25,000) for a first
24 offense and up to fifty thousand dollars (\$50,000) for the second
25 offense.

26 In any case in which the Commission is entitled to suspend or revoke a permit, the
27 Commission may accept from the winery an offer in compromise to pay a monetary
28 penalty. The Commission may either accept a compromise or revoke a permit, but not
29 both. The Commission may accept a compromise and suspend the permit in the same
30 case."

31 Sec. 17. This act shall become effective October 1, 1989.