

# Alcoholic Beverage Control

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## H909 - Alcoholic Beverage Control Omnibus Legislation (SL 2015-98)

S.L. 2015-98 makes various changes to the Alcoholic Beverage Control (ABC) Commission laws as follows:

(1) Creates an antique spirituous liquor permit with a \$100 fee, which may be issued to a mixed beverage permittee and authorizes the sale of antique spirituous liquors at retail for use in mixed beverages for consumption on premises. Permittees may purchase antique spirituous liquor through the ABC Commission special order process.

(2) Makes it unlawful for any person to manufacture, sell, transport, import, deliver, furnish, purchase, consume, or possess powdered alcohol.

(3) Authorizes the Eastern Band of Cherokee Indians tribal alcoholic beverage control commission to issue:

- permits in compliance with G.S. 18B-603(f).
- wine shipper permits.
- commercial activity permits for commercial businesses that are located wholly on Indian Country lands.

This provision also grants the tribal ABC commission sole enforcement authority for those permittees to the extent the regulated conduct occurs on Indian Country lands. Both the Eastern Band of Cherokee Indians and the North Carolina ABC Commission are required to equally recognize any permit issued by the other entity. This provision also authorizes the issuance of "Tourism ABC Establishment" permits for restaurants and hotels that meet that definition between Mileposts 460 and 469 of the Blue Ridge Parkway. The Eastern Band of Cherokee Indians tribal alcoholic beverage commission is given exclusive authority to issue "Tourism ABC Establishment" permits to those restaurants and hotels that are located wholly on Indian Country lands.

(4) Allows the holder of a distillery permit to sell, in closed containers, liquor that is manufactured at the distillery to visitors who tour the premises for off-premises consumption. The sales are allowed only in a county where the establishment of a county or municipal ABC store has been approved by election, and are subject to the time and day restrictions as ABC stores.

The liquor must be listed as a code item for sale in the State and must be sold at the price set by the Commission by statute. Pursuant to Sec. 3 of S.L. 2015-262, distilleries must only remit the excise tax, and may keep the remainder of the price set by the Commission as profit. A sticker must be affixed to the bottle bearing the words "North Carolina Distillery Tour Commemorative Spirit."

Consumers are limited to purchasing no more than one of any North Carolina code item per 12-month period. A distillery must 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, driver's license number, and date of birth for at least one year from the date of purchase. The distillery is prohibited from selling any North Carolina code item to a customer who has purchased the code item in the last year.

This provision became effective October 1, 2015, the effective date of the ABC Commission's rules regulating the on-site sale of spirituous liquor at distilleries.

(5) Removes incorrect citations to rules regulating the filling of a growler with malt beverages, and allows the holders of both off premises and on premises unfortified wine permits to sell unfortified wine (including cider) for off premises consumption if dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a cleaned, sanitized, resealable container that is filled or refilled and sealed for consumption off premises and that identifies the permittee and the date the container was filled or refilled.

(6) Provides that a brewery that enters into an "alternating proprietorship" arrangement with another brewery has not changed ownership and therefore does not lose its ABC permits. This provision authorizes alternating proprietorships between affiliated breweries, provided the contract brewing arrangement is not used to allocate production quantities between affiliated breweries to obtain a malt beverage wholesaler permit where either brewery would not otherwise qualify for the permit (i.e., because the brewery exceeds the 25,000 barrel cap).

(7) Provides that the holder of a brewery permit may sell malt beverages to a nonresident wholesaler, nonresident malt beverage vendor, bottler, or other similar party for resale in this State if the malt beverages are shipped from the brewery to wholesalers licensed under the ABC statutes.

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

(8) Allows the ABC Commission to issue a guest room cabinet permit to an 18-hole golf course that:

- holds a mixed beverages permit or that is located in a county where ABC stores have heretofore been established but in which the sale of mixed beverages has not been approved.
- has management contracts for the rental of living units.
- is located in a county with a population of more than 20,000 people according to the last federal census.

Except as otherwise provided, this act became effective June 19, 2015.