

Article 8.

Operation of ABC Stores.

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

(a) Spirituous Liquor. – Except as provided in Articles 10 and 11 of this Chapter, spirituous liquor may be sold only in ABC stores operated by local boards. For purposes of this subsection, the term "sold only in ABC stores operated by local boards" includes online orders placed in accordance with subsection (c3) of this section.

(b) Fortified Wine. – In addition to spirituous liquor, ABC stores may sell fortified wine. ABC stores may also sell wine products, irrespective of alcohol content by volume, which were classified as fortified wine by the ABC Commission prior to July 7, 2004.

(c) Commission Approval. – No ABC store may sell any alcoholic beverage which has not been approved by the Commission for sale in this State.

(c1) Special Orders of Special Items. – Through the process established by rule of the Commission for special orders of spirituous liquor that are on the special item list approved by the Commission, ABC stores shall allow the purchase of individual bottles of spirituous liquor. ABC stores may sell in store any bottles it receives from a special item case in excess of what was purchased by the requesting customer. Bottles purchased pursuant to this subsection may be affixed with personalized labeling by the manufacturer, distiller, broker, or supplier of spirituous liquor. The personalized labeling shall comply with any other labeling requirements set by law. The personalized labeling shall not cover any portion of the manufacturer's original label. For purposes of this subsection, the term "personalized labeling" means the inclusion of any of the following on the label:

- (1) The name of the purchaser of the bottle or the name of any individual, business entity, club, ABC Board, or ABC store on whose behalf the bottle is purchased.
- (2) "Bottled for," "distilled for," "in honor of," or other similar language.
- (3) Dates, locations, occasions, and other similar information.

(c2) Orders of Eligible Distillery Products by Mixed Beverages Permittees. – A local board shall fulfill an order by a mixed beverages permittee for individual bottles or cases of spirituous liquor produced by an eligible distillery that are listed as a regular code item for sale in the State. If a local board cannot fulfill an order of a mixed beverages permittee for individual bottles or cases of spirituous liquor produced by an eligible distillery that are listed as a regular code item for sale in the State because the product ordered is not in the local board's stock inventory or the order cannot otherwise be fulfilled within the time period requested by the permittee, the local board shall notify the Commission within 48 hours of the request for the order and request authorization for direct shipment. The Commission shall then determine if the eligible distillery desires to directly ship the ordered product directly to the local board, and if so the Commission shall authorize the eligible distillery to ship the spirituous liquor ordered to the local board for the fulfillment of the mixed beverages permittee's order. Merchandise authorized to be shipped by direct shipment under this subsection shall be consigned by the State ABC warehouse to the distiller's account in care of the local board. The local board shall 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. As used in this subsection, an "eligible distillery" is a distillery (i) that 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 or produced 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.

(c3) Online Orders. – An ABC store may accept an online order, including payment, for alcoholic beverages sold in its store. An order placed online pursuant to this subsection shall be picked up in person at the store by the individual who placed the order. An order placed online pursuant to this subsection shall include the name and unique identifier number of the individual placing the order, who shall be at least 21 years of age as shown on the form of identification authorized pursuant to G.S. 18B-302(d)(1) and otherwise legally authorized to purchase alcoholic beverages. An employee of the ABC store shall confirm that the online order is picked up in person at the store by the individual who placed the order by verifying the individual's identification that conforms to the identifying information contained in the online order.

(c4) Refrigerated Beverages. – ABC stores may sell alcoholic beverages authorized for sale under this section in a refrigerated unit. For purposes of this subsection, the term "refrigerated unit" means a refrigerated merchandiser or other appliance that is artificially kept cool and suitable to be used to store food and drink.

(d) Expired.

(e) Each ABC store shall display spirits which are distilled or produced in North Carolina in an area dedicated solely to North Carolina products. (1981, c. 412, s. 2; 1985, c. 59, s. 1; 1989, c. 800, s. 21; 2004-135, s. 4; 2010-31, s. 14.12(a); 2015-98, s. 4(f); 2017-87, s. 1(c); 2019-182, s. 3(a); 2021-117, s. 12(a); 2021-150, ss. 1.1, 1.2, 2.1, 15.1; 2022-51, s. 1(b).)

§ 18B-801. Location, opening, and closing of stores.

(a) Number of Stores. – Each local board shall have the authority and duty to operate one ABC store. Additional stores may be operated with the approval of the Commission.

(b) Location of Stores. – A local board may choose the location of the ABC stores within its jurisdiction, subject to the approval of the Commission. In making its decision on a location, the Commission may consider:

- (1) Whether the health, safety, or general welfare of the community will be adversely affected.
- (2) Whether the citizens of the community or city in which the proposed store is to be located voted for or against ABC stores in the last election on the question.
- (3) The proximity of the new location to existing ABC stores operated by the local board or any other board.

(b1) Notwithstanding subsection (b) of this section, no local board may establish an ABC store at any location within the corporate limits of a municipality if the governing body of the municipality has passed a resolution objecting to the location of the proposed ABC store and the resolution is based upon information and evidence presented to the governing body of the municipality at a public hearing. If a municipality objects to the location of a proposed ABC store, the local board may request the Commission to approve the proposed ABC store location notwithstanding the objection of the municipality. The Commission shall have final authority to determine if the operation of an ABC store at the contested proposed location is suitable.

Upon notice given to the Commission by an affected municipality, any statutory and administrative time limits allowed for objections to, or public hearings concerning the location of, an ABC store shall be extended by 45 days to allow a municipality sufficient time to conduct a public hearing and submit its objection and resolution to the Commission.

(c) Closing of Stores. – Subject to the provisions of subsection (a) of this section, a local board may close a store, or the Commission may order a local board to close any store when the local board or the Commission determines that:

- (1) Repealed by Session Laws 2010-122, s. 23, effective October 1, 2010.
- (2) The store is not operated in accordance with the ABC law; or
- (3) The continued operation of that store will adversely affect the health, safety, or general welfare of the community in which the store operates.

(d) Insolvent ABC System. – If an ABC system is insolvent, the local board may apply to the Commission for an order to close the system. Upon receipt of an application, or upon its own motion, the Commission shall investigate the system, and if it finds that further operation of the ABC stores will not be profitable, it may order the system closed. If the Commission orders a local system to close, the Commission may:

- (1) After consultation with the local board, its creditors, and other interested parties, schedule a phase out of the system's business activities;
- (2) Represent the local board in negotiations with creditors and other interested parties;
- (3) Require an accounting or auditing of the local system;
- (4) Take possession or arrange for the disposition of any liquor for which the local board has not paid;
- (5) Apply to the Superior Court to be appointed as receiver for the local board with all powers and duties of a receiver for a corporation under Article 38 of Chapter 1 of the General Statutes, except that the Commission shall not be required to post the bond required by G.S. 1-504; or
- (6) Take any other reasonable steps to promote an orderly closing of the system. (1981, c. 412, s. 2; 1987, c. 135; 1989, c. 770, s. 6; 2009-36, s. 1; 2010-122, ss. 22, 23.)

§ 18B-802. When stores operate.

(a) Time. – No ABC store shall be open, and no ABC store employee shall sell alcoholic beverages, between 9:00 P.M. and 9:00 A.M. The local board shall otherwise determine opening and closing hours of its stores.

(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. A local board may otherwise determine the days on which its stores shall be closed. (1981, c. 412, s. 2.)

§ 18B-803. Store management.

(a) Manager. – A local board shall provide for the management of each store operated by it. The board shall employ at least one manager for each store, who shall operate the store pursuant to the directions of that board.

(b) Bonding of Manager. – Each store manager shall be bonded in an amount not less than fifty thousand dollars (\$50,000) secured by a corporate surety, for the honest performance of his duties. A public employees' blanket position bond, honesty form, in the required amount satisfies the requirements of this subsection. The bond shall be payable to the local board and shall be approved by the appointing authority for the local board. The appointing authority may increase the amount of bond required for store managers under this subsection.

(c) Bonding of Other Employees. – A local board or the appointing authority may require any of its other employees who handle funds to obtain bonds. The amount and form of those bonds shall be determined by the local board.

(d) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards. (1981, c. 412, s. 2; 1981 (Reg. Sess., 1982), c. 1262, s. 12; 2010-122, s. 24.)

§ 18B-804. Alcoholic beverage pricing.

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

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

- (1) The distiller's or the antique spirituous liquor seller's price.
- (2) The freight and bailment charges of the State warehouse as determined by the Commission.
- (3) A markup for local boards as determined by the Commission.
- (4) The tax levied under G.S. 105-113.80(c), which shall be levied on the sum of subdivisions (1), (2), and (3).
- (5) An additional markup for local boards equal to three and one-half percent (3 1/2%) of the sum of subdivisions (1), (2), and (3).
- (6) A charge of one cent (1¢) on each bottle containing 50 milliliters or less and five cents (5¢) on each bottle containing more than 50 milliliters. For any nonbottled product, a charge of one cent (1¢) on each stock keeping unit containing not more than 50 milliliters and five cents (5¢) on each stock keeping unit containing more than 50 milliliters.
- (6a) The bailment surcharge.
- (6b) An additional charge for local boards of one cent (1¢) on each bottle containing 50 milliliters or less and five cents (5¢) on each bottle containing more than 50 milliliters. For any nonbottled product, a charge of one cent (1¢) on each stock keeping unit containing not more than 50 milliliters and five cents (5¢) on each stock keeping unit containing more than 50 milliliters.
- (7) A rounding adjustment, the formula of which may be determined by the Commission, so that the sale price will be divisible by five.
- (8) If the spirituous liquor is sold to a mixed beverage permittee for resale in mixed beverages, a charge of twenty dollars (\$20.00) on each four liters and a proportional sum on lesser quantities.
- (9) If the spirituous liquor is sold to a guest room cabinet permittee for resale, a charge of twenty dollars (\$20.00) on each four liters and a proportional sum on lesser quantities.

(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), 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.

(c) Sale Price of Fortified Wine. – The sale price of fortified wine shall include the tax levied by G.S. 105-113.80(b), as well as State and local sales taxes.

(d) Repealed by Session Laws 1985, c. 59, s. 2. (1937, c. 49, s. 4; cc. 237, 411; 1945, c. 954; 1949, c. 974, s. 9; 1961, c. 956; 1963, c. 426, s. 12; c. 916, s. 2; c. 1119, s. 1; 1965, c. 1063; c. 1102, s. 3; 1967, c. 222, s. 2; c. 1240, s. 1; 1971, c. 872, s. 1; 1973, c. 28; c. 473, s. 1; c. 476, s. 133; c. 606; c. 1288, s. 1; cc. 1369, 1396; 1975, cc. 240, 453, 640; 1977, c. 70, ss. 15.1, 15.2, 16; c. 176, ss. 2, 6; 1977, 2nd Sess., c. 1138, ss. 3, 4, 18; 1979, c. 384, s. 1; c. 445, s. 5; c. 482; c. 801, s. 4; 1981, c. 412, s. 2; 1981 (Reg. Sess., 1982), c. 1285, s. 5; 1983, c. 713, ss. 100, 101; 1985, c. 59, s. 2; c. 68, s. 1; c. 114, ss. 7-9; 1991, c. 565, ss. 4, 7; c. 689, ss. 304, 305; 1991 (Reg. Sess., 1992), c. 920, s. 3; 2015-98, ss. 1(e), 4(g); 2015-262, s. 3(b); 2017-87, s. 1(b); 2021-150, s. 27.3.)

§ 18B-805. Distribution of revenue.

(a) Gross Receipts. – As used in this section, "gross receipts" means all revenue of a local board, including proceeds from the sale of alcoholic beverages, investments, interest on deposits, and any other source.

(b) Primary Distribution. – Before making any other distribution, a local board shall first pay the following from its gross receipts:

- (1) The board shall pay the expenses, including salaries, of operating the local ABC system.
- (2) Each month the local board shall pay to the Department of Revenue the taxes due the Department. In addition to the taxes levied under Chapter 105 of the General Statutes, the local board shall pay to the Department one-half of both the mixed beverages surcharge required by G.S. 18B-804(b)(8) and the guest room cabinet surcharge required by G.S. 18B-804(b)(9).
- (3) Each month the local board shall pay to the Department of Health and Human Services five percent (5%) of both the mixed beverages surcharge required by G.S. 18B-804(b)(8) and the guest room cabinet surcharge required by G.S. 18B-804(b)(9). The Department of Health and Human Services shall spend those funds for the treatment of alcoholism or substance abuse, or for research or education on alcohol or substance abuse.
- (4) Each month the local board shall pay to the county commissioners of the county where the charge is collected the proceeds from the charge required by G.S. 18B-804(b)(6), to be spent by the county commissioners for the purposes stated in subsection (h) of this section.

(c) Other Statutory Distributions. – After making the distributions required by subsection (b), a local board shall make the following quarterly distributions from the remaining gross receipts:

- (1) Before making any other distribution under this subsection, the local board shall set aside the clear proceeds of the three and one-half percent (3 1/2%) markup provided for in G.S. 18B-804(b)(5) and the charge provided for in G.S. 18B-804(b)(6b), to be distributed as part of the remaining gross receipts under subsection (e) of this section.
- (2) The local board shall spend for law enforcement an amount set by the board which shall be at least five percent (5%) of the gross receipts remaining after the distribution required by subdivision (1). The local board may contract with the ALE Division to provide the law enforcement required by this subdivision. Notwithstanding the provisions of any local act, this provision shall apply to all local boards.

(3) The local board shall spend, or pay to the county commissioners to spend, for the purposes stated in subsection (h), an amount set by the board which shall be at least seven percent (7%) of the gross receipts remaining after the distribution required by subdivision (1). This provision shall not be applicable to a local board which is subject to a local act setting a different distribution.

(d) Working Capital. – After making the distributions provided for in subsections (b) and (c), the local board may set aside a portion of the remaining gross receipts, within the limits set by the rules of the Commission, as cash to operate the ABC system. With the approval of the appointing authority for the board, the local board may also set aside a portion of the remaining gross receipts as a fund for specific capital improvements.

(e) Other Distributions. – After making the distributions provided in subsections (b), (c), and (d), the local board shall pay each quarter the remaining gross receipts to the general fund of the city or county for which the board is established, unless some other distribution or some other schedule is provided for by law. If the governing body of each city and county receiving revenue from an ABC system agrees, those governing bodies may alter at any time the distribution to be made under this subsection or under any local act. Copies of the governing body resolutions agreeing to a new distribution formula and a copy of the approved new distribution formula shall be submitted to the Commission for review and audit purposes. If any one of the governing bodies later withdraws its consent to the change in distribution, profits shall be distributed according to the original formula, beginning with the next quarter.

(f) Surcharge Profit Shared. – When, pursuant to G.S. 18B-603(d1), spirituous liquor is bought at a city ABC store by a mixed beverages permittee for premises located outside the city, the local board operating the store at which the sale is made shall retain seventy-five percent (75%) of the local share of both the mixed beverages surcharge required by G.S. 18B-804(b)(8) and the guest room cabinet surcharge required by G.S. 18B-804(b)(9) and the remaining twenty-five percent (25%) shall be divided equally among the local ABC boards for all other cities in the county that have authorized the sale of mixed beverages.

When, pursuant to G.S. 18B-603(e), spirituous liquor is bought at a city ABC store by a mixed beverages permittee for premises located at an airport outside the city, the local share of both the mixed beverages surcharge required by G.S. 18B-804(b)(8) and the guest room cabinet surcharge required by G.S. 18B-804(b)(9) shall be divided equally among the local ABC boards for all cities in the county that have authorized the sale of mixed beverages.

(g) Quarterly Distributions. – When this section requires a distribution to be made quarterly, at least ninety percent (90%) of the estimated distribution shall be paid to the recipient by the local board within 30 days of the end of that quarter. Adjustments in the amount to be distributed resulting from the closing of the books and from audit shall be made with the next quarterly payment.

(h) Expenditure of Alcoholism Funds. – Funds distributed under subdivisions (b)(4) and (c)(3) of this section shall be spent for the treatment of alcoholism or substance abuse, or for research or education on alcohol or substance abuse. The minutes of the board of county commissioners or local board spending funds allocated under this subsection shall describe the activity for which the funds are to be spent. Any agency or person receiving funds from the county commissioners or local board under this subsection shall submit an annual report to the board of county commissioners or local board from which funds were received, describing how the funds were spent.

(i) Calculation of Statutory Distributions When Liquor Sold at Less Than Uniform Price. – If a local board sells liquor at less than the uniform State price, distributions required by subsections (b) and (c) shall be calculated as though the liquor was sold at the uniform price. (1981, c. 412, s. 2; c. 747, s. 52; 1983, c. 713, ss. 102-104; 1985 (Reg. Sess., 1986), c. 1014, s. 116; 1991, c. 459, s. 3; c. 689, s. 306; 1991 (Reg. Sess., 1992), c. 920, s. 4; 1993, c. 415, s. 27; 1997-443, s. 11A.118(a); 1999-462, s. 8; 2011-145, s. 19.1(q); 2014-100, s. 17.1(xxx); 2019-203, s. 9(a); 2021-150, s. 27.4.)

§ 18B-806. Damaged alcoholic beverages.

(a) Owned by Local Board. – All damaged alcoholic beverages owned by a local board shall be destroyed, given to a public or private hospital for medicinal use only, or given to the Commission.

(b) Not Owned by Local Board. – The Commission shall dispose of all damaged alcoholic beverages which are:

- (1) Owned by the Commission;
- (2) Damaged while in the State warehouse; or
- (3) Damaged while in transit between the State warehouse and a local board.

The Commission shall dispose of the alcoholic beverages by giving them to a public or private hospital for medicinal use only, by selling them to a military installation, or by destroying them.

(c) Sale Procedure. – If damaged alcoholic beverages are sold under subsection (b), sale shall be by:

- (1) Advertisement for sealed bids;
- (2) Negotiated offer, advertisement and upset bids; or
- (3) Exchange.

Funds derived from the sale of damaged alcoholic beverages shall be paid to the general fund of the State.

(d) Records. – Local boards and the Commission shall keep detailed records of all disposals of damaged alcoholic beverages, including brand, quantity and disposition. (1981, c. 412, s. 2.)

§ 18B-807. Rules.

The Commission may adopt rules concerning the organization and operation of self-service ABC stores, the size of ABC store signs, the display of alcoholic beverages, solicitation in and around ABC stores, and any other subject relating to the efficient operation of ABC stores. (1981, c. 412, s. 2.)

§ 18B-808. Warning signs regarding dangers of alcohol consumption during pregnancy required; posting.

(a) Each ABC store 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 local ABC boards 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 one hundred ten 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) The size of the sign shall be at least eight and one-half 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) A local ABC board shall ensure that each ABC store manager displays the warning sign in an open and prominent place in the store within 30 days of receipt of the sign from the Commission. (2003-339, s. 2.)

§ 18B-809. Use of branded plug-in coolers.

No rule or decision of the Commission may limit or restrict the giving, lending, or selling by industry members of branded plug-in coolers used to hold and display products, provided that coolers are under the dollar limits set forth by the Commission for product displays. A branded plug-in cooler shall have permanent and conspicuous branding that is permanently attached or securely affixed to the cooler. (2022-51, s. 17.)