

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 511
HOUSE BILL 311

AN ACT TO ALLOW COMMERCIAL WINERIES IN NORTH CAROLINA AND TO
ESTABLISH LICENSE REQUIREMENTS AND TAXATION.

The General Assembly of North Carolina enacts:

Section 1. There is hereby enacted a new G.S. 18A-36.1 to read as follows:

"§ 18A-36.1. **Commercial wineries.** — (a) In addition to the authority to make native wines conferred in G.S. 18A-36, it shall be lawful for any commercial winery after securing a permit from the State Board of Alcoholic Control to manufacture and distribute to wholesalers holding valid wine permits issued by the State Board of Alcoholic Control any wine, fortified or unfortified, after compliance with the provisions of this Chapter and other applicable law. The sale of wine, fortified and unfortified, to nonresident wholesalers is authorized when the purchase is not for resale in this State.

(b) Commercial winery means any business establishment which manufactures and sells wines for consumption by persons other than the families or guests of the person, firm or corporation owning or operating the winery.

(c) A commercial winery is authorized to grow crops, purchase crops and other materials, manufacture, possess and transport wine without limitation as to quantity except that any wine in transport shall be subject to the provisions of subdivisions (1) through (4) of G.S. 18A-29(b).

(d) Any applicable law with regard to tests for quality of the wine shall apply to wine possessed by commercial wineries in this State.

(e) The State Board of Alcoholic Control shall have all authority with regard to the issuance, denial, suspension and revocation of permits for commercial wineries which the Board has with regard to any permit issued by the Board."

Sec. 2. A resident manufacturer of fortified or unfortified wine may sell "short-filled" packages to its employees for the sole use of said employees, members of their families and bona fide guests in this State, provided that such manufacturer sell only such "short-filled" packages on which the appropriate North Carolina taxes have been paid or will be paid, based upon the size of the bottle or container short-filled. Any sale made to any employee of the manufacturer under this section shall not be construed as a retail or wholesale sale under Article 2C of Chapter 105, and Chapter 18A of the General Statutes, and such manufacturer shall not be required by reason of such sale to obtain a permit under Chapter 18A or license under Article 2C of Chapter 105.

Sec. 3. The second paragraph of G.S. 105-113.86(i) is amended to read as follows:

"The Commissioner of Revenue shall promulgate rules and regulations to relieve licensed resident manufacturers from the liability of paying the excise taxes levied under this section on malt beverages and unfortified wine that are furnished free of charge to customers, visitors and employees on the manufacturers' licensed premises for consumption on said premises."

Sec. 4. G.S. 105-277 is amended by adding the following subsection thereto:

"(e) Vinous and other fruit products. Any vinous or other fruit product held in storage in North Carolina by any manufacturer or processor for manufacturing or processing, which product is of such nature as customarily to require storage and processing for periods of more

than one year in order to age or condition the product for sale and consumption, is hereby designated a special class of property under authority of Article V, Section 2(2), of the North Carolina Constitution. Vinous and other fruit products so classified shall be taxed uniformly as a class in each local taxing unit at sixty percent (60%) of the rate levied for all purposes upon real property and other tangible personal property by the taxing unit in which the products are listed for taxation."

Sec. 5. G.S. 105-113.86(o) is amended by rewriting the first paragraph thereof to read as follows:

"(o) In addition to the license taxes herein levied, a tax is hereby levied upon the sale of unfortified wine at the rate of sixty cents (\$.60) per gallon. Provided, however, that the tax upon the sale of unfortified wine manufactured in North Carolina and composed principally of fruits or berries grown in North Carolina shall be taxed at the rate of five cents (\$.05) per gallon."

Sec. 6. G.S. 105-113.95 is rewritten in its entirety, to read as follows:

"§ 105-113.95. **Tax on fortified wines.** — In addition to all other taxes levied in this Article, there is hereby levied a tax upon the sale of fortified wines of seventy cents (\$.70) per gallon. Provided, however, that the tax upon the sale of fortified wine manufactured in North Carolina and composed principally of fruits or berries grown in North Carolina shall be taxed at the rate of five cents (\$.05) per gallon."

Sec. 7. G.S. 105-113.70 is rewritten in its entirety, to read as follows:

"§ 105-113.70. **Resident manufacturers of malt beverages and unfortified wines.** — (a) The brewing or manufacture of malt beverages shall be permitted in this State upon the payment of an annual license tax to the Commissioner of Revenue in the sum of five hundred dollars (\$500.00) for a period ending on the next succeeding thirtieth day of April and annually thereafter. Persons licensed under this subsection may sell such beverages in barrels, bottles, or other closed containers only to persons licensed under the provisions of this Article to sell at wholesale, and no other license tax shall be levied upon the business taxed in this subsection. Provided, that pursuant to the rules and regulations of the State Board of Alcoholic Control, the sale of malt beverages to nonresident wholesalers is authorized when the purchase is not for resale in this State. The sale of malt, hops, and other ingredients used in the manufacture of malt beverages is hereby permitted and allowed.

When a licensed resident manufacturer of malt beverages procures a proper license under this subsection, said manufacturer may receive the malt beverages that are manufactured by him at some point outside this State, but within the United States, for transshipment to dealers in this or other states, provided that such resident manufacturer is actually engaged in the manufacturing in this State of malt beverages. Such shipments of malt beverages for transshipment to other states shall be kept segregated by the resident manufacturer in his warehouse from any such North Carolina taxpaid beverages and shall comply with any and all rules and regulations promulgated by the Commissioner of Revenue and the State Board of Alcoholic Control.

(b) The manufacture of unfortified wine shall be permitted in this State upon the payment of an annual license tax to the Commissioner of Revenue in the sum of one hundred dollars (\$100.00) for a period ending on the next succeeding thirtieth day of April and annually thereafter. Persons licensed under this section may sell such wine in barrels, bottles, or other closed containers only to persons licensed under the provisions of this Article or under the laws of any other state to sell at wholesale and no other license tax shall be levied upon the business taxed in this section. Provided, that pursuant to the rules and regulations of the State Board of Alcoholic Control, the sale of fortified or unfortified wine to nonresident wholesalers is authorized when the purchase is not for resale in this State. The sale of ingredients used in the manufacture of unfortified wine is hereby permitted and allowed.

Nothing in this Article shall be construed to impose any tax upon any resident citizen of this State who makes native wines for the use of himself, his family and his guests from fruits, grapes and berries cultivated or grown wild upon his own land."

Sec. 8. Sections 1, 2, 3, 5, 6 and 7 of this act shall become effective upon ratification. Section 4 of this act shall become effective on January 1, 1974.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.