

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 1138
SENATE BILL 735

AN ACT TO ALLOW CITIES AND COUNTIES WITH ABC STORES TO VOTE ON THE
SALE OF MIXED BEVERAGES IN SOCIAL ESTABLISHMENTS AND
RESTAURANTS SEATING AT LEAST 36.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-2 is amended by rewriting subsection (6) to read as follows:

"(6) The term 'mixed beverage' means a drink composed in whole or in part of alcoholic beverage and served to an individual in a quantity less than the quantity contained in a closed package, purchased for consumption on premises licensed for mixed beverages by the State Board of Alcoholic Control."

Sec. 2. Subsection (a) of G.S. 18A-8 is amended by rewriting subdivisions (3) and (4) to read as follows:

(3) any person, firm, or corporation knowingly to sell or give any alcoholic beverages or mixed beverages to any person under 21 years of age; or
(4) any person under 21 years of age to purchase or possess, or for anyone to aid or abet such a person in purchasing, any alcoholic beverages or mixed beverages."

Sec. 3. G.S. 18A-15(3)c. is amended by adding the following new subdivision 3 to read as follows:

"3. Ten dollars (\$10.00) on each gallon, and a proportional sum on any lesser amount, of spirituous liquor sold to the holder of a mixed beverages permit for the purpose of resale as mixed beverages. This addition to the retail price shall not be subject to the tax levied by G.S. 105-113.93. The clear proceeds from this addition to the retail price of spirituous liquor shall be retained by the respective county or municipal ABC boards in the same manner as other profits derived from the sale of spirituous liquors, except that ten percent (10%) of the proceeds shall be directed to the Department of Human Resources for rehabilitation of alcoholics and research into the causes of alcoholism."

Sec. 4. G.S. 18A-15 is further amended by adding the following new subsection (18):

"(18) To adopt rules for the special labelling of containers of alcoholic beverages sold for resale in mixed beverages, and to require the holders of mixed beverages permit to maintain records of alcoholic beverages purchased and sold as mixed beverages and to maintain records of monthly sales of mixed beverages separate from other sales."

Sec. 5. G.S. 18A-25 is amended by rewriting subsection (b) to read as follows:

"(b) The possession for sale, or sales, of any liquor purchased from any county or municipal store, except as authorized by this Chapter, is prohibited."

Sec. 6. G.S. 18A-29 is amended by rewriting the first sentence of subsection (a) to read as follows:

"The willful transportation of spirituous liquors within, into, or through the State of North Carolina in quantities in excess of one gallon (or five gallons with a permit) is prohibited except for delivery to federal reservations to which has been ceded exclusive jurisdiction by the State of North Carolina, for delivery to an ABC store or board, for transport through this State to another state, or for delivery to premises holding a mixed beverages permit under the conditions set forth in this Chapter."

Sec. 7. Chapter 18A of the General Statutes is amended by adding the following new Section 18A-29.1:

"§ 18A-29.1. Transportation of alcoholic beverages by holder of mixed beverages permit. — (a) A person holding a mixed beverages permit, or his designated employee, may purchase, possess, and transport more than one gallon of alcoholic beverages in containers not smaller than one-fifth gallon if he has in his possession a mixed beverages purchase-transportation permit issued under this section and complies with the provisions of this section and if none of the containers of the alcoholic beverages have had the cap or seal opened or broken.

(b) The mixed beverages purchase-transportation permit may be issued only by the chairman, a member, or the general manager or supervisor of the local alcoholic beverage control board for the county or city within which the premises holding the mixed beverages permit is located, and may authorize the purchase and transportation of alcoholic beverages only within that county or city. The local ABC board may designate a special store within the system to sell alcoholic beverages to be used in mixed beverages.

(c) The purchase-transportation permit shall authorize the holder of the mixed beverages permit, or his designated employee, to purchase and transport the quantity of alcoholic beverages stated on the permit. The following information shall appear on the face of the permit:

- (1) the name and address of the holder of the mixed beverages permit and the registration number of the premises assigned by the State ABC Board;
- (2) the name of the employee authorized to purchase and transport the alcoholic beverages;
- (3) the name and location of the store where the purchase is to be made;
- (4) the date issued and the expiration date;
- (5) the destination;
- (6) the signature of the persons issuing and receiving the permit;
- (7) a statement that the permit is valid for only one purchase on the date shown and that the permit must accompany the alcoholic beverages during transit and that both the alcoholic beverages and the permit must be displayed to any law enforcement officer upon request; and
- (8) such additional information as may be required by the State ABC Board.

In addition, the permit shall include a space for listing the serial number of each case or carton of alcoholic beverages purchased, to be completed at the time of the sale.

(d) The permit shall be valid for only one purchase and shall expire at 9:30 p.m. on the date shown on it. The permit must accompany the alcoholic beverages during transit and both the alcoholic beverages and permit must be displayed to any law enforcement officer upon request."

Sec. 8. G.S. 18A-30 is amended in line 7 by adding between the word "barter" and the comma the following: "(except where authorized by law)".

Sec. 9. G.S. 18A-30(5) is amended by rewriting subdivisions c., d., and e. to read as follows:

- "c. Any person to possess or consume any alcoholic beverages or mixed beverages upon any of the premises designated under subsections (2),

(3), (4) or (7) of this section, unless there is conspicuously displayed on the premises a valid permit or notice from the State Board of Alcoholic Control.

- d. Any person, association, or corporation to permit any alcoholic beverages or mixed beverages to be possessed or consumed upon any premises not authorized by this Chapter.
- e. Any person to possess or consume any alcoholic beverages or mixed beverages upon any premises where such possession or consumption is not authorized by law, or where the said person has been forbidden to possess or consume alcoholic beverages by the owner, operator, or person in charge of the premises."

Sec. 10. G.S. 18A-30 is further amended by rewriting subsection (6) to read as follows:

"(6) Hours for sale and consumption. It shall be unlawful for any mixed beverages to be sold on any premises having a mixed beverages permit between the hours of 1:00 a.m. and 7:00 a.m. and it shall be unlawful for any alcoholic beverages or mixed beverages to be consumed on any premises having a permit issued under the provisions of this section between the hours of 1:30 a.m. and 7:00 a.m. However, during the period commencing on the last Sunday of April of each year and ending on the last Sunday of October of each year mixed beverages may be sold until 2:00 a.m. and mixed beverages and alcoholic beverages may be consumed on the premises until 2:30 a.m. Subsequently, on Sundays, sales of mixed beverages and consumption of mixed beverages and alcoholic beverages may not resume until 1:00 p.m."

Sec. 11. G.S. 18A-30 is further amended by adding the following new subsection (7):

"(7) Sale of mixed beverages. The State Board of Alcoholic Control may issue a permit allowing the possession of more than one gallon of alcoholic beverages and the on-premises sale of mixed beverages by an establishment meeting the requirements of subsection (2) or (4) of this section, if the sale of mixed beverages has been authorized in the city or county within which the premises is located. If the premises issued the permit for the sale of mixed beverages also has a permit as a social establishment, the provisions of subdivisions c. and d. of subsection (2) shall not apply to alcoholic beverages lawfully possessed on the premises for resale as mixed beverages."

Sec. 12. G.S. 18A-30 is further amended by adding the following new subsection (8):

"(8) Prohibited acts of mixed beverages permit holders. It shall be unlawful for the holder of a permit for the sale of mixed beverages, or for any servant, agent or employee of the permit holder to:

- a. refill any alcoholic beverage container with any other intoxicating liquor for use on the licensed premises;
- b. transfer from one container to another any special label, seal or device required on containers of alcoholic beverages purchased for resale as mixed beverages;
- c. knowingly sell mixed beverages to any person who is intoxicated;
- d. sell, offer for sale, or possess for sale on the licensed premises any intoxicating liquor which the premises is not licensed to sell;

- e. knowingly permit the possession or consumption on the licensed premises of any intoxicating liquor for which no permit is held if a permit is required by law for the possession or consumption of that intoxicating liquor;
- f. sell mixed beverages, or allow mixed beverages to be consumed, on the licensed premises on any day or at any time when such sale or consumption is prohibited by law;
- g. allow on the licensed premises any disorderly conduct, breach of peace, or any lewd, immoral or improper entertainment, conduct or practices; or allow on the licensed premises any conduct or entertainment by nude performers or entertainers, or persons wearing transparent clothing, or performances by any male or female performers simulating sexual acts or sexual activities with any person, object, device or other paraphernalia."

Sec. 13. G.S. 18A-31(b) is amended by deleting the present subdivision (6) and by adding the following new subdivisions (6) and (7):

- "(6) Five hundred dollars (\$500.00) for the sale of mixed beverages;
- (7) The annual renewal fees for such permits shall be twenty-five percent (25%) of the original fee herein set forth except that the annual renewal fee for a permit for the sale of mixed beverages shall be fifty percent (50%) of the original fee."

Sec. 13.1. G.S. 18A-31 is amended by adding the following new subsection (e) to the end of that section:

"(e) No permit may be issued for the purpose defined in G.S. 18A-30(4) in a county or city in which the sale of mixed beverages is authorized."

Sec. 14. G.S. 18A-40(c) is amended in lines 1 and 2 of that subsection by inserting between the word "permit" and the word "shall" the following words and punctuation: ", or mixed beverage permit,".

Sec. 15. G.S. 18A-51 is amended by designating the present section as subsection (a) and by adding a new subsection (b) to read as follows:

"(b) In any county or city where ABC stores have been established, an election may be called on the question of whether the on-premises sale of mixed beverages should be allowed in social establishments and restaurants. The election shall be called by the board of elections of the county upon, and only upon, the written request of the governing body of the county or a city where ABC stores have been established or upon petition of twenty percent (20%) of the voters registered in that county or city. The provisions of this section with regard to ABC store elections shall apply to the mixed beverages elections except that the propositions to be voted upon shall be the following:

FOR the sale of mixed beverages in social establishments and restaurants.

AGAINST the sale of mixed beverages in social establishments and restaurants.

If a majority of the voters voting in the election vote for the sale of mixed beverages, the sale of mixed beverages shall be permitted in that county or city as provided in G.S. 18A-30. If a county or city has not yet authorized the establishment of ABC stores, the election on the sale of mixed beverages may be called for the same time as the election on ABC stores. The sale of mixed beverages may not continue at any time after a county or city has voted to no longer operate ABC stores and the previously authorized stores have closed."

Sec. 16. G.S. 18A-54 is amended by adding after the word and punctuation "unfortified)" in line 4 of subsection (b) the following words: "or mixed beverages".

Sec. 17. If any provision of this act or the application of it to any person or circumstance is held invalid, the invalidity shall not affect other portions of the act or applications which can be given effect without the invalid provision or application, and to this

end the provisions of this act are severable. In particular, if the provisions of this act concerning the sales of mixed beverages in cities are held to be invalid, such invalidity shall not affect the provisions concerning the sale of mixed beverages in counties, and vice versa.

Sec. 18. On the effective date of Chapter 176 of the 1977 Session Laws, the words "gallon" and "one gallon" as they appear in Sections 3, 6, 7 and 11 of this act shall be changed to "four liters", the words "five gallons" as they appear in Section 6 of this act shall be changed to "twenty liters", and the words "one-fifth gallon" as they appear in Section 7 of this act shall be changed to "750 milliliters".

Sec. 19. G.S. 18A-13 is repealed.

Sec. 20. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 15th day of June, 1978.