

NORTH CAROLINA GENERAL ASSEMBLY  
1977 SESSION

CHAPTER 177  
HOUSE BILL 626

AN ACT TO AUTHORIZE THE QUALIFIED VOTERS OF THE TOWN OF  
BANNER ELK, AVERY COUNTY, TO DETERMINE WHETHER ALCOHOLIC  
BEVERAGE CONTROL STORES SHALL BE OPERATED IN THE TOWN OF  
BANNER ELK.

The General Assembly of North Carolina enacts:

**Section 1.** The governing body of the Town of Banner Elk shall call a special election to be held on the question of whether alcoholic beverage control stores may be operated in said town. The governing body may call the special election to be held on such date as the county board of elections may determine, but not less than 30 nor more than 60 days subsequent to the ratification of this act. The Avery County Board of Elections shall hold and conduct all elections under this act, and the cost of the special elections shall be paid from the general fund of the town.

**Sec. 2.** A new registration for voters for such election shall not be necessary and all qualified voters who are properly registered prior to registration for the election and those who register for said election shall be entitled to vote in said election. Except as otherwise herein provided, if a special election is called, the special election authorized shall be conducted under the same statutes, rules and regulations applicable to general elections for the Town of Banner Elk.

**Sec. 3.** There shall be submitted to the qualified voters of the Town of Banner Elk at said election the question of whether municipal alcoholic beverage control stores may be operated in said town, and if a majority of the votes cast in such an election shall be for the operation of such stores, it shall be legal for alcoholic beverage control stores to be set up and operated in the town, but if a majority of the votes cast in such election shall be against alcoholic beverage control stores, no such stores shall be set up or operated in the Town of Banner Elk under the provisions of this act. In said election a ballot shall be used upon which shall be printed on separate lines for each proposition, "For Alcoholic Beverage Control Stores", "Against Alcoholic Beverage Control Stores". Those favoring setting up and operating alcoholic beverage control stores in the town shall mark in the voting square to the left of the words, "For Alcoholic Beverage Control Stores", printed on the ballot and those opposed to alcoholic beverage control stores shall mark in the voting square to the left of the words "Against Alcoholic Beverage Control Stores", printed on the ballot.

**Sec. 4.** If the operation of town alcoholic beverage control stores is authorized under the provisions of this act, the governing body of the town shall immediately

create a town board of alcoholic beverage control, to be composed of a chairman and two other members who shall be well known for their good character, ability and business acumen. Said board shall be known and designated as the "Town of Banner Elk Board of Alcoholic Beverage Control". The chairman of said board shall be designated by the governing body of the town and shall serve for his first term a period of three years. The other two members of the board of alcoholic beverage control shall be designated by the governing body of the town, and one member shall serve for his first term a period of two years, and the other member shall serve for his first term a period of one year; all terms shall begin with the date of appointment, and after the same term shall have expired, successors in office shall serve for a period of three years. Their successors shall be named by the governing body of the town. Any vacancy shall be filled by the governing body of the town for the unexpired term.

**Sec. 5.** The town board of alcoholic beverage control shall have all the powers and duties prescribed for county boards of alcoholic control by G.S. 18A-17, except to the extent that the same may be in conflict with the provisions of this act, and shall be subject to the same powers and authority of the State Board of Alcoholic Control as are county boards of alcoholic control by the provisions of G.S. 18A-15. The Town of Banner Elk Board of Alcoholic Control, in the operation of any city alcoholic beverage control stores authorized under the provisions this act, shall be subject to the provisions of Chapter 18A of the General Statutes, except to the extent that the same may be in conflict with the provisions of this act. Whenever the term "county board of alcoholic control" appears in Chapter 18A, it shall be deemed to include the Town of Banner Elk Board of Alcoholic Control.

**Sec. 6.** The town board of alcoholic beverage control shall, out of the gross revenue derived from the operation of alcoholic beverage control stores, pay all salaries, costs and operating expenses and retain a sufficient and proper working capital, the amount thereof to be determined by the town board of alcoholic beverage control. The remaining revenue, as determined by quarterly audit, shall be distributed quarterly by the town board of alcoholic beverage control to the general fund of the Town of Banner Elk to be used for any and all purposes for which tax and non-tax revenues may be expended by the town. Provided, however, that of said monies received, the town shall expend a sum not less than five percent (5%) nor more than fifteen percent (15%) for law enforcement in the town, and shall expend within the town, a sum not less than seven percent (7%) for education on the excessive use of alcoholic beverages and for the rehabilitation of alcoholics.

**Sec. 7.** Subsequent elections may be held as authorized in this section. At such election if a majority of the votes shall be cast "Against Alcoholic Beverage Control Stores", the alcoholic beverage control board shall be closed immediately and no beverages shall be sold at retail or otherwise to citizens of Avery County, and within three months from the canvassing of such votes and the declaration of the results thereof, the alcoholic beverage control board shall dispose of all alcoholic beverages on hand, all fixtures and all other property in the hands and under the control of said board and convert the same into cash and the same be deposited in the general fund of the Town of Banner Elk. Thereafter, all public, local and private laws applicable to the sale

of intoxicating beverages within the Town of Banner Elk, in force and effect prior to the authorization to operate alcoholic beverage control stores, shall be in full force and effect the same as if such election had not been held, and until and unless another election is held under the provisions of the act in which a majority of the votes shall be cast "For Alcoholic Beverage Control Stores". No election shall be called and held in the town under the provisions of this act within three years from the holding of the last election thereunder. The governing body of the Town of Banner Elk may order a subsequent alcoholic beverage control election on its own motion, and shall within 60 days after a petition shall have been presented to the town's governing body, filed and signed by at least twenty percent (20%) of the number of the registered and qualified voters of the Town of Banner Elk that voted in the election for the governing body of said town in the last election, order an election on the question of whether alcoholic beverage control stores shall be operated in the town.

**Sec. 8.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 9.** This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1977.