

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-380
HOUSE BILL 1429**

AN ACT TO PROVIDE FOR RECIPROCITY BY ELIMINATING THE APPLICATION FEE FOR A WINE SHIPPER PERMIT, TO CLARIFY THE LAW CONCERNING SPLIT-CASE FEES, AND TO TRANSFER THE NORTH CAROLINA GRAPE GROWERS COUNCIL TO THE DEPARTMENT OF COMMERCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-902(d) reads as rewritten:

"(d) Fees. – An application for an ABC permit shall be accompanied by payment of the following application fee:

- (1) On-premises malt beverage permit – \$400.00.
- (2) Off-premises malt beverage permit – \$400.00.
- (3) On-premises unfortified wine permit – \$400.00.
- (4) Off-premises unfortified wine permit – \$400.00.
- (5) On-premises fortified wine permit – \$400.00.
- (6) Off-premises fortified wine permit – \$400.00.
- (7) Brown-bagging permit – \$400.00, unless the application is for a restaurant seating less than 50, in which case the fee shall be \$200.00.
- (8) Special occasion permit – \$400.00.
- (9) Limited special occasion permit – \$50.00.
- (10) Mixed beverages permit – \$1,000.
- (11) Culinary permit – \$200.00.
- (12) Unfortified winery permit – \$300.00.
- (13) Fortified winery permit – \$300.00.
- (14) Limited winery permit – \$300.00.
- (15) Brewery permit – \$300.00.
- (16) Distillery permit – \$300.00.
- (17) Fuel alcohol permit – \$100.00.
- (18) Wine importer permit – \$300.00.
- (19) Wine wholesaler permit – \$300.00.
- (20) Malt beverage importer permit – \$300.00.
- (21) Malt beverage wholesaler permit – \$300.00.
- (22) Bottler permit – \$300.00.
- (23) Salesman permit – \$100.00.
- (24) Vendor representative permit – \$50.00.
- (25) Nonresident malt beverage vendor permit – \$100.00.

- (26) Nonresident wine vendor permit – \$100.00.
- (27) Any special one-time permit under G.S. 18B-1002 – \$50.00.
- (28) Winery special event permit – \$200.00.
- (29) Mixed beverages catering permit – \$200.00.
- (30) Guest room cabinet permit – \$1,000.
- (31) Liquor importer/bottler permit – \$500.00.
- (32) Cider and vinegar manufacturer permit – \$200.00.
- (33) Brew on premises permit – \$400.00.
- (34) Wine producer permit – \$300.00.
- (35) Wine tasting permit – \$100.00.
- (36) ~~Wine shipper permit – \$100.00."~~

SECTION 2. G.S. 18B-1001.1(a) reads as rewritten:

"(a) A winery holding a federal basic wine manufacturing permit located within or outside of the State may apply to the Commission for issuance of a wine shipper permit that shall authorize the shipment of brands of fortified and unfortified wines identified in the application. The applicant shall not be required to pay an application fee for the wine shipper permit. A wine shipper permittee may amend the brands of wines identified in the permit application but shall file any amendment with the Commission. Any winery that applies for a wine shipper permit shall notify in writing any wholesalers that have been authorized to distribute the winery's brands within the State that an application has been filed for a wine shipper permit. A wine shipper permittee may sell and ship not more than two cases of wine per month to any person in North Carolina to whom alcoholic beverages may be lawfully sold. All sales and shipments shall be for personal use only and not for resale. A case of wine shall mean any combination of packages containing not more than nine liters of wine."

SECTION 3. G.S. 18B-1116 is amended by adding a new subsection to read:

"(c) As used in this section, the phrase "giving things of value" shall not include the dividing or removing of individual containers of alcohol from larger packages of alcohol or the delivery of such to the retail permittee."

SECTION 4.(a) Article 62 of Chapter 106 of the General Statutes is recodified as Part 2H of Article 10 of Chapter 143B of the General Statutes and reads as rewritten:

~~"Article 62.~~

"Part 2H. Grape Growers Council.

"§ ~~106-750.143B-437.70.~~ North Carolina Grape Growers Council – Creation; powers and duties.

There is created the North Carolina Grape Growers Council of the Department of ~~Agriculture and Consumer Services-Commerce.~~ The North Carolina Grape Growers Council shall have the following powers and duties:

- (1) To identify and implement methods for improving North Carolina's rank as a wine-producing State;
- (2) To assure orderly growth and development of North Carolina's grape and wine industry;

- (3) To achieve public awareness of the quality of North Carolina grapes and wine;
- (4) To coordinate the interaction of North Carolina's grape and wine industry with other segments of the State's economy such as tourism, retail trade, and horticulture;
- (5) To conduct methods of quality assurance of North Carolina's grape and wine industry to create a sound foundation for further growth;
- (6) To assist in the coordination of the activities of the various State agencies and other organizations contributing to the development of the grape and wine industry;
- (7) To receive and disburse funds;
- (8) To enter into contracts for the purpose of developing new or improved markets or marketing methods for wine and grape products;
- (9) To contract for research services to improve viticultural and enological practices in North Carolina;
- (10) To enter into agreements with any local, state, or national organizations or agency engaged in education for the purpose of disseminating information on wine or other viticultural projects;
- (11) To enter into contracts with commercial entities for the purpose of developing marketing, advertising, and other promotional programs designed to promote the orderly growth of the North Carolina grape and wine industry;
- (12) To acquire any licenses or permits necessary for performance of the duties of the Council; and
- (13) To develop a State Viticulture Plan that identifies problems and constraints of the viticultural industry, proposes solutions to those problems and delineates planning mechanisms for the orderly growth of the industry.

"§ ~~106-751.143B-437.71~~. North Carolina Grape Growers Council – Composition; terms; reimbursement.

(a) The North Carolina Grape Growers Council shall consist of 11 members appointed by the ~~Commissioner of Agriculture~~Secretary of Commerce in the following manner: seven commercial grape growers; three winery operators; and one retailer of North Carolina grape products. For purposes of this Article, a commercial grape grower is one who has at least three acres of grapes or sells ten thousand dollars (\$10,000) worth of grapes annually. The ~~Commissioner~~Secretary shall ~~appoint, within 30 days of the effective date of this act, four members for three year terms, four members for two year terms, and three members for one year terms. Thereafter, members shall be appointed for~~appoint members for staggered four-year terms and terms. Members shall serve until their successors are appointed and qualified. Any member of the Council may be reappointed for additional terms. Any appointment to fill a vacancy on the Council shall be for the balance of the unexpired term. Any member of the Council may be removed by the ~~Commissioner~~Secretary for misfeasance, malfeasance, or nonfeasance.

(b) Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 from funds appropriated for the operation of the Council.

(c) All clerical and other services required by the Council may be provided by the Department of ~~Agriculture and Consumer Services~~Commerce.

(d) The ~~Commissioner of Agriculture~~Secretary of Commerce shall appoint a ~~chairman~~chair who shall serve at the pleasure of the ~~Commissioner~~Secretary.

(e) The Council may select a secretary who need not be a member of the Council.

(f) The Council shall meet when necessary as determined by the ~~chairman~~chair or upon written request of a majority of the members.

(g) A majority of the Council shall constitute a quorum for the transaction of business."

SECTION 4.(b) Persons serving on the North Carolina Grape Growers Council as of the effective date of this section shall continue to serve for the remainder of their unexpired terms. The Secretary of Commerce shall appoint members to the North Carolina Grape Growers Council as current terms expire and as vacancies arise.

SECTION 4.(c) G.S. 105-113.81A reads as rewritten:

"§ 105-113.81A. Distribution of part of wine taxes attributable to North Carolina wine.

The Secretary shall on a quarterly basis credit to the Department of ~~Agriculture and Consumer Services~~Commerce the net proceeds of the excise tax collected on unfortified wine bottled in North Carolina during the previous quarter and the net proceeds of the excise tax collected on fortified wine bottled in North Carolina during the previous quarter, except that the amount credited to the Department of ~~Agriculture and Consumer Services~~Commerce under this section shall not exceed three hundred fifty thousand dollars (\$350,000) per fiscal year. The Department of ~~Agriculture and Consumer Services~~Commerce shall allocate the funds received under this section to the North Carolina Grape Growers Council to be used to promote the North Carolina grape and wine industry and to contract for research and development services to improve viticultural and enological practices in North Carolina. Any funds credited to the Department of ~~Agriculture and Consumer Services~~Commerce under this section that are not expended by June 30 of any fiscal year may not revert to the General Fund, but shall remain available to the Department for the uses set forth in this section."

SECTION 4.(d) The Department of Commerce shall consult and coordinate with the Department of Agriculture and Consumer Services and North Carolina State University to serve the needs of North Carolina grape growers.

SECTION 5. This act is effective when it becomes law, and Sections 1 and 2 of this act apply to wine shipper permit applications submitted on or after that date.

In the General Assembly read three times and ratified this the 23rd day of August, 2005.

s/ Beverly E. Perdue

President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 1:47 p.m. this 8th day of September, 2005