

**LEGISLATIVE
RESEARCH COMMISSION**

INTERIM REPORT

TO THE

1979

**GENERAL ASSEMBLY OF NORTH CAROLINA
SECOND SESSION, 1980**



**ALCOHOLIC BEVERAGE
CONTROL LAWS**

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STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
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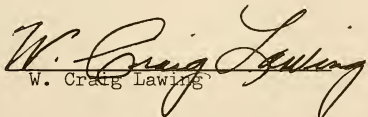
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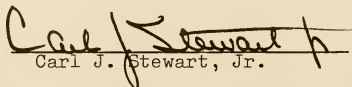
TO THE MEMBERS OF THE 1979 GENERAL ASSEMBLY, SECOND SESSION 1980

The Legislative Research Commission herewith reports to the 1979 General Assembly of North Carolina, Second Session, 1980 on the matter of Alcoholic Beverage Control Laws. The report is made pursuant to Resolution 75 of the 1979 Session Laws.

This report was prepared by the Legislative Research Commission Committee on Alcoholic Beverage Control Laws, and it is transmitted by the Legislative Research Commission to the members of the 1979 General Assembly, Second Session, 1980, for their consideration.

Respectfully submitted,


W. Craig Lawing


Carl J. Stewart, Jr.

Co-Chairmen

LEGISLATIVE RESEARCH COMMISSION

MEMBERS

LEGISLATIVE RESEARCH COMMISSION

House Speaker Carl J. Stewart, Jr.
Co-Chairman

Representative Chris S. Barker, Jr

Representative John Gamble

Representative Parks Helms

Representative John J. Hunt

Representative Lura S. Tally

Senate President Pro Tempore
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Senator Henson P. Barnes

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Senator Carolyn Mathis

Senator R. C. Soles, Jr.

Senator Charles E. Vickery

PREFACE

The Legislative Research Commission, authorized by Article 6B of Chapter 120 of the General Statutes, is a general purpose study group. The Commission is co-chaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigation into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

At the direction of the 1979 General Assembly, the Legislative Research Commission has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given the responsibility for one category of study. The Co-Chairmen of the Legislative Research Commission, under the authority of General Statutes 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Co-Chairmen, one from each house of the General Assembly, were designated for each committee.

The study of the alcoholic beverage control laws of North Carolina was authorized by Resolution 75 of the 1979 Session Laws. The Commission was authorized by the resolution to study the North Carolina alcoholic beverage control laws in general, including:

- (1) a general revision of those laws
- (2) the effects of moving alcohol law enforcement from the Department of Crime Control and Public Safety to the Department of Commerce; and
- (3) the conversion of liquor taxation to a proof-liter system.

The Legislative Research Commission grouped this study in its liquor laws and land registration area under the direction of Senator Charles Vickery. The Co-Chairmen of the study committee set up by the Research Commission are Senator Robert S. Swain and Representative James F. Morgan. The full membership of the committee is listed in Appendix A of this report. Resolution 75 authorizing the study is attached as Appendix B.

COMMITTEE PROCEEDINGS

The Committee on Alcoholic Beverage Control Laws has held seven meetings to date. The committee staff, Mr. A. W. Turner, Jr., from the Legislative Services Office, and Mr. Michael Crowell from the Institute of Government, have prepared an outline of a new ABC Laws chapter to replace the current Chapter 18A of the General Statutes. Drafts of articles covering the following topics have been considered by the committee: state administration, local administration, law enforcement, elections. The committee will need to meet monthly between the 1980 and 1981 Sessions of the General Assembly in order to complete its work.

FINDINGS AND RECOMMENDATIONS

The final findings and recommendations of this committee are not due until 1981. Interim findings, however, on distillation of alcohol for fuel and appropriate legislation are included in this report.

The committee found that distillation of ethanol for use as fuel has increased dramatically in the last several months. Hundreds of North Carolina citizens have obtained permits from the Federal Bureau of Alcohol, Tobacco, and Firearms authorizing them to make ethanol.

Whenever alcohol is distilled, for whatever purpose, the problem of consumption of part of the alcohol arises. So many people statewide and nationwide have begun distilling ethanol for fuel that ATF simply cannot police them all. With federal law enforcement ineffective, the state must have the power to insure that its ABC laws are not being violated.

The committee therefore recommends that the State ABC Board be allowed to require permits and licenses for persons who have federal permits to distill ethanol. Requiring those persons to have a state permit and license will allow ABC law enforcement personnel to inspect their stills more easily than is now possible and will enable the state to maintain a list of persons who are operating stills.

The committee recommends a small cost of \$25.00 each for the permit and the license in order not to discourage fuel alcohol production and use. The small fee will help defray the cost of enforcement.

A copy of the recommended legislation is attached as Appendix C.

LEGISLATIVE RESEARCH COMMISSION

STUDY COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL LAWS

Members Appointed By
Speaker of House of Representatives

Representative James F. Morgan, Co-Chairman
Post Office Box 2756
High Point, North Carolina 27261

Representative Ted Kaplan
600 Jonestown Road
Winston-Salem, North Carolina 27103

Representative Henry Tyson
Route 7, Box 284
Fayetteville, North Carolina 28306

Representative Roy Spoon
307 Lincoln Street
Charlotte, North Carolina 28203

Members Appointed by
Senate President Pro Tempore

Senator Robert S. Swain, Co-Chairman
301 Northwestern Bank Building
Asheville, North Carolina 28801

Senator Benjamin D. Schwartz
205 Forest Hills Drive
Wilmington, North Carolina 28403

Senator George W. Marion, Jr.
Post Office Box 618
Dobson, North Carolina 27017

Mr. Robert A. Jones
Professional Building
Forest City, North Carolina 28043

LRC MEMBER RESPONSIBLE FOR STUDY: Senator Charles E. Vickery
139 E. Rosemary Street
Chapel Hill, North Carolina 27514

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1979
RATIFIED BILL

RESOLUTION 75

HOUSE JOINT RESOLUTION 279

A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE ALCOHOLIC BEVERAGE CONTROL LAWS, AND APPROPRIATING FUNDS FOR THAT PURPOSE.

Whereas, the passage of the local option mixed beverage act in 1978 has focused attention on North Carolina's alcoholic beverage control laws; and

Whereas, many legislators and other citizens have found those laws confusing and sometimes contradictory; and

Whereas, numerous amendments have been made to the alcoholic beverage control statutes since the last major recodification in 1971; and

Whereas, both before and after the 1971 revision there have been many local acts passed which alter State ABC laws for particular cities and counties;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission is authorized to study North Carolina's alcoholic beverage control laws, including but not limited to Chapter 18A of the General Statutes and the liquor taxation provisions of Chapter 105. The commission may recommend to the 1981 General Assembly a general revision of those laws to make them more readable, to remove inconsistencies, and to establish, to the extent possible, a

uniform statewide system of regulation which discourages the excessive use of alcohol. In making this study the commission may consider, but not be limited to, the following issues: (a) whether it is time to eliminate brown-bagging altogether in North Carolina; (b) what role cities and counties should have in the issuance of ABC permits; (c) whether the same categories of places should be eligible for all ABC permits rather than having different kinds of premises eligible for beer, wine, brown-bagging and mixed drink permits; (d) whether State law should provide for the establishment of city ABC systems; (e) under what conditions cities should be eligible to vote separately from counties on ABC issues; (f) the organization of the State ABC Board and the method by which its members are appointed; (g) the relationship between State alcohol law enforcement agents and local ABC officers and the jurisdiction of each; (h) whether provision should be made for consolidation of ABC systems which operate only one or two stores and have a small profit margin; (i) the size of fees for ABC permits and local licenses; (j) whether the State ABC Board should have authority to levy fines or impose other administrative punishments other than suspension or revocation of the permit; (k) public consumption of liquor and whether a State law is needed on consumption of beer and wine; (l) the use of liquor revenues for alcoholism programs; (m) taxation of liquor and the division of that revenue between State and local governments; and (n) advertising of liquor.

Sec. 2. In making its study, the commission might bear in mind what the 1936 Commission to Study the Control of Alcohol

Beverages in North Carolina identified as the two basic requirements of any control system: ". . . one was to restrict the use of alcohol within as narrow a limit as possible on account of the well recognized evils of the intemperate use of alcohol as a beverage; and second, to avoid excessive restrictions which, however sincere, would result in defeating the desired ends."

Sec. 3. In making its study, the commission may also study the effects of the provisions of Senate Bill 857 of the 1979 General Assembly; and may study the conversion of all State taxes on intoxicating liquor (as defined in G.S. Chapter 18A) to a proof-liter system and devise a plan to implement that conversion.

Sec. 4. The commission may make an interim report to the General Assembly as soon as possible after the convening of the 1980 session.

Sec. 5. The commission may request the assistance of appropriate public or private agencies or individuals for research, drafting, or other services necessary to complete this study.

Sec. 6. This resolution is effective upon ratification.

In the General Assembly read three times and ratified,

this the 8th day of June, 1979.

JAMES C. GREEN

James C. Green

President of the Senate

CARL J STEWART, JR.

Carl J. Stewart, Jr.

Speaker of the House of Representatives

A BILL TO BE ENTITLED AN ACT TO REQUIRE LICENSING OF FUEL ALCOHOL DISTILLERS.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to the General Statutes to read:

"G. S. 18A-69. Distilleries for Fuel Alcohol.-- Any person in possession of a Federal Operating Permit pursuant to Title 27, Code of Federal Regulations, Part 201.131 through 201.138 or Part 201.64 through 201.65 shall obtain a permit under this article before manufacturing any alcohol. The permit entitles the permit holder to perform only those acts allowed by the Federal Operating Permit, and all conditions of the Federal Operating Permit apply to the state permit. The application fee for this permit is twenty-five dollars (\$25.00)."

Sec. 2. G. S. 105-113.72 is amended by adding a new subsection to read:

"(c) Any person, firm, or corporation authorized to manufacture fuel alcohol under G.S. 18A-69 shall pay an annual license tax of twenty-five dollars (\$25.00)."

Sec. 3. This act shall become effective on October 1, 1980, and applies to all persons holding or obtaining federal permits on or after that date.

