

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 502
Committee Substitute Favorable 4/28/93

Short Title: ABC Changes.

(Public)

Sponsors:

Referred to:

March 24, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE ALCOHOLIC
3 BEVERAGE LAWS, TO AUTHORIZE THE SALE OF ALCOHOLIC
4 BEVERAGES IN CERTAIN AREAS OF THE STATE, AND TO MAKE OTHER
5 CHANGES TO THE ALCOHOLIC BEVERAGE LAWS.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 18B-101(13a) reads as rewritten:

8 "(13a) 'Special ABC area' means an area in a city or county, either
9 unincorporated or incorporated, with less than 500 permanent residents
10 that:

- 11 (1) Borders on another state;
12 (2) Where ABC stores are permitted in one or more cities in the
13 county;
14 (3) Where the on-premises or off-premises sale of unfortified wines
15 and malt beverages by qualified persons and establishments,
16 including persons and establishments qualified under G.S. 18B-
17 603(c) or G.S. 18B-603(d), is permitted countywide or in two or
18 more cities in the county; and such area
19 (a) Contains more than 500 contiguous acres and is made up
20 of privately-owned land and land owned by an
21 association or club having more than 200 members and
22 created for municipal and recreational purposes;

1 (b) Which for three or more years has levied assessments or
2 dues and provided municipal services; and

3 (c) Is incorporated as a municipality or has within such area
4 a private association or club that has been determined or
5 is treated by the Internal Revenue Service to be exempt
6 from tax on member source or exempt function income."

7 Sec. 2. G.S. 18B-101 is amended by adding a new subdivision to read:

8 "(14a) 'Tourism ABC establishment' means a restaurant or hotel that is
9 located within 1.5 miles of the end of an entrance or exit ramp of any
10 junction on a national scenic parkway designed to attract local, State,
11 national, and international tourists and is located in a county in which
12 the on-premises sale of malt beverages or unfortified wine is
13 authorized in at least one city in the county."

14 Sec. 3. G.S. 18B-201(a) reads as rewritten:

15 "(a) Financial Interests Restricted. – No person shall be appointed to or employed by
16 the Commission, a local board, or the ALE Division, if that person or a member of his
17 ~~household~~ that person's family related to him ~~that person~~ by blood or marriage to the first
18 degree has or controls, directly or indirectly, a financial interest in any commercial
19 alcoholic beverage enterprise, including any business required to have an ABC permit.
20 The Commission may exempt from this provision any person, other than a Commission
21 member, when the financial interest in question is so insignificant or remote that it is
22 unlikely to affect the person's official actions in any way. Exemptions may be granted
23 only to individuals, not to groups or classes of people, and each exemption shall be in
24 writing, be available for public inspection, and contain a statement of the financial
25 interest in question."

26 Sec. 4. G.S. 18B-603(d)(4) reads as rewritten:

27 "(4) The Commission may issue brown-bagging permits for private clubs
28 and congressionally chartered veterans organizations but may no
29 longer issue and may not renew brown-bagging permits for
30 restaurants, hotels, and community theatres. A restaurant, hotel, or
31 community theatre may not be issued a mixed beverage permit under
32 subdivision (1) until it surrenders its brown-bagging permit."

33 Sec. 5. G.S. 18B-603(f) reads as rewritten:

34 "(f) Permits Not Dependent on Elections. – The Commission may issue the
35 following kinds of permits without approval at an election:

- 36 (1) Special occasion permits;
37 (2) Limited special occasion permits;
38 (3) ~~Brown-bagging permits for private clubs;~~ clubs and congressionally
39 chartered veterans organizations;
40 (4) Culinary permits, except as restricted by subdivision (d)(5);
41 (5) Special one-time permits issued under G.S. 18B-1002;
42 (6) All permits listed in ~~G.S. 18B-1100.~~ G.S. 18B-1100;
43 (7) On-premises malt beverage permits and on-premises unfortified wine
44 permits for a tourism ABC establishment."

1 Sec. 6. G.S. 18B-603(h) reads as rewritten:

2 "(h) Permits Based on Existing Permits. – In any county in which the sale of malt
3 beverage on and off premises, the sale of unfortified wine on and off premises, the sale
4 of mixed beverages, and the operation of an ABC system has been allowed in at least
5 six cities in the county, or in any county adjacent to that county in which an ABC
6 system has been allowed and which borders on the Atlantic Ocean, the Commission
7 may issue permits to sports clubs as defined in G.S. 18B-1000(8) throughout the county.
8 The Commission may issue the following permits:

- 9 (1) On and Off Premises Malt Beverage;
- 10 (2) On and Off Premises Unfortified Wine;
- 11 (3) On and Off Premises Fortified Wine; or
- 12 (4) ~~Mixed Beverage~~-Beverages.

13 ~~Retail establishments holding mixed beverage permits shall purchase their spirituous~~
14 ~~liquor at the nearest municipal ABC system store.~~–The Commission may also issue on-
15 premises malt beverage, unfortified wine, fortified wine and mixed beverages permits to
16 a sports club located in a county adjacent to any county that has approved the sale of
17 mixed beverages pursuant to the last paragraph of G.S. 18B-603(d), if the county in
18 which the sports club is located borders another state and has at least one city that has
19 approved the sale of mixed beverages. Sports clubs holding mixed beverages permits
20 shall purchase their spirituous liquor at the nearest ~~municipal ABC system store that has~~
21 ~~been designated for such purchases.~~store that is located in the county.

22 The Commission may further issue on-premises malt beverage and on-premises
23 unfortified wine permits to a sports club located in a county bordering on another state
24 that is adjacent to any county in which permits were issued pursuant to this subsection
25 prior to the effective date of this paragraph. The sports clubs must be located in the
26 unincorporated areas of a county, in which the sale of malt beverages and unfortified
27 wine is not permitted, and where there are six or more municipalities in that county
28 where the sale of malt beverages and unfortified wine is permitted."

29 Sec. 7. G.S. 18B-900(c) reads as rewritten:

30 "(c) Who Must Qualify; Exceptions. – For an ABC permit to be issued to and held
31 for a business, each of the following persons associated with that business must qualify
32 under subsection (a):

- 33 (1) The owner of a sole proprietorship;
- 34 (2) Each member of a firm, association or general partnership;
- 35 (2a) Each general partner in a limited partnership;
- 36 (3) Each officer, director and owner of ~~more than~~ twenty-five percent
37 (25%) or more of the stock of a corporation except that the
38 requirement of subdivision (a)(1) does not apply to such an officer,
39 director, or stockholder unless he is a manager or is otherwise
40 responsible for the day-to-day operation of the business;
- 41 (4) The manager of an establishment operated by a corporation other than
42 an establishment with only off-premises malt beverage, off-premises
43 unfortified wine, or off-premises fortified wine permits;

1 (5) Any manager who has been empowered as attorney-in-fact for a
2 nonresident individual or partnership."

3 Sec. 8. G.S. 18B-1000 is amended by inserting a new subdivision in the
4 appropriate alphabetical order to read:

5 "(5a) Residential private club. – A private club that is located in a privately
6 owned, primarily residential and recreational development."

7 Sec. 9. G.S. 18B-1000(8) reads as rewritten:

8 "(8) Sports club. – An establishment substantially engaged in the business
9 of providing ~~athletic facilities, an 18-hole golf course, a tennis court, or~~
10 both. The sports club can either be open to the general public or ~~for~~to
11 ~~members and their guests. Sports clubs shall only include golf courses.~~
12 To qualify as a sports club, an establishment's gross receipts for club
13 activities shall be greater than its gross receipts for alcoholic
14 beverages. This provision does not prohibit a sports club from
15 operating a restaurant. Receipts for food shall be included in with the
16 club activity fee."

17 Sec. 10. G.S. 18B-1004(e) reads as rewritten:

18 "(e) This section does not prohibit at any time the wholesale delivery and sale of
19 unfortified wine, fortified wine, and malt beverages to retailers issued permits pursuant
20 to ~~G.S. 18B-1001.~~ G.S. 18B-1001 or G.S. 18B-1002(a)(2) or (5)."

21 Sec. 11. G.S. 18B-1006(h) reads as rewritten:

22 "(h) Purchase Restrictions. – A retail permittee may purchase malt beverages,
23 unfortified wine, or fortified wine only from a wholesaler ~~or importer~~ who maintains a
24 place of business in this State and has the proper permit."

25 Sec. 12. G.S. 18B-1006(j) reads as rewritten:

26 "(j) ~~Recreation/Sports~~ Recreation Districts. ~~—The Notwithstanding the provisions~~
27 ~~of Article 6, the Commission may issue permits for the sale of malt beverages and~~
28 ~~beverages, unfortified wine, wine, fortified wine, and mixed beverages to qualified~~
29 ~~businesses in recreation in recreation/sports districts when they are wholly located in a~~
30 ~~County where there are two or more municipalities that are wholly located in the County that~~
31 ~~allow the sale of alcoholic beverages while the sale of any alcoholic beverages is prohibited in~~
32 ~~the nonincorporated areas of the County, and the area to be included in the recreation/sports~~
33 ~~district has been previously identified by one of those municipalities through a resolution of~~
34 ~~intent for annexation. The issuance of the permits shall be upon the formal written request of~~
35 ~~the City indicating the intent to annex the area or upon formal written request of the County~~
36 ~~Commissioners with the request designating the geographic boundaries of the district in which~~
37 ~~the permits may be issued.~~

38 ~~For the purposes of this act a recreation/sports district shall not exceed one half mile~~
39 ~~in diameter and shall host at least five sporting events each year.~~ district. A 'recreation
40 district' is an area that is located in a county that has not approved the issuance of
41 permits and has at least two cities that have approved the sale of malt beverages, wine,
42 and the operation of an ABC store and contains a facility of at least 450 acres where
43 five or more public auto racing events are held each year. The recreation district
44 includes the area within a half-mile radius of the racing facility."

45 Sec. 13. G.S. 18B-1006(k) reads as rewritten:

1 "(k) ~~Special Residential Private Club and Sports Club Permits.~~ – The Commission
2 may issue the permits listed in G.S. 18B-1001 to qualified persons and establishments
3 ~~located within a private club located in a private development, 18B-1001,~~ without approval
4 at an ~~election; election,~~ to a residential private club or a sports club that is located in a
5 county that meets the requirements set in any of the following subdivisions:

6 (1) ~~In any county which has~~ Has a population of less than 45,000 by the last
7 federal census, ~~and in which there are~~ has at least three but not more
8 than four cities that have approved the sale of malt beverages or
9 unfortified ~~wine; and wine,~~ has ~~a. Only only one city in the county that~~
10 has approved the on-premises sale of malt beverages, and ~~b. At~~ has at
11 least two cities in the county have that approved the operation of ABC
12 stores before ~~the ratification date of this section; or July 10, 1992.~~

13 (2) ~~In any county bordering on~~ Borders a county that has called elections
14 pursuant to G.S. ~~18B-600(f); and 18B-600(f),~~ has not approved the
15 ~~a. The issuance of permits permits, other than malt beverage permits, in~~
16 unincorporated areas of the ~~county has not been approved, county,~~ and ~~b.~~
17 ~~Not~~ has no more than three cities in the county have that approved the
18 operation of ABC stores before ~~the ratification date of this section. July~~
19 10, 1992.

20 (3) Is bordered by four counties that have not approved the issuance of
21 permits and have at least one city that has approved the operation of an
22 ABC store.

23 The mixed beverages ~~transportation purchase-transportation~~ permit authorized by
24 G.S. 18B-404(b) shall be issued by a local board operating a store located in the
25 county. ~~A private club located in the county is defined as a club or lodge located in a privately~~
26 ~~owned, primarily residential and recreational development, which is open only to members by~~
27 ~~invitation of the club's board of directors and the guests of these members."~~

28 Sec. 14. G.S. 18B-1104(7) reads as rewritten:

29 "(7) In areas where the sale is legal, sell the brewery's malt beverages at the
30 brewery upon receiving a permit under G.S. 18B-1001(1). The
31 brewery also may obtain a malt beverages wholesalers permit to sell,
32 deliver, and ship at wholesale only malt beverages manufactured by
33 the brewery. This ~~The~~ authorization of this subdivision applies to a
34 brewery that sells, to consumers at the brewery, to wholesalers, to
35 retailers, and to exporters, fewer than 310,000 gallons of malt
36 beverages produced by it per year."

37 Sec. 15. G.S. 18B-1106(a) reads as rewritten:

38 "(a) Authorization. – The holder of a wine importer permit may:

- 39 (1) Import fortified and unfortified wines from outside the United States in
40 closed containers;
41 (2) Store those wines;
42 (3) Sell those wines ~~at wholesale to wholesalers~~ for purposes of resale."

43 Sec. 16. G.S. 18B-1108 reads as rewritten:

44 "The holder of a malt beverages importer permit may:

- 1 (1) Import malt beverages from outside the United States in closed
2 containers;
3 (2) Store those malt beverages;
4 (3) Sell those malt beverages ~~at wholesale~~ to wholesalers for purposes of
5 resale."

6 Sec. 17. G.S. 18B-1113 reads as rewritten:

7 **"§ 18B-1113. Authorization of nonresident malt beverage vendor permit.**

8 The holder of a nonresident malt beverage vendor permit may sell, deliver and ship
9 malt beverages in this State only to wholesalers, importers and bottlers licensed under
10 this Chapter, as authorized by the ABC laws. The malt beverages must come to rest at
11 the licensed premises of a wholesaler in this State before being resold to a retailer. A
12 nonresident malt beverage vendor permit may be issued to a brewery, importer or
13 bottler outside North Carolina who desires to sell, deliver and ship malt beverages into
14 this State."

15 Sec. 18. G.S. 18B-1114 reads as rewritten:

16 **"§ 18B-1114. Authorization of nonresident wine vendor permit.**

17 The holder of a nonresident wine vendor permit may sell, deliver and ship
18 unfortified and fortified wine in this State only to wholesalers, importers and bottlers
19 licensed under this Chapter, as authorized by the ABC laws. The unfortified and
20 fortified wine must come to rest at the licensed premises of a wholesaler in this State
21 before being resold to a retailer. A nonresident wine vendor permit may be issued to a
22 winery, wholesaler, importer, or bottler outside North Carolina who desires to sell,
23 deliver and ship unfortified and fortified wine into this State."

24 Sec. 19. G.S. 18B-1116(a) reads as rewritten:

25 "(a) Prohibitions. – It shall be unlawful for any manufacturer, bottler, or
26 wholesaler of any alcoholic beverages, or for any officer, director, or affiliate thereof,
27 either directly or indirectly to:

- 28 (1) Require that an alcoholic beverage retailer purchase any alcoholic
29 beverages from that person to the full or partial exclusion of any other
30 alcoholic beverages offered for sale by other persons in this State; or
31 (2) Have any direct or indirect financial interest in the business of any
32 alcoholic beverage retailer in this State or in the premises where the
33 business of any alcoholic beverage retailer in this State is conducted;
34 or
35 (3) Lend or give to any alcoholic beverage retailer in this State or his
36 employee or to the owner of the premises where the business of any
37 alcoholic beverage retailer in this State is conducted, any money,
38 service, equipment, furniture, fixtures or any other thing of value.

39 A brewery qualifying under G.S. 18B-1104(7) to act as a wholesaler or retailer
40 of its own malt beverages is not subject to the provisions of this subsection concerning
41 financial interests in, and lending or giving things of value to, a wholesaler or retailer
42 with respect to the brewery's transactions with the retail business on its premises. The
43 brewery is subject to the provisions of this subsection, however, with respect to its
44 transactions with all other wholesalers and retailers."

1 Sec. 20. This act is effective upon ratification.