

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

D

HOUSE BILL 99
PROPOSED COMMITTEE SUBSTITUTE H99-CSTT-15 [v.8]
04/15/2019 08:37:31 PM

Short Title: Transfer ALE.

(Public)

Sponsors:

Referred to:

February 19, 2019

A BILL TO BE ENTITLED
AN ACT TO ESTABLISH ALCOHOL LAW ENFORCEMENT AS A SEPARATE DIVISION
OF THE DEPARTMENT OF PUBLIC SAFETY AND TO CLARIFY THE
JURISDICTION AND PRIMARY RESPONSIBILITIES OF ALCOHOL
LAW-ENFORCEMENT AGENTS.

The General Assembly of North Carolina enacts:

SECTION 1. The Alcohol Law Enforcement Branch of the State Bureau of
Investigation shall be relocated as a division of the Department of Public Safety. The Department
of Public Safety shall continue to consolidate ALE and SBI regions and regional offices in the
same manner so that all district offices remain co-located.

SECTION 2. Part 4 of Article 13 of Chapter 143B of the General Statutes is amended
by adding a new Subpart to read:

"Subpart F. Alcohol Law Enforcement Division.

**"§ 143B-990. Creation of Alcohol Law Enforcement Division of the Department of Public
Safety.**

There is created and established a division to be known as the Alcohol Law Enforcement
Division of the Department of Public Safety with the organization, powers, and duties defined in
Article 1 of this Chapter and G.S. 18B-500, except as modified in this Part."

SECTION 3. G.S. 143B-928 is repealed.

SECTION 4. G.S. 18B-500 reads as rewritten:

"§ 18B-500. Alcohol law-enforcement agents.

"§ 18B-500. Alcohol law-enforcement agents.

(a) Appointment. – The Secretary of Public Safety shall appoint and supervise the
Director of the Division of Alcohol Law Enforcement of the Department of Public Safety. The
Director of the State Bureau of Investigation shall Division of Alcohol Law Enforcement of the
Department of Public Safety may appoint alcohol law-enforcement agents and other enforcement
personnel, and supervise a sufficient number of assistants who shall be competent and qualified
to do the work of the Division. The Director may also appoint regular employees of the
Commission as alcohol law-enforcement agents, shall be responsible for making all hiring and
personnel decisions of the Division. Notwithstanding the provisions of this Chapter or Chapter
143A of the General Statutes, the Director may hire or fire personnel and transfer personnel
within the Division. The Director may also appoint a regular employee of the Commission as an
ALE Agent providing the employee was employed by the ABC Commission and serving as an
ALE Agent on January 1, 2019. Alcohol law-enforcement agents shall be designated as "alcohol
law-enforcement agents". Persons serving as reserve alcohol law-enforcement agents are
considered employees of the Alcohol Law Enforcement Branch Division for workers'



* H 9 9 - C S T T - 1 5 *

1 compensation purposes while performing duties assigned or approved by the ~~Head~~ Director of
2 the ~~Alcohol Law Enforcement Branch~~ Division or the ~~Head's~~ Director's designee.

3 (b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace officer, an
4 alcohol law-enforcement agent shall have authority to arrest and take other investigatory and
5 enforcement actions for any criminal offense. ~~The primary responsibility of an agent shall be~~
6 ~~enforcement of the ABC and lottery laws and G.S. 14-313 regarding youth access to tobacco~~
7 ~~products offense.~~

8 (1) Occurring, encountered, or otherwise discovered on the premises of, or
9 elsewhere when such conduct relates to a location under application for, or
10 holding a permit issued by, the North Carolina Alcoholic Beverage Control
11 Commission or the North Carolina Education Lottery Commission.

12 (2) Encountered or otherwise discovered while investigating or enforcing matters
13 for the North Carolina Alcoholic Beverage Control Commission or the North
14 Carolina Education Lottery Commission, or encountered or otherwise
15 discovered while investigating or enforcing the provisions of this Chapter,
16 Chapter 18C, G.S. 14-313, or Parts 1 and 2 of Article 37 of Chapter 14 of the
17 General Statutes.

18 (3) Encountered or otherwise discovered while carrying out any duty or function
19 assigned to the Division by law.

20 (4) Occurring in an agent's presence.

21 (5) When assisting another law-enforcement agency.

22 (b1) Authority. – Alcohol law-enforcement agents have full power and authority as peace
23 officers to execute criminal process, and respond to and take enforcement action for any crime
24 of violence or breach of the peace, and any additional duties as may from time to time be directed
25 by the Governor or the Secretary of the Department of Public Safety when needed for security
26 purposes at a public event, or to protect persons or property because of a disaster or state of
27 emergency.

28 (b2) Primary responsibilities. – The primary ~~responsibility~~ responsibilities of an alcohol
29 law-enforcement agent shall be the enforcement of the ABC and lottery laws and G.S. 14-313
30 regarding youth access to tobacco products. ~~this Chapter, Chapter 18C, G.S. 14-313, and Parts 1~~
31 and 2 of Article 37 of Chapter 14 of the General Statutes.

32 ...

33 (g) Shifting of Personnel From One District to Another. – ~~The Head~~ Director of the
34 ~~Alcohol Law Enforcement Branch, under rules adopted by the Department of Public Safety~~
35 Division may, from time to time, shift the forces from one district to another or consolidate more
36 than one district force at any point for special purposes. Whenever an agent of the Alcohol Law
37 Enforcement ~~Section~~ Division is transferred from one district to another for the convenience of
38 the State or for reasons other than the request of the agent, the Department shall be responsible
39 for transporting the household goods, furniture, and personal apparel of the agent and members
40 of the agent's household."

41 **SECTION 5.** G.S. 18B-101 reads as rewritten:

42 **"§ 18B-101. Definitions.**

43 As used in this Chapter, unless the context requires otherwise:

44 ...

45 (3) "ABC system" means a local board and board, all ABC stores operated by it,
46 its law-enforcement branch, and all its employees. ~~a local board, and the~~
47 designated ABC law enforcement officers employed pursuant to G. S.
48 18B-501.

49 ...

50 (5) "ALE Branch" Division" means the Alcohol Law Enforcement Branch
51 Division of the Department of Public Safety.

...."

SECTION 6. G.S. 143-651 reads as rewritten:

"§ 143-651. Definitions.

The following definitions apply in this Article:

...

(4a) ~~Branch. — The Alcohol Law Enforcement Branch of the State Bureau of Investigation.~~

...

(7a) Division or ALE Division. — The Alcohol Law Enforcement Division of the Department of Public Safety.

...

(23b) Sanctioned amateur match. — Any match regulated by an amateur sports organization that has been recognized and approved by the ~~Branch~~ALE Division.

...."

SECTION 7. G.S. 143-652.1 reads as rewritten:

"§ 143-652.1. Regulation of boxing, kickboxing, mixed martial arts, and toughman events.

~~The Alcohol Law Enforcement Branch of the Department of Public Safety~~ ALE Division shall regulate live boxing, kickboxing, and mixed martial arts matches, whether professional, amateur, or sanctioned amateur, or toughman events, in which admission is charged for viewing, or the contestants compete for a purse or prize of value greater than twenty-five dollars (\$25.00). The ~~Branch~~ALE Division shall have the exclusive authority to approve and issue rules for the regulation of the conduct, promotion, and performances of live boxing, kickboxing, and mixed martial arts matches and exhibitions, whether professional, amateur, or sanctioned amateur, and toughman events in this State. The rules shall be issued pursuant to the provisions of Chapter 150B of the General Statutes and may include, without limitation, the following subjects:

...."

SECTION 8. G.S. 143-652.2 reads as rewritten:

"§ 143-652.2. Boxing Advisory Commission.

(a) Creation. — The Boxing Advisory Commission is created within the Department of Public Safety to advise the ~~Alcohol Law Enforcement Branch of the Department of Public Safety~~ ALE Division concerning matters regulated by this Article. The Commission shall consist of six voting members and two nonvoting advisory members. All the members shall be residents of North Carolina. The members shall be appointed as follows:

- (1) One voting member shall be appointed by the Governor for an initial term of two years.
- (2) One voting member shall be appointed by the President Pro Tempore of the Senate for an initial term of three years.
- (3) One voting member shall be appointed by the Speaker of the House of Representatives for an initial term of three years.
- (4) One voting member shall be appointed by the Secretary of Public Safety for an initial term of three years.
- (5) One voting member shall be appointed by the Lieutenant Governor for an initial term of two years.
- (6) One voting member shall be appointed by the Tribal Council of the Eastern Band of the Cherokee for an initial term of three years.
- (7) One nonvoting advisory member shall be appointed by the Speaker of the House of Representatives for an initial term of one year, from nominations made by the North Carolina Medical Society, which shall nominate two licensed physicians for the position.

(8) One nonvoting advisory member shall be appointed by the President Pro Tempore of the Senate for an initial term of one year, from nominations made by the North Carolina Medical Society, which shall nominate two licensed physicians for the position.

Notwithstanding the schedule above in subdivisions (1), (5), (7), and (8) of this subsection, if any former member of the North Carolina Boxing Commission is appointed to the initial membership, that person shall serve an initial term of three years. The member appointed pursuant to subdivision (6) of this subsection may serve on the Commission only if an agreement exists and remains in effect between the Tribal Council of the Eastern Band of the Cherokee and the Commission authorizing the Commission to regulate professional boxing matches within the Cherokee Indian Reservation as provided by the Professional Boxing Safety Act of 1996.

The two nonvoting advisory members appointed pursuant to subdivisions (7) and (8) of this subsection shall advise the Commission and the ~~Branch~~ALE Division on matters concerning the health and physical condition of boxers and health issues relating to the conduct of exhibitions and boxing matches. They may prepare and submit to the Commission for its consideration and to the ~~Branch~~ALE Division for its approval any rules that in their judgment will safeguard the physical welfare of all participants engaged in boxing.

Terms for all members of the Commission except for the initial appointments shall be for three years.

The Secretary of Public Safety shall designate which member of the Commission is to serve as chair. A member of the Commission may be removed from office by the Secretary of Public Safety for cause. Members of the Commission are subject to the conflicts of interest requirements of 15 U.S.C. § 6308 (contained in the Professional Boxing Safety Act of 1996, as amended). Each member, before entering upon the duties of a member, shall take and subscribe an oath to perform the duties of the office faithfully, impartially, and justly to the best of the member's ability. A record of these oaths shall be filed in the Department of Public Safety.

...

(d) Review Authority of the Commission. – The Commission shall review existing rules adopted under this Article and shall from time to time make recommendations to the ~~Branch~~ALE Division for changes or addition to such rules. Any proposals for change, amendment, addition, or deletion to those rules shall be submitted by the ~~Branch~~ALE Division to the Commission for its comments prior to approval.

...."

SECTION 9.(a) The following statutes are amended by deleting the word "Branch" wherever it appears in uppercase and substituting "Division": G.S. 18B-201, 18B-202, 18B-203, 18B-504, 18B-805, 18B-902, 18B-903, 18B-903.1, 18B-904, 18C-163, 19-2.1, and 105-259(b)(15).

SECTION 9.(b) The following statutes are amended by deleting the word "Branch" wherever it appears in uppercase and substituting "ALE Division": G.S. 143-654, 143-655, and 143-656.

SECTION 10. G.S. 143-63.1(d) reads as rewritten:

(d) Notwithstanding the provisions of this section, but subject to the provisions of G.S. 20-187.2, the North Carolina State Highway Patrol, the North Carolina Division of Adult Correction and Juvenile Justice of the Department of Public ~~Safety~~Safety, the ~~Alcohol Law Enforcement Division of the Department of Public Safety~~Alcohol Law Enforcement Division of the Department of Public Safety, and the North Carolina State Bureau of Investigation may sell, trade, or otherwise dispose of any or all surplus weapons they possess to any federally licensed firearm dealers. The sale, trade, or disposal of these weapons shall be in a manner prescribed by the Department of Administration. Any moneys or property obtained from the sale, trade, or disposal shall go to the general fund.

SECTION 11. G.S. 143-341(8)(i)(3) reads as rewritten:

"3. To require on a schedule determined by the Department all State agencies to transfer ownership, custody or control of any or all passenger motor vehicles within the ownership, custody or control of that agency to the Department, except those motor vehicles under the ownership, custody or control of the Highway Patrol, the State Bureau of ~~Investigation~~, Investigation, the Alcohol Law Enforcement Division of the Department of Public Safety, the Samarcand Training Academy, or the constituent institutions of The University of North Carolina which are used primarily for law-enforcement purposes."

SECTION 12. This act becomes effective July 1, 2019.