

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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**SENATE BILL 828
Commerce Committee Substitute Adopted 5/25/05
Third Edition Engrossed 5/26/05**

Short Title: Amend Wine Sales and Production Laws.

(Public)

Sponsors:

Referred to:

March 23, 2005

A BILL TO BE ENTITLED

1 AN ACT TO ELIMINATE THE ONE-TIME WINE SHIPPERS' APPLICATION FEE,
2 AND TO TRANSFER THE NORTH CAROLINA GRAPE GROWERS COUNCIL
3 TO THE DEPARTMENT OF COMMERCE.
4

5 The General Assembly of North Carolina enacts:

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

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

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

- 1 (20) Malt beverage importer permit – \$300.00.
 2 (21) Malt beverage wholesaler permit – \$300.00.
 3 (22) Bottler permit – \$300.00.
 4 (23) Salesman permit – \$100.00.
 5 (24) Vendor representative permit – \$50.00.
 6 (25) Nonresident malt beverage vendor permit – \$100.00.
 7 (26) Nonresident wine vendor permit – \$100.00.
 8 (27) Any special one-time permit under G.S. 18B-1002 – \$50.00.
 9 (28) Winery special event permit – \$200.00.
 10 (29) Mixed beverages catering permit – \$200.00.
 11 (30) Guest room cabinet permit – \$1,000.
 12 (31) Liquor importer/bottler permit – \$500.00.
 13 (32) Cider and vinegar manufacturer permit – \$200.00.
 14 (33) Brew on premises permit – \$400.00.
 15 (34) Wine producer permit – \$300.00.
 16 (35) Wine tasting permit – \$100.00.
 17 ~~(36) Wine shipper permit – \$100.00."~~

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

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

32 **SECTION 3.(a)** Article 62 of Chapter 106 of the General Statutes is
 33 recodified as Part 2H of Article 10 of Chapter 143B of the General Statutes and reads as
 34 rewritten:

35 ~~"Article 62.~~

36 ~~"Part 2H.~~ Grape Growers Council.

37 **"§ ~~106-750.143B-437.70.~~ North Carolina Grape Growers Council – Creation;**
 38 **powers and duties.**

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

- 42 (1) To identify and implement methods for improving North Carolina's
 43 rank as a wine-producing State;

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

31 **"§ ~~106-751.143B-437.71~~. North Carolina Grape Growers Council – Composition;
32 terms; reimbursement.**

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

1 be removed by the ~~Commissioner~~Secretary for misfeasance, malfeasance, or
2 nonfeasance.

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

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

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

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

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

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

16 **SECTION 3.(b)** Persons serving on the North Carolina Grape Growers
17 Council as of the effective date of this section shall continue to serve for the remainder
18 of their unexpired terms. The Secretary of Commerce shall appoint members to the
19 North Carolina Grape Growers Council as current terms expire and as vacancies arise.

20 **SECTION 3.(c)** G.S. 105-113.81A reads as rewritten:

21 "**§ 105-113.81A. Distribution of part of wine taxes attributable to North Carolina**
22 **wine.**

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

37 **SECTION 4.** G.S. 18B-1116 is amended by adding a new subsection to
38 read:

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

42 **SECTION 5.** This act becomes effective July 1, 2005.