

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1367

Short Title: Modernization of the State's ABC System. (Public)

Sponsors: Representatives Lewis, Gibson (Primary Sponsors); and Brown.

Referred to: Alcoholic Beverage Control, if favorable, Finance.

April 9, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE  
3 CONTROL SYSTEM BASED ON THE PROGRAM EVALUATION DIVISION  
4 REPORT ISSUED DECEMBER 10, 2008.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 18B-203(a) is amended by adding a new subdivision to read:

7 "**§ 18B-203. Powers and duties of the Commission.**

8 (a) Powers. – The Commission shall have authority to:

9 ...

10 (20) Establish performance standards for local ABC boards. Performance  
11 standards established pursuant to this subdivision shall include, but not be  
12 limited to, standards that address store appearance, operating efficiency,  
13 profitability, and customer service."

14 **SECTION 2.** G.S. 18B-208 is amended by adding a new subsection to read:

15 "(c) Technical Assistance and Financial Incentive Loans. – A special fund in the  
16 Department of the State Treasurer, the Technical Assistance and Financial Assistance Fund, is  
17 created. Funds may be transferred from the ABC Commission Fund to the Technical Assistance  
18 and Financial Assistance Fund to provide needed revenue to carry out the provisions of this  
19 subsection. If additional revenue is needed for the Technical Assistance and Financial  
20 Assistance Fund, the ABC Commission is authorized to levy an additional bailment surcharge  
21 amount not to exceed ten cents (10¢) per case, which shall be deposited in the Technical  
22 Assistance and Financial Assistance Fund for the purpose of carrying out the provisions of this  
23 subsection.

24 The ABC Commission Fund shall be subject to the provisions of the State Budget Act  
25 except that no unexpended surplus of this fund shall revert to the General Fund. The  
26 Commission shall fix the level of the bailment surcharges at an amount calculated to generate a  
27 maximum of two million dollars (\$2,000,000) for the Technical Assistance and Financial  
28 Assistance Fund. Once the Fund has reached the two million dollar (\$2,000,000) maximum, the  
29 Commission shall reduce the bailment surcharge to an amount no greater than necessary to  
30 maintain the balance in the Technical Assistance and Financial Assistance Fund as authorized  
31 by the General Assembly.

32 All moneys credited to the Technical Assistance and Financial Assistance Fund shall be  
33 used by the North Carolina ABC Commission to issue no-interest loans to local ABC boards,  
34 upon application and approval of the full Commission, for technical assistance and financial  
35 incentives that will result in increased efficiencies in store operation and improved customer  
36 service."

37 **SECTION 3.** G.S. 18B-301(b) reads as rewritten:



1       "(b) Possession on Other Property. – It shall be lawful, without an ABC permit, for a  
2 person to possess for his personal use and the use of his guests not more than ~~eight~~ 40 liters of  
3 fortified wine or spirituous liquor, or ~~eight~~ 40 liters of the two combined, at the following  
4 places:

- 5           (1) The residence of any other person with that person's consent;
- 6           (2) Any other property not primarily used for commercial purposes and not open  
7 to the public at the time the alcoholic beverage is possessed, if the owner or  
8 other person in charge of the property consents to that possession and  
9 consumption;
- 10          (3) An establishment with a brown-bagging permit as defined in  
11 G.S. 18B-1001(7)."

12       **SECTION 4.** G.S. 18B-303(a) reads as rewritten:

13       "(a) Purchases Allowed. – Without a permit, a person may purchase at one time:

- 14           (1) Not more than 80 liters of malt beverages, except draft malt beverages in  
15 kegs for off-premises consumption. For purchase of a keg or kegs of malt  
16 beverages for off-premises consumption, the permit required by  
17 G.S. 18B-403.1(a) must first be obtained;
- 18           (2) Any amount of draft malt beverages by a permittee in kegs for on-premise  
19 consumption;
- 20           (3) Not more than ~~50~~ 100 liters of unfortified wine;
- 21           (4) Not more than ~~eight~~ 40 liters of either fortified wine or spirituous liquor, or  
22 ~~eight~~ 40 liters of the two combined."

23       **SECTION 5.** G.S. 18B-304 reads as rewritten:

24       "**§ 18B-304. Sale and possession for sale.**

25       (a) Offense. – It shall be unlawful for any person to sell any alcoholic beverage, or  
26 possess any alcoholic beverage for sale, without first obtaining the applicable ABC permit and  
27 revenue licenses.

28       (b) Prima Facie Evidence. – Possession of the following amounts of alcoholic  
29 beverages, without a permit authorizing that possession, shall be prima facie evidence that the  
30 possessor is possessing those alcoholic beverages for sale:

- 31           (1) More than 80 liters of malt beverages, other than draft malt beverages in  
32 kegs;
- 33           (2) More than ~~eight~~ 40 liters of spirituous liquor; or
- 34           (3) Any amount of nontaxpaid alcoholic beverages."

35       **SECTION 6.** G.S. 18B-403 is repealed.

36       **SECTION 7.** G.S. 18B-600(d) reads as rewritten:

37       "(d) City ABC Store Elections. – A city may hold an ABC store election only if:

- 38           (1) The city has at least ~~500~~ 5,000 registered voters; and
- 39           (2) The county in which the city is located does not operate ABC stores."

40       **SECTION 8.** G.S. 18B-600(e) reads as rewritten:

41       "(e) City Mixed Beverage Elections. – A city may hold a mixed beverage election ~~only~~  
42 if: if the city has at least 500 registered voters.

43           ~~(1) The city has at least 500 registered voters; and~~

44           ~~(2) Either:~~

45           ~~a. The city already operates a city ABC store; or~~

46           ~~b. A city ABC store election is to be held at the same time as the mixed~~  
47 ~~beverage election; or~~

48           ~~e. The city does not operate a city ABC store but:~~

49           ~~1. The county operates an ABC store;~~

50           ~~2. The county has already held a mixed beverage election; and~~



1 under the performance improvement plan. The Commission, upon good cause shown, may  
2 allow up to an additional six-month period of time for the local board to meet all requirements  
3 in the performance improvement plan and to establish that the performance standards  
4 established by the Commission are met.

5 (c) Remedies. – If the Commission determines that the established performance  
6 standards cannot be met after a performance improvement plan has been implemented and  
7 adequate time has been given, but in no case more than 12 months, the Commission may seize  
8 all assets of the local board and take appropriate action to ensure profitability. This action may  
9 include closing the board, a store, multiple stores, merging the local board with another local  
10 board, or merging the local board with another local board to create a regional board."

11 **SECTION 13.** G.S. 18B-801(b) is amended by adding a new subdivision to read:

12 "(b) Location of Stores. – A local board may choose the location of the ABC stores  
13 within its jurisdiction, subject to the approval of the Commission. In making its decision on a  
14 location, the Commission may consider:

15 (1) Whether the health, safety, or general welfare of the community will be  
16 adversely ~~affected;~~ ~~and~~ affected.

17 (2) Whether the citizens of the community or city in which the proposed store is  
18 to be located voted for or against ABC stores in the last election on the  
19 question.

20 (3) The proximity of the new location to existing ABC stores operated by the  
21 local board or any other boards."

22 **SECTION 14.** This act becomes effective October 1, 2009.