

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1717\*  
Committee Substitute Favorable 6/9/10  
Committee Substitute #2 Favorable 6/16/10

Short Title: Modernization of the State ABC System.

(Public)

Sponsors:

Referred to:

May 17, 2010

1 A BILL TO BE ENTITLED  
2 AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE  
3 CONTROL SYSTEM, TO ENSURE THE INTEGRITY OF THE THREE-TIER SYSTEM,  
4 AND TO REQUIRE MINIMUM AGE STANDARDS FOR LAW ENFORCEMENT.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 18B-101 reads as rewritten:

7 "§ 18B-101. Definitions.

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

9 ...

10 (6f) "Finance officer" means the local board employee, other than a general  
11 manager, that is responsible for keeping the accounts of the local board,  
12 receiving and depositing receipts, disbursing funds, and any other duties  
13 assigned by the local board or Commission.

14 (7) "Fortified wine" means any wine, of more than sixteen percent (16%) and no  
15 more than twenty-four percent (24%) alcohol by volume, made by  
16 fermentation from grapes, fruits, berries, rice, or honey; or by the addition of  
17 pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the  
18 same type of grape, fruit, berry, rice, or honey that is contained in the base  
19 wine and produced in accordance with the regulations of the United States.

20 (7d) "General manager" means the local board employee that is responsible for  
21 the oversight of daily operations of the ABC system and any other duties  
22 assigned by the local board or Commission. The board may designate only  
23 one employee to be the general manager.

24 ~~(7a)~~(7g) "Historic ABC establishment" means a restaurant or hotel that meets all  
25 of the following requirements:

- 26 a. Is on the national register of historic places or located within a State  
27 historic district.
- 28 b. Is a property designed to attract local, State, national, and  
29 international tourists located on a State Route (SR) and with a  
30 property line located within 1.5 miles of the intersection of a  
31 designated North Carolina scenic byway as defined in  
32 G.S. 136-18(31).
- 33 c. Is located within 15 miles of a national scenic highway.
- 34 d. Is located in a county in which the on-premises sale of malt  
35 beverages or unfortified wine is authorized in two or more cities in  
36 the county.



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1           ~~(7b)~~(7k) "Keg" means a portable container designed to hold and dispense 7.75  
2           gallons or more of malt beverage.  
3           ...."

4           **SECTION 2.** G.S. 18B-201 reads as rewritten:

5   "**§ 18B-201. Conflict of ~~interest~~interest; gifts.**

6       (a) Financial Interests Restricted. – No person shall be appointed to or employed by the  
7       Commission, a local board, or the ALE Division if that person or a member of that person's  
8       family related to that person by blood or marriage to the first degree has or controls, directly or  
9       indirectly, a financial interest in any commercial alcoholic beverage enterprise, including any  
10      business required to have an ABC permit. The Commission may exempt from this provision  
11      any person, other than a Commission member, when the financial interest in question is so  
12      insignificant or remote that it is unlikely to affect the person's official actions in any way.  
13      Exemptions may be granted only to individuals, not to groups or classes of people, and each  
14      exemption shall be in writing, be available for public inspection, and contain a statement of the  
15      financial interest in question.

16      (b) Self-dealing. – The provisions of G.S. 14-234 shall apply to the Commission and  
17      local boards.

18      (c) Dealing for Family Members. – Neither the Commission nor any local board shall  
19      contract or otherwise deal in any business matter so that a member, member's spouse or any  
20      person related to him—the member by blood to a degree of first cousin or closer in any way  
21      financially benefits, directly or indirectly, from the transaction unless:

22           (1) The member who financially benefits from the transaction or whose spouse  
23           or relative financially benefits from the transaction abstains from  
24           participating in any way, including voting, in the decision;

25           (2) The minutes of the meeting at which the final decision is reached  
26           specifically note the member who is financially benefited or whose spouse  
27           or relative is financially benefited and the amount involved in each  
28           transaction;

29           (3) The next annual audit of the Commission or local board specifically notes  
30           the member and the amount involved in each transaction occurring during  
31           the year covered by the audit; and

32           (4) If the transaction is by a local board, the Commission is notified at least two  
33           weeks before final board approval of the transaction.

34      (d) Gifts Generally. – The provisions of G.S. 133-32 shall apply to the Commission and  
35      local boards.

36      (e) Conflicts of Interest for the Commission. – The provisions of Article 4 of Chapter  
37      138A of the General Statutes shall apply to the Commission.

38      (f) Conflicts of Interest for Local Boards. – Except as permitted under subsection (h) of  
39      this section, a local ABC board member shall not knowingly use the local ABC board member's  
40      position on the board in any way that will result in financial benefit to the local ABC board  
41      member, the local ABC board member's spouse, any person related to the local ABC board  
42      member by blood to a degree of first cousin or closer, or any business with which the local  
43      ABC board member is associated.

44      (g) For purposes of subsection (f) of this section, 'business with which associated' shall  
45      have the same meaning as in G.S. 138A-3(3). For purposes of this section, 'financial benefit'  
46      shall mean a direct pecuniary gain or loss, or a direct pecuniary loss to a business competitor.

47      (h) Notwithstanding subsection (f) of this section, a local ABC board member may  
48      participate in an action of the local ABC board under any of the following circumstances  
49      except as specifically limited:

50           (1) The financial benefit that accrues to the local ABC board member, the local  
51           ABC board member's spouse or any person related to the local ABC board

1 member by blood to a degree of first cousin or closer, or a business with  
2 which the local ABC board member is associated is one that is accrued as a  
3 member of a profession, occupation, or general class and is no greater than  
4 that which could reasonably be foreseen to accrue to all members of that  
5 profession, occupation, or general class.

6 (2) The financial benefit derived by a local ABC board member, the local ABC  
7 board member's spouse or any person related to the local ABC board  
8 member by blood to a degree of first cousin or closer, or a business with  
9 which the local ABC board member is associated is one that would be  
10 enjoyed to an extent no greater than that which other citizens of the State  
11 would or could enjoy.

12 (3) The financial benefit derived by a local ABC board member, the local ABC  
13 board member's spouse or any person related to the local ABC board  
14 member by blood to a degree of first cousin or closer, or a business with  
15 which the local ABC board member is so remote, tenuous, insignificant, or  
16 speculative that a reasonable person would conclude under the  
17 circumstances that the local ABC board member's ability to protect the  
18 public interest and perform the local ABC board member's duties would not  
19 be compromised.

20 (4) When an action affects or would affect the local ABC board member's  
21 compensation as a local ABC board member.

22 (5) Before the local ABC board member participated in the action, the board  
23 member requested and received from the ABC Commission a written  
24 advisory opinion that authorized the participation. In authorizing the  
25 participation under this subdivision, the ABC Commission shall consider the  
26 need for the local ABC board member's particular contribution, such as  
27 special knowledge of the subject matter and the effective functioning of the  
28 local ABC board.

29 (6) When action is ministerial only and does not require the exercise of  
30 discretion.

31 (7) When the local ABC board records in its minutes that it cannot obtain a  
32 quorum in order to take the action because the local ABC board member is  
33 disqualified from acting, the local ABC board member may be counted for  
34 purposes of a quorum but shall otherwise abstain from taking any further  
35 action.

36 (i) Nothing in this section shall allow participation in an action prohibited by  
37 G.S. 14-234 or G.S. 133-32.

38 (j) A local board member shall not improperly use or improperly disclose any  
39 confidential information.

40 (k) A local board member shall have an affirmative duty to promptly disclose in writing  
41 to the local board any conflict of interest or potential conflict of interest."

42 **SECTION 3.** G.S. 18B-202 reads as rewritten:

43 **"§ 18B-202. Discharge upon conviction.**

44 In addition to imposing any other penalty authorized by law, a judge may remove from  
45 office or discharge from employment any Commission or local board member or employee, or  
46 any ALE agent, who is convicted of a violation of any provision of this Chapter or of any  
47 felony and may declare that person ineligible for membership or employment with the  
48 Commission, any local board, or the ALE Division, for a period of not longer than three years.  
49 Conviction of a crime under this Chapter or of any felony shall also be grounds for the  
50 Commission to remove from office or discharge from employment any local board member or  
51 employee. In addition to imposing any other penalty authorized by law, a judge may prohibit an

1 individual convicted of a violation of this Chapter, or of any felony, from participating in any  
2 contract to enforce the ABC laws for a local board if that individual is a designated officer of  
3 an agency which holds a contract to enforce the ABC laws for a local board. A judge may also  
4 prohibit an individual convicted of a violation of this Chapter, or of any felony, from being  
5 designated as an officer that enforces the ABC law under a contract with any local board for a  
6 period of not longer than three years."

7 **SECTION 4.** G.S. 18B-203(a) is amended by adding new subdivisions to read:

8 "**§ 18B-203. Powers and duties of the Commission.**

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

10 ...

11 (20) Promulgate rules to establish performance standards for local boards.  
12 Performance standards established pursuant to this subdivision shall include,  
13 but not be limited to, standards that address enforcement of ABC laws, store  
14 appearance, operating efficiency, solvency, and customer service.

15 (21) Promulgate rules to establish mandatory training requirements for local  
16 board members, finance officers, and general managers. If personal  
17 attendance is required, the Commission shall not require more than four  
18 hours of training and shall provide up to two hours of training at convenient  
19 locations around the State in conjunction with ethics training.

20 (22) Provide for the purchase of spirituous liquor from another ABC board by  
21 mixed beverage permittees when an ABC system becomes insolvent, closes,  
22 or is closed by the Commission and the county or municipality in which the  
23 system is located has approved the sale of mixed beverages."

24 **SECTION 5.** G.S. 18B-501(f) reads as rewritten:

25 "(f) Contracts with Other Agencies. – Instead of hiring local ABC officers, a local board  
26 may contract to pay its enforcement funds to a sheriff's department, city police department, or  
27 other local law-enforcement agency for enforcement of the ABC laws within the  
28 law-enforcement agency's territorial jurisdiction. Enforcement agreements may be made with  
29 more than one agency at the same time. When such a contract for enforcement exists, the  
30 designated officers of the contracting law-enforcement agency shall have the same authority to  
31 inspect under G.S. 18B-502 that an ABC officer employed by that local board would have. An  
32 agency contracted to provide ABC law enforcement shall designate no more than five officers  
33 to conduct inspections pursuant to this section and G.S. 18B-502. If a city located in two or  
34 more counties approves the sale of some type of alcoholic beverage pursuant to the provisions  
35 of G.S. 18B-600(e4), and there are no local ABC boards established in the city and one of the  
36 counties in which the city is located, the local ABC board of any county in which the city is  
37 located may enter into an enforcement agreement with the city's police department for  
38 enforcement of the ABC laws within the entire city, including that portion of the city located in  
39 the county of the ABC board entering into the enforcement agreement."

40 **SECTION 6.** G.S. 18B-501 is amended by adding a new subsection to read:

41 "(f1) Accountability; Enforcement Reports. – To ensure accountability to the appointing  
42 authority and the Commission, every local board's ABC officers and those law enforcement  
43 agencies subject to an enforcement agreement entered into pursuant to subsection (f) of this  
44 section shall report to the local board, by the fifth business day of each month, on a form  
45 developed by the Commission, the following:

46 (1) The number of arrests made for ABC law, Controlled Substance Act, or  
47 other violations, by category, at ABC permitted outlets.

48 (2) The number of arrests made for ABC law, Controlled Substance Act, or  
49 other violations, by category, at other locations.

50 (3) The number of agencies assisted with ABC law or controlled substance  
51 related matters.

1           (4) The number of alcohol education and responsible server programs presented.  
2           The local board shall submit a copy of the enforcement report to the appointing authority  
3 and the Commission not later than five business days after receipt of the enforcement report by  
4 the local board. The Commission shall publish this information, by local board and  
5 enforcement agency, on a public Internet Web site maintained by the Commission."

6           **SECTION 7.** G.S. 18B-501(g) reads as rewritten:

7           "(g) Discharge. – Local ABC officers and the designated officers of agencies which  
8 contract with local boards for enforcement of the ABC laws are subject to the discharge and  
9 ineligibility provisions of G.S. 18B-202."

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

11          "(e) City Mixed Beverage Elections. – A city may hold a mixed beverage election only  
12 if the city has at least 1,000 registered voters. Provided, that if a city that qualifies for an  
13 election under this subsection approves the sale of mixed beverages, mixed beverages  
14 permittees in the city may purchase liquor from the ABC store designated by the local ABC  
15 board that has been approved by the Commission for this purpose.

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

17           (2) ~~Either:~~

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

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

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

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

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

24           3. ~~The vote in the last county election was against the sale of~~  
25 ~~mixed beverages."~~

26          **SECTION 9.** G.S. 18B-700(a) reads as rewritten:

27          "(a) Membership. – A local ABC board shall consist of three or five members appointed  
28 for three-year terms, unless a different membership or term is provided by a local act enacted  
29 before the effective date of this Chapter, or terms unless the board is a board for a merged ABC  
30 system under G.S. 18B-703 and a different size membership has been provided for as part of  
31 the negotiated merger. ~~One~~ If the board is a three-member board, one member of the initial  
32 board of a newly created ABC system shall be appointed for a three-year term, one member for  
33 a two-year term, and one member for a one-year term. If the board is a five-member board, one  
34 member of the initial board of a newly created ABC system shall be appointed for a three-year  
35 term, two members for two-year terms, and two members for one-year terms. As the terms of  
36 initial board members expire, their successors shall each be appointed for three-year terms. If a  
37 board is initially a three-member board and the appointing authority determines a five-member  
38 board is preferable, the terms of the two new members shall be for three years. If a local board  
39 has five members and the appointing authority determines a three-member board is preferable,  
40 the appointing authority shall not reduce the size of the board except upon the expiration of a  
41 member's term and only with the approval of the Commission. The appointing authority shall  
42 designate one member of the local board as chairman."

43          **SECTION 10.** G.S. 18B-700 is amended by adding a new subsection to read:

44          "(a1) Mission. – The mission of local ABC boards and their employees shall be to serve  
45 their localities responsibly by controlling the sale of spirituous liquor and promoting  
46 customer-friendly, modern, and efficient stores."

47          **SECTION 11.** G.S. 18B-700(g) reads as rewritten:

48          "(g) Salary Compensation of Board Members. – A local board member may be  
49 compensated as determined by the appointing authority shall receive compensation in an  
50 amount not to exceed one hundred fifty dollars (\$150.00) per board meeting unless a different  
51 level of monetary compensation is approved by the appointing authority. If a different level is

1 approved by the appointing authority, the appointing authority shall notify the Commission of  
2 the approved level of compensation in writing. Any change in compensation approved by the  
3 appointing authority shall be reported to the Commission in writing within 30 days of the  
4 effective date of the change. No local board member shall receive any nonmonetary  
5 compensation or benefits unless specifically authorized by this section."

6 **SECTION 12.** G.S. 18B-700 is amended by adding a new subsection to read:

7 "(g1) Compensation of General Managers of Local Boards. – The salary authorized for  
8 the general manager, as defined in G.S. 18B-101, of a local board shall not exceed the salary  
9 authorized by the General Assembly for the clerk of superior court of the county in which the  
10 appointing authority was originally incorporated unless such compensation is otherwise  
11 approved by the appointing authority. The local board shall provide the appointing authority's  
12 written confirmation of such approval to the Commission. Any change in compensation  
13 approved by the appointing authority shall be reported to the Commission in writing within 30  
14 days of the effective date of the change. The general manager of a local board may receive any  
15 other benefits to which all employees of the local board are entitled. The salary authorized for  
16 other employees of a local board may not exceed that of the general manager."

17 **SECTION 13.** G.S. 18B-700 is amended by adding a new subsection to read:

18 "(g2) Travel Allowance and Per Diem Rates. – Approved travel on official business by  
19 the members and employees of local boards shall be reimbursed pursuant to G.S. 138-6 unless  
20 the local board adopts a travel policy that conforms to the travel policy of the appointing  
21 authority and such policy is approved by the appointing authority. The local board shall  
22 annually provide the appointing authority's written confirmation of such approval to the  
23 Commission and a copy of the travel policy authorized by the appointing authority. Any excess  
24 expenses not covered by the local board's travel policy shall only be paid with the written  
25 authorization of the appointing authority's finance officer. A copy of the written authorization  
26 for excess expenses shall be submitted to the Commission by the local board within 30 days of  
27 approval."

28 **SECTION 14.** G.S. 18B-700(i) reads as rewritten:

29 "(i) Bond. – Each local board member and the employees designated as the general  
30 manager and finance officer of the local board shall be bonded in an amount not less than five  
31 thousand dollars (\$5,000), fifty thousand dollars (\$50,000) secured by a corporate surety, for the  
32 faithful performance of his duties. A public employees' blanket position bond in the required  
33 amount satisfies the requirements of this subsection. The bond shall be payable to the local  
34 board and shall be approved by the appointing authority for the local board. The appointing  
35 authority may exempt from this bond requirement any board member who does not handle  
36 board funds, and it may also increase the amount of the bond required for any member or  
37 employee who does handle handles board funds."

38 **SECTION 15.** G.S. 18B-700 is amended by adding a new subsection to read:

39 "(k) Nepotism. – Members of an immediate family shall not be employed within the  
40 local board if such employment will result in one member of the immediate family supervising  
41 another member of the immediate family, or if one member of the immediate family will  
42 occupy a position which has influence over another member's employment, promotion, salary  
43 administration, or other related management or personnel considerations. This subsection  
44 applies to local board members and employees.

45 For the purpose of this subsection, the term 'immediate family' includes wife, husband,  
46 mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson, and  
47 granddaughter. Also included are the step-, half-, and in-law relationships. It also includes other  
48 people living in the same household, who share a relationship comparable to immediate family  
49 members, if either occupies a position which requires influence over the other's employment,  
50 promotion, salary administration, or other related management or personnel considerations."

51 **SECTION 16.** G.S. 18B-700 is amended by adding a new subsection to read:

1        "(l) Local Acts. – Notwithstanding the provisions of any local act, this section applies to  
2 all local boards."

3           **SECTION 17.** G.S. 18B-701 reads as rewritten:

4        **"§ 18B-701. Powers and duties of local ABC boards.**

5        (a) Powers. – A local board shall have authority to:

- 6           (1) Buy, sell, transport, and possess alcoholic beverages as necessary for the  
7           operation of its ABC stores;
- 8           (2) Adopt rules for its ABC system, subject to the approval of the Commission;
- 9           (3) Hire and fire employees for the ABC system;
- 10          (4) Designate one employee as manager of the ABC system and determine his  
11          responsibilities;
- 12          (5) Require bonds of employees as provided in the rules of the Commission;
- 13          (6) Operate ABC stores as provided in Article 8;
- 14          (7) Issue purchase-transportation permits as provided in Article 4;
- 15          (8) Employ local ABC officers or make other provision for enforcement of ABC  
16          laws as provided in Article 5;
- 17          (9) Borrow money as provided in G.S. 18B-702;
- 18          (10) Buy and lease real and personal property, and receive property bequeathed  
19          or given, as necessary for the operation of the ABC system;
- 20          (11) Invest surplus funds as provided in G.S. 18B-702;
- 21          (12) Dispose of property in the same manner as a city council may under Article  
22          12 of Chapter 160A of the General Statutes; and
- 23          (13) Perform any other activity authorized or required by the ABC law.

24        (b) Duties. – A local board shall have the duty to comply with all rules adopted by the  
25 Commission pursuant to this Chapter and meet all standards for performance and training  
26 established by the Commission pursuant to G.S. 18B-203(a)(20) and (21). Failure to comply  
27 with Commission rules shall be cause for removal."

28           **SECTION 18.** G.S. 18B-702 reads as rewritten:

29        **"§ 18B-702. Financial operations of local boards.**

30        (a) Generally. – A local board may transact business as a corporate body, except as  
31 limited by this section. A local board shall not be considered a public authority under  
32 G.S. 159-7(b)(10).

33        (b) Budget Officer. – The general manager of the local board shall be the budget officer  
34 for the local board. In the absence of a general manager, a local board may impose the duties of  
35 budget officer on the chairman or any member of the local board or any other employee of the  
36 board.

37        (c) Annual Balanced Budget. – Each local board shall operate under an annual balanced  
38 budget administered in accordance with this section. A budget is balanced when the sum of  
39 estimated gross revenues and both restricted and unrestricted funds are equal to appropriations.  
40 Expenditures shall not exceed the amount of funds received or in reserve for the purpose to  
41 which the funds are appropriated. It is the intent of this section that all monies received and  
42 expended by a local board should be included in the budget. Therefore, notwithstanding any  
43 other provision of law, no local board may expend any monies, regardless of their source,  
44 except in accordance with a budget adopted under this section. The budget of a local board  
45 shall cover a fiscal year beginning July 1 and ending June 30.

46        (d) Preparation and Submission of Budget and Budget Message. – Upon receipt of the  
47 budget requests and revenue estimates and the financial information supplied by the finance  
48 officer, the budget officer shall prepare a budget for consideration by the local board in such  
49 form and detail as may have been prescribed by the budget officer or the local board. The  
50 budget, together with a budget message, shall be submitted to the local board, the appointing  
51 authority, and the Commission not later than June 1. The budget and budget message should,

1 but need not, be submitted at a formal meeting of the board. The budget message should  
2 contain a concise explanation of the goals fixed by the budget for the budget year, explain  
3 important features of the activities anticipated in the budget, set forth the reasons for stated  
4 changes from the previous year in appropriation levels, and explain any major changes in fiscal  
5 policy.

6 (e) Filing and Publication of the Budget. – On the same day the budget officer submits  
7 the budget to the local board, the budget officer shall make a copy for public inspection, and it  
8 shall remain available for public inspection until the budget is adopted. The budget officer shall  
9 make a copy of the budget available to all news media in the county. The budget officer shall  
10 also publish a statement that the budget has been submitted to the local board and is available  
11 for public inspection in the office of the general manager of the local board. The statement shall  
12 also give notice of the time and place of the budget hearing required by subsection (f) of this  
13 section.

14 (f) Budget Hearings. – Before adopting the budget, the board shall hold a public  
15 hearing at which time any persons who wish to be heard on the budget may appear.

16 (g) Adoption of Budget. – Not earlier than 10 days after the day the budget is presented  
17 to the board and not later than July 1, the local board shall adopt a budget making  
18 appropriations for the budget year in such sums as the board may consider sufficient and  
19 proper, whether greater or less than the sums recommended in the budget. The budget shall  
20 authorize all financial transactions of the local board. The budget may be in any form that the  
21 board considers most efficient in enabling it to make the fiscal policy decisions embodied  
22 therein, but it shall make appropriations by department, function, or project and show revenues  
23 by major source. The following directions and limitations shall bind the local board in adopting  
24 the budget:

- 25 (1) The full amount estimated by the finance officer to be required for debt  
26 service during the budget year shall be appropriated.
- 27 (2) The full amount of any deficit in each fund shall be appropriated.
- 28 (3) Working capital funds set aside pursuant to G.S. 18B-805 shall be  
29 established by rule of the Commission. "Working capital" means the total of  
30 cash, investments, and inventory less all unsecured liabilities. Gross sales  
31 means gross receipts from the sale of alcoholic beverages less distributions  
32 as defined in G.S. 18B-805(b)(2), (3), (4), and (5). Any expenditure to be  
33 charged against working capital funds shall be authorized by resolution of  
34 the local board, which resolution shall be deemed an amendment to the  
35 budget setting up an appropriation for the object of expenditure authorized.  
36 The local board may authorize the budget officer to authorize expenditures  
37 from working capital funds subject to such limitations and procedures as it  
38 may prescribe. Any such expenditure shall be deemed an amendment and  
39 reported to the board at its next regular meeting and recorded in the minutes.
- 40 (4) Estimated revenues shall include only those revenues reasonably expected to  
41 be realized in the budget year.
- 42 (5) Sufficient funds to meet the amounts to be paid during the fiscal year under  
43 continuing contracts previously entered into shall be appropriated unless  
44 such contract reserves to the local board the right to limit or not to make  
45 such appropriation.
- 46 (6) The sum of estimated net revenues and appropriated fund balance in each  
47 fund shall be equal to appropriations in that fund. Appropriated fund balance  
48 in a fund shall not exceed the sum of cash and investments minus the sum of  
49 liabilities, encumbrances, and deferred revenues arising from cash receipts,  
50 as those figures stand at the close of the fiscal year next preceding the budget  
51 year.



1       The budget shall be entered in the minutes of the local board and within five days after  
2 adoption, and copies thereof shall be filed with the finance officer, the budget officer, the  
3 appointing authority, and the Commission.

4       (h) Amendments to the Budget. – Except as otherwise restricted by law, the local board  
5 may amend the budget at any time after adoption, in any manner, so long as the budget, as  
6 amended, continues to satisfy the requirements of this section. The local board by appropriate  
7 resolution may authorize the budget officer to transfer monies from one appropriation to  
8 another within the same fund subject to such limitations and procedures as it may prescribe.  
9 Any such transfers shall be reported to the local board at its next regular meeting and shall be  
10 entered in the minutes. Amendments to the adopted budget shall also be provided to the  
11 appointing authority and the Commission.

12       (i) Interim Budget. – In case the adoption of the budget is delayed until after July 1, the  
13 local board shall make interim appropriations for the purpose of paying salaries, debt service  
14 payments, and the usual ordinary expenses of the local board for the interval between the  
15 beginning of the budget year and the adoption of the budget. Interim appropriations so made  
16 shall be charged to the proper appropriations in the adopted budget.

17       (j) Finance Officer. – Except as otherwise provided, the local board shall designate (i) a  
18 part-time or full-time employee of the board other than the general manager or (ii) the finance  
19 officer of the appointing authority with consent of the appointing authority to be the finance  
20 officer for the local board. The Commission, for good cause shown, may allow the general  
21 manager of a board also to be the finance officer. Good cause includes, but is not limited to, the  
22 fact that the board operates no more than two stores, and any approval for the general manager  
23 also to be the finance officer shall apply until the board operates more than two stores; in any  
24 event, the approval shall be effective for 36 months.

25       (k) Duties and Powers of the Finance Officer. – The finance officer for a local board  
26 shall:

- 27           (1) Keep the accounts of the local board in accordance with generally accepted  
28 principles of governmental accounting and the rules and regulations of the  
29 Commission.
- 30           (2) Disburse all funds of the local board in strict compliance with this Chapter,  
31 the budget, and preaudit obligations, and disbursements as required by this  
32 section.
- 33           (3) As often as may be requested by the local board or the general manager,  
34 prepare and file with the board a statement of the financial condition of the  
35 local board.
- 36           (4) Receive and deposit all monies accruing to the local board, or supervise the  
37 receipt and deposit of money by other duly authorized employees.
- 38           (5) Maintain all records concerning the debt and other obligations of the local  
39 board, determine the amount of money that will be required for debt service  
40 or the payment of other obligations during each fiscal year, and maintain all  
41 funds.
- 42           (6) Supervise the investment of idle funds of the local board pursuant to  
43 subsection (t) of this section.

44       The finance officer shall perform such other duties as may be assigned by law, by the  
45 general manager, budget officer, or local board, or by rules and regulations of the Commission.

46       (l) Accounting System. – Each local board shall establish and maintain an accounting  
47 system designed to show in detail its assets, liabilities, equities, revenues, and expenditures.  
48 The system shall also be designed to show appropriations and estimated revenues as established  
49 in the budget originally adopted and subsequently amended.

50       (m) Incurring Obligations. – No obligation may be incurred in a program, function, or  
51 activity accounted for in a fund included in the budget unless the budget includes an

1 appropriation authorizing the obligation and an unencumbered balance remains in the  
2 appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction  
3 for the current fiscal year. No obligation may be incurred for a capital project unless the budget  
4 authorizes the obligation and an unencumbered balance remains in the appropriation sufficient  
5 to pay the sums obligated by the transaction. If an obligation is evidenced by a contract or  
6 agreement requiring the payment of money or by a purchase order for supplies and materials,  
7 the contract, agreement, or purchase order shall include on its face a certificate stating that the  
8 instrument has been preaudited to assure compliance with this subsection. The certificate,  
9 which shall be signed by the finance officer or any deputy finance officer approved for this  
10 purpose by the local board, shall take substantially the following form:

11 "This instrument has been preaudited in the manner required by G.S. 18B-702.

12 \_\_\_\_\_  
13 (Signature of finance officer)."

14 An obligation incurred in violation of this subsection is invalid and may not be enforced.  
15 The finance officer shall establish procedures to assure compliance with this subsection.

16 (n) Disbursements. – When a bill, invoice, or other claim against a local board is  
17 presented, the finance officer shall either approve or disapprove the necessary disbursement. If  
18 the claim involves a program, function, or activity accounted for in a fund included in the  
19 budget or a capital project or a grant project authorized by the budget, the finance officer may  
20 approve the claim only if:

21 (1) The finance officer determines the amount to be payable; and

22 (2) The budget includes an appropriation authorizing the expenditure and either  
23 (i) an encumbrance has been previously created for the transaction or (ii) an  
24 unencumbered balance remains in the appropriation sufficient to pay the  
25 amount to be disbursed.

26 A bill, invoice, or other claim may not be paid unless it has been approved by the finance  
27 officer or, under subsection (o) of this section, by the local board. The finance officer shall  
28 establish procedures to assure compliance with this subsection.

29 (o) Local Board Approval of Bills, Invoices, or Claims. – The local board may, as  
30 permitted by this subsection, approve a bill, invoice, or other claim against the local board that  
31 has been disapproved by the finance officer. It may not approve a claim for which no  
32 appropriation appears in the budget, or for which the appropriation contains no encumbrance  
33 and the unencumbered balance is less than the amount to be paid. The local board shall approve  
34 payment by formal resolution stating the board's reasons for allowing the bill, invoice, or other  
35 claim. The resolution shall be entered in the minutes together with the names of those voting in  
36 the affirmative. The chairman of the board or some other member designated for this purpose  
37 shall sign the certificate on the check or draft given in payment of the bill, invoice, or other  
38 claim. If payment results in a violation of law, each member of the board voting to allow  
39 payment is jointly and severally liable for the full amount of the check or draft given in  
40 payment.

41 (p) Checks or Drafts Signed by Finance Officer. – Except as otherwise provided by law,  
42 all checks or drafts on an official depository shall be signed by the finance officer or a properly  
43 designated deputy finance officer. The chairman of the local board or general manager of the  
44 local board shall countersign these checks and drafts. The Commission may waive the  
45 requirements of this subsection if the board determines that the internal control procedures of  
46 the unit or authority will be satisfactory in the absence of dual signatures.

47 (q) Payment of a Bill, Invoice, Salary, or Claim. – A local board may not pay a bill,  
48 invoice, salary, or other claim except by a check or draft on an official depository or by a bank  
49 wire transfer from an official depository. Except as provided in this subsection, each check or  
50 draft on an official depository shall bear on its face a certificate signed by the finance officer or  
51 a deputy finance officer approved for this purpose by the local board (or signed by the

1 chairman or some other member of the board pursuant to subsection (o) of this section). The  
2 certificate shall take substantially the following form:

3 "This disbursement has been approved in the manner required by G.S. 18B-702.  
4

5 (Signature of finance officer)."

6 No certificate is required on payroll checks or drafts on an imprest account in an official  
7 depository if the check or draft depositing the funds in the imprest account carried a signed  
8 certificate. No certificate is required for expenditures of fifty dollars (\$50.00) or less from a  
9 petty cash fund, provided the expenditure is accounted for by a receipt for the expended item.

10 ~~(b)~~(r) Borrowing Money. – A local board may borrow money only for the purchase of  
11 land, buildings, equipment and stock needed for the operation of its ABC system. A local board  
12 may pledge a security interest in any real or personal property it owns other than alcoholic  
13 beverages. A city or county whose governing body appoints a local board shall not in any way  
14 be held responsible for the debts of that board.

15 ~~(e)~~(s) Audits. – A local board shall submit to the appointing authority and Commission an  
16 annual independent audit of its operations, performed in accordance with generally accepted  
17 accounting standards and in compliance with a chart of accounts prescribed by the  
18 Commission. The audit report shall contain a summary of the requirements of this Chapter, or  
19 of any local act applicable to that local board, concerning the distribution of profits of that  
20 board and a description of how those distributions have been made, including the names of  
21 recipients of the profits and the activities for which the funds were distributed. A local board  
22 shall also submit to any other audits and submit any reports demanded by the appointing  
23 authority or the Commission.

24 ~~(d)~~(t) Deposits and Investments. – A local board may deposit ~~moneys~~monies at interest in  
25 any bank or trust company in this State in the form of savings accounts or certificates of  
26 deposit. Investment deposits shall be secured as provided in G.S. 159-31(b) and the reports  
27 required by G.S. 159-33 shall be submitted. A local board may invest all or part of the cash  
28 balance of any fund as provided in G.S. 159-30(c) and (d), and may deposit any portion of  
29 those funds for investment with the State Treasurer in the same manner as State boards and  
30 commissions under G.S. 147-69.3.

31 ~~(e)~~(u) Compliance with Commission Rules. – The Commission shall adopt, and each local  
32 board shall comply with, fiscal control rules concerning the borrowing of money, maintenance  
33 of working capital, investments, appointment of a budget officer, appointment of a financial  
34 officer, daily deposit of funds, bonding of employees, auditing of operations, and the schedule,  
35 manner and other procedures for distribution of profits. The Commission may also adopt any  
36 other rules concerning the financial operations of local boards which are needed to assure the  
37 proper accountability of public funds. The Commission may vary these rules and regulations  
38 according to any other criteria reasonably related to the purpose or complexity of the financial  
39 operations involved. The Commission has the authority to inquire into and investigate the  
40 internal control procedures of a local board and may require any modifications in internal  
41 control procedures which, in the opinion of the Commission, are necessary or desirable to  
42 prevent embezzlements or mishandling of public monies.

43 (v) Penalties. – If a board member or employee of a local board incurs an obligation or  
44 pays out or causes to be paid out any funds in violation of this section, the member or employee  
45 and the sureties on the official bond are liable for any sums so committed or disbursed. If the  
46 finance officer or any properly designated deputy finance officer gives a false certificate to any  
47 contract, agreement, purchase order, check, draft, or other document, the finance officer and the  
48 sureties on the official bond are liable for any sums illegally committed or disbursed thereby.

49 ~~(f)~~(w) Applicability of Criminal Statutes. – The provisions of G.S. 14-90 and G.S. 14-254  
50 shall apply to any person appointed to or employed by a local board, and any person convicted  
51 of a violation of G.S. 14-90 or G.S. 14-254 shall be punished as a Class H felon.

1       (x) Local Acts. – Notwithstanding the provisions of any local act, this section applies to  
2 all local boards."

3               **SECTION 19.** Chapter 18B of the General Statutes is amended by adding a new  
4 section to read:

5 **"§ 18B-704. Removal of local board members and employees.**

6       (a) Improper Influence. – Neither the Commission nor its individual members shall  
7 attempt to coerce any appointing authority to appoint a particular person as a member of a local  
8 board or attempt to coerce a local board to employ any particular applicant.

9       (b) Purpose. – This section is intended to provide a uniform system of removal for  
10 appointing authorities and the Commission.

11       (c) Cause for Removal. – (i) Disqualification of a local board member or employee  
12 under the law, (ii) a violation of the ABC laws, (iii) failure to complete training required by this  
13 Chapter or the Commission, or (iv) engaging in any conduct constituting moral turpitude or  
14 which brings the local board or the ABC system into disrepute is cause for the Commission to  
15 remove any member or employee of a local board. The employment or retention of any  
16 employee who is known to be disqualified under the law to hold a position with a local board is  
17 cause for the Commission to remove the board members involved.

18       (d) Removal Process. – The Commission or appointing authority shall provide, in  
19 writing, to the local board member or employee the findings of fact upon which the decision for  
20 removal is based. The Commission or appointing authority shall also provide the local board  
21 member or employee with notice of the availability of a hearing before the Commission to  
22 review the removal.

23       (e) Removal Hearing. – Any local board member or employee removed from office or  
24 discharged by the Commission or the appointing authority may request a hearing before the  
25 Commission. Such a request operates to stay the action of the Commission or the appointing  
26 authority with regard to the matter until after the hearing, unless the Commission finds that the  
27 public interest requires immediate action. At the hearing, the employee or the employee's  
28 counsel may examine all evidence used against the employee and present evidence in the  
29 employee's own behalf. A removal hearing is not subject to the provisions of Chapter 150B of  
30 the General Statutes. All hearings shall be conducted informally and in such manner as to  
31 preserve the substantial rights of the parties.

32       (f) Hearing Procedure. – The Commission shall hold the hearing required by subsection  
33 (e) of this section within 15 days of the member's or employee's request for a hearing. The  
34 standard of review by the Commission is de novo. The Commission or appointing authority  
35 shall be represented by a Commission hearing officer. The Commission shall discharge the  
36 member or employee if two-thirds of the Commission's members vote for removal. The  
37 Commission shall make findings of fact. The Commission may adopt the findings of fact of the  
38 Commission or the appointing authority, may add new findings of fact to the original findings  
39 of fact, or may substitute new findings of fact for the original findings of fact. The Commission  
40 shall make conclusions of law and shall issue a written decision to the member or employee of  
41 the local board, and to the appointing authority, within 15 days of the hearing.

42       (g) Commission Authority. – The Commission shall have the sole power, in its  
43 discretion, to determine if cause exists for removal of a local board member or employee who  
44 has requested a hearing before the Commission. The Commission's decision in a removal  
45 hearing is final.

46       (h) Appeal. – A local board member or employee may appeal the Commission's final  
47 decision to the Court of Appeals. The standard of review for an appeal shall be abuse of  
48 discretion. The sole remedy for a local board member or employee shall be the reinstatement of  
49 the board member or employee to the local board with back pay. All awards for back pay shall  
50 be paid by the local board from which the board member or employee was removed.

1       (i) Removal Hearing Not a Substitute for Termination of Employee. – Nothing in this  
2 section replaces or is intended to replace a local board's policy regarding the termination of an  
3 employee for personnel reasons. The removal process under this section is reserved solely for  
4 the appointing authority or the Commission to remove a board member or employee for cause.

5       (j) Local Acts. – Notwithstanding the provisions of any local act, this section applies to  
6 all local boards."

7               **SECTION 20.** Chapter 18B of the General Statutes is amended by adding a new  
8 section to read:

9 **"§ 18B-705. Compliance with performance standards; remedies.**

10       (a) Local Board Compliance. – The Commission shall establish performance standards  
11 pursuant to G.S. 18B-203(a)(20). The Commission shall ensure that all local boards comply  
12 with established performance standards by conducting regular or special audits, conducting  
13 performance evaluations, or taking other measures, which may include inspections by  
14 Commission auditors or alcohol law enforcement agents.

15       (b) Performance Improvement Plans. – The Commission, upon determining that a local  
16 board is failing to meet performance standards established pursuant to G.S. 18B-203(a)(20),  
17 shall meet with the chair of the local board and the appointing authority and issue a statement  
18 of findings. The appointing authority, in consultation with the Commission and the local board,  
19 shall develop and deliver a performance improvement plan to the local board within 60 days of  
20 the meeting with the Commission. The performance improvement plan shall include, but not be  
21 limited to, recommendations for improved performance based on the performance standards  
22 established by the Commission. The plan shall also state a period of time in which the  
23 performance improvements are to occur and what action will be taken by the Commission if  
24 performance standards are not met within the given time limits. The appointing authority shall  
25 allow up to, but no more than, 12 months' time to the local board to implement and show  
26 improvement under the performance improvement plan. The local appointing authority, in  
27 consultation with the Commission and upon good cause shown, may allow up to an additional  
28 six-month period of time for the local board to meet all requirements in the performance  
29 improvement plan and to establish that the performance standards established by the  
30 Commission are met.

31       (c) Remedies. – If the Commission determines that the established performance  
32 standards identified in the statement of findings cannot be met after a performance  
33 improvement plan has been implemented and adequate time has been given, but in no case less  
34 than 12 months, the Commission shall take appropriate action to avoid insolvency. This action  
35 may include closing the board pursuant to G.S. 18B-801(d), closing a store or multiple stores,  
36 or merging the local board with another local board in order to maintain solvency. The  
37 Commission may also seize the assets of the local board and liquidate any assets necessary to  
38 satisfy any debt in order to maintain the solvency of the local board. Prior to taking action  
39 pursuant to this subsection, the Commission shall issue a notice of intent to take such action to  
40 the appointing authority and the local board.

41       (d) Local Acts. – Notwithstanding the provisions of any local act, this section applies to  
42 all local boards."

43               **SECTION 21.** Chapter 18B of the General Statutes is amended by adding a new  
44 section to read:

45 **"§ 18B-706. Ethics requirements for local boards.**

46       (a) Each local board shall adopt a policy containing a code of ethics, consistent with the  
47 provisions of G.S. 18B-201, to guide actions by the local board members and employees of the  
48 local board in the performance of their official duties. The policy shall address at least all of the  
49 following:

50               (1) The need to obey all applicable laws regarding official actions taken as a  
51 local board member or employee.

- 1           (2)   The need to uphold the integrity and independence of the local board
- 2                   member or employee's position.
- 3           (3)   The need to avoid impropriety in the exercise of official duties.
- 4           (4)   The need to faithfully perform the duties of the position.
- 5           (5)   The need to conduct the affairs of the board in an open and public manner,
- 6                   including complying with all applicable laws governing open meetings and
- 7                   public records.

8           (b)   Each member of a local board shall receive a minimum of two hours of ethics  
9           education within 12 months after initial appointment to the office and again within 12 months  
10           after each subsequent appointment to the office. The ethics education shall cover laws and  
11           principles that govern conflicts of interest and ethical standards of conduct for local ABC  
12           boards. The education may be provided by the Commission or another qualified source  
13           approved by the Commission. The local board shall maintain a record verifying receipt of the  
14           ethics education by each member of the local board. The local board may require appropriate  
15           ethics training and education for employees of the local ABC board.

16           (c)   The Commission shall develop a model ethics policy that local ABC boards may  
17           adopt to be in compliance with this section."

18           **SECTION 22.** G.S. 18B-801(b) reads as rewritten:

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

- 22           (1)   Whether the health, safety, or general welfare of the community will be
- 23                   adversely ~~affected; and~~ affected.
- 24           (2)   Whether the citizens of the community or city in which the proposed store is
- 25                   to be located voted for or against ABC stores in the last election on the
- 26                   question.
- 27           (3)   The proximity of the new location to existing ABC stores operated by the
- 28                   local board or any other board."

29           **SECTION 23.** G.S. 18B-801(c) reads as rewritten:

30           "(c)   Closing of Stores. – Subject to the provisions of ~~subsection (a),~~ subsection (a) of  
31           this section, a local board may ~~close, close a store,~~ or the Commission may order a local board  
32           to ~~close, close~~ any store when the local board or the Commission determines that:

- 33           (1)   ~~The operation of the store is not sufficiently profitable to justify its~~
- 34                   ~~continuation;~~
- 35           (2)   The store is not operated in accordance with the ABC law; or
- 36           (3)   The continued operation of that store will adversely affect the health, safety,
- 37                   or general welfare of the community in which the store operates."

38           **SECTION 24.** G.S. 18B-803 reads as rewritten:

39           "**§ 18B-803. Store management.**

40           (a)   Manager. – A local board shall provide for the management of each store operated  
41           by it. The board shall employ at least one manager for each store, who shall operate the store  
42           pursuant to the directions of that board.

43           (b)   Bonding of Manager. – Each store manager shall be bonded in an amount not less  
44           than ~~five thousand dollars (\$5,000),~~ fifty thousand dollars (\$50,000) secured by a corporate  
45           surety, for the honest performance of his duties. A public employees' blanket position bond,  
46           honesty form, in the required amount satisfies the requirements of this subsection. The bond  
47           shall be payable to the local board and shall be approved by the appointing authority for the  
48           local board. The appointing authority may increase the amount of bond required for store  
49           managers under this subsection.

1 (c) Bonding of Other Employees. – A local board or the appointing authority may  
2 require any of its other employees who handle funds to obtain bonds. The amount and form of  
3 those bonds shall be determined by the local board.

4 (d) Local Acts. – Notwithstanding the provisions of any local act, this section applies to  
5 all local boards."

6 **SECTION 25.** G.S. 18B-1213 reads as rewritten:

7 "**§ 18B-1213. Obligations of purchaser.**

8 The purchaser of a ~~winery~~winery, and any successor to the rights of a winery, is obligated  
9 to all the terms and conditions of an agreement in effect on the date of the ~~purchase,~~purchase or  
10 other acquisition of the right to distribute a brand, except for good cause, which includes,

- 11 (1) Revocation of the wholesaler's permit or license to do business in this State,
- 12 (2) Bankruptcy or insolvency of the wholesaler,
- 13 (3) Assignment for the benefit of creditors or similar disposition of the assets of  
14 the wholesaler, or
- 15 (4) Failure by the wholesaler to comply substantially, without reasonable excuse  
16 or justification, with any reasonable and material requirement imposed upon  
17 ~~him~~the wholesaler by the winery.

18 As used in this Article, "purchase" includes the sale of stock, sale of assets, merger, lease,  
19 transfer, or consolidation."

20 **SECTION 26.** G.S. 93B-9 reads as rewritten:

21 "**§ 93B-9. Age requirements.**

22 Any other provision notwithstanding, except certifications issued by the North Carolina  
23 Criminal Justice Education and Training Standards Commission and the North Carolina  
24 Sheriffs' Education and Training Standards Commission pursuant to Chapters 17C, 17E, 74E,  
25 and 74G of the General Statutes, no occupational licensing board may require that an individual  
26 be more than 18 years of age as a requirement for receiving a license."

27 **SECTION 27.** Section 6 of this act becomes effective January 1, 2011. Sections 12  
28 and 15 of this act become effective October 1, 2010, and apply to general managers and  
29 employees hired on or after that date. Section 16 of this act becomes effective October 1, 2011.  
30 Section 18 of this act becomes effective May 1, 2011, and is applicable for local board fiscal  
31 years beginning July 1, 2011. The ABC Commission shall offer training and education to local  
32 boards to assist local boards in complying with Section 18 of this act, and such training and  
33 education shall be offered at least once annually after the effective date of this act; however, the  
34 Commission shall have no obligation to provide such training and education after December  
35 31, 2013. Section 25 of this act is effective when it becomes law, and its provisions shall apply  
36 to all existing franchise agreements. A supplier's shipment of wine to a wholesaler in North  
37 Carolina following the effective date of Section 25 of this act shall constitute acceptance by the  
38 supplier of the terms of this act and shall be incorporated into the agreement between the  
39 supplier and wholesaler. Section 26 of this act is effective when it becomes law. The remainder  
40 of this act becomes effective October 1, 2010.