

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 796

Senate Rules and Operations of the Senate Committee Substitute Adopted 6/15/11

Short Title: Sale of Alcoholic Beverages.

(Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO MODIFY PROVISIONS RELATED TO THE SALES OF ALCOHOLIC BEVERAGES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 18B-1004 reads as rewritten:

"§ 18B-1004. Hours for sale and consumption.

(a) ~~Hours for On-Premise Locations. – Except as otherwise provided in this section, it shall be unlawful for a permittee holding on-premise permits for the sale of malt beverages, unfortified wine, fortified wine, or mixed beverages to sell malt beverages, unfortified wine, fortified wine, or mixed beverages between the hours of 2:00 A.M. and 7:00 A.M., or to consume any of those alcoholic beverages between the hours of 2:30 A.M. and 7:00 A.M. A.M., in any place that has been issued a permit under G.S. 18B-1001. It shall be unlawful for any person to sell or consume alcoholic beverages on any premises where on-premise permits are issued for the sale of malt beverages, unfortified wine, fortified wine, or mixed beverages from the time at which sale or consumption must cease on Sunday morning until 11:00 A.M. on that day.~~

(a1) ~~Hours for Off-Premise Locations. – It shall be unlawful for a permittee holding only off-premise permits allowing the sale of malt beverages, unfortified wine, or fortified wine, to sell malt beverages, unfortified wine, or fortified wine between the hours of 2:00 A.M. and 5:00 A.M. on Monday through Saturday, and between the hours of 2:00 A.M. and 11:00 A.M. on Sunday.~~

(b) Repealed by Session Laws 1991, c. 689, s. 310.

(c) ~~Sunday Hours. – It shall be unlawful to sell or consume alcoholic beverages on any licensed premises from the time at which sale or consumption must cease on Sunday morning until 12:00 Noon on that day.~~

(d) ~~Local Option. – A city may adopt an ordinance prohibiting in the city the retail sale of malt beverages, unfortified wine, and fortified wine during any or all of the hours from 12:00 Noon on Sunday until 7:00 A.M. on the following Monday. A county may adopt an ordinance prohibiting, in the parts of the county outside any city, the retail sale of malt beverages, unfortified wine, and fortified wine during any or all of the hours from 12:00 Noon on Sunday until 7:00 A.M. on the following Monday. Neither a city nor a county, however, may prohibit those sales in establishments having brown bagging or mixed beverages permits.~~

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

SECTION 1.(b) G.S. 18B-1006(q) is repealed.



1 **SECTION 1.(c)** This act is effective when it becomes law. Prosecutions for
2 offenses committed before the effective date of this act are not abated or affected by this act,
3 and the statutes that would be applicable but for this act remain applicable to those
4 prosecutions.

5 **SECTION 2.(a)** G.S. 18B-900(a) reads as rewritten:

6 "(a) Requirements. – To be eligible to receive and to hold an ABC permit, a person
7 shall:

- 8 (1) Be at least 21 years old, unless the person is a manager of a business selling
9 only malt beverages and unfortified wine, in which case the person shall be
10 at least 19 years old;
- 11 (2) Be a resident of North Carolina unless:
 - 12 a. He is an officer, director or stockholder of a corporate applicant or
13 permittee and is not a manager or otherwise responsible for the
14 day-to-day operation of the business; or
 - 15 b. He has executed a power of attorney designating a qualified resident
16 of this State to serve as attorney in fact for the purposes of receiving
17 service of process and managing the business for which permits are
18 sought; or
 - 19 c. He is applying for a nonresident malt beverage vendor permit, a
20 nonresident wine vendor permit, or a vendor representative permit;
- 21 (3) Not have been convicted of a felony within three years, and, if convicted of a
22 felony before then, shall have had his citizenship restored;
- 23 (4) Not have been convicted of an alcoholic beverage offense within two years;
- 24 (5) Not have been convicted of a misdemeanor controlled substance offense
25 within two years; and
- 26 (6) Not have had an alcoholic beverage permit revoked within three years,
27 except where the revocation was based solely on a permittee's failure to pay
28 the annual registration and inspection fee required in G.S. 18B-903(b1).
- 29 (7) Not have, whether as an individual or as an officer, director, shareholder or
30 manager of a corporate permittee, an unsatisfied outstanding final judgment
31 that was entered against him in an action under Article 1A of this Chapter.
- 32 (8) Have a valid social security number or be able to produce valid
33 documentation issued to the applicant under the authority of the United
34 States government demonstrating legal presence in the United States.

35 To avoid undue hardship, however, the Commission may decline to take action under
36 G.S. 18B-104 against a permittee who is in violation of subdivisions (3), (4), or (5)."

37 **SECTION 2.(b)** G.S. 18B-1002(d) reads as rewritten:

38 "(d) Administrative Procedure. – A permit issued pursuant to this section shall not be
39 issued less than 10 days before any qualifying event described in subdivisions (1) through (5)
40 of subsection (a) of this section. The Commission shall notify the ALE Division not more than
41 three business days after the date a permit is issued pursuant to this section, of the name and
42 address of the applicant, the address of the event, and any conditions placed on the permit
43 pursuant to subsection (c) of this section. Denial or revocation of a permit under this section
44 shall not entitle the applicant or permittee to a hearing under Chapter 150B."

45 **SECTION 3.(a)** G.S. 18B-603(f) is amended by adding new subdivisions to read:

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

- 48 ...
- 49 (10) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for hotels,
50 convention centers, food markets, or restaurants located on the Centennial

1 Campus, Horace Williams Campus, or any Millennial Campus of a
2 constituent institution of The University of North Carolina.

3 (11) The permits authorized by G.S. 18B-1001(1) and (3) for sale of beer and
4 wine at performing arts centers located on property owned by or leased by a
5 constituent institution of The University of North Carolina if the seating
6 capacity does not exceed 2,000 seats."

7 **SECTION 3.(b)** G.S. 18B-1006(a) reads as rewritten:

8 "(a) School and College Campuses. – No permit for the sale of malt beverages,
9 unfortified wine, or fortified wine shall be issued to a business on the campus or property of a
10 public school or college, other than at a regional facility as defined by G.S. 160A-480.2
11 operated by a facility authority under Part 4 of Article 20 of Chapter 160A of the General
12 Statutes except for a public school or college function, unless that business is a hotel or a
13 nonprofit alumni organization with a mixed beverages permit or a special occasion permit. This
14 subsection shall not apply on property owned by a local board of education which was leased
15 for 99 years or more to a nonprofit auditorium authority created prior to 1991 whose governing
16 board is appointed by a city board of aldermen, a county board of commissioners, or a local
17 school board. This subsection shall also not apply to the constituent institutions of The
18 University of North Carolina with respect to the sale of beer and wine at performing arts
19 centers located on property owned or leased by the institutions if the seating capacity does not
20 exceed 2,000 ~~seats,~~ seats, or to the sale of beer, wine, or mixed beverages at any hotel,
21 convention center, food market, or restaurant located on the Centennial Campus, the Horace
22 Williams Campus, or any Millennial Campus of a constituent institution of The University of
23 North Carolina, or to any golf courses owned or leased by the constituent institutions and open
24 to the public for use."

25 **SECTION 4.** Section 3 becomes effective October 1, 2011. The remainder of this
26 act is effective when it becomes law. Prosecutions for offenses committed before the effective
27 date of a section of this act are not abated or affected by this act, and the statutes that would be
28 applicable but for this act remain applicable to those prosecutions.