

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015**

**HOUSE BILL 909  
RATIFIED BILL**

AN ACT TO MAKE VARIOUS CHANGES TO THE ALCOHOLIC BEVERAGE  
CONTROL COMMISSION LAWS.

The General Assembly of North Carolina enacts:

**AUTHORIZE AND REGULATE THE SALE OF ANTIQUE SPIRITUOUS LIQUOR**

**SECTION 1.(a)** G.S. 18B-101 reads as rewritten:

**"§ 18B-101. Definitions.**

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

- ...
- (5) "ALE Branch" means the Alcohol Law Enforcement Branch of the Department of Public Safety.
  - (5a) "Antique spirituous liquor" means spirituous liquor that has not been in production or bottled in the last 20 years, is in the original manufacturer's unopened container, is not owned by a distillery, and is not otherwise available for purchase by an ABC Board except through the special order process pursuant to G.S. 18B-1001(20).
  - (5b) "Antique spirituous liquor seller" means a person who sells antique spirituous liquor to an ABC Board.
  - (5c) "Bailment surcharge" means the charge imposed on each case of liquor shipped from a Commission warehouse as provided in G.S. 18B-208. This bailment surcharge is in addition to the bailment charge imposed by G.S. 18B-804(b)(2).

...."  
**SECTION 1.(b)** G.S. 18B-1001 is amended by adding a new subdivision to read:

"(20) Antique spirituous liquor permit. – A permit under this subdivision may be issued to a holder of a mixed beverages permit issued under subdivision (10) of this section. Notwithstanding any law to the contrary, the permit holder may sell at retail antique spirituous liquor for use in mixed beverages for consumption on premises. The acquisition of antique spirituous liquor on or after September 1, 2015, shall be in accordance with the process established by rule of the Commission for special orders of spirituous liquor that is not on the list approved by the Commission."

**SECTION 1.(c)** G.S. 18B-902(d) is amended by adding a new subdivision to read:

"(43) Antique spirituous liquor permit – \$100.00."

**SECTION 1.(d)** G.S. 18B-1001(10) reads as rewritten:

"(10) Mixed Beverages Permit. – A mixed beverages permit authorizes the retail sale of mixed beverages for consumption on the premises. The permit also authorizes a mixed beverages permittee (i) to obtain a purchase-transportation permit under G.S. 18B-403 and 18B-404, (ii) to obtain an antique spirituous liquor permit under subdivision (20) of this section, and (iii) to use for culinary purposes spirituous liquor lawfully purchased for use in mixed beverages. The permit may be issued for any of the following:

- a. Restaurants;
- b. Hotels;
- c. Private clubs;



- d. Convention centers;
- e. Community theatres;
- f. Nonprofit organizations; and
- g. Political organizations."

**SECTION 1.(e)** G.S. 18B-804 reads as rewritten:

**"§ 18B-804. Alcoholic beverage pricing.**

(a) Uniform Price of Spirituous Liquor. – The retail price of spirituous liquor sold in ABC stores shall be uniform throughout the State, unless otherwise provided by the ABC law.

(b) Sale Price of Spirituous Liquor. – The sale of spirituous ~~liquor~~ liquor, including antique spirituous liquor, sold at the uniform State price shall consist of the following components:

- (1) The distiller's or the antique spirituous liquor seller's price.
- (2) The freight and bailment charges of the State warehouse as determined by the Commission.
- (3) A markup for local boards as determined by the Commission.
- (4) The tax levied under G.S. 105-113.80(c), which shall be levied on the sum of subdivisions (1), (2), and (3).
- (5) An additional markup for local boards equal to three and one-half percent (3 1/2%) of the sum of subdivisions (1), (2), and (3).
- (6) A bottle charge of one cent (1¢) on each bottle containing 50 milliliters or less and five cents (5¢) on each bottle containing more than 50 milliliters.
- (6a) The bailment surcharge.
- (6b) An additional bottle charge for local boards of one cent (1¢) on each bottle containing 50 milliliters or less and five cents (5¢) on each bottle containing more than 50 milliliters.
- (7) A rounding adjustment, the formula of which may be determined by the Commission, so that the sale price will be divisible by five.
- (8) If the spirituous liquor is sold to a mixed beverage permittee for resale in mixed beverages, a charge of twenty dollars (\$20.00) on each four liters and a proportional sum on lesser quantities.
- (9) If the spirituous liquor is sold to a guest room cabinet permittee for resale, a charge of twenty dollars (\$20.00) on each four liters and a proportional sum on lesser quantities.

...."

**SECTION 1.(f)** G.S. 105-113.80(c) reads as rewritten:

"(c) Liquor. – An excise tax of thirty percent (30%) is levied on spirituous liquor and antique spirituous liquor sold in ABC stores. Pursuant to G.S. 18B-804(b), the price of liquor on which this tax is computed is the distiller's or the antique spirituous liquor seller's price plus (i) the State ABC warehouse freight and bailment ~~charges,~~ charges and (ii) a markup for local ABC boards."

**SECTION 1.(g)** G.S. 105-113.68(a) is amended by adding a new subdivision to read:

"(4a) Antique spirituous liquor. – Defined in G.S. 18B-101."

**SECTION 1.(h)** G.S. 105-164.4(a)(7) reads as rewritten:

"(7) The combined general rate applies to the sales price of antique spirituous liquor and spirituous liquor other than mixed beverages. As used in this subdivision, the terms "antique spirituous liquor", "spirituous liquor" ~~"spirituous liquor"~~ and "mixed beverage" have the meanings provided in G.S. 18B-101."

**SECTION 1.(i)** No later than September 1, 2015, the ABC Commission shall establish and adopt temporary rules to implement the provisions of this section.

**SECTION 1.(j)** Subsections (a) through (h) of this section become effective upon adoption of rules pursuant to subsection (i) of this section. The remainder of this section is effective when it becomes law.

**PROHIBIT THE SALE, POSSESSION, OR CONSUMPTION OF POWDERED ALCOHOL**

**SECTION 2.(a)** G.S. 18B-101 reads as rewritten:

**"§ 18B-101. Definitions.**

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

- ...
- (12a) "Premises" means all areas, whether inside or outside the licensed premises, where the permittee has control of the property through a lease, deed, or other legal process.
- (12b) "Powdered alcohol" means any powder or crystalline substance capable of being converted into a liquid alcoholic beverage fit for human consumption.
- (13) "Sale" means any transfer, trade, exchange, or barter, in any manner or by any means, for consideration.

....

**SECTION 2.(b)** G.S. 18B-102 is amended by adding a new subsection to read:

"(a1) Powdered Alcohol Prohibition. – It shall be unlawful for any person to manufacture, sell, transport, import, deliver, furnish, purchase, consume, or possess powdered alcohol."

**AUTHORIZE THE EASTERN BAND OF CHEROKEE INDIANS TRIBAL ALCOHOLIC BEVERAGE CONTROL COMMISSION TO ISSUE WINE SHIPPER PERMITS AND COMMERCIAL ABC PERMITS AND CLARIFY THAT THE EASTERN BAND OF CHEROKEE INDIANS TRIBAL ALCOHOLIC BEVERAGE CONTROL COMMISSION MAINTAINS EXCLUSIVE AUTHORITY TO ISSUE CERTAIN PERMITS**

**SECTION 3.(a)** G.S. 18B-112 reads as rewritten:

**"§ 18B-112. Tribal alcoholic beverage control.**

...

(b) Compliance Required. – The Eastern Band of Cherokee Indians shall comply with the following provisions of this Chapter to the extent they apply to or can be made applicable to the tribe:

- (1) The following provisions of Article 1. – General Provisions.
  - a. G.S. 18B-101(4), (7), (7c), (9), (10), (11), (12), (12a), (13), (14)(14a), (14b), and (15).
  - b. G.S. 18B-102.1.
  - c. G.S. 18B-104.
  - d. G.S. 18B-105, except that this section shall not apply to any establishment where gaming is permitted under a State compact and pursuant to federal law.
  - e. G.S. 18B-109(b).
  - f. G.S. 18B-110.
  - g. G.S. 18B-111.
  - h. G.S. 18B-112.
- (2) Article 1A. – Compensation for Injury Caused by Sales to Underage Persons, to the extent it applies to retail establishments or the tribal alcoholic beverage control commission if it operates ABC stores, or any other permitted establishment, at retail pursuant to the provisions of this section.
- (3) Article 3. – Sale, Possession, and Consumption, except for G.S. 18B-308 and G.S. 18B-309.
- (4) Article 4. – Transportation.
- (5) Article 5. – Enforcement, except for G.S. 18B-500 and G.S. 18B-501.
- (6) Article 6. – Elections, compliance with only G.S. 18B-603(f) and (g) are required.
- (7) Article 9. – Issuance of Permits, except for G.S. 18B-902(g) and (h) and G.S. 18B-906.
- ~~(7)~~(8) Article 10. – Retail Activity, except for G.S. 18B-1001.1, 18B-1001.2, and 18B-1001.3.Activity.
- (9) Article 11. – Commercial Activity, as clarified by the following:
  - a. The tribal alcoholic beverage control commission may issue commercial activity permits to any qualifying applicant that establishes a commercial business wholly on Indian Country lands and shall have sole enforcement authority over any permittee receiving a permit from the tribal alcoholic beverage control

commission only to the extent the regulated conduct occurs on Indian Country lands.

- b. The Eastern Band of Cherokee Indians shall recognize any permit issued by the North Carolina Alcoholic Beverage Control Commission allowing commercial activity in the same manner as if such permit was issued by the tribal alcoholic beverage control commission. The North Carolina Alcoholic Beverage Control Commission shall recognize any commercial activity permit issued by the tribal alcoholic beverage commission in the same manner as if the permit were issued by the North Carolina Alcoholic Beverage Control Commission.
- c. The North Carolina Alcoholic Beverage Control Commission shall retain exclusive enforcement authority over all permits it issues to commercial activity permittees for violations of its rules or this Chapter.

Any provision of Articles 12 and 13 of this Chapter which has not been made applicable to the Eastern Band of Cherokee Indians by this section shall act as a bar to engaging in any activity authorized by that Article or section.

...  
(d) Establishment of a Tribal Commission. – In accordance with the provisions of 18 U.S.C. § 1161, the Eastern Band of Cherokee Indians is authorized to establish a tribal alcoholic beverage control commission to regulate the purchase, possession, consumption, sale, and delivery of alcoholic beverages ~~at retail~~ on any land designated as Indian Country pursuant to 18 U.S.C. § 1151 under the jurisdiction of the Eastern Band of Cherokee Indians. The tribal commission shall have exclusive authority to issue ~~retail~~ ABC permits to retail and commercial establishments located wholly on Indian Country lands under the jurisdiction of the Eastern Band of Cherokee Indians and to regulate the purchase, possession, consumption, sale, and delivery of alcoholic beverages at ~~retail~~ permitted outlets and premises. Permits issued by the tribal commission pursuant to this section shall be deemed issued by the State for the purposes of sales and delivery of beer and wine by wholesalers to the retail outlets located on Indian Country lands. The fees generated by the tribal alcoholic beverage control commission for the issuance of retail permits may be retained by the Eastern Band of Cherokee Indians to offset costs of operating the tribal alcoholic beverage control commission.

...."

**SECTION 3.(b)** G.S. 18B-101(14a) reads as rewritten:

"(14a) "Tourism ABC establishment" means a restaurant or hotel that meets both of the following requirements:

- a. Is located on property, a property line of which is located within 1.5 miles of the end of an entrance or exit ramp of a junction on a national scenic parkway designed to attract local, State, national, and international tourists between the State line and Milepost ~~460-469~~, provided that the Eastern Band of Cherokee Indians tribal alcoholic beverage control commission established under G.S. 18B-112 shall have exclusive authority to issue permits pursuant to this subdivision between Milepost 460 and the southern terminus of the national scenic byway at Milepost 469 for any restaurant or hotel that is located wholly on Indian Country lands.
- b. Is located in a county in which the on-premises or off-premises sale of malt beverages or unfortified wine is authorized in at least one city."

**ALLOW DISTILLERY PERMIT HOLDERS TO SELL SPIRITUOUS LIQUOR DISTILLED ON PREMISES TO VISITORS OF THE DISTILLERY FOR CONSUMPTION OFF THE PREMISES**

**SECTION 4.(a)** G.S. 18B-1105(a) reads as rewritten:

"(a) Authorized Acts. – The holder of a distillery permit ~~may~~ may do any of the following:

- (1) Manufacture, purchase, import, possess and transport ingredients and equipment used in the distillation of spirituous ~~liquor~~ liquor.

- (2) Sell, deliver and ship spirituous liquor in closed containers at wholesale to exporters and local boards within the State, and, subject to the laws of other jurisdictions, at wholesale or retail to private or public agencies or establishments of other states or ~~nations~~; ~~nations~~.
- (3) Transport into or out of the distillery the maximum amount of liquor allowed under federal law, if the transportation is related to the distilling process.
- (4) Sell spirituous liquor distilled at the distillery in closed containers to visitors who tour the distillery for consumption off the premises if the distillery manufactures less than 100,000 proof gallons per year. Sales under this subdivision are allowed only in a county where the establishment of a county or municipal ABC store has been approved pursuant to G.S. 18B-602(g) and are subject to the time and day restrictions in G.S. 18B-802. Spirituous liquor sold under this subdivision shall (i) be listed as a code item for sale in the State, (ii) be sold at the price set by the Commission for the code item pursuant to G.S. 18B-804(b), and (iii) have affixed to its bottle a sticker that bears the words "North Carolina Distillery Tour Commemorative Spirit" in addition to any other labeling requirements set by law. Consumers purchasing spirituous liquor under this subdivision are limited to purchasing, and the selling distillery is limited to selling to each consumer, no more than one bottle of spirituous liquor per 12-month period. The distillery shall use a commonly adopted standard point of sale system to maintain searchable electronic records captured at the point of sale, to include the purchaser's name, drivers license number, and date of birth for at least 12 months from the date of purchase. The Commission shall adopt rules regulating the retail sale of spirituous liquor under this subdivision.

**SECTION 4.(b)** G.S. 105-113.68(a) is amended by adding a new subdivision to read:

"(4a) Distillery permittee. – A distillery that holds a distillery permit issued by the ABC Commission under G.S. 18B-1105."

**SECTION 4.(c)** G.S. 105-113.80(c) reads as rewritten:

"(c) Liquor. – An excise tax of thirty percent (30%) is levied on liquor sold in ABC ~~stores~~ ~~stores~~ and in permitted distilleries. Pursuant to G.S. 18B-804(b), the price of liquor on which this tax is computed is the distiller's price plus (i) the State ABC warehouse freight and bailment charges, and (ii) a markup for local ABC boards."

**SECTION 4.(d)** G.S. 105-113.81(e) reads as rewritten:

"(e) Tasting. – Resident ~~breweries and wineries~~ ~~breweries, wineries, and distilleries~~ are not required to remit excise taxes on malt ~~beverages and wine~~ ~~beverages, wine, or spirituous liquor~~ given free of charge to customers, visitors, and employees on the manufacturer's licensed premises for consumption on those premises."

**SECTION 4.(e)** G.S. 105-113.83(a) reads as rewritten:

"(a) Liquor. – The excise tax on liquor levied under G.S. 105-113.80(c) is payable monthly by the local ABC board and by a distillery permittee to the Secretary. The tax shall be paid on or before the 15th day of the month following the month in which the tax was collected."

**SECTION 4.(f)** G.S. 18B-800(a) reads as rewritten:

"(a) Spirituous Liquor. – Except as provided in Article 10 of this ~~Chapter~~ ~~Chapter~~ and G.S. 18B-1105(a), spirituous liquor may be sold only in ABC stores operated by local boards."

**SECTION 4.(g)** G.S. 18B-804(a) reads as rewritten:

"(a) Uniform Price of Spirituous Liquor. – The retail price of spirituous liquor sold in ABC stores and permitted distilleries shall be uniform throughout the State, unless otherwise provided by the ABC law."

**SECTION 4.(h)** No later than October 1, 2015, the ABC Commission shall establish and adopt temporary rules to implement the provisions of this section.

**SECTION 4.(i)** Subsections (a) through (g) of this section become effective upon adoption of rules pursuant to subsection (h) of this section. The remainder of this section is effective when it becomes law.

**ALLOW CERTAIN ABC PERMITTEES TO SELL CIDER IN CERTAIN CONTAINERS FOR CONSUMPTION OFF THE PERMITTED PREMISES AND**

## MAKE TECHNICAL CHANGES TO THE SALE OF MALT BEVERAGES IN GROWLERS

SECTION 5.(a) G.S. 18B-1001 reads as rewritten:

### "§ 18B-1001. Kinds of ABC permits; places eligible.

When the issuance of the permit is lawful in the jurisdiction in which the premises are located, the Commission may issue the following kinds of permits:

- (1) On-Premises Malt Beverage Permit. – An on-premises malt beverage permit authorizes (i) the retail sale of malt beverages for consumption on the premises, (ii) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of malt beverages in a cleaned, sanitized, resealable container ~~as defined in 4 NCAC 2T.0308(a) that is filled or refilled and sealed for consumption off the premises, complies with 4 NCAC 2T.0303, 4 NCAC 2T.0305, and 4 NCAC 2T.0308(d) (e), premises and the container that identifies the permittee and the date the container was filled or refilled.~~ It also authorizes the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:
  - a. Restaurants;
  - b. Hotels;
  - c. Eating establishments;
  - d. Food businesses;
  - e. Retail businesses;
  - f. Private clubs;
  - g. Convention centers;
  - h. Community theatres;
  - i. Breweries as authorized by G.S. 18B-1104(7) and (8).
- (2) Off-Premises Malt Beverage Permit. – An off-premises malt beverage permit authorizes (i) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, (ii) the retail sale of malt beverages in a cleaned, sanitized, resealable container ~~as defined in 4 NCAC 2T.0308(a) that is filled or refilled and sealed for consumption off the premises, complies with 4 NCAC 2T.0303, 4 NCAC 2T.0305, and 4 NCAC 2T.0308(d) (e), premises and the container that identifies the permittee and the date the container was filled or refilled,~~ and (iii) the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:
  - a. Restaurants.
  - b. Hotels.
  - c. Eating establishments.
  - d. Food businesses.
  - e. Retail businesses.
  - f. The holder of a brewing, distillation, and fermentation course authorization under G.S. 18B-1114.6. A school obtaining a permit under this subdivision is authorized to sell malt beverages manufactured during its brewing, distillation, and fermentation program at one noncampus location in a county where the permittee holds and offers classes on a regular full-time basis in a facility owned by the permittee.
- (3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine permit authorizes (i) the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, and (ii) the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises, premises, and (iii) the retail sale of unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a cleaned, sanitized, resealable container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. The

permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another on-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The holder of the permit is authorized to ship unfortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

- a. Restaurants;
- b. Hotels;
- c. Eating establishments;
- d. Private clubs;
- e. Convention centers;
- f. Cooking schools;
- g. Community theatres;
- h. Wineries;
- i. Wine producers.

- (4) Off-Premises Unfortified Wine Permit. – An off-premises unfortified wine permit authorizes (i) the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises and it authorizes premises, (ii) the retail sale of unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a cleaned, sanitized, resealable container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled, and (iii) the holder of the permit to ship unfortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for retail businesses. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another off-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by off-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The permit may also be issued to the holder of a viticulture/enology course authorization under G.S. 18B-1114.4. A school obtaining a permit under this subdivision is authorized to sell wines manufactured during its viticulture/enology program at one non-campus location in a county where the permittee holds and offers classes on a regular full-time basis in a facility owned by the permittee. The permit may also be

issued for a winery or a wine producer for sale of its own unfortified wine during hours when the winery or wine producer's premises is open to the public, subject to any local ordinance adopted pursuant to G.S. 18B-1004(d) concerning hours for the retail sale of unfortified wine. A winery obtaining a permit under this subdivision is authorized to sell wine manufactured by the winery at one additional location in the county under the same conditions specified in G.S. 18B-1101(5) for the sale of wine at the winery; provided, however, that no other alcohol sales shall be authorized at the additional location. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision.

- ...
- (16) Wine Shop Permit. – A wine shop permit authorizes (i) the retail sale of malt beverages, unfortified wine, and fortified wine in the manufacturer's original container for consumption off the premises, (ii) the retail sale of malt beverages or unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas in a cleaned, sanitized, resealable container as defined in 4 NCAC 2T.0308(a) that is filled or refilled and sealed for consumption off the premises, complies with 4 NCAC 2T.0303, 4 NCAC 2T.0305, and 4 NCAC 2T.0308(d) (e), premises and the container that identifies the permittee and the date the container was filled or refilled, and (iii) wine tastings on the premises conducted and supervised by the permittee in accordance with subdivision (15) of this section. It also authorizes the holder of the permit to ship malt beverages, unfortified wine, and fortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for retail businesses whose primary purpose is selling malt beverages and wine for consumption off the premises and regularly and customarily educating consumers through tastings, classes, and seminars about the selection, serving, and storing of wine. The holder of the permit is authorized to sell unfortified wine for consumption on the premises, provided that the sale of wine for consumption on the premises does not exceed forty percent (40%) of the establishment's total sales for any 30-day period. The holder of a wine-tasting permit not engaged in the preparation or sale of food on the premises is not subject to Part 6 of Article 8 of Chapter 130A of the General Statutes.

...."

**SECTION 5.(b)** The North Carolina Alcoholic Beverage Control Commission rules regulating the retail sale of malt beverages in growlers shall apply to the retail sale of unfortified wine in growlers until such time as the Commission shall adopt administrative rules implementing this act.

#### **ALLOW ALTERNATING PROPRIETORSHIPS FOR BREWERIES**

**SECTION 6.** G.S. 18B-903 is amended by adding a new subsection to read:

"(c1) Construction of Change in Ownership. – Nothing in subsection (c) of this section shall be construed to limit alternating brewery proprietorships in which the holder of a brewery permit leases or otherwise makes available its facility to another holder of a brewery permit. In this arrangement, the tenant brewery shall maintain title to the malt beverages at all states of the brewing process and shall be responsible for all aspects associated with manufacturing the product, including maintaining appropriate records, obtaining label approval in its own name, and remitting the appropriate taxes. Alternating brewery proprietorships are authorized between affiliated breweries, but shall not be used as a means to allocate production quantities between affiliated breweries to obtain a malt beverage wholesaler permit pursuant to G.S. 18B-1104(8) where either brewery would not otherwise qualify for a permit, and the Commission shall have no authority to grant an exemption to this requirement pursuant to G.S. 18B-1116(b)."

#### **ALLOW THE HOLDER OF A BREWERY PERMIT TO SELL MALT BEVERAGES TO A NONRESIDENT WHOLESALER IF THE MALT BEVERAGES ARE SHIPPED**



**FROM THE BREWERY TO LICENSED WHOLESALERS AND CLARIFY THE LAW GOVERNING CHANGES IN OWNERSHIP AND CONTRACT BREWING**

**SECTION 7.** G.S. 18B-1104 reads as rewritten:

**"§ 18B-1104. Authorization of brewery permit.**

The holder of a brewery permit may:

- (1) Manufacture malt beverages.
- (2) Purchase malt, hops and other ingredients used in the manufacture of malt beverages.
- (3) Sell, deliver and ship malt beverages in closed containers to wholesalers licensed under this Chapter as authorized by the ABC laws, except that malt beverages may be sold to exporters and nonresident wholesalers only when the purchase is not for resale in this State. However, nothing in this subdivision shall prohibit the holder of a brewery permit from selling malt beverages to a nonresident wholesaler, nonresident malt beverage vendor, bottler, or other similar party for resale in this State if the malt beverages are shipped from the brewery to wholesalers licensed under this Chapter.
- (4) Receive malt beverages manufactured by the permittee in some other state for transshipment to dealers in other states.
- (5) Furnish or sell marketable malt beverage products, or packages which do not conform to the manufacturer's marketing standards, if State taxes have been or will be paid, to its employees for the use of the employees or their families and guests in this State.
- (6) Give its products to its employees and guests for consumption on its premises.
- (6a) Receive, in closed containers, and sell at the brewery, malt beverages produced inside or outside North Carolina under contract with a contract brewery. The contract brewery that manufactures the malt beverages shall be responsible for all aspects associated with manufacturing the product, including maintaining appropriate records, obtaining label approval in its own name, and remitting the appropriate taxes. The contract malt beverages may be sold also at affiliated retail outlets of the brewery physically located on or adjacent to the brewery. Any malt beverages received from a contract brewery under this subdivision shall be made available for sale by the brewery to wholesalers for distribution to retailers, without discrimination, in the same manner as if the malt beverages were being imported by the brewery. Contract brewing is authorized between affiliated breweries, but shall not be used as a means to allocate production quantities between affiliated breweries to obtain a malt beverage wholesaler permit pursuant to G.S. 18B-1104(8) where either brewery would not otherwise qualify for a permit, and the Commission shall have no authority to grant an exemption to this requirement pursuant to G.S. 18B-1116(b).
- (7) In an area where the sale of any type of alcoholic beverage is authorized by law, sell the brewery's malt beverages or malt beverages manufactured by the permittee in some other state that have been approved by the Commission for sale in North Carolina only at the brewery upon receiving a permit under G.S. 18B-1001(1).
- (8) Obtain a malt beverage wholesaler permit to sell, deliver, and ship at wholesale only malt beverages manufactured by the brewery. The authorization of this subdivision applies to a brewery that sells, to consumers at the brewery, to wholesalers, to retailers, and to exporters, fewer than 25,000 barrels, as defined in G.S. 81A-9, of malt beverages produced by it per year. A brewery not exceeding the sales quantity limitations in this subdivision may also sell the malt beverages manufactured by the brewery at not more than three other locations in the State, where the sale is legal, upon obtaining the appropriate permits under G.S. 18B-1001. A brewery operating any additional retail location pursuant to this subdivision shall also offer for sale at that location a reasonable selection of competitive malt beverage products.

A sale or gift under subdivision (5) or (6) shall not be considered a retail or wholesale sale under the ABC laws."

**AUTHORIZE THE ABC COMMISSION TO ISSUE GUEST ROOM CABINET PERMITS TO CERTAIN 18-HOLE GOLF COURSES**

**SECTION 8.** G.S. 18B-1001(13) reads as rewritten:

"(13) Guest Room Cabinet Permit. – A guest room cabinet permit authorizes a ~~hotel having a mixed beverages permit or a private club having a mixed beverages permit and management contracts for the rental of living units~~ guest room cabinet permittee to sell to its room guests, from securely locked cabinets, malt beverages, unfortified wine, fortified wine, and spirituous liquor. A permittee shall designate and maintain at least ten percent (10%) of the permittee's guest rooms as rooms that do not have a guest room cabinet. A permittee may dispense alcoholic beverages from a guest room cabinet only in accordance with written policies and procedures filed with and approved by the Commission. A permittee shall provide a reasonable number of vending machines, coolers, or similar machines on premises for the sale of soft drinks to hotel guests.

A guest room cabinet permit may be issued ~~for~~ to any of the following:

- a. A hotel (i) holding a mixed beverages permit and (ii) located in a county subject to G.S. 18B-600(f).
- b. A hotel (i) holding a mixed beverages permit and (ii) located in a county that has a population in excess of 150,000 by the last federal census.
- c. A ~~qualifying~~ private club (i) holding a mixed beverages permit, (ii) having management contracts for the rental of living units, and (iii) located in a county defined in G.S. 18B-101(13a)b.2.
- d. An 18-hole golf course (i) holding a mixed beverages permit or located in a county where ABC stores have heretofore been established but in which the sale of mixed beverages has not been approved, (ii) having management contracts for the rental of living units, and (iii) located in a county that has a population in excess of 20,000 people by the last federal census."

**EFFECTIVE DATE**

**SECTION 9.** Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8<sup>th</sup> day of June, 2015.

s/ Daniel J. Forest  
President of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

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Pat McCrory  
Governor

Approved \_\_\_\_\_, m. this \_\_\_\_\_ day of \_\_\_\_\_, 2015