

NORTH CAROLINA GENERAL ASSEMBLY
1963 SESSION

CHAPTER 426
HOUSE BILL 583

1 AN ACT TO AMEND ARTICLES 3, 4, 7, 8, 12 AND 13 OF CHAPTER 18 OF THE
2 GENERAL STATUTES RELATING TO ALCOHOLIC BEVERAGES.

3
4 The General Assembly of North Carolina do enact:

5
6 **Section 1.** G.S. 18-39.1, as the same appears in the 1961 Cumulative Supplement,
7 Volume 1C of the General Statutes, is hereby rewritten to read as follows:

8 "**§ 18-39.1. Special Peace Officers; Board Authorized to Commission Employees; No**
9 **Additional Compensation.** The State Board of Alcohol Control is hereby authorized and
10 empowered to commission as special peace officers such regular employees (including the
11 Chairman) as the State Board of Alcoholic Control may designate for the purpose of enforcing
12 the provisions of Chapter 18 of the General Statutes. Such employees shall receive no
13 additional compensation for performing the duties of peace officers."

14 **Sec. 2.** G.S. 18-39.2, as the same appears in the 1961 Cumulative Supplement,
15 Volume 1C of the General Statutes, is amended by rewriting the last sentence thereof to read as
16 follows:

17 "All special peace officers appointed by the State Board of Alcoholic Control shall have
18 State-wide jurisdiction in enforcing the provisions of Chapter 18."

19 **Sec. 3.** Subsection (5) of G.S. 18-75 is hereby amended by rewriting the first two
20 paragraphs thereof to read as follows:

21 "(5) A statement that the applicant is a citizen and resident of North Carolina and
22 not less than twenty one years of age; that he has not been convicted of, or
23 entered a plea of guilty or nolo contendere, to a felony or other crime
24 involving moral turpitude within the past three (3) years; or a violation of the
25 prohibition laws, either State or Federal, within the past two (2) years.

26 "The application must be verified by the affidavit of the petitioner made
27 before a notary public or other person duly authorized by law to administer
28 oaths. If it appears from the statement of the applicant or otherwise that he
29 has at any time been convicted of, or entered a plea of guilty or nolo
30 contendere to, a felony or other crime involving moral turpitude within the
31 past three (3) years, or that he has, within the two (2) years prior to the filing
32 of the application, been adjudged guilty of violating the prohibition laws,
33 either State or Federal, or that he has within two (2) years prior to the filing
34 of the application completed a sentence for violation of the prohibition laws,
35 such license shall not be granted. If it appears that any false statement is
36 knowingly made in any part of the application and license received thereon,
37 the license shall be revoked and the applicant subjected to the penalty
38 provided by law for misdemeanors. Before issuing a license, the governing
39 body of the municipality shall be satisfied that the statements required by
40 subsections (1), (2), (3), (4), and (5) of this Section are true."

41 **Sec. 4.** Subsection (a) of G.S. 18-78, as the same appears in the 1961 Cumulative
42 Supplement, Volume 1C of the General Statutes, is hereby rewritten to read as follows:

1 "(a) If any licensee violates any of the provisions of this Article or any rules and
2 regulations under authority of this Article or fails to superintend in person or through a
3 manager, the business for which the license was issued, or allows the premises, with respect to
4 which the license was issued, to be used for any unlawful, disorderly, or immoral purposes, or
5 knowingly employs in the sale or distribution of beverages any person who has been convicted
6 of, or entered a plea of guilty or nolo contendere to, a felony involving moral turpitude (Federal
7 or State) within the past three (3) years, or adjudged guilty of violating the prohibition laws
8 (Federal or State) within two (2) years, or leaves the licensed premises in charge of any person
9 who has had a license or permit for the sale of beverages revoked within the past two (2) years,
10 or otherwise fails to carry out in good faith the purposes of this Article, the license of any such
11 person may be revoked or suspended by the governing board of the municipality or by the
12 board of county commissioners after the licensee has been given an opportunity to be heard in
13 his defense."

14 **Sec. 5.** G.S. 18-78, as the same appears in the 1961 Cumulative Supplement,
15 Volume 1C of the General Statutes, is hereby amended by adding at the end thereof a new
16 subsection, designated as subsection (f), to read as follows:

17 "(f) Upon the appeal to the Superior Court of decisions of the board suspending or
18 revoking licenses or permits or disapproving applications for licenses or permits and the
19 appealing parties request a transcript of the entire record or a portion thereof, the same shall be
20 furnished to the appealing parties upon payment to the board of a fee of fifty cents (50¢) per
21 page, but in no event shall the minimum fee be less than twenty-five dollars (\$25.00) per copy
22 of the record."

23 **Sec. 6.** G.S. 18-78.1, as the same appears in the 1961 Cumulative Supplement,
24 Volume 1C of the General Statutes, is hereby amended by rewriting the Section title and first
25 four lines thereof to read as follows:

26 "**§ 18-78.1. Prohibited Acts Under License for the Sale of Malt Beverages and Wine on
27 and off Premises.** No holder of a license authorizing the sale at retail of beverages, as defined
28 in § 18-64, and Article 5, for consumption on or off the premises where sold, or any servant,
29 agent, or employee of the licensee, shall do any of the following upon the licensed premises:"

30 **Sec. 7.** G.S. 18-105 is hereby rewritten to read as follows:

31 "**§ 18-105. Sale Between Certain Hours Unlawful.** It shall be unlawful for any person, firm,
32 or corporation, licensed to sell beer and/or wine in North Carolina to sell, or offer for sale, any
33 beer and/or wine in North Carolina between the hours of 11:45 o'clock P. M. and 7:30 o'clock
34 A. M. every day."

35 **Sec. 8.** G.S. 18-106 is hereby rewritten to read as follows:

36 "**§ 18-106. Permitting Consumption on Premises During Certain Hours Unlawful.** It shall
37 be unlawful for any person, firm, or corporation, licensed to sell beer and/or wine in North
38 Carolina to permit or allow the consumption of any beer and/or wine at any time and in any
39 place in North Carolina under the control of, or being operated by, said licensee, between the
40 hours of 12:00 o'clock Midnight and 7:30 o'clock A. M."

41 **Sec. 9.** G.S. 18-107 is hereby amended by rewriting the first paragraph thereof to
42 read as follows:

43 "In addition to the restrictions on the sale of beer and/or wine set out in G.S. 18-105, the
44 governing bodies of all municipalities and counties in North Carolina shall have, and they are
45 hereby vested with, full power and authority to regulate and prohibit the sale of beer and/or
46 wine from 11:45 o'clock P. M. on each Saturday until 7:30 o'clock A. M. on the following
47 Monday."

48 **Sec. 10.** G.S. 18-109 is amended by rewriting subsections (7)(g) and(7)(k) to read
49 as follows:

50 "(7) (g). Any objections to the issuance of the permit to an applicant shall be
51 filed in writing with the board and the board shall not refuse to grant

1 any such permit except upon a hearing held after ten days' notice to
2 the applicant of the time and place of such hearing, which notice
3 shall contain a statement of the objections to granting such permit
4 and shall be served on the applicant by sending same to the applicant
5 by registered or certified mail to his last known post office address,
6 or by personal service by an agent of the board. The applicant shall
7 have the right to produce evidence in his behalf at the hearing and be
8 represented in person or by counsel;"

9 "(7) (k). Before the board may suspend or revoke any permit issued under the
10 provisions of this subsection, at least ten days' notice of such
11 proposed or contemplated action by the board shall be given to the
12 affected permittee. Such notice shall be in writing, shall contain a
13 statement in detail of the grounds or reasons for such proposed or
14 contemplated action of the board, and shall be served on the
15 permittee by sending the same to such permittee by registered or
16 certified mail to his last known post office address, or by personal
17 service by an agent of the board. The board shall in such notice
18 appoint a time and place when and at which the said permittee shall
19 be heard as to why the said permits shall not be suspended or
20 revoked. The permittee shall at such time and place have the right to
21 produce evidence in his behalf and to be represented by counsel;"

22 **Sec. 11.** G.S. 18-113 is amended by rewriting the third sentence thereof to read as
23 follows: "Provided, however, that when the board shall determine that any person has violated
24 any of the provisions hereof, before his permit shall be either suspended or revoked, he shall be
25 given ten days' written notice, by registered or certified mail or personal service by an agent of
26 the board, advising the permit holder of the charges against him and fixing a day, hour and
27 place for a hearing, which hearing shall be conducted by the board."

28 **Sec. 12.** Article 12, Chapter 18 of the North Carolina General Statutes, is hereby
29 rewritten to read as follows:

30 "ARTICLE 12.

31 **"G.S. 18-129. Power of State Board of Alcoholic Control to Regulate Distribution and**
32 **Sale of Wine and Malt Beverages; Determination of Qualifications of Applicant for**
33 **Permit, etc.** The State Board of Alcoholic Control shall be referred to herein as 'the Board', and
34 said board in addition to all powers now conferred upon it by law is hereby vested with
35 additional powers to regulate the distribution and sale of wine and malt beverages as follows:

36 "The distribution and sale of beer and wine in this State shall be subject to all existing laws
37 and the following additional authority and powers are hereby expressly granted to the board.

38 "The board shall have the sole power, in its discretion, to determine the fitness and
39 qualifications of an applicant for a permit to sell, manufacture or bottle beer or wine. The board
40 shall inquire into the character of the applicant, the location, general appearance and type of
41 place of business of the applicant.

42 **"§ 18-130. Application for Permit; Contents.** All resident bottlers, wineries or manufacturers
43 of beer or wine and all resident wholesalers and retailers of beer or wine shall file a written
44 application for a permit with the State Board of Alcoholic Control, and in the application shall
45 state under oath therein:

- 46 (1) The name and residence of the applicant and the length of his residence
47 within the State of North Carolina;
48 (2) The particular place for which the license is desired, designating the same by
49 street and number if practicable; if not, by such other apt description as
50 definitely locates it; and if said place is outside a municipality within the

1 county, the distance to the nearest church or public or private school from
2 said place;

- 3 (3) The name of the owner of the premises upon which the business licensed is
4 to be carried on, and, if the owner is not the applicant, that such applicant is
5 the actual and bona fide lessee of the premises;
- 6 (4) That the place or building in which it is proposed to do business conforms to
7 all laws of health and fire regulations applicable thereto, and is a safe and
8 proper place or building;
- 9 (5) That the applicant intends to carry on the business authorized by the permit
10 for himself or under his immediate supervision and direction;
- 11 (6) That the applicant has been a bona fide resident of this State for a period of
12 at least one (1) year immediately preceding the date of filing his application
13 and that he is not less than twenty-one years of age;
- 14 (7) The place of birth of applicant and that he is a citizen of the United States,
15 and, if a naturalized citizen, when and where naturalized;
- 16 (8) That the applicant has not been convicted of, or entered a plea of guilty or
17 nolo contendere to, a felony or other crime involving moral turpitude within
18 the past three (3) years; that the applicant's citizenship has been restored by
19 the court if he has been so deprived of it; that he has not, within the two (2)
20 years next preceding the filing of the application, been adjudged guilty of
21 violating the prohibition or liquor laws, either State or Federal; and it shall
22 be within the discretion of the board, after making investigation, to
23 determine whether or not any person who has ever been convicted of, or
24 entered a plea of guilty or nolo contendere to, a felony shall be deemed as a
25 suitable person to receive and hold a malt beverage or wine permit;
- 26 (9) That the applicant has not during the three (3) years next preceding the date
27 of said application had any permit or license issuable hereunder or any
28 license issued to him pursuant to the laws of this State, or any other state, to
29 sell alcoholic beverages of any kind revoked;
- 30 (10) That the applicant is not the holder of a Federal special tax liquor stamp;
- 31 (11) If the applicant is a firm, association or partnership, the application shall
32 state the matters required in subsections (6), (7), (8) and(9), with respect to
33 each of the members thereof, and each of said members must meet all of the
34 requirements in said subsections provided;
- 35 (12) If the applicant is a corporation, organized or authorized to do business in
36 this State, the application shall state the matters required in subsections (7),
37 (8) and (9), with respect to each of the officers and directors thereof, and any
38 stockholder owning more than twenty-five per cent (25%) of the stock of
39 such corporation,, and the person or persons who shall conduct and manage
40 the licensed premises for the corporation, and each of said persons must
41 meet all the requirements in said subsections provided; provided, however,
42 that the requirements as to residence shall not apply to said officers,
43 directors and stockholders of such corporation, however, such requirement
44 shall apply to any such officer, director or stockholder, agent or employee
45 who is also the manager and in charge of the premises for which permit is
46 applied for, but the board may, in its discretion, waive such requirement.

47 **"§ 18-131. Permit Required for Selling, Distributing, etc., Malt Beverages or Wine for**
48 **Purpose of Resale.** All manufacturers of malt beverages, or wine, wineries, brewers, bottlers of
49 malt beverages or wine, or any other persons selling or soliciting orders for, delivering or
50 distributing malt beverages or wine for the purpose of resale, whether on their own account or
51 for or on behalf of other persons, whether any of such manufacturers, brewers, bottlers, or other

1 persons are residents or nonresidents of this State shall, as a condition precedent to the sale, or
2 the offering for sale, or delivery, distribution or soliciting of orders for any malt beverages or
3 wine described in G.S. 18-64 and in Articles 4, 5 and 7 of this Chapter, apply for and obtain
4 from the State Board of Alcoholic Control a permit for the sale, distribution, soliciting orders
5 for or delivery of malt beverages or wine. The sale, distribution, soliciting orders for or delivery
6 of malt beverages or wine in this State without such a permit shall constitute a misdemeanor.
7 The board shall have the power to adopt, repeal, amend rules and regulations to carry out the
8 provisions of this Section, and the board may after hearing suspend or revoke this said permit
9 of any permittee for a violation of the provisions of the State Malt Beverage and Wine Laws or
10 of any rule or regulation adopted by said board.

11 "The fact that any brewery, winery, manufacturer or bottler of malt beverages or wine has
12 applied for or obtained a permit under the provisions of this Article shall not be construed as
13 domesticating said brewery, manufacturer or bottler, and shall not be evidence for any other
14 purpose that such brewery, manufacturer or bottler is doing business in North Carolina.

15 **"§ 18-132. Application to be Verified; Refusal or Revocation of Permit, Penalty for False**
16 **Statement; Independent Investigation of Applicant.** The application must be verified by the
17 affidavit of the applicant before a notary public or other person duly authorized by law to
18 administer oaths. The foregoing provisions and requirements are mandatory prerequisites for
19 the issuance of a permit and in the event any applicant fails to qualify under the same, or if any
20 false statement is knowingly made in any application, permit shall be refused. If a permit is
21 granted on any application, containing a false statement knowingly made, said permit shall be
22 revoked and the applicant upon conviction shall be guilty of a misdemeanor and subject to the
23 penalty provided by law for misdemeanors. In addition to the information furnished in any
24 application, the chief of the wine and malt beverage division shall make such additional and
25 independent investigation of each applicant, and of the place to be occupied, as deemed
26 necessary or advisable.

27 **"§ 18-133. Permit Revoked if Federal Special Tax Liquor Stamp Procured.** If an applicant,
28 after obtaining a permit, shall procure a Federal special tax liquor stamp, the board shall revoke
29 his permit forthwith.

30 **"§ 18-134. Notice of Intent to Apply for Permit: Posting or Publication of Notice;**
31 **Objections to Issuance of Permit and Hearing Thereon.** Every person intending to apply for
32 any permit to sell beer or wine at retail hereunder shall, not more than thirty (30) days and not
33 less than ten (10) days before applying to the board for such permit, give written notice of such
34 intention to the county and municipal authorities in which applicant proposes to maintain his
35 business, and shall post a notice of such intention on the front door of the building, place or
36 room where he proposes to engage in such business, or publish such notice at least once in a
37 newspaper published in or having a general circulation in the county, city or town wherein such
38 persons propose to engage in such business.

39 "Any objections to the issuance of the permit to any applicant shall be filed in writing with
40 the board and the board shall not refuse to grant any such permit except upon a hearing, if
41 requested in writing by applicant, held after ten days' notice to the applicant of the time and
42 place of such hearing, which notice shall contain a statement of the objections to granting such
43 permit and shall be served on the applicant by sending same to the applicant by registered mail
44 to the address given in his application or by personal service by an agent of the board. The
45 applicant shall have the right to produce evidence in his behalf at the hearing and be
46 represented in person or by counsel.

47 **"§ 18-135. Certification to Department of Revenue of Permits Issued; Issuance of**
48 **License; Revocation of Permit or License.** The board shall certify to the Department of
49 Revenue the names, locations and addresses of all persons to whom the board has issued
50 permits, and no license issued to an applicant shall be valid until the applicant has obtained the
51 permits as provided by this Article.

1 "Provided, however, that when a permit has been issued by the board the permittee, upon
2 payment of fees now provided by law, shall have license issued to him by the Commissioner of
3 Revenue and by the governing body of any county or municipality wherein said permittee shall
4 conduct his business. In all cases where a permit is revoked by the board, such revocation shall
5 render void any State, county or municipal license issued hereunder and in the event any county
6 or municipality through its governing body shall for cause revoke any license such revocation
7 shall automatically revoke any other malt beverage or wine license or permit held by the
8 licensee.

9 "Provided, further, however, that the jurisdiction herein conferred upon the board to revoke
10 or suspend permits shall not preclude the governing body of any county or municipality from
11 revoking or suspending the license of any retail licensee within its jurisdiction for violating any
12 existing law regulating the sale of malt beverages or wine or of the provisions of this Article. In
13 any proceeding before such governing body for the revocation or suspension of a retailer's
14 license, the licensee shall be given due notice of the charges against him and be given an
15 opportunity to appear personally and by counsel in his defense.

16 **"§ 18-136. Refusal, Suspension or Revocation of Permit Upon Personal Disqualification,
17 etc.** The board may refuse to issue a new permit or may suspend or revoke any permit issued by
18 it if in the discretion of the board it is of the opinion that the applicant or permittee is not a
19 suitable person to hold such permit or that the place occupied by the applicant or permittee is
20 not a suitable place.

21 **"G.S. 18-137. Hearing Upon Suspension or Revocation of Permit.** Before the board may
22 suspend or revoke any permit issued under the provisions of this Article, at least ten days'
23 notice of such proposed or contemplated action by the board shall be given to the affected
24 permittee. Such notice shall be in writing, shall contain a statement in detail of the grounds or
25 reasons for such proposed or contemplated action of the board, and shall be served on the
26 permittee by sending the same to such permittee by registered or certified mail to his last
27 known post office address or by personal service by an agent of the board. The board shall in
28 such notice appoint a time and place when and at which the said permittee shall be heard as to
29 why the said permit shall not be suspended or revoked. The permittee shall at such time and
30 place have the right to produce evidence in his behalf and to be represented by council.

31 **"G.S. 18-138. Rules and Regulations for Enforcement of Article.** The board is hereby
32 vested with power to adopt rules and regulations for carrying out the provisions of this Article,
33 but not inconsistent herewith, and to amend or repeal such regulation. Every regulation or
34 amendment thereto adopted by the board shall become effective on the tenth day after the date
35 of its adoption and the filing of a certified copy thereof in the office of the Secretary of State.

36 **"G.S. 18-139. Effect of Article on Existing Local Regulations as to Sale of Beer and Wine.**
37 Nothing in this Article shall require any county or municipality to issue licenses for any
38 territory where the sale of beer or wine is prohibited by special legislative Act or for any area
39 where the sale or possession for the purpose of sale of beer or wine is unlawful as a result of
40 local option election, and this Article shall not repeal any special, public-local or private Act
41 prohibiting or regulating the sale of beer or wine in any county in this State, or any Act
42 authorizing the board of commissioners of any county of this State, or the governing body of
43 any municipality, in its discretion, to prohibit the sale of beer or wine.

44 **"G.S. 18-140. Chief of Wine and Malt Beverage Division and Assistants; Inspectors.** (a)
45 To more adequately insure the strict enforcement of the regulations of the board and of the
46 provisions of this Article, the board shall appoint a person to be known and designated as 'Chief
47 of Wine and Malt Beverage Division', who shall be in charge of the administration of such
48 division. Said board, in addition to said chief of wine and malt beverage division, may appoint
49 one or more assistants to the chief of the wine and malt beverage division, all of whom shall
50 have full authority to make investigations, hold hearings and to make findings of fact. Upon the
51 approval of the said board of the findings and orders of suspension or revocation of the permit

1 of any licensee, such findings of said chief, assistant or assistants shall be deemed to be the
2 findings and the order of the board. The board shall employ an adequate number of field men to
3 be designated as 'inspectors', not less than fifteen in number who shall devote their full time to
4 the enforcement of the provisions of this Article and such rules and regulations as may be
5 promulgated thereunder by the board.

6 "(b) Such inspectors shall investigate the operation of the licensed premises of all
7 persons licensed under any Article of Chapter 18, examine the books and records of such
8 licensee, procure evidence with respect to the violation of this Article or any rules and
9 regulations adopted thereunder and perform such other duties as the board may direct. Such
10 inspectors shall have the right to enter any such licensed premises in the State in the
11 performance of their duty at any hour of the day or night Refusal by such permittee or by any
12 other employee of a permittee to permit such inspectors to enter the premises shall be cause for
13 revocation or suspension of the permit of such permittee. The inspectors so appointed shall,
14 after taking the oath prescribed for peace officers, have the same power and authority in the
15 enforcement of this Article as other peace officers.

16 "(c) All Alcoholic Beverage Control officers now employed or who may hereafter be
17 employed may be used by the board as inspectors in counties and cities having Alcoholic
18 Beverage Control stores in addition to the other inspectors provided for under this Article, and
19 shall be vested with all powers and authority as herein vested in inspectors.

20 "**§ 18-141. Sale and Consumption of Beer or Wine During Certain Hours Prohibited.** No
21 beer or wine shall be sold between the hours of 11:45 o'clock P. M. and 7:30 o'clock A. M., nor
22 shall any beer or wine be consumed in any place where beer or wine is sold between the hours
23 of 12:00 o'clock Midnight and 7:30 o'clock A. M.

24 "**G.S. 18-142. Keeping Places of Business Clean, etc.** The board shall require that all retail
25 permit holders keep their places of business clean, well lighted and in an orderly manner."

26 **Sec 13.** G.S. 18-146 is hereby rewritten to read as follows:

27 "**G.S. 18-146. Qualifications of Applicant.** Such salesman shall be twenty-one years of age, a
28 citizen of the United States, and no salesman s permit shall be issued to any person who has
29 been convicted within two (2) years, preceding the filing of his application, of violating the
30 State or Federal prohibition laws, or who has been convicted of, or entered a plea of guilty or
31 nolo contendere to, a felony or of any crime involving moral turpitude within the past three (3)
32 years and without restoration of his citizenship by the court. No salesman's permit shall be
33 issued to any person whose permit or license issued to him pursuant to the laws of this State or
34 any other state to sell alcoholic beverages of any kind has been revoked during the three (3)
35 years next preceding the date of application for a permit."

36 **Sec. 14.** All laws and clauses of laws in conflict with this Act are hereby repealed.

37 **Sec. 15.** This Act shall be in full force and effect from and after its ratification.

38 In the General Assembly read three times and ratified, this the 15th day of May,
39 1963.