

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

2

HOUSE BILL 1322
Second Edition Engrossed 6/11/92

Short Title: ABC Law Changes.

(Public)

Sponsors: Representatives Gamble, Colton, Jarrell, Kerr, Luebke, and Tallent.

Referred to: Finance.

May 27, 1992

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE AMOUNT OF BEER A MINI-BREWERY CAN SELL
TO CONSUMERS AT THE BREWERY AND TO MAKE TECHNICAL AND
CONFORMING CHANGES TO THE ALCOHOLIC BEVERAGE LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18B-101(10) reads as rewritten:

"(10) 'Mixed beverage' means a-either of the following:

a. A drink composed in whole or in part of spirituous liquor and served in a quantity less than the quantity contained in a closed package.

b. A premixed cocktail served from a closed package containing only one serving."

Sec. 2. G.S. 18B-404 reads as rewritten:

"§ 18B-404. Additional provisions for purchase and transportation by mixed beverage permittees.

(a) Designated Employee. – A mixed beverages permittee may designate an employee to purchase and transport spirituous liquor as authorized by ~~his~~ the permittee's permit.

(b) Issuance. – If mixed beverages sales have been approved for an establishment under the last paragraph of G.S. 18B-603(d) or under G.S. 18B-603(e), the purchase-transportation permit for that establishment may be issued by the local board of any city located in the same county as the establishment, provided the city has approved the sale of mixed beverages. Otherwise a licensed establishment may obtain a mixed beverages

1 purchase-transportation permit only from the local board for the jurisdiction in which it
2 is located.

3 (c) Designated Store. – A local board may designate a store within its system to
4 make sales to mixed beverages permittees.

5 (d) Size of Bottles. – A purchase-transportation permit for a mixed beverages
6 permittee shall authorize the purchase and transportation only of ~~375-355~~ milliliter or
7 larger containers. A purchase-transportation permit for a mixed beverages permittee
8 who is also a guest room cabinet permittee may authorize the purchase and
9 transportation of containers in sizes approved by the Commission.

10 ~~(d1) (1) Size of Bottles.—A purchase-transportation permit for a~~
11 ~~mixed beverages permittee shall authorize the purchase and~~
12 ~~transportation only of 375 milliliter or larger containers.—A~~
13 ~~purchase-transportation permit for a mixed beverages permittee~~
14 ~~who is also a guest room cabinet permittee may authorize the~~
15 ~~purchase and transportation of containers in sizes approved by~~
16 ~~the Commission.~~

17 ~~(2) This subsection applies to those counties subject to G.S. 18B-~~
18 ~~600(f). This subsection also applies to those counties which have a~~
19 ~~population in excess of 150,000 by the last federal census."~~

20 Sec. 3. G.S. 18B-804(b)(9) reads as rewritten:

21 "(9) If the spirituous liquor is sold to a guest room cabinet permittee for
22 resale, a charge of twenty dollars (\$20.00) on each four liters and a
23 proportional sum on lesser quantities. ~~This subdivision applies to~~
24 ~~those counties subject to G.S. 18B-600(f). This subdivision also applies~~
25 ~~to those counties which have a population in excess of 150,000 by the~~
26 ~~last federal census."~~

27 Sec. 4. G.S. 18B-805 reads as rewritten:

28 "**§ 18B-805. Distribution of revenue.**

29 (a) Gross Receipts. – As used in this section, 'gross receipts' means all revenue of
30 a local board, including proceeds from the sale of alcoholic beverages, investments,
31 interest on deposits, and any other source.

32 (b) Primary Distribution. – Before making any other distribution, a local board
33 shall first pay the following from its gross receipts:

34 (1) The board shall pay the expenses, including salaries, of operating
35 the local ABC system.

36 (2) Each month the local board shall pay to the Department of Revenue
37 the taxes due the Department. In addition to the taxes levied under
38 Chapter 105 of the General Statutes, the local board shall pay to the
39 Department one-half of both the mixed beverages surcharge
40 required by G.S. ~~18B-804(b)(8).~~ 18B-804(b)(8) and the guest room
41 cabinet surcharge required by G.S. 18B-804(b)(9).

42 (3) Each month the local board shall pay to the Department of Human
43 Resources five percent (5%) of both the mixed beverages surcharge
44 required by G.S. ~~18B-804(b)(8).~~ 18B-804(b)(8) and the guest room

1 cabinet surcharge required by G.S. 18B-804(b)(9). The Department
2 of Human Resources shall spend those funds for the treatment of
3 alcoholism or substance abuse, or for research or education on
4 alcohol or substance abuse.

- 5 (4) Each month the local board shall pay to the county commissioners
6 of the county where the charge is collected the proceeds from the
7 bottle charge required by G.S. 18B-804(b)(6), to be spent by the
8 county commissioners for the purposes stated in subsection (h) of
9 this section.

10 (c) Other Statutory Distributions. – After making the distributions required by
11 subsection (b), a local board shall make the following quarterly distributions from the
12 remaining gross receipts:

- 13 (1) Before making any other distribution under this subsection, the
14 local board shall set aside the clear proceeds of the three and one-
15 half percent (3 1/2%) markup provided for in G.S. 18B-804(b)(5)
16 and the bottle charge provided for in G.S. 18B-804(b)(6b), to be
17 distributed as part of the remaining gross receipts under subsection
18 (e) of this section.

- 19 (2) The local board shall spend for law enforcement an amount set by
20 the board which shall be at least five percent (5%) of the gross
21 receipts remaining after the distribution required by subdivision
22 (1). Notwithstanding the provisions of any local act, this provision
23 shall apply to all local boards.

- 24 (3) The local board shall spend, or pay to the county commissioners to
25 spend, for the purposes stated in subsection (h), an amount set by
26 the board which shall be at least seven percent (7%) of the gross
27 receipts remaining after the distribution required by subdivision
28 (1). This provision shall not be applicable to a local board which is
29 subject to a local act setting a different distribution.

30 (d) Working Capital. – After making the distributions provided for in subsections
31 (b) and (c), the local board may set aside a portion of the remaining gross receipts,
32 within the limits set by the rules of the Commission, as cash to operate the ABC system.
33 With the approval of the appointing authority for the board, the local board may also set
34 aside a portion of the remaining gross receipts as a fund for specific capital
35 improvements.

36 (e) Other Distributions. – After making the distributions provided in subsections
37 (b), (c), and (d), the local board shall pay each quarter the remaining gross receipts to
38 the general fund of the city or county for which the board is established, unless some
39 other distribution or some other schedule is provided for by law. If the governing body
40 of each city and county receiving revenue from an ABC system agrees, those governing
41 bodies may alter at any time the distribution to be made under this subsection or under
42 any local act. Copies of the governing body resolutions agreeing to a new distribution
43 formula and a copy of the approved new distribution formula shall be submitted to the
44 Commission for review and audit purposes. If any one of the governing bodies later

1 withdraws its consent to the change in distribution, profits shall be distributed according
2 to the original formula, beginning with the next quarter.

3 (f) ~~Mixed Beverage Surcharge Profit Shared.~~ – When, pursuant to the last
4 paragraph of G.S. 18B-603(d), spirituous liquor is bought at a city ABC store by a
5 mixed beverages permittee for premises located outside the city, the local board
6 operating the store at which the sale is made shall retain seventy-five percent (75%) of
7 the local share of both the mixed beverages surcharge required by G.S. 18B-804(b)(8)
8 and the guest room cabinet surcharge required by G.S. 18B-804(b)(9) and the remaining
9 twenty-five percent (25%) shall be divided equally among the local ABC boards for all
10 other cities in the county that have authorized the sale of mixed beverages.

11 When, pursuant to G.S. 18B-603(e), spirituous liquor is bought at a city ABC store
12 by a mixed beverages permittee for premises located at an airport outside the city, the
13 local share of both the mixed beverages surcharge required by G.S. 18B-804(b)(8) and
14 the guest room cabinet surcharge required by G.S. 18B-804(b)(9) shall be divided
15 equally among the local ABC boards for all cities in the county that have authorized the
16 sale of mixed beverages.

17 (g) Quarterly Distributions. – When this section requires a distribution to be
18 made quarterly, at least ninety percent (90%) of the estimated distribution shall be paid
19 to the recipient by the local board within 30 days of the end of that quarter. Adjustments
20 in the amount to be distributed resulting from the closing of the books and from audit
21 shall be made with the next quarterly payment.

22 (h) Expenditure of Alcoholism Funds. – Funds distributed under subdivisions
23 (b)(4) and (c)(3) of this section shall be spent for the treatment of alcoholism or
24 substance abuse, or for research or education on alcohol or substance abuse. The
25 minutes of the board of county commissioners or local board spending funds allocated
26 under this subsection shall describe the activity for which the funds are to be spent. Any
27 agency or person receiving funds from the county commissioners or local board under
28 this subsection shall submit an annual report to the board of county commissioners or
29 local board from which funds were received, describing how the funds were spent.

30 (i) Calculation of Statutory Distributions When Liquor Sold at Less Than
31 Uniform Price. – If a local board sells liquor at less than the uniform State price,
32 distributions required by subsections (b) and (c) shall be calculated as though the liquor
33 was sold at the uniform price."

34 Sec. 5. G.S. 18B-902(d)(30) reads as rewritten:

35 "(30) Guest room cabinet permit. – \$750.00. ~~This subdivision applies to~~
36 ~~those counties subject to G.S. 18B-600(f). This subdivision also~~
37 ~~applies to those counties which have a population in excess of~~
38 ~~150,000 by the last federal census."~~

39 Sec. 6. G.S. 18B-903 reads as rewritten:

40 "**§ 18B-903. Duration of permit; renewal and transfer.**

41 (a) Duration. – Once issued, ABC permits shall be valid for the following
42 periods, unless earlier surrendered, suspended or revoked:

- 1 (1) On-premises and off-premises malt beverage, unfortified wine, and
2 fortified wine permits; culinary permits; and all permits listed in
3 G.S. 18B-1100 shall remain valid indefinitely;
- 4 (2) Limited special occasion permits shall be valid for 48 hours before
5 and after the occasion for which the permit was issued;
- 6 (3) Special one-time permits issued under G.S. 18B-1002 shall be valid
7 for the period stated on the permit;
- 8 (4) Temporary permits issued under G.S. 18B-905 shall be valid for 90
9 days; and
- 10 (5) All other ABC permits shall be valid for one year, from May 1 to
11 April 30.

12 (b) Renewal. – Application for renewal of an ABC permit shall be on a form
13 provided by the Commission. An application for renewal shall be accompanied by an
14 application fee of twenty-five percent (25%) of the original application fee set in G.S.
15 18B-902, except that the renewal application fee for a each mixed beverages permit and
16 each guest room cabinet permit shall be five hundred dollars (\$500.00). A renewal fee
17 shall not be refundable.

18 ~~(b1) Renewal. – Application for renewal of an ABC permit shall be on a form~~
19 ~~provided by the Commission. An application for renewal shall be accompanied by an~~
20 ~~application fee of twenty five percent (25%) of the original application fee set in G.S.~~
21 ~~18B-902, except that the renewal application fee for each mixed beverages permit and~~
22 ~~each guest room cabinet permit shall be five hundred dollars (\$500.00). A renewal fee~~
23 ~~shall not be refundable.~~

24 ~~This subsection applies to those counties subject to G.S. 18B-600(f). This~~
25 ~~subsection also applies to those counties which have a population in excess of 150,000~~
26 ~~by the last federal census.~~

27 (c) Change in Ownership. – All permits for an establishment shall automatically
28 expire and shall be surrendered to the Commission if:

- 29 (1) Ownership of the establishment changes; or
- 30 (2) There is a change in the membership of the firm, association or
31 partnership owning the establishment, involving the acquisition of
32 a twenty-five percent (25%) or greater share in the firm, association
33 or partnership by someone who did not previously own a twenty-
34 five percent (25%) or greater share; or
- 35 (3) Twenty-five percent (25%) or more of the stock of the corporate
36 permittee owning the establishment is acquired by someone who
37 did not previously own twenty-five percent (25%) or more of the
38 stock.

39 (d) Change in Management. – A corporation holding a permit for an
40 establishment for which the manager is required to qualify as an applicant under G.S.
41 18B-900(c) shall, within 30 days after employing a new manager, submit to the
42 Commission an application for substitution of a manager. The application shall be
43 signed by the new manager, shall be on a form provided by the Commission, and shall
44 be accompanied by a fee of ten dollars (\$10.00). The fee shall not be refundable.

1 (e) Transfer. – An ABC permit may not be transferred from one person to
2 another or from one location to another.

3 (f) Lost Permits. – The Commission may issue duplicate ABC permits for an
4 establishment when the existing valid permits have been lost or damaged. The request
5 for duplicate permits shall be on a form provided by the Commission, certified by the
6 permittee and the Alcohol Law Enforcement Division, and accompanied by a fee of ten
7 dollars (\$10.00).

8 (g) Name Change. – The Commission may issue new permits to a permittee upon
9 application and payment of a fee of ten dollars (\$10.00) for each location when the
10 permittee's name or name of the business is changed."

11 Sec. 7. G.S. 18B-1001(13) reads as rewritten:

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

24 A guest room cabinet permit may be issued for any of the
25 following:

- 26 a. A hotel located in a county ~~This subdivision applies to those~~
27 ~~counties~~ subject to G.S. 18B-600(f).
28 b. A hotel located in a county that has ~~This subdivision also applies~~
29 ~~to those counties which have a population in excess of 150,000 by~~
30 ~~the last federal census."~~

31 Sec. 8. G.S. 18B-1007 reads as rewritten:

32 "**§ 18B-1007. Additional requirements for mixed beverages permittees.**

33 (a) Purchases. – A mixed beverages permittee may purchase spirituous liquor for
34 resale as mixed beverages and a guest room cabinet permittee may purchase spirituous
35 liquor for resale from a guest room cabinet only at an ABC store designated by a local
36 board and only with a purchase-transportation permit issued by that local board under
37 G.S. 18B-403 and 18B-404.

38 (b) Handling Bottles. – It shall be unlawful for a mixed beverages permittee or
39 ~~his~~ the permittee's agent or employee to do any of the following:

- 40 (1) Store any other spirituous liquor with liquor possessed for resale in
41 mixed beverages;
42 (1a) ~~Store any other spirituous liquor with liquor possessed for resale in~~
43 ~~mixed beverages or from a guest room cabinet. This subdivision~~
44 ~~applies to those counties subject to G.S. 18B-600(f). This subdivision~~

1 ~~also applies to those counties which have a population in excess of~~
2 ~~150,000 by the last federal census.~~

3 (2) Refill any spirituous liquor container having a mixed beverages tax
4 stamp with any other alcoholic beverage, or add to the contents of such
5 a container any other alcoholic ~~beverage;~~ beverage.

6 (3) Transfer from one container to another a mixed beverages tax stamp.

7 (c) Price List. – Each mixed beverages permittee shall have available for its
8 customers the printed prices of the most common or popular mixed beverages offered
9 for sale by the permittee. Violation of this subsection shall not be a criminal offense, but
10 shall be punishable under G.S. 18B-104.

11 (d) When a temporary mixed beverages permit has been issued to a new
12 permittee for the continuation of a business at the same location, the permittee going out
13 of business may sell existing mixed beverages inventory to the new permittee, and the
14 Commission may request that the local ABC board restamp the inventory with the
15 mixed beverages tax stamp assigned by the local board to the new mixed beverages
16 permittee."

17 Sec. 9. G.S. 18B-1104(7) reads as rewritten:

18 "(7) In areas where the sale is legal, sell the brewery's malt beverages at the
19 brewery upon receiving a permit under G.S. 18B-1001(1). This
20 authorization ~~shall apply~~ applies to breweries—a brewery that produce
21 ~~fewer than 62,000 gallons of malt beverages per year.~~ sells, to consumers
22 at the brewery, to wholesalers, and to importers."

23 Sec. 10. This act is effective upon ratification.