

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 253*

Short Title: ABC LRC Study Recommendations.

(Public)

Sponsors: Representatives Hensley, Morgan, Lemmond, Black, Sutton, Michaux, Grady (Co-sponsors); and Hill.

Referred to: Judiciary II.

February 23, 1995

A BILL TO BE ENTITLED
AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE LEGISLATIVE
RESEARCH COMMISSION COMMITTEE ON ALCOHOLIC BEVERAGE
CONTROL.

The General Assembly of North Carolina enacts:

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

"§ 18B-101. Definitions.

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

- (1) 'ABC law' or 'ABC laws' means any statute or statutes in this Chapter or in Article 2C of Chapter 105, and the rules issued by the Commission under the authority of this Chapter.
- (2) 'ABC permit' or 'permits' means any written or printed authorization issued by the Commission pursuant to the provisions of this Chapter, other than a purchase-transportation permit. Unless the context clearly requires otherwise, as in the provisions concerning applications for permits, 'ABC permit' or 'permit' means a presently valid permit.
- (3) 'ABC system' means a local board and all ABC stores operated by it, its law-enforcement branch, and all its employees.

- 1 (4) 'Alcoholic beverage' means any beverage containing at least one-half of
2 one percent (0.5%) alcohol by volume, including malt beverages,
3 unfortified wine, fortified wine, spirituous liquor, and mixed beverages.
- 4 (5) 'ALE Division' means the Alcohol Law Enforcement Division of the
5 Department of Crime Control and Public Safety.
- 6 (5a) 'Bailment surcharge' means the charge imposed on each case of liquor
7 shipped from a Commission warehouse as provided in G.S. 18B-208.
8 This bailment surcharge is in addition to the bailment charge imposed
9 by G.S. 18B-804(b)(2).
- 10 (6) 'Commission' means the North Carolina Alcoholic Beverage Control
11 Commission established under G.S. 18B-200.
- 12 (7) 'Fortified wine' means any wine made by fermentation from grapes,
13 fruits, berries, rice, or honey, to which nothing has been added other
14 than pure brandy made from the same type of grape, fruit, berry, rice, or
15 honey that is contained in the base wine, and which has an alcoholic
16 content of not more than twenty-four percent (24%) alcohol by volume.
- 17 (8) 'Local board' means a city or county ABC board, or local board created
18 pursuant to the provisions of G.S. 18B-703. A local board is an
19 independent local political subdivision of the State. Nothing in this
20 Chapter shall be construed as constituting a local board the agency of a
21 city or county or of the Commission.
- 22 (9) 'Malt beverage' means beer, lager, malt liquor, ale, porter, and any other
23 brewed or fermented beverage containing at least one-half of one
24 percent (0.5%), and not more than six percent (6%), alcohol by volume.
- 25 (10) 'Mixed beverage' means either of the following:
26 a. A drink composed in whole or in part of spirituous liquor and
27 served in a quantity less than the quantity contained in a closed
28 package.
29 b. A premixed cocktail served from a closed package containing
30 only one serving.
- 31 (11) 'Nontaxpaid alcoholic beverage' means any alcoholic beverage upon
32 which the taxes imposed by the United States, this State, or any other
33 territorial jurisdiction in which the alcoholic beverage was purchased
34 have not been paid.
- 35 (12) 'Person' means an individual, firm, partnership, association, corporation,
36 limited liability company, other organization or group, or other
37 combination of individuals acting as a unit.
- 38 (13) 'Sale' means any transfer, trade, exchange, or barter, in any manner or
39 by any means, for consideration.
- 40 (13a) 'Special ABC area' means an area that meets all of the following
41 requirements:
42 a. Has fewer than 500 permanent residents.

- 1 b. Is located in a county that borders another state, that has at least
2 one city that has approved the operation of an ABC store, and in
3 which the sale of unfortified wine and malt beverages is
4 permitted countywide or in at least two cities.
- 5 c. Contains more than 500 contiguous acres made up of privately-
6 owned land and land owned by an association or a club that is
7 exempt from income tax on its membership income under Article
8 4 of Chapter 105 of the General Statutes, has more than 200
9 members, was created for municipal and recreational purposes,
10 and, for three or more years, has levied assessments or dues and
11 provided municipal services.
- 12 (14) 'Spirituous liquor' or 'liquor' means distilled spirits or ethyl alcohol,
13 including spirits of wine, whiskey, rum, brandy, gin and all other
14 distilled spirits and mixtures of cordials, liqueur, and premixed
15 cocktails, in closed containers for beverage use regardless of their
16 dilution.
- 17 (14a) 'Tourism ABC establishment' means a restaurant or hotel that meets
18 both of the following requirements:
- 19 a. Is located within 1.5 miles of the end of an entrance or exit ramp
20 of a junction on a national scenic parkway designed to attract
21 local, State, national, and international tourists between Milepost
22 305 and 460.
- 23 b. Is located in a county in which the on-premises sale of malt
24 beverages or unfortified wine is authorized in at least one city.
- 25 (15) 'Unfortified wine' means wine that has an alcoholic content produced
26 only by natural fermentation or by the addition of pure cane, beet, or
27 dextrose sugar, ~~and that has an alcoholic content of not more than seventeen~~
28 percent (17%) alcohol by volume. sugar."

29 Sec. 2. G.S. 18B-500(a) reads as rewritten:

30 "(a) Appointment. – The Secretary of Crime Control and Public Safety shall
31 appoint alcohol law-enforcement agents and other enforcement personnel. The Secretary
32 of Crime Control and Public Safety may also appoint regular employees of the
33 Commission as alcohol law-enforcement agents. Alcohol law-enforcement agents shall
34 be designated as 'alcohol law-enforcement agents.'"

35 Sec. 3. G.S. 18B-501(a) reads as rewritten:

36 "(a) Appointment. – Except as provided in subsection (f), each local board shall
37 hire one or more ABC enforcement officers. Local ABC enforcement officers shall be
38 designated as 'ABC Officers.' The local board may designate one officer as the chief
39 ABC officer for that board."

40 Sec. 4. G.S. 18B-501(f) reads as rewritten:

41 "(f) Contracts with Other Agencies. – Instead of hiring local ABC officers, a local
42 board may contract to pay its enforcement funds to a sheriff's department, city police
43 department, or other local law-enforcement agency for enforcement of the ABC laws

1 within the law-enforcement agency's territorial jurisdiction. Enforcement agreements
2 may be made with more than one agency at the same time. When such a contract for
3 enforcement exists, the officers of the contracting law-enforcement agency shall have the
4 same authority to inspect under G.S. 18B-502 that an ABC officer employed by that local
5 board would have. If a city located in two or more counties approves the sale of some
6 type of alcoholic beverage pursuant to the provisions of G.S. 18B-600(e4), and there are
7 no local ABC boards established in the city and one of the counties in which the city is
8 located, the local ABC board of any county in which the city is located may enter into an
9 enforcement agreement with the city's police department for enforcement of the ABC
10 laws within the entire city, including that portion of the city located in the county of the
11 ABC board entering into the enforcement agreement."

12 Sec. 5. G.S. 18B-603(d) reads as rewritten:

13 "(d) Mixed Beverage Elections. – If a mixed beverage election is held under G.S.
14 18B-602(h) and the sale of mixed beverages is approved, the Commission may issue
15 permits to qualified persons and establishments in the jurisdiction that held the election as
16 follows:

- 17 (1) The Commission may issue mixed beverage permits.
- 18 (2) The Commission may issue on-premises malt beverage, unfortified
19 wine, and fortified wine permits for establishments with mixed beverage
20 permits, regardless of any other election or any local act concerning
21 sales of those kinds of alcoholic beverages.
- 22 (3) The Commission may issue off-premises malt beverage permits to any
23 establishment that meets the requirements under G.S. 18B-1001(2) in
24 any township which has voted to permit the sale of mixed beverages,
25 regardless of any other local act concerning sales of those kinds of
26 alcoholic beverages. The Commission may also issue off-premises
27 unfortified wine permits to any establishment that meets the
28 requirements under G.S. 18B-1001(4) in any township which has voted
29 to permit the sale of mixed beverages, regardless of any other local act
30 concerning sales of those kinds of alcoholic beverages.
- 31 (4) The Commission may issue brown-bagging permits for private clubs
32 and congressionally chartered veterans organizations but may no longer
33 issue and may not renew brown-bagging permits for restaurants, hotels,
34 and community theatres. A restaurant, hotel, or community theatre may
35 not be issued a mixed beverage permit under subdivision (1) until it
36 surrenders its brown-bagging permit.
- 37 (5) The Commission may continue to issue culinary permits for
38 establishments that do not have mixed beverage permits. An
39 establishment may not be issued a mixed beverage permit under
40 subdivision (1) until it surrenders its culinary permit.

41 In any county in which the sale of mixed beverages has been approved in elections in
42 at least three cities that, combined, contain more than two-thirds the total county
43 population as of the most recent federal census, the county board of commissioners may

1 by resolution approve the sale of mixed beverages throughout the county, and the
2 Commission may issue permits as if mixed beverages had been approved in a county
3 election.

4 In a mixed beverages election held pursuant to G.S. 18B-603(b) or G.S. 18B-
5 600(e)(2)(b), no mixed beverages permits may be issued pursuant to this section unless
6 the voters approve the operation of ABC stores."

7 Sec. 6. G.S. 18B-900(c) reads as rewritten:

8 "(c) Who Must Qualify; Exceptions. – For an ABC permit to be issued to and held
9 for a business, each of the following persons associated with that business must qualify
10 under subsection (a):

11 (1) The owner of a sole proprietorship;

12 (2) Each member of a firm, association or general partnership;

13 (2a) Each general partner in a limited partnership;

14 (2b) Each manager and any member with a twenty-five percent (25%) or
15 greater interest in a limited liability company;

16 (3) Each officer, director and owner of twenty-five percent (25%) or more
17 of the stock of a corporation except that the requirement of subdivision
18 (a)(1) does not apply to such an officer, director, or stockholder unless
19 he is a manager or is otherwise responsible for the day-to-day operation
20 of the business;

21 (4) The manager of an establishment operated by a corporation other than
22 an establishment with only off-premises malt beverage, off-premises
23 unfortified wine, or off-premises fortified wine permits;

24 (5) Any manager who has been empowered as attorney-in-fact for a
25 nonresident individual or partnership."

26 Sec. 7. G.S. 18B-902(e) reads as rewritten:

27 "(e) Fee for Combined Applications. – If application is made at the same time for
28 retail malt beverage, unfortified wine and fortified wine permits for a single business
29 location, the total fee for those applications shall be two hundred dollars (\$200.00). If
30 application is made at the same time for brown-bagging and special occasion permits for
31 a single business location, the total fee for those applications shall be three hundred
32 dollars (\$300.00). If application is made at the same time for wine and malt beverage
33 importer permits, the total fee for those applications shall be one hundred fifty dollars
34 (\$150.00). If application is made at the same time for wine and malt beverage wholesaler
35 permits, the total fee for those applications shall be one hundred fifty dollars (\$150.00).
36 ~~If application is made in the same year for vendor representative permits to represent more than~~
37 ~~one vendor, only one fee shall be paid.~~—If application is made at the same time for
38 nonresident malt beverage vendor and nonresident wine vendor permits, the total fee for
39 those applications shall be twenty-five dollars (\$25.00)."

40 Sec. 8. G.S. 18B-1001(10) reads as rewritten:

41 " (10) Mixed Beverages Permit. – A mixed beverages permit
42 authorizes the retail sale of mixed beverages for consumption
43 on the premises. The permit also authorizes a mixed beverages

1 permittee to obtain a purchase-transportation permit under G.S.
2 18B-403 and 18B-404, and to use for culinary purposes
3 spirituous liquor lawfully purchased for use in mixed
4 beverages. The permit may be issued for any of the following:

- 5 a. Restaurants;
- 6 b. Hotels;
- 7 c. Private clubs;
- 8 d. Convention centers;
- 9 e. Community theatres;
- 10 f. Nonprofit and political organizations; organizations; and
- 11 g. Political organizations."

12 Sec. 9. G.S. 18B-1007(b) reads as rewritten:

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

- 15 (1) Store any other spirituous liquor with liquor possessed for resale in
16 mixed beverages or from a guest room cabinet.
- 17 (2) Refill any spirituous liquor container having a mixed beverages tax
18 stamp with any other alcoholic beverage, or add to the contents of such
19 a container any other alcoholic beverage.
- 20 (3) Transfer from one container to another a mixed beverages tax stamp.
- 21 (4) Possess any container of spirituous liquor not bearing a mixed
22 beverages tax stamp, except for containers being brought onto the
23 premises by the host of a private function under a special occasion
24 permit."

25 Sec. 10. G.S. 18B-1301 reads as rewritten:

26 "**§ 18B-1301. Definitions.**

- 27 (1) 'Supplier' means a brewer, ~~fermenter, processor, bottler, packager~~ or
28 importer of malt beverages, including anyone who holds a brewery,
29 malt beverages importer or nonresident malt beverages vendor permit.
- 30 (2) 'Wholesaler' means the holder of a malt beverages wholesaler permit."

31 Sec. 11. G.S. 18B-1303(a) reads as rewritten:

32 "(a) Filing. – It is unlawful for a supplier to provide malt beverages to a wholesaler
33 unless ~~a distribution agreement has been filed with the Commission~~ has received notification
34 from the supplier describing designating the brands of the supplier which the wholesaler is
35 authorized to sell and the territory in which such sales may take place. If the supplier
36 sells several brands, the agreement need not apply to all brands. No supplier may provide
37 by a distribution agreement for the distribution of a brand to more than one wholesaler
38 for the same territory. A wholesaler shall not distribute any brand of malt beverage to a
39 retailer whose premises are located outside the territory specified in the wholesaler's
40 distribution agreement for that brand. A wholesaler may, however, with the approval of
41 the Commission distribute malt beverages outside his designated territory during periods
42 of temporary service interruption when requested to do so by the supplier and the
43 wholesaler whose service is interrupted."

1 Sec. 12. This act becomes effective October 1, 1995.