

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 1108

Short Title: Beer/Wine Shippers Permits. (Public)

Sponsors: Representatives Gibson and Sherrill (Primary Sponsors).

Referred to: Alcoholic Beverage Control, if favorable, Finance.

April 10, 2003

A BILL TO BE ENTITLED

1
2 AN ACT TO AUTHORIZE THE ALCOHOLIC BEVERAGE COMMISSION TO
3 ISSUE BEER AND WINE SHIPPERS PERMITS TO ALLOW THE DIRECT
4 SHIPMENT OF MALT BEVERAGES AND WINES TO RESIDENTS OF NORTH
5 CAROLINA.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 18B-902(d) reads as rewritten:

8 "(d) Fees. – An application for an ABC permit shall be accompanied by payment
9 of the following application fee:

- 10 (1) On-premises malt beverage permit – \$400.00.
11 (2) Off-premises malt beverage permit – \$400.00.
12 (3) On-premises unfortified wine permit – \$400.00.
13 (4) Off-premises unfortified wine permit – \$400.00.
14 (5) On-premises fortified wine permit – \$400.00.
15 (6) Off-premises fortified wine permit – \$400.00.
16 (7) Brown-bagging permit – \$400.00, unless the application is for a
17 restaurant seating less than 50, in which case the fee shall be \$200.00.
18 (8) Special occasion permit – \$400.00.
19 (9) Limited special occasion permit – \$50.00.
20 (10) Mixed beverages permit – \$1,000.
21 (11) Culinary permit – \$200.00.
22 (12) Unfortified winery permit – \$300.00.
23 (13) Fortified winery permit – \$300.00.
24 (14) Limited winery permit – \$300.00.
25 (15) Brewery permit – \$300.00.
26 (16) Distillery permit – \$300.00.
27 (17) Fuel alcohol permit – \$100.00.
28 (18) Wine importer permit – \$300.00.
29 (19) Wine wholesaler permit – \$300.00.

- 1 (20) Malt beverage importer permit – \$300.00.
- 2 (21) Malt beverage wholesaler permit – \$300.00.
- 3 (22) Bottler permit – \$300.00.
- 4 (23) Salesman permit – \$100.00.
- 5 (24) Vendor representative permit – \$50.00.
- 6 (25) Nonresident malt beverage vendor permit – \$100.00.
- 7 (26) Nonresident wine vendor permit – \$100.00.
- 8 (27) Any special one-time permit under G.S. 18B-1002 – \$50.00.
- 9 (28) Winery special event permit – \$200.00.
- 10 (29) Mixed beverages catering permit – \$200.00.
- 11 (30) Guest room cabinet permit – \$1,000.
- 12 (31) Liquor importer/bottler permit – \$500.00.
- 13 (32) Cider and vinegar manufacturer permit – \$200.00.
- 14 (33) Brew on premises permit – \$400.00.
- 15 (34) Wine producer permit – \$300.00.
- 16 (35) Wine tasting permit – \$100.00.
- 17 (36) Malt beverage shipper permit – \$100.00.
- 18 (37) Wine shipper permit – \$100.00."

19 **SECTION 2.** G.S. 18B-1100 reads as rewritten:

20 **"§ 18B-1100. Commercial permits.**

21 The Commission may issue the following commercial permits:

- 22 (1) Unfortified winery
- 23 (2) Fortified winery
- 24 (3) Limited winery
- 25 (4) Brewery
- 26 (5) Distillery
- 27 (6) Fuel alcohol
- 28 (7) Wine importer
- 29 (8) Wine wholesaler
- 30 (9) Malt beverages importer
- 31 (10) Malt beverages wholesaler
- 32 (11) Bottler
- 33 (12) Salesman
- 34 (13) Vendor representative
- 35 (14) Nonresident malt beverage vendor
- 36 (15) Nonresident wine vendor
- 37 (16) Winery special show
- 38 (17) Liquor importer/bottler permit
- 39 (18) Cider and vinegar manufacturer.
- 40 (19) Wine producer permit.
- 41 (20) Malt beverage shipper permit.
- 42 (21) Wine shipper permit."

43 **SECTION 3.** Chapter 18B of the General Statutes is amended by adding a
44 new section to read:

1 **§ 18B-1114.3. Authorization of malt beverage shipper permit.**

2 (a) Holders of malt beverage shipper permits may sell and ship not more than
3 two cases of malt beverage per month to any person in North Carolina to whom
4 alcoholic beverages may be lawfully sold. All sales and shipments shall be for personal
5 consumption only and not for resale. A case of malt beverages shall mean any
6 combination of packages containing not more than 288 ounces of malt beverage. Any
7 brewery located within or outside the State may apply to the Commission for issuance
8 of a malt beverage shipper permit that shall authorize the shipment of brands of malt
9 beverages identified in the application. Any person located within or without the State
10 who is authorized to sell malt beverages at retail in their state of domicile and who is
11 not a brewery may nevertheless apply for a malt beverage shipper permit. Any brewery
12 that applies for a malt beverage shipper permit or authorizes any other person, other
13 than a retail off-premises permittee, to apply for a permit to ship the brewery's brands of
14 malt beverage shall notify any wholesale permittees that have been authorized to
15 distribute those brands within this State that an application has been filed for a malt
16 beverage shipper permit. The notice shall be given in writing and in a form prescribed
17 by the Commission. The Commission may adopt rules necessary to implement the
18 provisions of this section, including rules to allow the malt beverage shipper permittee
19 to amend the brands of malt beverages identified in the permit application.

20 (b) Any applicant for a malt beverage shipper permit that does not own or have
21 the right to control the distribution of the brands of malt beverage identified in the
22 permit application may be issued the permit if the applicant obtains the written consent
23 of the brewery whose brands of malt beverage are contained in the application. Any
24 retail off-premises malt beverage permittee who purchases malt beverages from anyone
25 authorized to sell malt beverages in North Carolina shall be presumed to have the
26 authorization of the winery or supplier to ship its brands. Any brewery that has supplied
27 written authorization to a malt beverage shipper permittee to sell and ship its brands of
28 malt beverage shall not be restricted by any provision of this section from withdrawing
29 the authorization at any time. If the authorization is withdrawn, the brewery shall
30 promptly notify the Commission of its decision to withdraw from the malt beverage
31 shipper permittee the authority to sell and ship any of its brands, and the permittee shall
32 promptly file with the Commission an amendment to its permit application eliminating
33 the withdrawn brand or brands.

34 (c) The direct shipment of malt beverage by malt beverage shipper permittees
35 made pursuant to this section shall be by approved common carrier only. The
36 Commission shall adopt rules under which common carriers may apply for approval to
37 provide common carriage of malt beverages shipped by holders of permits issued
38 pursuant to this section. These rules shall include provisions that require:

- 39 (1) The recipient to demonstrate, upon delivery, that he is at least 21 years
40 of age.
41 (2) The recipient to sign an electronic or paper form or other
42 acknowledgment of receipt as approved by the Commission.
43 (3) The Commission-approved common carrier to submit any information
44 that the Commission may require.

1 The Commission-approved common carrier shall refuse delivery when the proposed
2 recipient appears to be under the age of 21 years and refuses to present valid
3 identification. All malt beverage shipper permittees shipping malt beverages pursuant to
4 this section shall affix a notice in 16-point type or larger to the outside of each package
5 of malt beverage shipped within or to the State in a conspicuous location stating:
6 'CONTAINS ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON AGED 21
7 YEARS OR OLDER REQUIRED FOR DELIVERY'. Any delivery of malt beverages
8 to a minor by a common carrier shall constitute a violation by the common carrier. The
9 common carrier and the malt beverage shipper permittee shall be liable only for their
10 independent acts.

11 (d) For purposes of Chapter 105 of the General Statutes, each shipment of malt
12 beverages by a malt beverage shipper permittee shall constitute a sale in North Carolina.
13 The permittee shall collect the taxes due to the State and remit any excise taxes or any
14 sales taxes to the Department of Revenue."

15 **SECTION 4.** Chapter 18B of the General Statutes is amended by adding a
16 new section to read:

17 **"§ 18B-1114.3. Authorization of wine shipper permit.**

18 (a) Holders of wine shipper permits may sell and ship not more than two cases of
19 wine per month to any person in North Carolina to whom alcoholic beverages may be
20 lawfully sold. All sales and shipments shall be for personal consumption only and not
21 for resale. A case of wine shall mean any combination of packages containing not more
22 than nine liters of wine. Any winery located within or outside the State may apply to the
23 Commission for issuance of a wine shipper permit that shall authorize the shipment of
24 brands of wines identified in the application. Any person located within or without the
25 State who is authorized to sell wines at retail in their state of domicile and who is not a
26 winery may nevertheless apply for a wine shipper permit. Any winery that applies for a
27 wine shipper permit or authorizes any other person, other than a retail off-premises
28 permittee, to apply for a permit to ship the winery's brands of wine shall notify any
29 wholesale permittees that have been authorized to distribute those brands within this
30 State that an application has been filed for a wine shipper permit. The notice shall be
31 given in writing and in a form prescribed by the Commission. The Commission may
32 adopt rules necessary to implement the provisions of this section, including rules to
33 allow the wine shipper permittee to amend the brands of wines identified in the permit
34 application.

35 (b) Any applicant for a wine shipper permit that does not own or have the right to
36 control the distribution of the brands of wine identified in the permit application may be
37 issued the permit if the applicant obtains the written consent of the winery whose brands
38 of wine are contained in the application. Any retail off-premises wine permittee who
39 purchases wines from anyone authorized to sell wines in North Carolina shall be
40 presumed to have the authorization of the winery or supplier to ship its brands. Any
41 winery that has supplied written authorization to a wine shipper permittee to sell and
42 ship its brands of wine shall not be restricted by any provision of this section from
43 withdrawing the authorization at any time. If the authorization is withdrawn, the winery
44 shall promptly notify the Commission of its decision to withdraw from the wine shipper

1 permittee the authority to sell and ship any of its brands, and the permittee shall
2 promptly file with the Commission an amendment to its permit application eliminating
3 the withdrawn brand or brands.

4 (c) The direct shipment of wine by wine shipper permittees made pursuant to this
5 section shall be by approved common carrier only. The Commission shall adopt rules
6 under which common carriers may apply for approval to provide common carriage of
7 wines shipped by holders of permits issued pursuant to this section. These rules shall
8 include provisions that require:

9 (1) The recipient to demonstrate, upon delivery, that he is at least 21 years
10 of age.

11 (2) The recipient to sign an electronic or paper form or other
12 acknowledgment of receipt as approved by the Commission.

13 (3) The Commission-approved common carrier to submit any information
14 that the Commission may require.

15 The Commission-approved common carrier shall refuse delivery when the proposed
16 recipient appears to be under the age of 21 years and refuses to present valid
17 identification. All wine shipper permittees shipping wines pursuant to this section shall
18 affix a notice in 16-point type or larger to the outside of each package of wine shipped
19 within or to the State in a conspicuous location stating: 'CONTAINS ALCOHOLIC
20 BEVERAGES; SIGNATURE OF PERSON AGED 21 YEARS OR OLDER
21 REQUIRED FOR DELIVERY'. Any delivery of wines to a minor by a common carrier
22 shall constitute a violation by the common carrier. The common carrier and the wine
23 shipper permittee shall be liable only for their independent acts.

24 (d) For purposes of Chapter 105 of the General Statutes, each shipment of wines
25 by a wine shipper permittee shall constitute a sale in North Carolina. The permittee shall
26 collect the taxes due to the State and remit any excise taxes or any sales taxes to the
27 Department of Revenue."

28 **SECTION 5.** G.S. 18B-102.1(a) reads as rewritten:

29 "(a) It is unlawful for any person who is an out-of-state retail or wholesale dealer
30 in dealer in the business of selling alcoholic beverages-beverages who does not hold a
31 malt beverage shipper permit or a wine shipper permit to ship or cause to be shipped
32 any alcoholic beverage directly to any North Carolina resident who does not hold a
33 valid wholesaler's permit under Article 11 of this Chapter."

34 **SECTION 6.** G.S. 18B-109(a) reads as rewritten:

35 "(a) General Prohibition. – No person shall have any alcoholic beverage mailed or
36 shipped to him from outside this State unless he has the appropriate ABC permit, permit
37 or unless the shipper holds a malt beverage shipper permit or a wine shipper permit."

38 **SECTION 7.** This act is effective when it becomes law.