

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**SENATE BILL 1205  
State Government, Local Government, and Veterans' Affairs Committee  
Substitute Adopted 6/28/04**

Short Title: Rutherfordton ABC Distributions.

(Local)

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Sponsors:

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Referred to:

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May 20, 2004

A BILL TO BE ENTITLED

1 AN ACT TO MODIFY THE DISTRIBUTIONS FROM THE TOWN OF  
2 RUTHERFORDTON BOARD OF ALCOHOLIC BEVERAGE CONTROL.  
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4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Section 5.4 of the Charter of the Town of Rutherfordton, as  
6 amended by Section 1 of S.L. 2002-65, reads as rewritten:

7 "Section 5.4. Alcoholic Beverage Control Stores. A. The governing body of the  
8 Town of Rutherfordton may, on its own motion, and shall, upon receipt of petition  
9 signed by qualified voters of the Town equal in number to fifteen percent (15%) of the  
10 votes cast for Mayor in the most recent regular town election, call and conduct a special  
11 election in the Town upon the question of whether Alcoholic Beverage Control stores  
12 shall be established in the Town and/or whether 'off-premises' sales of malt beverages  
13 shall be permitted. Such election or elections may be held notwithstanding the  
14 provisions of G.S. 18A-52(d)(h) and (i). No new registration of voters shall be  
15 necessary for such special election, and all qualified voters of the town who are  
16 registered prior to the registration period for such special election, and all who register  
17 during such period shall be eligible and entitled to vote in such special election. Except  
18 as otherwise provided herein, if a special election is called, the special election  
19 authorized shall be conducted under the same statutes, rules and regulations applicable  
20 to general elections for the Town of Rutherfordton. The governing body shall cause  
21 public notice of any such special election to be posted at the Town Hall and published in  
22 a newspaper having general circulation in the town at least 15 days preceding the day of  
23 the election.

24 B. At such special election, ballots shall be provided which contain the words,  
25 'For Town Alcoholic Beverage Control Stores' and 'Against Town Alcoholic Beverage  
26 Control Stores' and/or, 'For off-premises sales of malt beverages' and 'Against  
27 off-premises sales of malt beverages'. The Town Council shall determine whether both  
28 questions are to be included on the same ballot or separate ballots. Appropriate squares

1 shall be printed to the left of each phrase so that each voter may designate with an 'X'  
2 his preference. The cost of conducting the election shall be appropriated from the  
3 General Fund of the Town of Rutherfordton.

4 C. If a majority of the votes cast at any such special election authorized under  
5 this section shall be cast 'For Town Alcoholic Beverage Control Stores' then it shall  
6 thereafter be lawful for such store or stores to be established and operated within the  
7 town, and the Town Council will then immediately create and appoint the Town of  
8 Rutherfordton Alcoholic Beverage Control Board, to be composed of a chairman and  
9 two other members. The member designated chairman by the Town Council shall serve  
10 for a term of three years; one member for a term of two years; and one member for a  
11 term of one year. After serving the initial terms, successors shall be appointed for terms  
12 of three years. Any vacancy on such board shall be filled by the Town Council for the  
13 unexpired term. Compensation of the members of the Board shall be fixed by the Town  
14 Council. If a majority of the votes cast in any such election authorized under this section  
15 shall be cast 'For off-premises sales of malt beverages' then the off-premises sale of malt  
16 beverages shall thereafter be lawful in the Town of Rutherfordton.

17 D. The Town of Rutherfordton Alcoholic Beverage Control Board shall have all  
18 the powers granted to, and duties imposed upon, county alcoholic control boards by  
19 G.S. 18A-17, except that G.S. 18A-17 (14) shall not apply to the Rutherfordton  
20 Board of Alcoholic Beverage Control, and shall be subject to the powers and authority  
21 of the State Board of Alcoholic Beverage Control as granted by G.S. 18A-15; provided,  
22 however, that the location of stores and the purchase or lease of real property shall be  
23 subject to the approval of the Town Council.

24 The Rutherfordton Board of Alcoholic Beverage Control on a quarterly basis shall,  
25 after retaining a sufficient and proper working capital and making payment of salaries  
26 and expenses, distribute the net profits out of the operation of said alcoholic beverage  
27 control store(s) in accordance with a resolution duly adopted by the Town Council of  
28 Rutherfordton, the following manner, and none other:

29 ~~Five percent (5%) to the Rutherford County Department of Mental Health to be~~  
30 ~~specifically used for alcohol and drug rehabilitation programs.~~

31 ~~Eleven percent (11%) to the Rutherford County Board of Education for specific use~~  
32 ~~in meeting capital outlay needs at Rutherfordton Spindale High School.~~

33 ~~Five and one half percent (5.5%) to the Rutherford County Board of Education for~~  
34 ~~specific use in meeting the capital outlay needs at Rutherfordton Elementary School.~~

35 ~~Five and one half percent (5.5%) to the Rutherford County Board of Education for~~  
36 ~~specific use in meeting the capital outlay needs at Rutherfordton Spindale Middle~~  
37 ~~School.~~

38 ~~Three percent (3%) to the Rutherford County Board of Education for specific use in~~  
39 ~~meeting the capital outlay needs of Rutherford Opportunity Center.~~

40 ~~Twenty percent (20%) to the Town of Rutherfordton Parks and Recreation~~  
41 ~~Commission to be used for capital improvements, maintenance and programs in its~~  
42 ~~Recreational activities.~~

43 ~~Twenty five percent (25%) to the Town Council of Rutherfordton for use in law~~  
44 ~~enforcement through the Town Police Department.~~

1       ~~Twenty five percent (25%) to the Town Council of Rutherfordton to be used for any~~  
2 ~~lawful purposes the board may deem necessary and essential.~~

3       Copies of the governing body resolutions detailing the distribution formula shall be  
4 submitted to the North Carolina Alcoholic Beverage Control Commission for review  
5 and audit purposes.

6       All agencies outside of the government of the Town of Rutherfordton which receive  
7 net proceeds from the Town Alcoholic Beverage Control Board, shall be required to file  
8 an annual report to the Town Council, specifying how all proceeds were expended.

9       E.       Subsequent elections on Alcoholic Beverage Control stores or off-premises  
10 sales of malt beverages shall not be held within two years of any previous election on  
11 the question, provided an election on one question shall not prevent an election on the  
12 other question.

13       If a subsequent election is held and the majority of the votes are cast 'Against Town  
14 Alcoholic Beverage Control Stores' the Town of Rutherfordton Alcoholic Beverage  
15 Control Board shall, within three months of certification of such election, dispose of all  
16 alcoholic beverages on hand and all of the assets under the control of said board, and  
17 convert the same into cash and turn the same over to the Town Treasurer. If a  
18 subsequent election is held and the majority of the votes are cast 'Against off-premises  
19 sales of malt beverages' then the off-premises sale of malt beverages shall cease to be  
20 lawful in the Town of Rutherfordton."

21               **SECTION 2.** This act is effective when it becomes law.