

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1025
Senate Finance Committee Substitute Adopted 7/11/06

Short Title: Various ABC Law Changes.

(Public)

Sponsors:

Referred to:

March 31, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE ALCOHOL BEVERAGE
3 CONTROL LAWS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 18B-1001 is amended by adding a new subdivision to
6 read:

7 "(17) Winemaking on Premises Permit. – A permit may be issued to a
8 business, located in a jurisdiction where the sale of unfortified wine is
9 allowed, where individual customers who are 21 years old or older
10 may purchase ingredients and rent the equipment, time, and space to
11 make unfortified wine for personal use in amounts set forth in 27
12 C.F.R. § 24.75. Except for wine produced for testing equipment or
13 recipes and samples pursuant to this subdivision, the permit holder
14 shall not engage in the actual production or manufacture of wine.
15 Samples may be consumed on the premises only by a person who has a
16 nonrefundable contract to ferment at the premises, and the samples
17 may not exceed one ounce per sample. All wine produced at a
18 winemaking on premises facility shall be removed from the premises
19 by the customer and may only be used for home consumption and the
20 personal use of the customer."

21 **SECTION 2.** G.S. 18B-307 reads as rewritten:

22 **"§ 18B-307. Manufacturing offenses.**

23 (a) Offenses. – It shall be unlawful for any person, except as authorized by this
24 Chapter, to:

25 (1) Sell or possess equipment or ingredients intended for use in the
26 manufacture of any alcoholic beverage, except equipment and
27 ingredients provided under a Brew on Premises permit or a
28 Winemaking on Premises permit; or

1 (2) Knowingly allow real or personal property owned or possessed by him
2 to be used by another person for the manufacture of any alcoholic
3 beverage, except pursuant to a Brew on Premises permit or a
4 Winemaking on Premises permit.

5 (b) Unlawful Manufacturing. – Except as provided in G.S. 18B-306, it shall be
6 unlawful for any person to manufacture any alcoholic beverage, except at an
7 establishment with a Brew on Premises permit or a Winemaking on Premises permit,
8 without first obtaining the applicable ABC permit and revenue licenses.

9 (c) Second Offense of Manufacturing. – A second offense of unlawful
10 manufacturing of alcoholic beverage shall be a Class I felony."

11 **SECTION 3.** G.S. 18B-902(d) is amended by adding two new subdivisions
12 to read:

13 "(38) Winemaking on Premises permit – \$400.00.

14 "(39) Wine shipper packager permit – \$100.00."

15 **SECTION 4.** G.S. 18B-1001.1(c) reads as rewritten:

16 "(c) A wine shipper permittee may contract with the holder of a wine shipper
17 packager permit for the packaging and shipment of wine pursuant to this section. The
18 direct shipment of wine by wine shipper or wine shipper packager permittees ~~made~~
19 pursuant to this section shall be made by approved common carrier only. Each common
20 carrier shall apply to the Commission for approval to provide common carriage of wines
21 shipped by holders of permits issued pursuant to this section.

22 Each common carrier making deliveries pursuant to this section shall:

23 (1) Require the recipient, upon delivery, to demonstrate that the recipient
24 is at least 21 years of age by providing a form of identification
25 specified in G.S. 18B-302(d)(1).

26 (2) Require the recipient to sign an electronic or paper form or other
27 acknowledgment of receipt as approved by the Commission.

28 (3) Refuse delivery when the proposed recipient appears to be under the
29 age of 21 years and refuses to present valid identification as required
30 by subdivision (1) of this subsection.

31 (4) Submit any other information that the Commission shall require.

32 All wine shipper and wine shipper packager permittees shipping wines pursuant to
33 this section shall affix a notice in 26-point type or larger to the outside of each package
34 of wine shipped within or to the State in a conspicuous location stating: "CONTAINS
35 ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON AGED 21 YEARS OR
36 OLDER REQUIRED FOR DELIVERY". Any delivery of wines to a person under 21
37 years of age by a common carrier shall constitute a violation of G.S. 18B-302(a)(1) by
38 the common carrier. The common carrier and the wine shipper or wine shipper packager
39 permittee shall be liable only for their independent acts."

40 **SECTION 5.** G.S. 18B-1001.2 reads as rewritten:

41 "**§ 18B-1001.2. Additional wine shipping requirements.**

42 (a) A wine shipper permittee shall:

43 (1) Compile and submit to the Commission quarterly a summary
44 indicating all wine products shipped, including brand and price of each

1 product, date of each shipment, quantity of each shipment, and amount
2 of excise and sales tax remitted to the Department of Revenue. The
3 report shall include all wine products shipped on the permittee's behalf
4 under contract with a wine shipper packager.

5 (2) Register with the Department of Revenue as a wine shipper permittee
6 and provide any additional information required by the Department.

7 (b) The Commission may adopt rules to carry out the provisions of this section
8 and other related provisions governing the direct shipping of wine."

9 **SECTION 6.** Article 10 of Chapter 18B of the General Statutes is amended
10 by adding a new section to read:

11 **"§ 18B-1001.3. Authorization of wine shipper packager permit.**

12 The holder of a wine shipper packager permit may provide services for the
13 warehousing, packaging, and shipment of wine on behalf of a winery holding a wine
14 shipper permit. A wine shipper packager permit authorizes the holder to receive, in
15 closed containers, wine produced by and belonging to a wine shipper permittee and to
16 place the unopened wine in containers or packaging materials as a service to the wine
17 shipper permittee in connection with the marketing and sale of its wine products. A
18 wine shipper packager may package and return wine products to the wine shipper
19 permittee or, on behalf of the wine shipper permittee, may package and ship wine
20 products in closed containers to individual purchasers inside and outside this State in
21 accordance with the provisions of G.S. 18B-1001.1. The permit may be issued to a
22 USDA-approved company specializing in warehousing and contract packaging."

23 **SECTION 7.** G.S. 18B-1006(a) reads as rewritten:

24 "(a) School and College Campuses. – No permit for the sale of malt beverages,
25 unfortified wine, or fortified wine shall be issued to a business on the campus or
26 property of a public school or college, other than at a regional facility as defined by
27 G.S. 160A-480.2 operated by a facility authority under Part 4 of Article 20 of Chapter
28 160A of the General Statutes except for a public school or college function, unless that
29 business is a hotel or a nonprofit alumni organization with a mixed beverages permit or
30 a special occasion permit. This subsection shall not apply on property owned by a local
31 board of education which was leased for 99 years or more to a nonprofit auditorium
32 authority created prior to 1991 whose governing board is appointed by a city board of
33 aldermen, a county board of commissioners, or a local school board. This subsection
34 shall also not apply to the constituent institutions of The University of North Carolina
35 with respect to the sale of beer and wine at performing arts centers located on property
36 owned or leased by the institutions if the seating capacity does not exceed 2,000
37 seats-seats, or to any golf courses owned or leased by the institutions and open to the
38 public for use."

39 **SECTION 8.** G.S. 18B-108 reads as rewritten:

40 **"§ 18B-108. Sales on trains.**

41 Alcoholic beverages may be sold on railroad trains in this State upon compliance
42 with Article 2C of Chapter 105 of the General Statutes. Malt beverages, unfortified
43 wine, and fortified wine may be sold and delivered by any wholesaler or retailer

1 licensed in this State to an officer or agent of a rail line that carries at least 60,000
2 passengers annually."

3 **SECTION 9.** G.S. 18B-1001(16) reads as rewritten:

4 "**§ 18B-1001. Kinds of ABC permits; places eligible.**

5 When the issuance of the permit is lawful in the jurisdiction in which the premises
6 are located, the Commission may issue the following kinds of permits:

7 ...

8 (16) Wine Shop Permit. – A wine shop permit authorizes the retail sale of
9 malt beverages, unfortified wine, and fortified wine in the
10 manufacturer's original container for consumption off the premises,
11 and authorizes wine tastings on the premises conducted and supervised
12 by the permittee in accordance with subdivision (15) of this section. It
13 also authorizes the holder of the permit to ship malt beverages,
14 unfortified wine, and fortified wine in closed containers to individual
15 purchasers inside and outside the State. The permit may be issued for
16 retail businesses whose primary purpose is selling malt beverages and
17 wine for consumption off the premises and regularly and customarily
18 educating consumers through tastings, classes, and seminars about the
19 selection, serving, and storing of wine. The holder of the permit is
20 authorized to sell unfortified wine for consumption on the premises,
21 provided that the sale of wine for consumption on the premises does
22 not exceed forty percent (40%) of the establishment's total sales for
23 any 30-day period. ~~The sale of wine for consumption on the premises~~
24 ~~shall be limited to those amounts that remain in opened bottles upon~~
25 ~~the conclusion of an authorized wine tasting, and individual servings~~
26 ~~shall not exceed four ounces per glass.~~The holder of a wine-tasting
27 permit not engaged in the preparation or sale of food on the premises is
28 not subject to Part 6 of Article 8 of Chapter 130A of the General
29 Statutes."

30 **SECTION 10.** This act is effective when it becomes law.