

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 768
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Short Title: 2022 ABC Omnibus.

(Public)

Sponsors:

Referred to:

May 4, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE ALCOHOLIC BEVERAGE LAWS OF
3 THIS STATE.

4 The General Assembly of North Carolina enacts:

5
6 **REPEAL LIMITED WINERY PERMIT**

7 SECTION 1. G.S. 18B-1103 is repealed.

8
9 **CREATE PACKAGING AND LOGISTICS PERMIT**

10 SECTION 2.(a) G.S. 18B-902(d) is amended by adding a new subdivision to read:

11 "(51) Packaging and logistics permit – \$300.00."

12 SECTION 2.(b) Article 11 of Chapter 18B of the General Statutes is amended by
13 adding a new section to read:

14 "**§ 18B-1110.1. Authorization of packaging and logistics permit.**

15 (a) Authorization. – The holder of a packaging and logistics permit may:

16 (1) Receive, in closed containers, malt beverages, unfortified wine, fortified wine,
17 and spirituous liquor from a supplier for the purpose of packaging,
18 repackaging, storage, shipping, and for the purpose of labeling or relabeling
19 the outer packaging, such as a box or carton.

20 (2) Package or repackage malt beverages, unfortified wine, fortified wine, and
21 spirituous liquor received from a supplier, and label or relabel the outer
22 packaging.

23 (3) Subject to the record-keeping requirements of G.S. 18B-1115, transport into
24 or out of the State in closed containers the maximum amounts of malt
25 beverages, unfortified wine, fortified wine, and spirituous liquor allowed
26 under federal law, if the transportation is related to the packaging, labeling,
27 sale, or storage permitted by this section.

28 (4) Deliver and ship malt beverages, unfortified wine, and fortified wine as
29 provided in this section in closed containers to suppliers and wholesalers
30 licensed under this Chapter.

31 (5) Deliver and ship spirituous liquor as provided in this section in closed
32 containers at wholesale to exporters and local boards within the State.

33 (6) Subject to the laws of other jurisdictions, deliver and ship malt beverages,
34 unfortified wine, fortified wine, and spirituous liquor as provided in this



1 section to out-of-state suppliers or at wholesale or retail to private or public
2 agencies or establishments of other states or nations.

3 (b) Limitation. – A packaging and logistics permit does not authorize the permit holder
4 to engage in the manufacture of alcoholic beverages except for packaging, repackaging, labeling,
5 and relabeling as provided in subsection (a) of this section. A holder of a packaging and logistics
6 permit may not sell, deliver, or ship malt beverages, unfortified wine, fortified wine, or spirituous
7 liquor directly to consumers or to retail establishments in this State. Nothing in this section shall
8 be interpreted to abrogate the provisions of G.S. 18B-1119.

9 (c) Distribution Agreements. – Malt beverage and wine distribution agreements
10 applicable between a wholesaler and an original supplier are governed by Articles 12 and 13 of
11 this Chapter."

12 SECTION 2.(c) This section becomes effective August 1, 2022.

13 REPEAL PURCHASE-TRANSPORTATION PERMIT

14 SECTION 3.(a) G.S. 18B-101(2) reads as rewritten:

15 (2) "ABC permit" or "permits" means any written or printed authorization issued
16 by the Commission pursuant to the provisions of this Chapter, ~~other than a~~
17 ~~purchase transportation permit. Chapter.~~ Unless the context clearly requires
18 otherwise, as in the provisions concerning applications for permits, "ABC
19 permit" or "permit" means a presently valid permit."

20 SECTION 3.(b) G.S. 18B-303 is repealed.

21 SECTION 3.(c) G.S. 18B-400 is repealed.

22 SECTION 3.(d) G.S. 18B-401(b) reads as rewritten:

23 (b) Taxis. – It shall be unlawful for a person operating a for-hire passenger vehicle as
24 defined in G.S. 20-4.01(27)f., to transport fortified wine or spirituous liquor unless the vehicle is
25 transporting a paying passenger who owns the alcoholic beverage being transported. ~~Not more~~
26 ~~than eight liters of fortified wine or spirituous liquor, or combination of the two, may be~~
27 ~~transported by each passenger.~~ A violation of this subsection shall not be grounds for suspension
28 of the driver's license for illegal transportation of intoxicating liquors under G.S. 20-16(a)(8)."

29 SECTION 3.(e) G.S. 18B-402 is repealed.

30 SECTION 3.(f) G.S. 18B-403 is repealed.

31 SECTION 3.(h) G.S. 18B-404(a), (b), and (d) are repealed.

32 SECTION 3.(i) G.S. 18B-405 is repealed.

33 SECTION 3.(j) G.S. 18B-406 is repealed.

34 SECTION 3.(k) G.S. 18B-600(e2) reads as rewritten:

35 (e2) Ski Resorts ABC Elections. – Notwithstanding any other provisions of this section,
36 any city that provides governmental services to as many as 1,000 snow skiers weekly during the
37 normal ski season from December 1 through March 15, may hold an election authorized by
38 subdivision (a)(1), (2), or (4) of this section. If the sale of mixed beverages is approved, ~~purchase-~~
39 ~~transportation permits shall be issued and~~ the sales of liquor shall be made by any local board
40 designated by the State ABC Commission."

41 SECTION 3.(l) G.S. 18B-603 reads as rewritten:

42 "§ 18B-603. Effect of alcoholic beverage elections on issuance of permits.

43 ...

44 (d2) If a county or city holds a mixed beverage election and an ABC store election at the
45 same time and the voters do not approve the establishment of an ABC store, the Commission
46 may issue mixed beverages permits in that county or city. ~~The mixed beverages~~
47 ~~purchase transportation permit authorized by G.S. 18B-404(b) shall be issued by a local board~~
48 ~~operating a store located in the county.~~

49 ...

(f2) Permits for Special ABC Areas. – The Commission may issue the permits provided for in G.S. 18B-1001(1), G.S. 18B-1001(2), G.S. 18B-1001(3), G.S. 18B-1001(4), G.S. 18B-1001(5), G.S. 18B-1001(6), and G.S. 18B-1001(10) to qualified persons and establishments located within a Special ABC area as defined in G.S. 18B-101, provided that: (i) if such area is a municipal corporation, the area shall conduct an election authorized by subdivision (a)(4) of G.S. 18B-600, which election may be held regardless of the number of registered voters located within the municipal corporation; or (ii) if such area is unincorporated but has within such area a private association or club, the board of such private association or club shall call and conduct a special meeting at which meeting a majority of private association members, club members, lot and home owners, votes and approves the sale of mixed beverages, and the board certifies the results of such meeting to the Alcoholic Beverage Control Commission. ~~The mixed beverages purchase transportation permit authorized by G.S. 18B-404(b) shall be issued by a local board operating a store located in the same county as the Special ABC area.~~

...."

SECTION 3.(m) G.S. 18B-701(a)(7) is repealed.

SECTION 3.(n) G.S. 18B-901(a) reads as rewritten:

"(a) Who Issues. – All ABC permits shall be issued by the Commission. ~~Purchase transportation permits shall be issued by local boards or distilleries under G.S. 18B-403.~~"

SECTION 3.(o) G.S. 18B-1001(10) reads as rewritten:

"(10) Mixed Beverages Permit. – A mixed beverages permit authorizes the retail sale of mixed beverages for consumption on the premises. The permit also authorizes a mixed beverages permittee ~~(i) to obtain a purchase transportation permit under G.S. 18B-403 and 18B-404, (ii) to obtain an antique spirituous liquor permit under subdivision (20) of this section, and (iii) section and~~ to use for culinary purposes spirituous liquor lawfully purchased for use in mixed beverages. The permit may be issued for any of the following:

...."

SECTION 3.(p) G.S. 18B-1002 reads as rewritten:

"§ 18B-1002. Special one-time permits.

(a) Kinds of Permits. – In addition to the other permits authorized by this Chapter, the Commission may issue permits for the following activities:

...

(5) A permit may be issued to a unit of local government, or to a nonprofit organization or a political organization to serve wine, malt beverages, and spirituous liquor at a ticketed event held to allow the unit of local government or organization to raise funds. For purposes of this subdivision "nonprofit organization" means an organization that is exempt from taxation under Section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the Internal Revenue Code or is exempt under similar provisions of the General Statutes as a bona fide nonprofit charitable, civic, religious, fraternal, patriotic, or veterans' organization or as a nonprofit volunteer fire department, or as a nonprofit volunteer rescue squad or a bona fide homeowners' or property owners' association. For purposes of this subdivision "political organization" means an organization covered by the provisions of G.S. 163-96(a)(1) or (2) or a campaign organization established by or for a person who is a candidate who has filed a notice of candidacy, paid the filing fees or filed the required petition, and been certified as a candidate. The issuance of this permit shall also allow ~~the issuance of a purchase transportation permit under G.S. 18B-403 and 18B-404 and~~ the use for culinary purposes of spirituous liquor lawfully purchased for use in mixed

1 beverages. The issuance of this permit shall also allow a nonprofit
2 organization to offer alcoholic beverages in the manufacturer's original closed
3 container as a prize in a raffle or sell alcoholic beverages in the manufacturer's
4 original closed container at auction at the ticketed event to allow the nonprofit
5 organization to raise funds.

- 6 (6) A permit may be issued to a professional sports organization to allow the retail
7 sale of malt beverages, unfortified wine, fortified wine, or mixed beverages
8 for consumption on the premises at a professional sporting event held at a
9 stadium (i) with a seating capacity of at least 40,000 people and (ii) that is
10 owned or leased by a constituent institution of The University of North
11 Carolina located in a county with a population of at least 900,000 people
12 according to the most recent federal decennial census. ~~The issuance of this~~
13 ~~permit also allows the issuance of a purchase transportation permit under~~
14 ~~G.S. 18B-403 and G.S. 18B-404.~~ For purposes of this subdivision, the term
15 "professional sports organization" means an organization that is a member of
16 an association or league of professional sports organizations that (i) has 6 or
17 more members, (ii) has total combined revenues from all members that
18 exceeds ten million dollars (\$10,000,000) per year, and (iii) governs the
19 conduct of its members and regulates the contests and exhibitions in which its
20 member organizations regularly engage.

21"

22 **SECTION 3.(q)** G.S. 18B-1002.1(b) reads as rewritten:

23 "(b) Conditions of Permit. – A permit issued under this section is valid only for the auction
24 specified in the permit. ~~Any sales under this permit are subject to the purchase restrictions in~~
25 ~~G.S. 18B-303."~~

26 **SECTION 3.(r)** G.S. 18B-1006 reads as rewritten:

27 **"§ 18B-1006. Miscellaneous provisions on permits.**

28 ...

29 (k) Residential Private Club and Sports Club Permits. – The Commission may issue the
30 permits listed in G.S. 18B-1001, without approval at an election, to a residential private club or
31 a sports club, except if the sale of mixed beverages is not lawful within a jurisdiction and that
32 locality has voted against the sale of mixed beverages in a referendum conducted on or after
33 September 1, 2001. If the issuance of permits is prohibited by the exception in the previous
34 sentence, the Commission may renew existing permits and may continue to issue permits for a
35 business location that had previously held permits under this subsection. No permit may be issued
36 to any residential private club or sports club that practices discrimination on the basis of race,
37 gender or ethnicity.

38 ~~The mixed beverages purchase transportation permit authorized by G.S. 18B-404(b) shall be~~
39 ~~issued by a local board operating a store located in the county.~~

40 ...

41 (p) The Commission shall issue a special occasion permit under G.S. 18B-1001(8) to a
42 mixed beverage permittee in a sports facility occupied by a major league professional sports team
43 with suites available for sale or lease to patrons of the facility to authorize patrons to make
44 available alcoholic beverages in those suites as if the patron were a host of a reception, party or
45 other special occasion. If the patron occupying the suite so desires, alcoholic beverages by
46 self-service may be made available to any person at least 21 years of age possessing a valid ticket
47 to the event authorizing that person to occupy the suite. ~~At no event may the patron make~~
48 ~~available a quantity of alcoholic beverages in excess of the amount a person is allowed to buy~~
49 ~~under G.S. 18B-303(a).~~ A mixed beverage permittee who holds a permit shall provide mixed
50 beverage tax paid spirituous liquor for resale by the container in approved sizes of no larger than
51 750 milliliters to the host or patron of the suite. This subsection does not authorize any person

1 possessing a valid ticket to an event at the facility to bring alcoholic beverages onto the premises
2 and consume those alcoholic beverages on the premises, or to remove those beverages from the
3 suite.

4"

5 **SECTION 3.(s)** G.S. 18B-1007 reads as rewritten:

6 **"§ 18B-1007. Additional requirements for mixed beverages permittees.**

7 (a) Purchases. – A mixed beverages permittee may purchase spirituous liquor for resale
8 as mixed beverages and a guest room cabinet permittee may purchase spirituous liquor for resale
9 from a guest room cabinet only at an ABC store designated by a local board and only with a
10 purchase transportation permit issued by that local board under G.S. 18B-403 and
11 18B-404.board.

12"

13
14 **TRANSITION PERIOD FOR ABC PERMITTEE OWNERSHIP CHANGES**

15 **SECTION 4.** G.S. 18B-903 reads as rewritten:

16 **"§ 18B-903. Duration of permit; renewal and transfer.**

17 ...

18 (c) Change in Ownership. –

19 (1) ~~All~~Except as provided in subdivision (2) of this subsection, all permits for an
20 establishment shall automatically expire and shall be surrendered to the
21 Commission if:

22 ~~(1)~~a. Ownership of the establishment changes; or

23 ~~(2)~~b. There is a change in the membership of the firm, association or
24 partnership owning the establishment, involving the acquisition of a
25 twenty-five percent (25%) or greater share in the firm, association or
26 partnership by someone who did not previously own a twenty-five
27 percent (25%) or greater share; or

28 ~~(3)~~c. Twenty-five percent (25%) or more of the stock of the corporate
29 permittee owning the establishment is acquired by someone who did
30 not previously own twenty-five percent (25%) or more of the stock.

31 (2) Notwithstanding subsection (e) of this section, any person who through
32 contract, lease, management agreement, or change of ownership or transfer of
33 business as provided in subdivision (1) of this subsection becomes lawfully
34 entitled to use and control of the premises of an establishment that holds
35 permits immediately prior to such change of ownership may continue to
36 operate the establishment, as successor to the prior permittee, to the same
37 extent as the predecessor permittee until the person receives a temporary or
38 new permit, subject to the following limitations:

39 a. The person shall provide written or electronic notice to the
40 Commission of the name of the non-permitted person, the name and
41 address of the permitted establishment, and the date of the change in
42 ownership. The person may not operate the establishment as provided
43 in this subdivision until the person has provided notice to the
44 Commission.

45 b. The person shall submit a new permit application to the Commission
46 within 60 days after the change of ownership. If the person does not
47 apply for a new permit within 60 days, all permits for the establishment
48 shall automatically expire and shall be surrendered to the Commission.

49 c. The 60-day period to file a new permit application shall only be
50 allowed once per 24 months for each establishment that holds an ABC
51 permit, unless the establishment requests and the Commission grants

a waiver of the 24 month requirement. The Commission shall grant a waiver of the 24 month requirement if it determines that the public health, safety, and welfare would not be harmed by granting the waiver.

d. This subdivision shall apply only to establishments that hold ABC permits that are in good standing and that have not been found responsible by the Commission or a court of competent jurisdiction of a gambling, assault, disorderly conduct, prostitution, or controlled substances violation within 12 months prior to the date the non-permitted person becomes entitled to use and control of the establishment.

...."

ALLOW ALCOHOL SALES AT PROFESSIONAL SPORTING EVENTS OCCURRING ON CERTAIN COMMUNITY COLLEGE CAMPUSES

SECTION 5. G.S. 18B-1006(a) is amended by adding a new subdivision to read:

"(11) Notwithstanding subdivision (10) of this subsection, the sale of malt beverages, unfortified wine, fortified wine, or mixed beverages for consumption on the premises at a professional sporting event held at a stadium owned by a community college that is located in a township that has previously voted to allow the operation of ABC stores, if the Board of Trustees of the community college has voted to allow the issuance of permits for use at the stadium. If a Board of Trustees votes to allow the issuance of permits in accordance with this subdivision, the Board of Trustees shall provide written notice to the Commission that it has voted to allow the issuance of permits. Any permit described in G.S. 18B-1001, 18B-1002(a)(2), or 18B-1002(a)(5) may be issued pursuant to this subdivision to applicants meeting the requirements for the requested permit. For purposes of this subdivision, the premises of a stadium shall include any area that meets all of the following requirements:

- a. Is within 500 feet of the furthest exterior building wall, perimeter fence, or permanent fixed perimeter.
- b. Is designated by the stadium in a map or written description that clearly defines the boundary of the area, and that map or written description is included in the permit application.
- c. Can be designated in a manner that enables the stadium to ensure compliance with the provisions of this Chapter."

REPEAL "PRIVATE BAR" DEFINITION AND ADD A NEW DEFINITION FOR "BAR"

SECTION 6.(a) G.S. 18B-1000 reads as rewritten:

"§ 18B-1000. Definitions concerning establishments.

The following requirements and definitions shall apply to this Chapter:

- (1) Bar. – An establishment that is primarily engaged in the business of selling alcoholic beverages and that does not serve prepared food as defined in G.S. 105-164.3(179). A bar shall not include a brewery, winery, or distillery.
- (1a) Community theatre. – An establishment owned and operated by a bona fide nonprofit organization that is engaged solely in the business of sponsoring or presenting amateur or professional theatrical events to the public. A permit issued for a community theatre is valid only during regularly scheduled theatrical events sponsored by such nonprofit organization.

1 ~~(1a)~~(1b) Congressionally chartered veterans organizations. – An establishment that
 2 is organized as a federally chartered, nonprofit veterans organization, and is
 3 operated solely for patriotic or fraternal purposes.

4 ~~(1b)~~(1c) Convention center. – An establishment that meets either of the following
 5 requirements:

6 a. A publicly owned or operated establishment that is engaged in the
 7 business of sponsoring or hosting conventions and similar large
 8 gatherings, including auditoriums, armories, civic centers, convention
 9 centers, and coliseums.

10 b. A privately owned facility located in a city that has a population of at
 11 least 200,000 but not more than 250,000 by the 2000 federal census
 12 and is located in a county that has previously authorized the issuance
 13 of mixed beverage permits by referendum. To qualify as a convention
 14 center under this subdivision, the facility shall meet each of the
 15 following requirements:

16 1. The facility shall be certified by the appropriate local official
 17 as being consistent with the city's redevelopment plan for the
 18 area in which the facility is located.

19 2. The facility shall contain at least 7,500 square feet of floor
 20 space that is available for public use and shall be used
 21 exclusively for banquets, receptions, meetings, and similar
 22 gatherings.

23 3. The facility's annual gross receipts from the sale of alcoholic
 24 beverages shall be less than fifty percent (50%) of the gross
 25 receipts paid to all providers at permitted functions for food,
 26 nonalcoholic beverages, alcoholic beverages, service, and
 27 facility usage fees (excluding receipts or charges for
 28 entertainment and ancillary services not directly related to
 29 providing food and beverage service). The person to whom a
 30 permit has been issued for a privately owned facility shall be
 31 required to maintain copies of all contracts and invoices for
 32 items supplied by providers for a period of three years from the
 33 date of the event.

34 A permit issued for a convention center shall be valid only for those parts of
 35 the building used for conventions, banquets, receptions, and other events, and
 36 only during scheduled activities.

37 ~~(1e)~~(1d) Cooking school. – An establishment substantially engaged in the business
 38 of operating a school in which cooking techniques are taught for a fee.

39 ...
 40 ~~(4e) Private bar. — An establishment that is organized and operated as a for-profit
 41 entity and that is not open to the general public but is open only to the members
 42 of the organization and their bona fide guests for the purpose of allowing its
 43 members and their guests to socialize and engage in recreation.~~

44 "

45 **SECTION 6.(b)** G.S. 130A-247 reads as rewritten:

46 **"§ 130A-247. Definitions.**

47 The following definitions shall apply throughout this Part:

48 (1) "Bar" is as defined in G.S. 18B-1000(1).

49 (1a) "Bed and breakfast home" means a business in a private home of not more
 50 than eight guest rooms that offers bed and breakfast accommodations for a
 51 period of less than one week and that meets all of the following criteria:

- a. Does not serve food or drink to the general public for pay.
- b. Serves the breakfast meal, the lunch meal, the dinner meal, or a combination of all or some of these three meals, only to overnight guests of the home.
- c. Includes the price of breakfast in the room rate. The price of additional meals served shall be listed as a separate charge on the overnight guest's bill rate at the conclusion of the overnight guest's stay.
- d. Is the permanent residence of the owner or the manager of the business.

...
 (10) ~~"Private bar" is as defined in G.S. 18B-1000(4a).~~
"

SECTION 6.(c) G.S. 130A-248(a) reads as rewritten:

"(a) For the protection of the public health, the Commission shall adopt rules governing the sanitation of establishments that prepare or serve drink or food for pay and establishments that prepare and sell meat food products or poultry products. However, any establishment that prepares or serves food or drink to the public, regardless of pay, shall be subject to the provisions of this Article if the establishment that prepares or serves food or drink holds an ABC permit, as defined in G.S. 18B-101, meets any of the definitions in G.S. 18B-1000, and does not meet the definition set forth in G.S. 130A-247 for a brewery, distillery, ~~private bar~~, private club, or winery."

SECTION 6.(d) G.S. 130A-250(4a) reads as rewritten:

"(4a) ~~Private bars.~~Bars."

ALLOW DISTILLERIES TO OBTAIN MIXED BEVERAGES CATERING PERMITS

SECTION 7. G.S. 18B-1001(12) reads as rewritten:

"(12) Mixed Beverages Catering Permit. – A mixed beverages catering permit may be issued to a hotel, restaurant, or distillery. A mixed beverages catering permit issued to a hotel or restaurant authorizes a the hotel or a restaurant that has a mixed beverages permit to bring spirituous liquor onto the premises where the hotel or restaurant is catering food for an event and to serve the liquor to guests at the event. A mixed beverages catering permit issued to a distillery allows the distillery to bring spirituous liquor onto the premises where a hotel or restaurant is catering food for an event and serve the liquor to guests at the event, regardless of whether the hotel or restaurant also holds a mixed beverages catering permit."

ALLOW DISTILLERIES TO SERVE MIXED BEVERAGES CONTAINING THE DISTILLERY'S PRODUCT REGARDLESS OF THE RESULTS OF A LOCAL MIXED BEVERAGE ELECTION

SECTION 8. G.S. 18B-1105(a) is amended by adding a new subdivision to read:

"(4c) In an area where the sale of mixed beverages has not been approved by a local election, sell mixed beverages containing only spirituous liquor produced at the distillery for consumption on the premises upon obtaining a mixed beverages permit under G.S. 18B-1001."

EFFECTIVE DATE

SECTION 9. Except as otherwise provided, this act is effective when it becomes law.