

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 415
HOUSE BILL 502

AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE ALCOHOLIC BEVERAGE LAWS, TO AUTHORIZE THE SALE OF ALCOHOLIC BEVERAGES IN CERTAIN AREAS OF THE STATE, TO INCREASE THE FEES FOR MOST COMMERCIAL ALCOHOLIC BEVERAGE PERMITS, AND TO MAKE OTHER CHANGES TO THE ALCOHOLIC BEVERAGE LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18B-101(13a) reads as rewritten:

"(13a) 'Special ABC area' means an area ~~in a city or county, either unincorporated or incorporated, with less than 500 permanent residents that:~~

- ~~(1) Borders on another state;~~
- ~~(2) Where ABC stores are permitted in one or more cities in the county;~~
- ~~(3) Where the on-premises or off-premises sale of unfortified wines and malt beverages by qualified persons and establishments, including persons and establishments qualified under G.S. 18B-603(e) or G.S. 18B-603(d), is permitted countywide or in two or more cities in the county; and such area that meets all of the following requirements:~~
 - ~~a. Has fewer than 500 permanent residents.~~
 - ~~b. Is located in a county that borders another state, that has at least one city that has approved the operation of an ABC store, and in which the sale of unfortified wine and malt beverages is permitted countywide or in at least two cities.~~
 - ~~(a)c. Contains more than 500 contiguous acres and is made up of privately-owned land and land owned by an association or a club having that is exempt from income tax on its membership income under Article 4 of Chapter 105 of the General Statutes, has more than 200 members and members, was created for municipal and recreational purposes; purposes, and, (b) Which for three or more years-years, has levied assessments or dues and provided municipal services; and services.~~

- (e) ~~Is incorporated as a municipality or has within such area a private association or club that has been determined or is treated by the Internal Revenue Service to be exempt from tax on member source or exempt function income."~~

Sec. 2. G.S. 18B-101 is amended by adding a new subdivision to read:

"(14a) 'Tourism ABC establishment' means a restaurant or hotel that meets both of the following requirements:

- a. Is located within 1.5 miles of the end of an entrance or exit ramp of a junction on a national scenic parkway designed to attract local, State, national, and international tourists between Milepost 305 and 460.
- b. Is located in a county in which the on-premises sale of malt beverages or unfortified wine is authorized in at least one city."

Sec. 3. G.S. 18B-200(d) reads as rewritten:

"(d) Employees. – The Commission may authorize the chairman to employ, discharge, and otherwise supervise subordinate personnel of the Commission. The Commission shall appoint at least one ~~hearing officer with authority~~ employee to make investigations, hold hearings, and hearings requested under G.S. 18B-1205, and represent the Commission in contested case hearings or perform any other duties authorized by Chapter 150B."

Sec. 4. G.S. 18B-201(a) reads as rewritten:

"(a) Financial Interests Restricted. – No person shall be appointed to or employed by the Commission, a local board, or the ALE ~~Division, Division~~ if that person or a member of his household that person's family related to him that person by blood or marriage to the first degree has or controls, directly or indirectly, a financial interest in any commercial alcoholic beverage enterprise, including any business required to have an ABC permit. The Commission may exempt from this provision any person, other than a Commission member, when the financial interest in question is so insignificant or remote that it is unlikely to affect the person's official actions in any way. Exemptions may be granted only to individuals, not to groups or classes of people, and each exemption shall be in writing, be available for public inspection, and contain a statement of the financial interest in question."

Sec. 5. G.S. 18B-503 reads as rewritten:

"§ 18B-503. Disposition of seized alcoholic beverages.

(a) Storage. – A law-enforcement officer who seizes alcoholic beverages as evidence of an ABC law violation shall provide for the storage of those alcoholic beverages until the commencement of the trial or administrative hearing relating to the violation, unless some other disposition is authorized under this section.

(b) Disposition Before Trial. – After giving notice to each defendant, to any other known owner, and to the Commission, a judge may ~~make order any of~~ the following dispositions of alcoholic beverages seized as evidence of an ABC law violation:

- (1) ~~He shall order the~~ The destruction of any malt beverages except that amount needed for evidence at trial.

- (2) ~~He may order the~~ The sale of any alcoholic beverages other than malt beverages or nontaxpaid alcoholic beverages, and other than any alcoholic beverages needed for evidence at trial, if the trial is likely to be delayed for more than 90 days, or if the quantity or nature of the alcoholic beverages is such that storage is impractical or unduly expensive.
- (3) ~~He may order~~ The destruction of the alcoholic beverages if storage or sale is not practical.
- (4) ~~He may order continued~~ Continued storage of the alcoholic beverages.
- (c) Disposition After Trial. – After the criminal charge is resolved, a judge may order the following dispositions of seized alcoholic beverages:
- (1) If the owner or possessor of the alcoholic beverages is found guilty of a criminal charge relating to those alcoholic beverages, the judge may order the sale or destruction of any alcoholic beverages that were held until trial.
- (2) If the owner or possessor of the alcoholic beverages is found not guilty, or if charges are dismissed or otherwise resolved in ~~his favor,~~ favor of the owner or possessor, the judge shall order the alcoholic beverages returned to that owner or possessor, except as provided in subdivision (3).
- (3) If the owner or possessor of the alcoholic beverages is found not guilty, or if charges are otherwise resolved in ~~his favor,~~ favor of the owner or possessor, but possession of the alcoholic beverages by ~~him~~ that owner or possessor would be unlawful, the judge shall order the alcoholic beverages either sold or destroyed.
- (4) If ownership of the alcoholic beverages remains uncertain after trial or after the charges have been dismissed, the judge may order the alcoholic beverages held, or the alcoholic beverages sold and the proceeds held, for a specified time, until ownership of the alcoholic beverages can be determined.
- (d) Holding for Administrative Hearings. – If alcoholic beverages used as evidence in a criminal proceeding are also needed as evidence at an administrative hearing, a judge shall not order any of the dispositions set out in subsection (c), but shall order the alcoholic beverages held for the administrative hearing and for a determination of final disposition by the ~~Commission or one of its hearing officers. A hearing officer for the Commission.~~ The Commission may, before or after an administrative hearing, order any of the dispositions authorized under subsections (b) and (c). If no related criminal proceeding has commenced, the ~~Commission or its hearing officers~~ shall not order sale or destruction of alcoholic beverages until notice has been given to the district attorney for the district where the alcoholic beverages were seized or any violation of ABC laws related to the seizure of the alcoholic beverages is likely to be prosecuted.
- (e) Sale Procedure. – The sale of unfortified wine or fortified wine shall be by public auction unless those wines would likely become spoiled or lose value in the time required to arrange a public auction. If spoilage or loss of value is likely, the judge ~~or~~

~~hearing officer~~ ordering the sale or the Commission may authorize sale at the prevailing wholesale price, as determined by the Commission, to one or more persons holding the appropriate retail wine permits in the county in which the wine was seized, or in a neighboring county if there are no such persons in the county in which the wine was seized. Spirituous liquor may be sold only to the local ABC board serving the city or county in which the liquor was seized, or, if there is no local board for that city or county, to the nearest local board. The sale price shall be at least ten percent (10%) less than the price the local board would pay for the same liquor bought through the State warehouse.

(f) Sale Proceeds. – An agency selling alcoholic beverages seized under the provisions of this Chapter shall keep the proceeds in a separate account until some other disposition is ordered by a judge or a ~~Commission hearing officer~~. ~~If, in the Commission.~~ In a criminal proceeding, if the owner or possessor of the alcoholic beverages is found guilty of a violation relating to seizure of the alcoholic beverages, or if he the owner or possessor is found not guilty, or if guilty or the charge is dismissed or otherwise resolved in his favor, favor of the owner or possessor, but the possession of the alcoholic beverages by him that owner or possessor would be unlawful, or if the ownership of the alcoholic beverages cannot be determined, the proceeds from the sale of those alcoholic beverages shall be paid to the school fund of the county in which the alcoholic beverages were seized. If the owner or possessor of alcoholic beverages seized for violation of the ABC laws is found not guilty of criminal charges relating to the seizure of those beverages, or if beverages or the charge is dismissed or otherwise resolved in his favor, favor of the owner or possessor, and if possession of the alcoholic beverages by him that owner or possessor was lawful when the beverages were seized, the proceeds from the sale of those alcoholic beverages shall be paid to him the owner or possessor. The agency making the sale may deduct and retain from the amount to be placed in the county school fund the costs of storing the seized alcoholic beverages and of conducting the sale, but may not deduct those costs from the amount to be turned over to an owner or possessor of the alcoholic beverages.

(g) Court Action by Owner. – Any person who ~~has claims~~ claims any of the following ~~claims~~ resulting from the seizure of alcoholic beverages may bring an action in the superior court of the county in which the alcoholic beverages were seized:

- (1) ~~Alcoholic~~ To be the owner of alcoholic beverages owned by him are wrongfully held; that are wrongfully held.
- (2) ~~Alcoholic~~ To be the owner of alcoholic beverages owned by him that are needed as evidence in another proceeding; proceeding.
- (3) ~~He is~~ To be entitled to proceeds from a sale of seized alcoholic beverages; beverages.
- (4) ~~He is~~ To be entitled to restitution for alcoholic beverages wrongfully destroyed."

Sec. 6. G.S. 18B-504(e) reads as rewritten:

"(e) Disposition after Trial. – The presiding judge in a criminal proceeding for violation of ABC laws may take the following actions after resolution of a charge against the owner or possessor of property subject to forfeiture under this section:

- (1) If the owner or possessor of the property is found guilty of an ABC offense, the judge may order the property forfeited.
- (2) If the owner or possessor of the property is found not guilty, or if the charge is dismissed or otherwise resolved in ~~his favor,~~ favor of the owner or possessor, the judge shall order the property returned to the owner or possessor.
- (3) If ownership of the property remains uncertain after trial, the judge may order the property held for a specified time to determine ownership. If the judge finds that ownership cannot be determined with reasonable effort, ~~he~~ the judge shall order the property forfeited.
- (4) Regardless of the disposition of the charge, if the property is something that may not be possessed lawfully, the judge shall order it forfeited.
- (5) If the property is also needed as evidence at an administrative hearing, the judge shall provide that ~~his~~ the order does not go into effect until the Commission ~~or one of its hearing officers~~ determines that the property is no longer needed for the administrative proceeding."

Sec. 7. G.S. 18B-603(d)(4) reads as rewritten:

- "(4) The Commission may issue brown-bagging permits for private clubs and congressionally chartered veterans organizations but may no longer issue and may not renew brown-bagging permits for restaurants, hotels, and community theatres. A restaurant, hotel, or community theatre may not be issued a mixed beverage permit under subdivision (1) until it surrenders its brown-bagging permit."

Sec. 8. G.S. 18B-603(f) reads as rewritten:

"(f) Permits Not Dependent on Elections. – The Commission may issue the following kinds of permits without approval at an election:

- (1) Special occasion permits;
- (2) Limited special occasion permits;
- (3) Brown-bagging permits for private ~~clubs;~~ clubs and congressionally chartered veterans organizations;
- (4) Culinary permits, except as restricted by subdivision (d)(5);
- (5) Special one-time permits issued under G.S. 18B-1002;
- (6) All permits listed in ~~G.S. 18B-1100.~~ G.S. 18B-1100;
- (7) On-premises malt beverage permits and on-premises unfortified wine permits for a tourism ABC establishment."

Sec. 9. G.S. 18B-603(h) reads as rewritten:

"(h) Permits Based on Existing Permits. – In any county in which the sale of malt beverage on and off premises, the sale of unfortified wine on and off premises, the sale of mixed beverages, and the operation of an ABC system has been allowed in at least six cities in the county, or in any county adjacent to that county in which an ABC system has been allowed and which borders on the Atlantic Ocean, the Commission may issue permits to sports clubs as defined in G.S. 18B-1000(8) throughout the county. The Commission may issue the following permits:

- (1) On and Off Premises Malt Beverage;
- (2) On and Off Premises Unfortified Wine;
- (3) On and Off Premises Fortified Wine; or
- (4) ~~Mixed Beverage.~~ Beverages.

~~Retail establishments holding mixed beverage permits shall purchase their spirituous liquor at the nearest municipal ABC system store.~~ The Commission may also issue on-premises malt beverage, unfortified wine, fortified wine and mixed beverages permits to a sports club located in a county adjacent to any county that has approved the sale of mixed beverages pursuant to the last paragraph of G.S. 18B-603(d), if the county in which the sports club is located borders another state and has at least one city that has approved the sale of mixed beverages. Sports clubs holding mixed beverages permits shall purchase their spirituous liquor at the nearest ~~municipal-ABC system store that has been designated for such purchases.~~ store that is located in the county.

The Commission may further issue on-premises malt beverage and on-premises unfortified wine permits to a sports club located in a county bordering on another state that is adjacent to any county in which permits were issued pursuant to this subsection prior to August 1, 1993. The sports clubs must be located in the unincorporated areas of a county, in which the sale of malt beverages and unfortified wine is not permitted, and where there are six or more municipalities in that county where the sale of malt beverages and unfortified wine is permitted."

Sec. 10. G.S. 18B-900(c) reads as rewritten:

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

- (1) The owner of a sole proprietorship;
- (2) Each member of a firm, association or general partnership;
- (2a) Each general partner in a limited partnership;
- (3) Each officer, director and owner of ~~more than~~ more twenty-five percent (25%) or more of the stock of a corporation except that the requirement of subdivision (a)(1) does not apply to such an officer, director, or stockholder unless he is a manager or is otherwise responsible for the day-to-day operation of the business;
- (4) The manager of an establishment operated by a corporation other than an establishment with only off-premises malt beverage, off-premises unfortified wine, or off-premises fortified wine permits;
- (5) Any manager who has been empowered as attorney-in-fact for a nonresident individual or partnership."

Sec. 11. G.S. 18B-902 reads as rewritten:

"§ 18B-902. Application for permit; fees.

(a) Form. – An application for an ABC permit shall be on a form prescribed by the Commission and shall be notarized. The application shall be signed and sworn to by each person required to qualify under G.S. 18B-900(c).

(b) Investigation. – Before issuing a new permit, the Commission, with the assistance of the ALE Division, shall investigate the applicant and the premises for

which the permit is requested. The Commission may request the assistance of local ABC officers in investigating applications. An applicant shall cooperate fully with the investigation.

(c) False Information. – Knowingly making a false statement in an application for an ABC permit shall be grounds for denying, suspending, revoking or taking other action against the permit as provided in G.S. 18B-104 and shall also be unlawful.

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

- (1) On-premises malt beverage permit – \$200.00.
- (2) Off-premises malt beverage permit – \$200.00.
- (3) On-premises unfortified wine permit – \$200.00.
- (4) Off-premises unfortified wine permit – \$200.00.
- (5) On-premises fortified wine permit – \$200.00.
- (6) Off-premises fortified wine permit – \$200.00.
- (7) Brown-bagging permit – \$200.00, unless the application is for a restaurant seating less than 50, in which case the fee shall be \$100.00.
- (8) Special occasion permit – \$200.00.
- (9) Limited special occasion permit – \$25.00.
- (10) Mixed beverages permit – \$750.00.
- (11) Culinary permit – \$100.00.
- (12) Unfortified winery permit – ~~\$100.00.~~ \$150.00.
- (13) Fortified winery permit – ~~\$100.00.~~ \$150.00.
- (14) Limited winery permit – ~~\$100.00.~~ \$150.00.
- (15) Brewery permit – ~~\$100.00.~~ \$150.00.
- (16) Distillery permit – ~~\$100.00.~~ \$150.00.
- (17) Fuel alcohol permit – ~~\$10.00.~~ \$50.00.
- (18) Wine importer permit – ~~\$100.00.~~ \$150.00.
- (19) Wine wholesaler permit – ~~\$100.00.~~ \$150.00.
- (20) Malt beverage importer permit – ~~\$100.00.~~ \$150.00.
- (21) Malt beverage wholesaler permit – ~~\$100.00.~~ \$150.00.
- (22) Bottler permit – ~~\$100.00.~~ \$150.00.
- (23) Salesman permit – \$25.00.
- (24) Vendor representative permit – \$25.00.
- (25) Nonresident malt beverage vendor permit – ~~\$25.00.~~ \$50.00.
- (26) Nonresident wine vendor permit – ~~\$25.00.~~ \$50.00.
- (27) Any special one-time permit under G.S. 18B-1002 – \$25.00.
- (28) Winery special event permit – \$100.00.
- (29) Mixed beverages catering permit – \$100.00.
- (30) Guest room cabinet permit – \$750.00.

(e) Fee for Combined Applications. – If application is made at the same time for retail malt beverage, unfortified wine and fortified wine permits for a single business location, the total fee for those applications shall be two hundred dollars (\$200.00). If application is made at the same time for brown-bagging and special occasion permits for a single business location, the total fee for those applications shall be three hundred

dollars (\$300.00). If application is made at the same time for wine and malt beverage importer permits, the total fee for those applications shall be one hundred fifty dollars ~~(\$100.00)~~ ~~(\$150.00)~~. If application is made at the same time for wine and malt beverage wholesaler permits, the total fee for those applications shall be one hundred fifty dollars ~~(\$100.00)~~ ~~(\$150.00)~~. If application is made in the same year for vendor representative permits to represent more than one vendor, only one fee shall be paid. If application is made at the same time for nonresident malt beverage vendor and nonresident wine vendor permits, the total fee for those applications shall be twenty-five dollars (\$25.00).

(f) Fee Not Refundable. – The fee required by subsection (d) shall not be refunded.

(g) Fees to Treasurer. – All fees collected by the Commission under this or any other section of this Chapter shall be remitted to the State Treasurer for the General Fund."

Sec. 12. G.S. 18B-904(f) reads as rewritten:

"(f) Local Government Objections. ~~—In any hearing in which the suitability of a location or applicant is an issue, a local government official may be designated by the local governing authority to make recommendations pursuant to G.S. 18B-901(b) and may testify at the hearing without further qualification or authorization.~~ The governing body of a city or county may designate an official of the city or county, by name or by position, to make recommendations concerning the suitability of a person or of a location for an ABC permit. The governing body of a city or county shall notify the Commission of an official designated under this subsection. An official designated under this subsection shall be allowed to testify at a contested case hearing in which the suitability of a person or of a location for an ABC permit is an issue without further qualification or authorization."

Sec. 13. G.S. 18B-906 reads as rewritten:

"§ 18B-906. Applicability of Administrative Procedure Act.

(a) Act Applies. – An ABC permit is a 'license' within the meaning of G.S. ~~150A-2, 150B-2,~~ and a Commission action on issuance, ~~suspension~~ suspension, or revocation of an ABC permit, other than a temporary permit issued under G.S. 18B-905, is a 'contested case' subject to the provisions of Chapter ~~150A-150B~~ except as provided in ~~subsection (b)~~ this section.

(b) Exception on Hearing Location. – Hearings on ABC permits shall be held in Ahoskie, Asheville, Bryson City, Charlotte, Elizabeth City, Fayetteville, Franklin, Goldsboro, Greensboro, Greenville, Hickory, Jacksonville, Kinston, New Bern, Raleigh, Statesville, Wilmington, and Winston-Salem. Hearings shall be held within 100 miles, as best can be determined by the Commission, of the county seat of the county in which the licensed business or proposed business is located. The hearing may be held, however, at any place upon agreement of the Commission and all other parties.

(c) Exception on New Evidence. – In making a final decision in a contested case in which an issue is whether to deny an application for an ABC permit because either the applicant or the location for the proposed ABC permit is unsuitable, the Commission may hear evidence of acts that occurred after the date the contested case hearing was

held if the evidence is admissible under G.S. 150B-29(a). New evidence heard under this subsection is not grounds for reversal or remand under G.S. 150B-51(a)."

Sec. 14. G.S. 18B-1000 is amended by inserting a new subdivision in the appropriate alphabetical order to read:

"(5a) Residential private club. – A private club that is located in a privately owned, primarily residential and recreational development."

Sec. 15. G.S. 18B-1000(8) reads as rewritten:

"(8) Sports club. – An establishment substantially engaged in the business of providing ~~athletic facilities~~, an 18-hole golf course, a tennis court, or both. The sports club can either be open to the general public or ~~for~~ to members and their guests. ~~Sports clubs shall only include golf courses.~~ To qualify as a sports club, an establishment's gross receipts for club activities shall be greater than its gross receipts for alcoholic beverages. This provision does not prohibit a sports club from operating a restaurant. Receipts for food shall be included in with the club activity fee."

Sec. 16. G.S. 18B-1004(e) reads as rewritten:

"(e) This section does not prohibit at any time the wholesale delivery and sale of unfortified wine, fortified wine, and malt beverages to retailers issued permits pursuant to ~~G.S. 18B-1001.~~ G.S. 18B-1001 or G.S. 18B-1002(a)(2) or (5)."

Sec. 17. G.S. 18B-1006(h) reads as rewritten:

"(h) Purchase Restrictions. – A retail permittee may purchase malt beverages, unfortified wine, or fortified wine only from a wholesaler ~~or importer~~ who maintains a place of business in this State and has the proper permit."

Sec. 18. G.S. 18B-1006(j) reads as rewritten:

"(j) ~~Recreation/Sports Recreation~~ Recreation Districts. ~~The Notwithstanding the provisions of Article 6 of this Chapter, the Commission may issue permits for the sale of malt beverages and beverages, unfortified wine wine, fortified wine, and mixed beverages to qualified businesses in a recreation in recreation/sports districts when they are wholly located in a County where there are two or more municipalities that are wholly located in the County that allow the sale of alcoholic beverages while the sale of any alcoholic beverages is prohibited in the nonincorporated areas of the County, and the area to be included in the recreation/sports district has been previously identified by one of those municipalities through a resolution of intent for annexation. The issuance of the permits shall be upon the formal written request of the City indicating the intent to annex the area or upon formal written request of the County Commissioners with the request designating the geographic boundaries of the district in which the permits may be issued.~~

~~For the purposes of this act a recreation/sports district shall not exceed one half mile in diameter and shall host at least five sporting events each year.~~ district. A 'recreation district' is an area that is located in a county that has not approved the issuance of permits, has at least two cities that have approved the sale of malt beverages, wine, and the operation of an ABC store, and contains a facility of at least 450 acres where five or

more public auto racing events are held each year. The recreation district includes the area within a half-mile radius of the racing facility."

Sec. 19. G.S. 18B-1006(k) reads as rewritten:

"(k) Special Residential Private Club and Sports Club Permits. – The Commission may issue the permits listed in G.S. 18B-1001 to qualified persons and establishments located within a private club located in a private development, 18B-1001, without approval at an ~~election:~~ election, to a residential private club or a sports club that is located in a county that meets the requirements set in any of the following subdivisions:

- (1) ~~In any county which has~~ Has a population of less than 45,000 by the last federal census, ~~and in which there are~~ has at least three but not more than four cities that have approved the sale of malt beverages or unfortified wine; ~~and wine, has a.~~ Only only one city ~~in the county that~~ has approved the on-premises sale of malt beverages, and b. At has at least two cities ~~in the county have that~~ approved the operation of ABC stores before the ratification date of this section; or July 10, 1992.
- (2) ~~In any county bordering on~~ Borders a county that has called elections pursuant to G.S. 18B-600(f); ~~and 18B-600(f), and:~~
 - a. Has not approved the a. ~~The issuance of permits permits, other than malt beverage permits, in unincorporated areas of the county has not been approved, county, and b. Not has no~~ more than three cities ~~in the county have that~~ approved the operation of ABC stores before the ratification date of this section. July 10, 1992; or
 - b. Both the county and the two cities within the county have approved the operation of ABC stores.
- (3) Is bordered by four counties that have not approved the issuance of permits and have at least one city that has approved the operation of an ABC store.
- (4) Has not approved the issuance of permits, has at least three cities that have approved the issuance of only either off-premises malt beverage or both off-premises malt beverage and off-premises unfortified wine permits, and has only one city that, as of July 1, 1993, had approved the operation of an ABC store.

The mixed beverages ~~transportation purchase-transportation~~ permit authorized by G.S. 18B-404(b) shall be issued by a local board operating a store located in the county. ~~A private club located in the county is defined as a club or lodge located in a privately owned, primarily residential and recreational development, which is open only to members by invitation of the club's board of directors and the guests of these members."~~

Sec. 20. G.S. 18B-1104(7) reads as rewritten:

"(7) In areas where the sale is legal, sell the brewery's malt beverages at the brewery upon receiving a permit under G.S. 18B-1001(1). The brewery also may obtain a malt beverage wholesaler permit to sell, deliver, and ship at wholesale only malt beverages manufactured by the brewery. This ~~The~~ authorization of this subdivision

applies to a brewery that sells, to consumers at the brewery, to wholesalers, to retailers, and to exporters, fewer than 310,000 gallons of malt beverages produced by it per year."

Sec. 21. G.S. 18B-1106(a) reads as rewritten:

"(a) Authorization. – The holder of a wine importer permit may:

- (1) Import fortified and unfortified wines from outside the United States in closed containers;
- (2) Store those wines;
- (3) Sell those wines at wholesale to wine wholesalers for purposes of resale."

Sec. 22. G.S. 18B-1108 reads as rewritten:

"§ 18B-1108. Authorization of malt beverages importer permit.

The holder of a malt beverages importer permit may:

- (1) Import malt beverages from outside the United States in closed containers;
- (2) Store those malt beverages;
- (3) Sell those malt beverages at wholesale to malt beverage wholesalers for purposes of resale."

Sec. 23. G.S. 18B-1113 reads as rewritten:

"§ 18B-1113. Authorization of nonresident malt beverage vendor permit.

The holder of a nonresident malt beverage vendor permit may sell, ~~deliver~~deliver, and ship malt beverages in this State only to wholesalers, ~~importers~~importers, and bottlers licensed under this Chapter, as authorized by the ABC laws. The malt beverages must come to rest at the licensed premises of a malt beverage wholesaler in this State before being resold to a retailer. A nonresident malt beverage vendor permit may be issued to a brewery, ~~importer~~an importer, or a bottler outside North Carolina who desires to sell, ~~deliver~~deliver, and ship malt beverages into this State."

Sec. 24. G.S. 18B-1114 reads as rewritten:

"§ 18B-1114. Authorization of nonresident wine vendor permit.

The holder of a nonresident wine vendor permit may sell, ~~deliver~~deliver, and ship unfortified and fortified wine in this State only to wholesalers, ~~importers~~importers, and bottlers licensed under this Chapter, as authorized by the ABC laws. The unfortified and fortified wine must come to rest at the licensed premises of a wine wholesaler in this State before being resold to a retailer. A nonresident wine vendor permit may be issued to a winery, a wholesaler, an importer, or a bottler outside North Carolina who desires to sell, ~~deliver~~deliver, and ship unfortified and fortified wine into this State."

Sec. 25. G.S. 18B-1116(a) reads as rewritten:

"(a) Prohibitions. – It shall be unlawful for any manufacturer, bottler, or wholesaler of any alcoholic beverages, or for any officer, director, or affiliate thereof, either directly or indirectly to:

- (1) Require that an alcoholic beverage retailer purchase any alcoholic beverages from that person to the full or partial exclusion of any other alcoholic beverages offered for sale by other persons in this State; or
- (2) Have any direct or indirect financial interest in the business of any alcoholic beverage retailer in this State or in the premises where the

business of any alcoholic beverage retailer in this State is conducted;
or

- (3) Lend or give to any alcoholic beverage retailer in this State or his employee or to the owner of the premises where the business of any alcoholic beverage retailer in this State is conducted, any money, service, equipment, furniture, fixtures or any other thing of value.

A brewery qualifying under G.S. 18B-1104(7) to act as a wholesaler or retailer of its own malt beverages is not subject to the provisions of this subsection concerning financial interests in, and lending or giving things of value to, a wholesaler or retailer with respect to the brewery's transactions with the retail business on its premises. The brewery is subject to the provisions of this subsection, however, with respect to its transactions with all other wholesalers and retailers."

Sec. 26. G.S. 105-113.68(a)(13) reads as rewritten:

"(13) 'Wholesaler or importer' when used with reference to wholesalers or importers of wine or malt beverages includes resident wineries that sell their wines at retail and resident breweries that produce fewer than ~~62,000~~ 310,000 gallons of malt beverages per year."

Sec. 27. G.S. 18B-805(c)(2) reads as rewritten:

"(2) The local board shall spend for law enforcement an amount set by the board which shall be at least five percent (5%) of the gross receipts remaining after the distribution required by subdivision (1). The local board may contract with the ALE Division to provide the law enforcement required by this subdivision. Notwithstanding the provisions of any local act, this provision shall apply to all local boards."

Sec. 28. G.S. 18B-1303(b) reads as rewritten:

"(b) No Discrimination. – A wholesaler shall service all retail permit holders within his designated territory without discrimination and shall make a good faith effort to make available to each retail permit holder in the territory each brand of malt beverage which the wholesaler has been authorized to distribute in that area."

Sec. 29. G.S. 18B-604(b) reads as rewritten:

"(b) Effect of Favorable County Vote on City. – If a majority of voters vote in favor of certain alcoholic beverage sales in a county election, sale of that kind of alcoholic beverage shall be lawful throughout the county, regardless of the vote in any city at that or any previous or subsequent election, and regardless of any local act making sales unlawful in that city, unless the local act was ratified before the effective date of Article II, Section 24(1)(j) of the Constitution of North Carolina. A county malt beverage or unfortified [wine] election in favor of a particular ballot proposition which is more restrictive than the form of sale already allowed in a city within that county shall not affect the legality of those previously authorized sales in the city."

Sec. 30. Section 11 of this act becomes effective September 1, 1993, and applies to applications for ABC permits filed on or after that date. The remaining sections of this act are effective upon ratification.

In the General Assembly read three times and ratified this the 20th day of July, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives