

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

H

2

HOUSE BILL 1717\*  
Committee Substitute Favorable 6/9/10

Short Title: Modernization of the State ABC System.

(Public)

Sponsors:

Referred to:

May 17, 2010

1 A BILL TO BE ENTITLED  
2 AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE  
3 CONTROL SYSTEM, TO ENSURE THE INTEGRITY OF THE THREE TIER SYSTEM,  
4 AND TO REQUIRE MINIMUM STANDARDS AGE STANDARDS LAW  
5 ENFORCEMENT.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 18B-101 reads as rewritten:

8 "§ 18B-101. Definitions.

9 As used in this Chapter, unless the context requires otherwise:

10 ...

11 (6f) "Finance officer" means the local board employee, other than a general  
12 manager, that is responsible for keeping the accounts of the local board,  
13 receiving and depositing receipts, disbursing funds, and any other duties  
14 assigned by the local board or Commission.

15 (7) "Fortified wine" means any wine, of more than sixteen percent (16%) and no  
16 more than twenty-four percent (24%) alcohol by volume, made by  
17 fermentation from grapes, fruits, berries, rice, or honey; or by the addition of  
18 pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the  
19 same type of grape, fruit, berry, rice, or honey that is contained in the base  
20 wine and produced in accordance with the regulations of the United States.

21 (7d) "General manager" means the local board employee that is responsible for  
22 the oversight of daily operations of the ABC system and any other duties  
23 assigned by the local board or Commission. The board may designate only  
24 one employee to be the general manager.

25 ~~(7a)~~(7g) "Historic ABC establishment" means a restaurant or hotel that meets all  
26 of the following requirements:

- 27 a. Is on the national register of historic places or located within a State  
28 historic district.
- 29 b. Is a property designed to attract local, State, national, and  
30 international tourists located on a State Route (SR) and with a  
31 property line located within 1.5 miles of the intersection of a  
32 designated North Carolina scenic byway as defined in  
33 G.S. 136-18(31).
- 34 c. Is located within 15 miles of a national scenic highway.
- 35 d. Is located in a county in which the on-premises sale of malt  
36 beverages or unfortified wine is authorized in two or more cities in  
37 the county.



\* H 1 7 1 7 - V - 2 \*

1           ~~(7b)~~(7k) "Keg" means a portable container designed to hold and dispense 7.75  
2           gallons or more of malt beverage.  
3           ...."

4           **SECTION 2.** G.S. 18B-201 reads as rewritten:

5   "**§ 18B-201. Conflict of ~~interest~~interest; gifts.**

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

16      (b) Self-dealing. – The provisions of G.S. 14-234 shall apply to the Commission and  
17      local boards.

18      (c) Dealing for Family Members. – Neither the Commission nor any local board shall  
19      contract or otherwise deal in any business matter so that a member, member's spouse or any  
20      person related to ~~him~~the member by blood to a degree of first cousin or closer in any way  
21      financially benefits, directly or indirectly, from the transaction unless:

22           (1) The member who financially benefits from the transaction or whose spouse  
23           or relative financially benefits from the transaction abstains from  
24           participating in any way, including voting, in the decision;

25           (2) The minutes of the meeting at which the final decision is reached  
26           specifically note the member who is financially benefited or whose spouse  
27           or relative is financially benefited and the amount involved in each  
28           transaction;

29           (3) The next annual audit of the Commission or local board specifically notes  
30           the member and the amount involved in each transaction occurring during  
31           the year covered by the audit; and

32           (4) If the transaction is by a local board, the Commission is notified at least two  
33           weeks before final board approval of the transaction.

34      (d) Gifts Generally. – The provisions of G.S. 133-32 shall apply to the Commission and  
35      local boards.

36      (e) Conflicts of Interest for the Commission. – The provisions of Article 4 of Chapter  
37      138A of the General Statutes shall apply to the Commission.

38      (f) Conflicts of Interest for Local Boards. – Except as permitted under subsection (h) of  
39      this section, a local ABC board member shall not knowingly use the local ABC board member's  
40      position on the board in any way that will result in financial benefit to the local ABC board  
41      member, the local ABC board member's spouse, any person related to the local ABC board  
42      member by blood to a degree of first cousin or closer, or any business with which the local  
43      ABC board member is associated.

44      (g) For Purposes of Subsection (f) of this section, 'business with which associated' shall  
45      have the same meaning as in G.S. 138A-3(3). For purposes of this section, 'financial benefit'  
46      shall mean a direct pecuniary gain or loss, or a direct pecuniary loss to a business competitor.

47      (h) Notwithstanding subsection (f) of this section, a local ABC board member may  
48      participate in an action of the local ABC board under any of the following circumstances  
49      except as specifically limited:

50           (1) The financial benefit that accrues to the local ABC board member, the local  
51           ABC board member's spouse or any person related to the local ABC board

1 member by blood to a degree of first cousin or closer, or a business with  
2 which the local ABC board member is associated is one that is accrued as a  
3 member of a profession, occupation, or general class and is no greater than  
4 that which could reasonably be foreseen to accrue to all members of that  
5 profession, occupation, or general class.

6 (2) The financial benefit derived by a local ABC board member, the local ABC  
7 board member's spouse or any person related to the local ABC board  
8 member by blood to a degree of first cousin or closer, or a business with  
9 which the local ABC board member is associated is one that would be  
10 enjoyed to an extent no greater than that which other citizens of the State  
11 would or could enjoy.

12 (3) The financial benefit derived by a local ABC board member, the local ABC  
13 board member's spouse or any person related to the local ABC board  
14 member by blood to a degree of first cousin or closer, or a business with  
15 which the local ABC board member is so remote, tenuous, insignificant, or  
16 speculative that a reasonable person would conclude under the  
17 circumstances that the local ABC board member's ability to protect the  
18 public interest and perform the local ABC board member's duties would not  
19 be compromised.

20 (4) When an action affects or would affect the local ABC board member's  
21 compensation as a local ABC board member.

22 (5) Before the local ABC board member participated in the action, the board  
23 member requested and received from the ABC Commission a written  
24 advisory opinion that authorized the participation. In authorizing the  
25 participation under this subdivision, the ABC Commission shall consider the  
26 need for the local ABC board member's particular contribution, such as  
27 special knowledge of the subject matter and the effective functioning of the  
28 local ABC board.

29 (6) When action is ministerial only and does not require the exercise of  
30 discretion.

31 (7) When the local ABC board records in its minutes that it cannot obtain a  
32 quorum in order to take the action because the local ABC board member is  
33 disqualified from acting, the local ABC board member may be counted for  
34 purposes of a quorum but shall otherwise abstain from taking any further  
35 action.

36 (i) Nothing in this section shall allow participation in an action prohibited by  
37 G.S. 14-234 or G.S. 133-32.

38 (j) A local board member shall not improperly use or improperly disclose any  
39 confidential information.

40 (k) A local board member shall have an affirmative duty to promptly disclose in writing  
41 to the local board any conflict of interest or potential conflict of interest."

42 **SECTION 3.** G.S. 18B-202 reads as rewritten:

43 **"§ 18B-202. Discharge upon conviction.**

44 In addition to imposing any other penalty authorized by law, a judge may remove from  
45 office or discharge from employment any Commission or local board member or employee, or  
46 any ALE agent, who is convicted of a violation of any provision of this Chapter or of any  
47 felony and may declare that person ineligible for membership or employment with the  
48 Commission, any local board, or the ALE Division, for a period of not longer than three years.  
49 Conviction of a crime under this Chapter or of any felony shall also be grounds for the  
50 Commission to remove from office or discharge from employment any local board member or  
51 employee. In addition to imposing any other penalty authorized by law, a judge may prohibit a

1 designated officer of an agency which holds a contract to enforce the ABC laws for a local  
2 board who is convicted of a violation of this Chapter or of any felony from participating in any  
3 contract to enforce the ABC laws for a local board and may prohibit the officer from being  
4 designated as an officer that enforces the ABC law under a contract with a local board for a  
5 period of not longer than three years."

6 **SECTION 4.** G.S. 18B-203(a) is amended by adding two new subdivisions to read:  
7 **"§ 18B-203. Powers and duties of the Commission.**

8 (a) Powers. – The Commission shall have authority to:

9 ...  
10 (20) Promulgate rules to establish performance standards for local boards.  
11 Performance standards established pursuant to this subdivision shall include,  
12 but not be limited to, standards that address enforcement of ABC laws, store  
13 appearance, operating efficiency, solvency, and customer service.

14 (21) Promulgate rules to establish mandatory training requirements for local  
15 board members, finance officers, and general managers. The Commission  
16 shall not require more than four hours of training and shall provide up to two  
17 hours of training at convenient locations around the State in conjunction  
18 with ethics training if personal attendance is required."

19 **SECTION 5.** G.S. 18B-501(f) reads as rewritten:

20 "(f) Contracts with Other Agencies. – Instead of hiring local ABC officers, a local board  
21 may contract to pay its enforcement funds to a sheriff's department, city police department, or  
22 other local law-enforcement agency for enforcement of the ABC laws within the  
23 law-enforcement agency's territorial jurisdiction. Enforcement agreements may be made with  
24 more than one agency at the same time. When such a contract for enforcement exists, the  
25 designated officers of the contracting law-enforcement agency shall have the same authority to  
26 inspect under G.S. 18B-502 that an ABC officer employed by that local board would have. An  
27 agency contracted to provided ABC law enforcement shall designate no more than five officers  
28 to conduct inspections pursuant to this section and G.S. 18B-502. If a city located in two or  
29 more counties approves the sale of some type of alcoholic beverage pursuant to the provisions  
30 of G.S. 18B-600(e4), and there are no local ABC boards established in the city and one of the  
31 counties in which the city is located, the local ABC board of any county in which the city is  
32 located may enter into an enforcement agreement with the city's police department for  
33 enforcement of the ABC laws within the entire city, including that portion of the city located in  
34 the county of the ABC board entering into the enforcement agreement."

35 **SECTION 6.** G.S. 18B-501 is amended by adding a new section to read:

36 "(f1) Accountability; Enforcement Reports. – To ensure accountability to the appointing  
37 authority and the Commission, every local board's ABC officers and those law enforcement  
38 agencies subject to an enforcement agreement entered into pursuant to subsection (f) of this  
39 section shall report to the local board, by the fifth business day of each month, on a form  
40 developed by the Commission, the following:

41 (1) The number of arrests made for ABC law, Controlled Substance Act, or  
42 other violations, by category, at ABC permitted outlets.

43 (2) The number of arrests made for ABC law, Controlled Substance Act, or  
44 other violations, by category, at other locations.

45 (3) The number of agencies assisted with ABC law or controlled substance  
46 related matters.

47 (4) The number of alcohol education and responsible server programs presented.

48 The local board shall submit a copy of the enforcement report to the appointing authority  
49 and the Commission not later than five business days after receipt of the enforcement report by  
50 the local board. The Commission shall publish this information, by local board and  
51 enforcement agency, on a public Internet Web site maintained by the Commission."

1           **SECTION 7.** G.S. 18B-501(g) reads as rewritten:

2           "(g) Discharge. – Local ABC officers and the designated officers of agencies which  
3 contract with local boards for enforcement of the ABC laws are subject to the discharge  
4 provisions of G.S. 18B-202."

5           **SECTION 8.** G.S. 18B-600(e) reads as rewritten:

6           "(e) City Mixed Beverage Elections. – A city may hold a mixed beverage election only  
7 if the city has at least 500 registered voters.

8           (1) ~~The city has at least 500 registered voters; and~~

9           (2) ~~Either:~~

10           a. ~~The city already operates a city ABC store; or~~

11           b. ~~A city ABC store election is to be held at the same time as the mixed~~  
12 ~~beverage election; or~~

13           c. ~~The city does not operate a city ABC store but:~~

14           1. ~~The county operates an ABC store;~~

15           2. ~~The county has already held a mixed beverage election; and~~

16           3. ~~The vote in the last county election was against the sale of~~  
17 ~~mixed beverages."~~

18           **SECTION 9.** G.S. 18B-700 is amended by adding a new subsection to read:

19           "(a1) Mission. – The mission of local ABC boards and their employees shall be to  
20 responsibly serve their localities by controlling the sale of spirituous liquor and promoting  
21 customer-friendly, modern, and efficient stores."

22           **SECTION 10.** G.S. 18B-700(g) reads as rewritten:

23           "(g) Salary Compensation of Board Members. – A local board member may be  
24 compensated as determined by the appointing authority shall receive compensation in an  
25 amount not to exceed one hundred fifty dollars (\$150.00) per board meeting unless a different  
26 level of monetary compensation is approved by the appointing authority. If a different level is  
27 approved by the appointing authority, the appointing authority shall notify the Commission of  
28 the approved level of compensation in writing. Any change in compensation approved by the  
29 appointing authority shall be reported to the Commission in writing within 30 days of the  
30 effective date of the change. No local board member shall receive any nonmonetary  
31 compensation or benefits unless specifically authorized by this section."

32           **SECTION 11.** G.S. 18B-700 is amended by adding a new subsection to read:

33           "(g1) Compensation of General Managers of Local Boards. – The salary authorized for  
34 the general manager of a local board shall not exceed the salary authorized by the General  
35 Assembly for the clerk of superior court of the county in which the appointing authority was  
36 originally incorporated unless such compensation is otherwise approved by the appointing  
37 authority. The local board shall provide the appointing authority's written confirmation of such  
38 approval to the Commission. Any change in compensation approved by the appointing  
39 authority shall be reported to the Commission in writing within 30 days of the effective date of  
40 the change. The general manager of a local board may receive any other benefits to which all  
41 employees of the local board are entitled. The salary authorized for other employees of a local  
42 board may not exceed that of the general manager."

43           **SECTION 12.** G.S. 18B-700 is amended by adding a new subsection to read:

44           "(g2) Travel Allowance and Per Diem Rates. – Approved travel on official business by  
45 the members and employees of local boards shall be reimbursed pursuant to G.S. 138-6 unless  
46 the local board adopts a travel policy that conforms to the travel policy of the appointing  
47 authority and such policy is approved by the appointing authority. The local board shall  
48 annually provide the appointing authority's written confirmation of such approval to the  
49 Commission and a copy of the travel policy authorized by the appointing authority. Any excess  
50 expenses not covered by the local board's travel policy shall only be paid with the written  
51 authorization of the appointing authority's finance officer. A copy of the written authorization

1 for excess expenses shall be submitted to the Commission by the local board within 30 days of  
2 approval."

3 **SECTION 13.** G.S. 18B-700(i) reads as rewritten:

4 "(i) Bond. – Each local board member and the employees designated as the general  
5 manager or finance officer of the local board shall be bonded in an amount not less than five  
6 thousand dollars (\$5,000), fifty thousand dollars (\$50,000) secured by a corporate surety, for the  
7 faithful performance of his duties. A public employees' blanket position bond in the required  
8 amount satisfies the requirements of this subsection. The bond shall be payable to the local  
9 board and shall be approved by the appointing authority for the local board. The appointing  
10 authority may exempt from this bond requirement any board member who does not handle  
11 board funds, and it may also increase the amount of the bond required for any member or  
12 employee who does handlehandles board funds."

13 **SECTION 14.** G.S. 18B-700 is amended by adding a new subsection to read:

14 "(k) Nepotism. – Members of an immediate family shall not be employed within the  
15 local board if such employment will result in one member of the immediate family supervising  
16 another member of the immediate family, or if one member of the immediate family will  
17 occupy a position which has influence over another member's employment, promotion, salary  
18 administration, or other related management or personnel considerations. This subsection  
19 applies to local board members and employees.

20 For the purpose of this subsection, the term immediate family includes wife, husband,  
21 mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson, and  
22 granddaughter. Also included are the step-, half-, and in-law relationships. It also includes other  
23 people living in the same household, who share a relationship comparable to immediate family  
24 members, if either occupies a position which requires influence over the other's employment,  
25 promotion, salary administration, or other related management or personnel considerations."

26 **SECTION 15.** G.S. 18B-700 is amended by adding a new subsection to read:

27 "(l) Local Acts. – Notwithstanding the provisions of any local act, this section applies to  
28 all local boards."

29 **SECTION 16.** G.S. 18B-701 reads as rewritten:

30 "**§ 18B-701. Powers and duties of local ABC boards.**

31 (a) Powers. – A local board shall have authority to:

- 32 (1) Buy, sell, transport, and possess alcoholic beverages as necessary for the
- 33 operation of its ABC stores;
- 34 (2) Adopt rules for its ABC system, subject to the approval of the Commission;
- 35 (3) Hire and fire employees for the ABC system;
- 36 (4) Designate one employee as manager of the ABC system and determine his
- 37 responsibilities;
- 38 (5) Require bonds of employees as provided in the rules of the Commission;
- 39 (6) Operate ABC stores as provided in Article 8;
- 40 (7) Issue purchase-transportation permits as provided in Article 4;
- 41 (8) Employ local ABC officers or make other provision for enforcement of ABC
- 42 laws as provided in Article 5;
- 43 (9) Borrow money as provided in G.S. 18B-702;
- 44 (10) Buy and lease real and personal property, and receive property bequeathed
- 45 or given, as necessary for the operation of the ABC system;
- 46 (11) Invest surplus funds as provided in G.S. 18B-702;
- 47 (12) Dispose of property in the same manner as a city council may under Article
- 48 12 of Chapter 160A of the General Statutes; and
- 49 (13) Perform any other activity authorized or required by the ABC law.

50 (b) Duties. – A local board shall have the duty to comply with all rules adopted by the  
51 Commission pursuant to this Chapter and meet all standards for performance and training

1 established by the Commission pursuant to G.S. 18B-203(a)(20) and (21). Failure to comply  
2 with Commission rules shall be cause for removal."

3 **SECTION 17.** G.S. 18B-702 reads as rewritten:

4 "**§ 18B-702. Financial operations of local boards.**

5 (a) Generally. – A local board may transact business as a corporate body, except as  
6 limited by this section. A local board shall not be considered a public authority under  
7 G.S. 159-7(b)(10).

8 (b) Budget Officer. – The general manager of the local board shall be the budget officer  
9 for the local board. In the absence of a general manager, a local board may impose the duties of  
10 budget officer on the chairman or any member of the local board or any other employee of the  
11 board.

12 (c) Annual Balanced Budget. – Each local board shall operate under an annual balanced  
13 budget administered in accordance with this section. A budget is balanced when the sum of  
14 estimated gross revenues and both restricted and unrestricted funds are equal to appropriations.  
15 Expenditures shall not exceed the amount of funds received or in reserve for the purpose to  
16 which the funds are appropriated. It is the intent of this section that all monies received and  
17 expended by a local board should be included in the budget. Therefore, notwithstanding any  
18 other provision of law, no local board may expend any monies, regardless of their source,  
19 except in accordance with a budget adopted under this section. The budget of a local board  
20 shall cover a fiscal year beginning July 1 and ending June 30.

21 (d) Preparation and Submission of Budget and Budget Message. – Upon receipt of the  
22 budget requests and revenue estimates and the financial information supplied by the finance  
23 officer, the budget officer shall prepare a budget for consideration by the local board in such  
24 form and detail as may have been prescribed by the budget officer or the local board. The  
25 budget, together with a budget message, shall be submitted to the local board, the appointing  
26 authority, and the Commission not later than June 1. The budget and budget message should,  
27 but need not, be submitted at a formal meeting of the board. The budget message should  
28 contain a concise explanation of the goals fixed by the budget for the budget year, should  
29 explain important features of the activities anticipated in the budget, should set forth the  
30 reasons for stated changes from the previous year in appropriation levels, and should explain  
31 any major changes in fiscal policy.

32 (e) Filing and Publication of the Budget. – On the same day the budget officer submits  
33 the budget to the local board, the budget officer shall make a copy for public inspection, and it  
34 shall remain available for public inspection until the budget is adopted. The budget officer shall  
35 make a copy of the budget available to all news media in the county. The budget officer shall  
36 also publish a statement that the budget has been submitted to the local board and is available  
37 for public inspection in the office of the general manager of the local board. The statement shall  
38 also give notice of the time and place of the budget hearing required by subsection (f) of this  
39 section.

40 (f) Budget Hearings. – Before adopting the budget, the board shall hold a public  
41 hearing at which time any persons who wish to be heard on the budget may appear.

42 (g) Adoption of Budget. – Not earlier than 10 days after the day the budget is presented  
43 to the board and not later than July 1, the local board shall adopt a budget making  
44 appropriations for the budget year in such sums as the board may consider sufficient and  
45 proper, whether greater or less than the sums recommended in the budget. The budget shall  
46 authorize all financial transactions of the local board. The budget may be in any form that the  
47 board considers most efficient in enabling it to make the fiscal policy decisions embodied  
48 therein, but it shall make appropriations by department, function, or project and show revenues  
49 by major source. The following directions and limitations shall bind the local board in adopting  
50 the budget:

- 1           (1)    The full amount estimated by the finance officer to be required for debt  
2           service during the budget year shall be appropriated.
- 3           (2)    The full amount of any deficit in each fund shall be appropriated.
- 4           (3)    Working capital funds set aside pursuant to G.S. 18B-805 shall be  
5           established by rule of the Commission. "Working capital" means the total of  
6           cash, investments, and inventory less all unsecured liabilities. Gross sales  
7           means gross receipts from the sale of alcoholic beverages less distributions  
8           as defined in G.S. 18B-805(b)(2), (3), (4), and (5). Any expenditure to be  
9           charged against working capital funds shall be authorized by resolution of  
10          the local board, which resolution shall be deemed an amendment to the  
11          budget setting up an appropriation for the object of expenditure authorized.  
12          The local board may authorize the budget officer to authorize expenditures  
13          from working capital funds subject to such limitations and procedures as it  
14          may prescribe. Any such expenditure shall be deemed an amendment and  
15          reported to the board at its next regular meeting and recorded in the minutes.
- 16          (4)    Estimated revenues shall include only those revenues reasonably expected to  
17          be realized in the budget year.
- 18          (5)    Sufficient funds to meet the amounts to be paid during the fiscal year under  
19          continuing contracts previously entered into shall be appropriated unless  
20          such contract reserves to the local board the right to limit or not to make  
21          such appropriation.
- 22          (6)    The sum of estimated net revenues and appropriated fund balance in each  
23          fund shall be equal to appropriations in that fund. Appropriated fund balance  
24          in a fund shall not exceed the sum of cash and investments minus the sum of  
25          liabilities, encumbrances, and deferred revenues arising from cash receipts,  
26          as those figures stand at the close of the fiscal year next preceding the budget  
27          year.

28          The budget shall be entered in the minutes of the local board and within five days after  
29          adoption, and copies thereof shall be filed with the finance officer, the budget officer, the  
30          appointing authority, and the Commission.

31          (h)    Amendments to the Budget. – Except as otherwise restricted by law, the local board  
32          may amend the budget at any time after adoption, in any manner, so long as the budget, as  
33          amended, continues to satisfy the requirements of this section. The local board by appropriate  
34          resolution may authorize the budget officer to transfer monies from one appropriation to  
35          another within the same fund subject to such limitations and procedures as it may prescribe.  
36          Any such transfers shall be reported to the local board at its next regular meeting and shall be  
37          entered in the minutes. Amendments to the adopted budget shall also be provided to the  
38          appointing authority and the Commission.

39          (i)    Interim Budget. – In case the adoption of the budget is delayed until after July 1, the  
40          local board shall make interim appropriations for the purpose of paying salaries, debt service  
41          payments, and the usual ordinary expenses of the local board for the interval between the  
42          beginning of the budget year and the adoption of the budget. Interim appropriations so made  
43          shall be charged to the proper appropriations in the adopted budget.

44          (j)    Finance Officer. – The local board shall designate (i) a part-time or full-time  
45          employee of the board other than the general manager or (ii) the finance officer of the  
46          appointing authority with consent of the appointing authority to be the finance officer for the  
47          local board. The Commission, for good cause shown, may allow the general manager of a  
48          board to also be the finance officer. Good cause includes, but is not limited to, the fact that the  
49          board operates no more than two stores, and any approval for the general manager to also be  
50          the finance officer shall apply until the board operates more than two stores; in any event, the  
51          approval shall be effective for 36 months.



1 (k) Duties and Powers of the Finance Officer. – The finance officer for a local board  
2 shall:

- 3 (1) Keep the accounts of the local board in accordance with generally accepted  
4 principles of governmental accounting and the rules and regulations of the  
5 Commission.
- 6 (2) Disburse all funds of the local board in strict compliance with this Chapter,  
7 the budget, and preaudit obligations, and disbursements as required by this  
8 section.
- 9 (3) As often as may be requested by the local board or the general manager,  
10 prepare and file with the board a statement of the financial condition of the  
11 local board.
- 12 (4) Receive and deposit all monies accruing to the local board, or supervise the  
13 receipt and deposit of money by other duly authorized employees.
- 14 (5) Maintain all records concerning the debt and other obligations of the local  
15 board, determine the amount of money that will be required for debt service  
16 or the payment of other obligations during each fiscal year, and maintain all  
17 funds.
- 18 (6) Supervise the investment of idle funds of the local board pursuant to  
19 subsection (t) of this section.

20 The finance officer shall perform such other duties as may be assigned by law, by the  
21 general manager, budget officer, or local board, or by rules and regulations of the Commission.

22 (l) Accounting System. – Each local board shall establish and maintain an accounting  
23 system designed to show in detail its assets, liabilities, equities, revenues, and expenditures.  
24 The system shall also be designed to show appropriations and estimated revenues as established  
25 in the budget originally adopted and subsequently amended.

26 (m) Incurring Obligations. – No obligation may be incurred in a program, function, or  
27 activity accounted for in a fund included in the budget unless the budget includes an  
28 appropriation authorizing the obligation and an unencumbered balance remains in the  
29 appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction  
30 for the current fiscal year. No obligation may be incurred for a capital project unless the budget  
31 authorizing the obligation and an unencumbered balance remains in the appropriation sufficient  
32 to pay the sums obligated by the transaction. If an obligation is evidenced by a contract or  
33 agreement requiring the payment of money or by a purchase order for supplies and materials,  
34 the contract, agreement, or purchase order shall include on its face a certificate stating that the  
35 instrument has been preaudited to assure compliance with this subsection. The certificate,  
36 which shall be signed by the finance officer or any deputy finance officer approved for this  
37 purpose by the local board, shall take substantially the following form:

38 "This instrument has been preaudited in the manner required by G.S. 18B-702.

39 \_\_\_\_\_  
40 (Signature of finance officer)."

41 An obligation incurred in violation of this subsection is invalid and may not be enforced.  
42 The finance officer shall establish procedures to assure compliance with this subsection.

43 (n) Disbursements. – When a bill, invoice, or other claim against a local board is  
44 presented, the finance officer shall either approve or disapprove the necessary disbursement. If  
45 the claim involves a program, function, or activity accounted for in a fund included in the  
46 budget or a capital project or a grant project authorized by the budget, the finance officer may  
47 approve the claim only if:

- 48 (1) The finance officer determines the amount to be payable; and  
49 (2) The budget includes an appropriation authorizing the expenditure and either  
50 (i) an encumbrance has been previously created for the transaction or (ii) an

1 unencumbered balance remains in the appropriation sufficient to pay the  
2 amount to be disbursed.

3 A bill, invoice, or other claim may not be paid unless it has been approved by the finance  
4 officer or, under subsection (o) of this section, by the local board. The finance officer shall  
5 establish procedures to assure compliance with this subsection.

6 (o) Local Board Approval of Bills, Invoices, or Claims. – The local board may, as  
7 permitted by this subsection, approve a bill, invoice, or other claim against the local board that  
8 has been disapproved by the finance officer. It may not approve a claim for which no  
9 appropriation appears in the budget, or for which the appropriation contains no encumbrance  
10 and the unencumbered balance is less than the amount to be paid. The local board shall approve  
11 payment by formal resolution stating the board's reasons for allowing the bill, invoice, or other  
12 claim. The resolution shall be entered in the minutes together with the names of those voting in  
13 the affirmative. The chairman of the board or some other member designated for this purpose  
14 shall sign the certificate on the check or draft given in payment of the bill, invoice, or other  
15 claim. If payment results in a violation of law, each member of the board voting to allow  
16 payment is jointly and severally liable for the full amount of the check or draft given in  
17 payment.

18 (p) Checks or Drafts Signed by Finance Officer. – Except as otherwise provided by law,  
19 all checks or drafts on an official depository shall be signed by the finance officer or a properly  
20 designated deputy finance officer. The chairman of the local board or general manager of the  
21 local board shall countersign these checks and drafts. The Commission may waive the  
22 requirements of this subsection if the board determines that the internal control procedures of  
23 the unit or authority will be satisfactory in the absence of dual signatures.

24 (q) Payment of a Bill, Invoice, Salary, or Claim. – A local board may not pay a bill,  
25 invoice, salary, or other claim except by a check or draft on an official depository or by a bank  
26 wire transfer from an official depository. Except as provided in this subsection, each check or  
27 draft on an official depository shall bear on its face a certificate signed by the finance officer or  
28 a deputy finance officer approved for this purpose by the local board (or signed by the  
29 chairman or some other member of the board pursuant to subsection (o) of this section). The  
30 certificate shall take substantially the following form:

31 "This disbursement has been approved in the manner required by G.S. 18B-702.

32 \_\_\_\_\_  
33 (Signature of finance officer)."

34 No certificate is required on payroll checks or drafts on an imprest account in an official  
35 depository if the check or draft depositing the funds in the imprest account carried a signed  
36 certificate. No certificate is required for expenditures of fifty dollars (\$50.00) or less from a  
37 petty cash fund, provided the expenditure is accounted for by a receipt for the expended item.

38 ~~(b)~~(r) Borrowing Money. – A local board may borrow money only for the purchase of  
39 land, buildings, equipment and stock needed for the operation of its ABC system. A local board  
40 may pledge a security interest in any real or personal property it owns other than alcoholic  
41 beverages. A city or county whose governing body appoints a local board shall not in any way  
42 be held responsible for the debts of that board.

43 ~~(e)~~(s) Audits. – A local board shall submit to the appointing authority and Commission an  
44 annual independent audit of its operations, performed in accordance with generally accepted  
45 accounting standards and in compliance with a chart of accounts prescribed by the  
46 Commission. The audit report shall contain a summary of the requirements of this Chapter, or  
47 of any local act applicable to that local board, concerning the distribution of profits of that  
48 board and a description of how those distributions have been made, including the names of  
49 recipients of the profits and the activities for which the funds were distributed. A local board  
50 shall also submit to any other audits and submit any reports demanded by the appointing  
51 authority or the Commission.

1       ~~(d)~~(t) Deposits and Investments. – A local board may deposit ~~moneys~~monies at interest in  
2 any bank or trust company in this State in the form of savings accounts or certificates of  
3 deposit. Investment deposits shall be secured as provided in G.S. 159-31(b) and the reports  
4 required by G.S. 159-33 shall be submitted. A local board may invest all or part of the cash  
5 balance of any fund as provided in G.S. 159-30(c) and (d), and may deposit any portion of  
6 those funds for investment with the State Treasurer in the same manner as State boards and  
7 commissions under G.S. 147-69.3.

8       ~~(e)~~(u) Compliance with Commission Rules. – The Commission shall adopt, and each local  
9 board shall comply with, fiscal control rules concerning the borrowing of money, maintenance  
10 of working capital, investments, appointment of a budget officer, appointment of a financial  
11 officer, daily deposit of funds, bonding of employees, auditing of operations, and the schedule,  
12 manner and other procedures for distribution of profits. The Commission may also adopt any  
13 other rules concerning the financial operations of local boards which are needed to assure the  
14 proper accountability of public funds. The Commission may vary these rules and regulations  
15 according to any other criteria reasonably related to the purpose or complexity of the financial  
16 operations involved. The Commission has the authority to inquire into and investigate the  
17 internal control procedures of a local board and may require any modifications in internal  
18 control procedures which, in the opinion of the Commission, are necessary or desirable to  
19 prevent embezzlements or mishandling of public monies.

20       (v) Penalties. – If a board member or employee of a local board incurs an obligation or  
21 pays out or causes to be paid out any funds in violation of this section, the member or employee  
22 and the sureties on the official bond are liable for any sums so committed or disbursed. If the  
23 finance officer or any properly designated deputy finance officer gives a false certificate to any  
24 contract, agreement, purchase order, check, draft, or other document, the finance officer and the  
25 sureties on the official bond are liable for any sums illegally committed or disbursed thereby.

26       ~~(f)~~(w) Applicability of Criminal Statutes. – The provisions of G.S. 14-90 and G.S. 14-254  
27 shall apply to any person appointed to or employed by a local board, and any person convicted  
28 of a violation of G.S. 14-90 or G.S. 14-254 shall be punished as a Class H felon.

29       (x) Local Acts. – Notwithstanding the provisions of any local act, this section applies to  
30 all local boards."

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

33       "**§ 18B-704. Removal of local board members and employees.**

34       (a) Improper Influence. – Neither the Commission nor its individual members shall  
35 attempt to coerce any appointing authority to appoint a particular person as a member of a local  
36 board or attempt to coerce a local board to employ any particular applicant.

37       (b) Purpose. – This section is intended to provide a uniform system of removal for  
38 appointing authorities and the Commission.

39       (c) Cause for Removal. – Disqualification of a local board member or employee under  
40 the law, a violation of the ABC laws, failure to complete training required by this Chapter or  
41 the Commission, or engaging in any conduct constituting moral turpitude or which brings the  
42 local board or the ABC system into disrepute is cause for the Commission to remove any  
43 member or employee of a local board. The employment or retention of any employee who is  
44 known to be disqualified under the law to hold a position with a local board is cause for the  
45 Commission to remove the board members involved.

46       (d) Removal Process. – The Commission or appointing authority shall provide, in  
47 writing, to the local board member or employee the findings of fact upon which the decision for  
48 removal is based. The Commission or appointing authority shall also provide the local board  
49 member or employee with notice of the availability of a hearing before the Commission to  
50 review the removal.

1       (e) Removal Hearing. – Any local board member or employee removed from office or  
2 discharged by the Commission or the appointing authority may request a hearing before the  
3 Commission. Such a request operates to stay the action of the Commission or the appointing  
4 authority with regard to the matter until after the hearing, unless the Commission finds that the  
5 public interest requires immediate action. At the hearing, the employee or the employee's  
6 counsel may examine all evidence used against the employee and present evidence in the  
7 employee's own behalf. A removal hearing is not subject to the provisions of Chapter 150B of  
8 the General Statutes. All hearings shall be conducted informally and in such manner as to  
9 preserve the substantial rights of the parties.

10       (f) Hearing Procedure. – The Commission shall hold the hearing required by subsection  
11 (e) of this section within 15 days of the member's or employee's request for a hearing. The  
12 standard of review by the Commission is de novo. The Commission or appointing authority  
13 shall be represented by a Commission hearing officer. The Commission shall discharge the  
14 member or employee if two-thirds of the Commission's members vote for removal. The  
15 Commission shall make findings of fact. The Commission may adopt the findings of fact of the  
16 Commission or the appointing authority, may add new findings of fact to the original findings  
17 of fact, or may substitute new findings of fact for the original findings of fact. The Commission  
18 shall make conclusions of law and shall issue a written decision to the member or employee of  
19 the local board, and to the appointing authority, within 15 days of the hearing.

20       (g) Commission Authority. – The Commission shall have the sole power, in its  
21 discretion, to determine if cause exists for removal of a local board member or employee who  
22 has requested a hearing before the Commission. The Commission's decision in a removal  
23 hearing is final.

24       (h) Appeal. – A local board member or employee may appeal the Commission's final  
25 decision to the Court of Appeals. The standard of review for an appeal shall be abuse of  
26 discretion. The sole remedy for a local board member or employee shall be the reinstatement of  
27 the board member or employee to the local board with back pay. All awards for back pay shall  
28 be paid by the local board from which the board member or employee was removed.

29       (i) Removal Hearing Not a Substitute for Termination of Employee. – Nothing in this  
30 section replaces or is intended to replace a local board's policy regarding the termination of an  
31 employee for personnel reasons. The removal process under this section is reserved solely for  
32 the appointing authority or the Commission to remove a board member or employee for cause.

33       (j) Local Acts. – Notwithstanding the provisions of any local act, this section applies to  
34 all local boards."

35       **SECTION 19.** Chapter 18B of the General Statutes is amended by adding a new  
36 section to read:

37 **"§ 18B-705. Compliance with performance standards; remedies.**

38       (a) Local Board Compliance. – The Commission shall establish performance standards  
39 pursuant to G.S. 18B-203(a)(20). The Commission shall ensure that all local boards comply  
40 with established performance standards by conducting regular or special audits, conducting  
41 performance evaluations, monitoring ABC law enforcement efforts, or taking other measures,  
42 which may include inspections by Commission auditors or alcohol law enforcement agents.

43       (b) Performance Improvement Plans. – The Commission, upon determining that a local  
44 board is failing to meet performance standards established pursuant to G.S. 18B-203(a)(20),  
45 shall meet with the chair of the local board and the appointing authority and issue a statement  
46 of findings. The appointing authority, in consultation with the Commission and the local board,  
47 shall develop for and deliver a performance improvement plan to the local board within 60 days  
48 of the meeting with the Commission. The performance improvement plan shall include, but not  
49 be limited to, recommendations for improved performance based on the performance standards  
50 established by the Commission. The plan shall also state a period of time in which the  
51 performance improvements are to occur and what action will be taken by the Commission if

1 performance standards are not met within the given time limits. The appointing authority shall  
2 allow up to, but no more than, 12 months' time to the local board to implement and show  
3 improvement under the performance improvement plan. The local appointing authority, in  
4 consultation with the Commission and upon good cause shown, may allow up to an additional  
5 six-month period of time for the local board to meet all requirements in the performance  
6 improvement plan and to establish that the performance standards established by the  
7 Commission are met.

8 (c) Remedies. – If the Commission determines that the established performance  
9 standards identified in the statement of findings cannot be met after a performance  
10 improvement plan has been implemented and adequate time has been given, but in no case less  
11 than 12 months, the Commission shall take appropriate action to avoid insolvency. This action  
12 may include closing the board pursuant to G.S. 18B-801(d), closing a store or multiple stores,  
13 or merging the local board with another local board in order to maintain solvency. The  
14 Commission may also seize the assets of the local board and liquidate any assets necessary to  
15 satisfy any debt in order to maintain the solvency of the local board. Prior to taking action  
16 pursuant to this subsection, the Commission shall issue a notice of intent to take such action to  
17 the appointing authority and the local board.

18 (d) Local Acts. – Notwithstanding the provisions of any local act, this section applies to  
19 all local boards."

20 **SECTION 20.** Chapter 18B of the General Statutes is amended by adding a new  
21 section to read:

22 "**§ 18B-706. Ethics requirements for local boards.**

23 (a) Each local board shall adopt a policy containing a code of ethics, consistent with the  
24 provisions of G.S. 18B-201, to guide actions by the local board members and employees of the  
25 local board in the performance of their official duties. The policy shall address at least all of the  
26 following:

- 27 (1) The need to obey all applicable laws regarding official actions taken as a  
28 local board member or employee.
- 29 (2) The need to uphold the integrity and independence of the local board  
30 member or employee's position.
- 31 (3) The need to avoid impropriety in the exercise of official duties.
- 32 (4) The need to faithfully perform the duties of the position.
- 33 (5) The need to conduct the affairs of the board in an open and public manner,  
34 including complying with all applicable laws governing open meetings and  
35 public records.

36 (b) Each member of a local board shall receive a minimum of two hours of ethics  
37 education within 12 months after initial appointment to the office and again within 12 months  
38 after each subsequent appointment to the office. The ethics education shall cover laws and  
39 principles that govern conflicts of interest and ethical standards of conduct for local ABC  
40 boards. The education may be provided by the Commission or other qualified source approved  
41 by the Commission. The local board shall maintain a record verifying receipt of the ethics  
42 education by each member of the local board. The local board may require appropriate ethics  
43 training and education for employees of the local ABC board.

44 (c) The Commission shall develop a model ethics policy that local ABC boards may  
45 adopt to be in compliance with this section."

46 **SECTION 21.** G.S. 18B-801(b) reads as rewritten:

47 "(b) Location of Stores. – A local board may choose the location of the ABC stores  
48 within its jurisdiction, subject to the approval of the Commission. In making its decision on a  
49 location, the Commission may consider:

- 50 (1) Whether the health, safety, or general welfare of the community will be  
51 adversely affected; and affected.

1 (2) Whether the citizens of the community or city in which the proposed store is  
2 to be located voted for or against ABC stores in the last election on the  
3 question.

4 (3) The proximity of the new location to existing ABC stores operated by the  
5 local board or any other board."

6 **SECTION 21.1.** G.S. 18B-801(c) reads as rewritten:

7 "(c) Closing of Stores. – Subject to the provisions of ~~subsection (a),~~ subsection (a) of  
8 this section, a local board may ~~close,~~ close a store, or the Commission may order a local board  
9 to ~~close,~~ close any store when the local board or the Commission determines that:

10 (1) ~~The operation of the store is not sufficiently profitable to justify its~~  
11 ~~continuation;~~

12 (2) The store is not operated in accordance with the ABC law; or

13 (3) The continued operation of that store will adversely affect the health, safety,  
14 or general welfare of the community in which the store operates."

15 **SECTION 22.** G.S. 18B-803 reads as rewritten:

16 "**§ 18B-803. Store management.**

17 (a) Manager. – A local board shall provide for the management of each store operated  
18 by it. The board shall employ at least one manager for each store, who shall operate the store  
19 pursuant to the directions of that board.

20 (b) Bonding of Manager. – Each store manager shall be bonded in an amount not less  
21 than ~~five thousand dollars (\$5,000),~~ fifty thousand dollars (\$50,000) secured by a corporate  
22 surety, for the honest performance of his duties. A public employees' blanket position bond,  
23 honesty form, in the required amount satisfies the requirements of this subsection. The bond  
24 shall be payable to the local board and shall be approved by the appointing authority for the  
25 local board. The appointing authority may increase the amount of bond required for store  
26 managers under this subsection.

27 (c) Bonding of Other Employees. – A local board or the appointing authority may  
28 require any of its other employees who handle funds to obtain bonds. The amount and form of  
29 those bonds shall be determined by the local board.

30 (d) Local Acts. – Notwithstanding the provisions of any local act, this section applies to  
31 all local boards."

32 **SECTION 23.** G.S. 18B-1213 reads as rewritten:

33 "**§ 18B-1213. Obligations of purchaser.**

34 The purchaser of a ~~winery~~ winery, and any successor to the rights of a winery, is obligated  
35 to all the terms and conditions of an agreement in effect on the date of the ~~purchase,~~ purchase or  
36 other acquisition of the right to distribute a brand, except for good cause, which includes,

37 (1) Revocation of the wholesaler's permit or license to do business in this State,

38 (2) Bankruptcy or insolvency of the wholesaler,

39 (3) Assignment for the benefit of creditors or similar disposition of the assets of  
40 the wholesaler, or

41 (4) Failure by the wholesaler to comply substantially, without reasonable excuse  
42 or justification, with any reasonable and material requirement imposed upon  
43 ~~him~~ the wholesaler by the winery.

44 As used in this Article, "purchase" includes the sale of stock, sale of assets, merger, lease,  
45 transfer, or consolidation."

46 **SECTION 24.** G.S. 93B-9 reads as rewritten:

47 "**§ 93B-9. Age requirements.**

48 Any other provision notwithstanding, except certifications issued by the North Carolina  
49 Criminal Justice Education and Training Standards Commission and the North Carolina  
50 Sheriff's Education and Training Standards Commission pursuant to Chapters 17C, 17D, 74E,

1 and 74G of the General Statutes, no occupational licensing board may require that an individual  
2 be more than 18 years of age as a requirement for receiving a license."

3       **SECTION 25.** Section 6 of this act becomes effective January 1, 2011. Sections 11  
4 and 14 of this act become effective October 1, 2010, and apply to general managers and  
5 employees hired on or after that date. Section 15 of this act becomes effective October 1, 2011.  
6 Section 17 of this act becomes effective May 1, 2011, and is applicable for local board fiscal  
7 years beginning July 1, 2011. The ABC Commission shall offer training and education to local  
8 boards to assist local boards in complying with Section 17 of this act, and such training and  
9 education shall be offered at least once annually after the effective date of this act; however, the  
10 Commission shall have no obligation to provide such training and education after December  
11 31, 2013. Section 23 of this act is effective when it becomes law and its provisions shall apply  
12 to all existing franchise agreements. A supplier's shipment of wine to a wholesaler in North  
13 Carolina following the effective date of Section 23 of this act shall constitute acceptance by the  
14 supplier of the terms of this act and shall be incorporated into the agreement between the  
15 supplier and wholesaler. Section 24 of this act is effective when it becomes law. The remainder  
16 of this act becomes effective October 1, 2010.