

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 460*

Short Title: Economic & Job Growth for NC Distilleries. (Public)

Sponsors: Representatives Bradford, Davis, Hardister, and Duane Hall (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Alcoholic Beverage Control, if favorable, Finance

March 27, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND ALCOHOLIC BEVERAGE CONTROL PERMITS AND ALLOW
3 RESTAURANTS TO SELL ALCOHOLIC BEVERAGES BEFORE NOON ON
4 SUNDAYS, SUBJECT TO LOCAL GOVERNMENT APPROVAL.

5 The General Assembly of North Carolina enacts:

6
7 **DISTILLERY PERMIT AMENDMENTS**

8 **SECTION 1.(a)** G.S. 18B-1105 reads as rewritten:

9 **"§ 18B-1105. Authorization of distillery permit.**

10 (a) Authorized Acts. – The holder of a distillery permit may do any of the following:

11 (1) Manufacture, purchase, import, possess and transport ingredients and
12 equipment used in the distillation of spirituous liquor.

13 (2) Sell, deliver and ship spirituous liquor in closed containers at wholesale to
14 exporters and local boards within the State, ~~and, subject to the laws of other~~
15 ~~jurisdictions, at wholesale or retail to private or public agencies or~~
16 ~~establishments of other states or nations.~~State.

17 (2a) Sell spirituous liquor in closed containers at wholesale or retail, subject to
18 the laws of other jurisdictions, for delivery outside the State.

19 (3) Transport into or out of the distillery the maximum amount of liquor allowed
20 under federal law, if the transportation is related to the distilling process.

21 (4) Sell spirituous liquor distilled at the distillery in closed containers to visitors
22 who tour the distillery for consumption off the premises. Sales under this
23 subdivision are allowed only in a county where the establishment of a county
24 or municipal ABC store has been approved pursuant to G.S. 18B-602(g) and
25 are subject to the time and day restrictions in G.S. 18B-802. Spirituous
26 liquor sold under this subdivision shall (i) be listed as a code item for sale in
27 the State, (ii) be sold at the price set by the Commission for the code item
28 pursuant to G.S. 18B-804(b), and (iii) have affixed to its bottle a sticker that
29 bears the words "North Carolina Distillery Tour Commemorative Spirit" in
30 addition to any other labeling requirements set by law. Consumers
31 purchasing spirituous liquor under this subdivision are limited to purchasing,
32 and the selling distillery is limited to selling to each consumer, no more than
33 ~~one bottle~~ five bottles of spirituous liquor per 12 month period. The distillery
34 shall use a commonly adopted standard point of sale system to maintain
35 searchable electronic records captured at the point of sale, to include the



1 purchaser's name, drivers license number, and date of birth for at least 12
2 months from the date of purchase. The Commission shall adopt rules
3 regulating the retail sale of spirituous liquor under this subdivision.

4 (5) Conduct consumer tastings in accordance with G.S. 18B-1114.7.

5 (b) Distilleries for Fuel Alcohol. – Any person in possession of a Federal Operating
6 Permit pursuant to Title 27, Code of Federal Regulations, Part 19 (April 1, 2010 Edition), shall
7 obtain a fuel alcohol permit before manufacturing any alcohol. The permit shall entitle the
8 permittee to perform only those acts allowed by the Federal Operating Permit, and all
9 conditions of the Federal Operating Permit shall apply to the State permit."

10 **SECTION 1.(b)** G.S. 18B-804 is amended by adding a new subsection to read:

11 "**§ 18B-804. Alcoholic beverage pricing.**

12 (a) Uniform Price of Spirituous Liquor. – The retail price of spirituous liquor sold in
13 ABC stores and permitted distilleries shall be uniform throughout the State, unless otherwise
14 provided by the ABC law.

15 (b) Sale Price of Spirituous Liquor. – The sale of spirituous liquor, including antique
16 spirituous liquor, sold at the uniform State price shall consist of the following components:

17 (1) The distiller's or the antique spirituous liquor seller's price.

18 (2) The freight and bailment charges of the State warehouse as determined by
19 the Commission.

20 (3) A markup for local boards as determined by the Commission.

21 (4) The tax levied under G.S. 105-113.80(c), which shall be levied on the sum
22 of subdivisions (1), (2), and (3).

23 (5) An additional markup for local boards equal to three and one-half percent (3
24 1/2%) of the sum of subdivisions (1), (2), and (3).

25 (6) A bottle charge of one cent (1¢) on each bottle containing 50 milliliters or
26 less and five cents (5¢) on each bottle containing more than 50 milliliters.

27 (6a) The bailment surcharge.

28 (6b) An additional bottle charge for local boards of one cent (1¢) on each bottle
29 containing 50 milliliters or less and five cents (5¢) on each bottle containing
30 more than 50 milliliters.

31 (7) A rounding adjustment, the formula of which may be determined by the
32 Commission, so that the sale price will be divisible by five.

33 (8) If the spirituous liquor is sold to a mixed beverage permittee for resale in
34 mixed beverages, a charge of twenty dollars (\$20.00) on each four liters and
35 a proportional sum on lesser quantities.

36 (9) If the spirituous liquor is sold to a guest room cabinet permittee for resale, a
37 charge of twenty dollars (\$20.00) on each four liters and a proportional sum
38 on lesser quantities.

39 (b1) Price of Spirituous Liquor Sold at Distillery. – When the holder of a distillery
40 permit sells spirituous liquor distilled at the distillery pursuant to G.S. 18B-1105(a)(4), the
41 retail price of the spirituous liquor shall be the uniform State price set by subsection (a) of this
42 section. However, the holder of the distillery permit shall not be required to remit the
43 components of the price set forth by subdivisions (2), (3), (5), (6), (6a), (6b), and (7) of
44 subsection (b) of this section.

45 (b2) Price of Spirituous Liquor Sold for Delivery Outside the State. – When the holder of
46 a distillery permit sells spirituous liquor for delivery outside the State pursuant to
47 G.S. 18B-1105(a)(2a), the retail price of the spirituous liquor shall be the distiller's price.

48 (c) Sale Price of Fortified Wine. – The sale price of fortified wine shall include the tax
49 levied by G.S. 105-113.80(b), as well as State and local sales taxes.

50 (d) Repealed by Session Laws 1985, c. 59, s. 2."

51 **SECTION 1.(c)** G.S. 18B-800 reads as rewritten:

1 **"§ 18B-800. Sale of alcoholic beverages in ABC stores.**

2 (a) Spirituous Liquor. – Except as provided in ~~Article 10~~ Articles 10 and 11 of this
3 Chapter, spirituous liquor may be sold only in ABC stores operated by local boards.

4"

5 **SECTION 1.(d)** The Alcoholic Beverage Control Commission shall adopt
6 temporary rules to amend its rules consistent with this section.

7 **SECTION 1.(e)** This section becomes effective July 1, 2017.

8
9 **CREATE SPIRITUOUS LIQUOR SPECIAL EVENT PERMIT TO ALLOW**
10 **DISTILLERIES TO GIVE FREE TASTINGS**

11 **SECTION 2.(a)** G.S. 18B-301 reads as rewritten:

12 **"§ 18B-301. Possession and consumption of fortified wine and spirituous liquor.**

13 ...

14 (e) Incident to Sale. – It shall be lawful to possess fortified wine and spirituous liquor at
15 any place, such as an ABC store, where possession is a necessary incident to lawful sale.
16 Consumption at such a place shall be unlawful unless the establishment has a permit
17 authorizing consumption on the premises as well as ~~sale~~ sale or a consumer tasting authorized
18 by G.S. 18B-1114.7 is being conducted at the ABC store.

19 (f) Unlawful Possession or Use. – As illustration, but not limitation, of the general
20 prohibition stated in G.S. 18B-102(a), it shall be unlawful for:

21 (1) Any person to consume fortified wine, spirituous liquor, or mixed beverages
22 or to offer such beverages to another ~~person~~ person at any of the following
23 places:

- 24 a. On the premises of an ABC ~~store, or store,~~ unless a consumer tasting
25 authorized by G.S. 18B-1114.7 is being conducted at the ABC store.
26 b. Upon any property used or occupied by a local ~~board, or board.~~
27 c. On any public road, street, highway, or ~~sidewalk~~ sidewalk, unless a
28 consumer tasting authorized by G.S. 18B-1114.7 is being conducted.

29"

30 **SECTION 2.(b)** G.S. 18B-902(d) is amended by adding new subdivisions to read:

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

- 33 (1) On-premises malt beverage permit – \$400.00.
34 (2) Off-premises malt beverage permit – \$400.00.
35 (3) On-premises unfortified wine permit – \$400.00.
36 (4) Off-premises unfortified wine permit – \$400.00.
37 (5) On-premises fortified wine permit – \$400.00.
38 (6) Off-premises fortified wine permit – \$400.00.
39 (7) Brown-bagging permit – \$400.00, unless the application is for a restaurant
40 seating less than 50, in which case the fee shall be \$200.00.
41 (8) Special occasion permit – \$400.00.
42 (9) Limited special occasion permit – \$50.00.
43 (10) Mixed beverages permit – \$1,000.
44 (11) Culinary permit – \$200.00.
45 (12) Unfortified winery permit – \$300.00.
46 (13) Fortified winery permit – \$300.00.
47 (14) Limited winery permit – \$300.00.
48 (15) Brewery permit – \$300.00.
49 (16) Distillery permit – \$300.00.
50 (17) Fuel alcohol permit – \$100.00.
51 (18) Wine importer permit – \$300.00.

- 1 (19) Wine wholesaler permit – \$300.00.
2 (20) Malt beverage importer permit – \$300.00.
3 (21) Malt beverage wholesaler permit – \$300.00.
4 (22) Bottler permit – \$300.00.
5 (23) Salesman permit – \$100.00.
6 (24) Vendor representative permit – \$50.00.
7 (25) Nonresident malt beverage vendor permit – \$100.00.
8 (26) Nonresident wine vendor permit – \$100.00.
9 (27) Any special one-time permit under G.S. 18B-1002 – \$50.00.
10 (28) Winery special event permit – \$200.00.
11 (29) Mixed beverages catering permit – \$200.00.
12 (30) Guest room cabinet permit – \$1,000.
13 (31) Liquor importer/bottler permit – \$500.00.
14 (32) Cider and vinegar manufacturer permit – \$200.00.
15 (33) Brew on premises permit – \$400.00.
16 (34) Wine producer permit – \$300.00.
17 (35) Wine tasting permit – \$100.00.
18 (36) Repealed by Session Laws 2005-380, s. 1, effective September 8, 2005, and
19 applicable to wine shipper permit applications submitted on or after that
20 date.
21 (37) Wine shop permit – \$100.00.
22 (38) Winemaking on premises permit – \$400.00.
23 (39) Wine shipper packager permit – \$100.00.
24 (40) Malt beverage special event permit – \$200.00.
25 (41) Malt beverage tasting permit – \$100.00.
26 (42) Spirituous liquor tasting permit – \$100.00.
27 (43) Antique spirituous liquor permit – \$100.00.
28 (44) Spirituous liquor special event permit – \$200.00.
29 (45) Special auction permit – \$750.00."

30 **SECTION 2.(c)** Article 11 of Chapter 18B of the General Statutes is amended by
31 adding a new section to read:

32 **"§ 18B-1114.7. Authorization of spirituous liquor special event permit.**

33 (a) Authorization. – The holder of a distillery permit issued under G.S. 18B-1105 may
34 obtain a spirituous liquor special event permit allowing the permittee to give free tastings of its
35 spirituous liquors at ABC stores, trade shows, conventions, shopping malls, street festivals,
36 holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar
37 events approved by the Commission.

38 (b) Limitations. – Any consumer tasting is subject to the following limitations:

- 39 (1) The permit holder shall conduct the consumer tasting and shall be solely
40 responsible for any violations of this Chapter occurring in connection with
41 the consumer tasting.
42 (2) The spirituous liquor shall be poured only by either (i) the permit holder
43 conducting the consumer tasting or (ii) an employee of the permit holder
44 conducting the consumer tasting who is at least 21 years of age.
45 (3) Each consumer shall be limited to one 0.25 ounce tasting sample of any
46 product made available for sampling at the consumer tasting, and the total
47 amount of the tasting samples offered to and consumed by each consumer
48 shall not exceed 1.5 ounces of spirituous liquor in any calendar day.
49 (4) The permit holder shall not offer tasting samples to, or allow consumption of
50 tasting samples by, any consumer who is visibly intoxicated.

- 1 (5) The permit holder shall not offer tasting samples to, or allow consumption of
 2 tasting samples by, any consumer under the legal age for consuming
 3 spirituous liquor. The person pouring the spirituous liquor shall be
 4 responsible for verifying the age of the consumer being served by checking
 5 the identification of the consumer.
- 6 (6) The permit holder shall not charge a consumer for any tasting sample.
- 7 (7) No venue shall allow more than three different permit holders to conduct a
 8 consumer tasting at any event. However, the local board may grant approval
 9 for additional permit holders to conduct consumer tastings at a specific
 10 event.
- 11 (8) A venue allowing tastings shall designate a tasting area within the venue that
 12 enables the permit holder to ensure that the consumer tasting is being
 13 conducted in compliance with this section. Consumers shall only be allowed
 14 to consume tasting samples within the designated tasting area.
- 15 (9) A consumer tasting shall not be allowed unless the venue is located in a
 16 jurisdiction that has approved the sale of mixed beverages.
- 17 (10) The permit holder conducting the event may provide point-of-sale
 18 advertising materials and advertising specialties to consumers at the
 19 consumer tasting.
- 20 (11) The permit holder shall provide written notice of the consumer tasting to the
 21 ABC Commission at least 48 hours before the consumer tasting. The notice
 22 shall include the date of the consumer tasting, the time of the consumer
 23 tasting, the venue at which the consumer tasting will be held, and the
 24 spirituous liquor that will be provided for tasting at the consumer tasting.
- 25 (12) The permit holder shall maintain for a period of at least one year a record of
 26 each consumer tasting conducted. The record shall include the date of the
 27 consumer tasting, the time of the consumer tasting, an identification of the
 28 venue at which the consumer tasting was held, an identification of the
 29 spirituous liquor that was provided for tasting at the consumer tasting, and
 30 the name of any person who poured spirituous liquor at the consumer
 31 tasting. The permit holder shall allow the ABC Commission to inspect those
 32 records at any time.
- 33 (13) For tastings conducted in an ABC store, the local board may impose
 34 additional conditions. Any additional conditions shall be in writing, and the
 35 local board shall post notice of the additional conditions at the local board's
 36 administrative offices and at all of the ABC stores within the local board's
 37 system.

38 (c) Consideration Prohibited. – Except as otherwise provided under this section, a
 39 permit holder conducting a consumer tasting under this section at an ABC store shall not
 40 provide any consideration to the local board, its board members, or its employees for any
 41 purpose related to the consumer tasting. A consumer tasting shall not be used by permit holders
 42 for unlawful inducements to a local board."

43
 44 **ALLOW SALE OF ALCOHOLIC BEVERAGES AT AUCTION BY LICENSED**
 45 **AUCTIONEERS**

46 **SECTION 3.(a)** G.S. 18B-603(f) reads as rewritten:

47 "**§ 18B-603. Effect of alcoholic beverage elections on issuance of permits.**

48 ...

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

- 51 (1) Special occasion ~~permits~~;permits.

- 1 (2) Limited special occasion ~~permits;~~permits.
 2 (3) Brown-bagging permits for private clubs and congressionally chartered
 3 veterans ~~organizations;~~organizations.
 4 (4) Culinary permits, except as restricted by ~~subdivision (d)(5);~~subdivision
 5 (d)(5).
 6 (5) Special one-time permits issued under ~~G.S. 18B-1002;~~G.S. 18B-1002.
 7 (6) All permits listed in ~~G.S. 18B-1100;~~G.S. 18B-1100.
 8 (7) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for tourism
 9 ABC ~~establishments;~~establishments.
 10 (8) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for tourism
 11 ~~resorts;~~resorts.
 12 (9) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for historic
 13 ABC establishments.
 14 (10) Special auction permits issued under G.S. 18B-1002.1."

15 **SECTION 3.(b)** Article 10 of Chapter 18B of the General Statutes is amended by
 16 adding a new section to read:

17 **"§ 18B-1002.1. Special auction permit.**

18 (a) Permit Authorized. – A permit may be issued upon application to an auction firm or
 19 auctioneer licensed by the North Carolina Auctioneers Commission pursuant to Chapter 85B of
 20 the General Statutes to allow the licensed auction firm or auctioneer to sell any quantity of malt
 21 beverages, unfortified wine, fortified wine, and spirituous liquors at auction. An auction held
 22 under this section may receive competing bids that are in person or by telephone, fax, or online.
 23 A permit to sell malt beverages, unfortified wine, or fortified wine at auction shall only be
 24 issued in jurisdictions that allow the sale of malt beverages, unfortified wine, or fortified wine,
 25 respectively. A permit to sell spirituous liquor at auction shall be issued only in a jurisdiction
 26 that has approved the establishment of ABC stores. The Commission shall deny an application
 27 for a one-time special auction permit only if (i) the applicant is ineligible to hold an ABC
 28 permit pursuant to G.S. 18B-900 or (ii) the jurisdiction where the auction will be held has not
 29 approved the sale of the type of alcoholic beverages to be sold at auction.

30 (b) Conditions of Permit. – A permit issued under this section shall be valid only for the
 31 auction specified in the permit. Any sales under this permit shall be subject to the purchase
 32 restrictions in G.S. 18B-303.

33 (c) Administrative Procedure. – Denial or revocation of a permit under this section shall
 34 not entitle the applicant or permittee to a hearing under Chapter 150B of the General Statutes."

35 **SECTION 3.(c)** This section becomes effective October 1, 2017.

36
 37 **ALLOW RESTAURANTS TO SELL ALCOHOLIC BEVERAGES BEFORE NOON ON**
 38 **SUNDAYS, SUBJECT TO LOCAL GOVERNMENT APPROVAL**

39 **SECTION 4.(a)** G.S. 18B-1004(c) reads as rewritten:

40 **"§ 18B-1004. Hours for sale and consumption.**

41 ...

42 (c) Sunday Hours. – ~~It~~Except as authorized pursuant to G.S. 153A-145.7 or
 43 G.S. 160A-205.3, it shall be unlawful to sell or consume alcoholic beverages on any licensed
 44 premises from the time at which sale or consumption must cease on Sunday morning until
 45 12:00 Noon on that day."

46 **SECTION 4.(b)** Article 6 of Chapter 153A of the General Statutes is amended by
 47 adding a new section to read:

48 **"§ 153A-145.7. Hours of certain alcohol sales at restaurants.**

49 In accordance with G.S. 18B-1004(c), a county may adopt an ordinance allowing licensed
 50 restaurants to sell alcoholic beverages for on-premises consumption beginning at 10:00 A.M.

1 on Sunday morning pursuant to the restaurant's on-premises malt beverage permit, on-premises
2 unfortified wine permit, on-premises fortified wine permit, or mixed beverages permit."

3 **SECTION 4.(c)** Article 8 of Chapter 160A of the General Statutes is amended by
4 adding a new section to read:

5 **"§ 160A-205.3. Hours of certain alcohol sales at restaurants.**

6 In accordance with G.S. 18B-1004(c), a city may adopt an ordinance allowing licensed
7 restaurants to sell alcoholic beverages for on-premises consumption beginning at 10:00 A.M.
8 on Sunday morning pursuant to the restaurant's on-premises malt beverage permit, on-premises
9 unfortified wine permit, on-premises fortified wine permit, or mixed beverages permit."

10
11 **EFFECTIVE DATE**

12 **SECTION 5.** Except as otherwise provided, this act is effective when it becomes
13 law.