

Chapter 18B.

Regulation of Alcoholic Beverages.

Article 1.

General Provisions.

§ 18B-100. Purpose of Chapter.

This Chapter is intended to establish a uniform system of control over the sale, purchase, transportation, manufacture, consumption, and possession of alcoholic beverages in North Carolina, and to provide procedures to insure the proper administration of the ABC laws under a uniform system throughout the State. This Chapter shall be liberally construed to the end that the sale, purchase, transportation, manufacture, consumption, and possession of alcoholic beverages shall be prohibited except as authorized in this Chapter. If any provision of this Chapter, or its application to any person or circumstance, is determined by a court or other authority of competent jurisdiction to be invalid or unconstitutional, such provision shall be stricken and the remaining provisions shall be construed in accordance with the intent of the General Assembly to further limit rather than expand commerce in alcoholic beverages, and with respect to malt beverages, unfortified wine, and fortified wine, the remaining provisions shall be construed to enhance strict regulatory control over taxation, distribution, and sale of alcoholic beverages through the three-tier regulatory system and the franchise laws imposed by this Chapter.

Except as provided in this Chapter, local ordinances establishing different rules on the manufacture, sale, purchase, transportation, possession, consumption, or other use of alcoholic beverages, or requiring additional permits or fees, are prohibited. (1937, c. 49, s. 1; 1971, c. 872, s. 1; 1981, c. 412, s. 2; 2019-18, s. 1.)

§ 18B-101. Definitions.

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

- (1) "ABC law" or "ABC laws" means any statute or statutes in this Chapter or in Article 2C of Chapter 105, and the rules issued by the Commission under the authority of this Chapter.
- (2) "ABC permit" or "permits" means any written or printed authorization issued by the Commission pursuant to the provisions of this Chapter. Unless the context clearly requires otherwise, as in the provisions concerning applications for permits, "ABC permit" or "permit" means a presently valid permit.
- (3) "ABC system" means a local board, all ABC stores operated by a local board, and the designated ABC law enforcement officers employed pursuant to G.S. 18B-501.
- (4) "Alcoholic beverage" means any beverage containing at least one-half of one percent (0.5%) alcohol by volume, including malt beverages, unfortified wine, fortified wine, spirituous liquor, mixed beverages, and any alcohol consumable.
- (4a) "Alcohol consumable" means any manufactured and packaged ice cream, ice pop, gum-based, or gelatin-based food product containing at least one-half of one percent (0.5%) alcohol by volume.
- (5) "ALE Division" means the Alcohol Law Enforcement Division of the Department of Public Safety.
- (5a) "Antique spirituous liquor" means spirituous liquor that has not been in production or bottled in the last 20 years, is in the original manufacturer's

- unopened container, is not owned by a distillery, and is not otherwise available for purchase by an ABC Board except through the special order process pursuant to G.S. 18B-1001(20).
- (5b) "Antique spirituous liquor seller" means a person who sells antique spirituous liquor to an ABC Board.
 - (5c) "Bailment surcharge" means the charge imposed on each case of liquor shipped from a Commission warehouse as provided in G.S. 18B-208. This bailment surcharge is in addition to the bailment charge imposed by G.S. 18B-804(b)(2).
 - (5d) "Brokerage" means a business that brokers the sale of spirituous liquor on behalf of the holder of a distillery permit issued under G.S. 18B-1105, a business located outside the State that is licensed or permitted to manufacture spirituous liquor in the jurisdiction where the business is located and whose products are lawfully sold in this State, or a liquor importer or bottler.
 - (6) "Commission" means the North Carolina Alcoholic Beverage Control Commission established under G.S. 18B-200.
 - (6a) "Finance officer" means the local board employee, other than a general manager, who is responsible for keeping the accounts of the local board, receiving and depositing receipts, disbursing funds, and any other duties assigned by the local board or Commission.
 - (7) "Fortified wine" means any wine or alcohol consumable containing more than sixteen percent (16%) and no more than twenty-four percent (24%) alcohol by volume, made by fermentation from grapes, fruits, berries, rice, or honey; or by the addition of pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine and produced in accordance with the regulations of the United States.
 - (7a) "General manager" means the local board employee who is responsible for the oversight of daily operations of the ABC system and any other duties assigned by the local board or Commission. The board may designate only one employee to be the general manager.
 - (7b) "Historic ABC establishment" means a restaurant or hotel that meets all of the following requirements:
 - a. Is on the national register of historic places or located within a State historic district.
 - b. Is a property designed to attract local, State, national, and international tourists located on a State Route (SR) and with a property line located within 1.5 miles of the intersection of a designated North Carolina scenic byway as defined in G.S. 136-18(31).
 - c. Is located within 15 miles of a national scenic highway.
 - d. Is located in a county in which the on-premises sale of malt beverages or unfortified wine is authorized in two or more cities in the county.
 - (7c) "Keg" means a portable container designed to hold and dispense 7.75 gallons or more of malt beverage.
 - (8) "Local board" means a city or county ABC board, or local board created pursuant to the provisions of G.S. 18B-703. A local board is an independent local political subdivision of the State. Nothing in this Chapter shall be

- construed as constituting a local board the agency of a city or county or of the Commission.
- (8a) "Lottery law" or "lottery laws" means any provision of Chapter 18C of the General Statutes and the rules issued by the Lottery Commission under the authority of Chapter 18C of the General Statutes.
 - (9) "Malt beverage" means beer, lager, malt liquor, ale, porter, and any other brewed or fermented beverage or alcohol consumable except unfortified or fortified wine as defined by this Chapter, containing at least one-half of one percent (0.5%), and not more than fifteen percent (15%), alcohol by volume. Any malt beverage containing more than six percent (6%) alcohol by volume shall bear a label clearly indicating the alcohol content of the malt beverage.
 - (10) "Mixed beverage" means either of the following:
 - a. A drink composed in whole or in part of spirituous liquor and served in a quantity less than the quantity contained in a closed package.
 - b. A premixed cocktail served from a closed package containing only one serving.
 - (11) "Nontaxpaid alcoholic beverage" means any alcoholic beverage upon which the taxes imposed by the United States, this State, or any other territorial jurisdiction in which the alcoholic beverage was purchased have not been paid.
 - (12) "Person" means an individual, firm, partnership, association, corporation, limited liability company, other organization or group, or other combination of individuals acting as a unit.
 - (12a) "Premises" means a fixed permanent establishment, including all areas inside or outside the licensed establishment, where the permittee has control through a lease, deed, or other legal process.
 - (12b) "Powdered alcohol" means any powder or crystalline substance capable of being converted into a liquid alcoholic beverage fit for human consumption.
 - (13) "Sale" means any transfer, trade, exchange, or barter, in any manner or by any means, for consideration.
 - (13a) **(See note)** "Special ABC area" means an area that meets the following requirements:

Either:

 - a. The area has fewer than 500 permanent residents, and the area:
 - 1. 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 one city; and
 - 2. Contains more than 500 contiguous acres made up of privately-owned land and land owned by an association or a club 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, was created for municipal and recreational purposes, and, for three or more years, has levied assessments or dues and provided municipal services; or
 - b. The area has more than 500 permanent residents, and the area:
 - 1. Is located in a county:

- I. Where ABC stores have heretofore been established but in which the sale of mixed beverages has not been approved;
 - II. That borders on a county that has approved the sale of alcoholic beverages countywide and contains an international airport; and
 - III. Borders on a county where ABC stores have heretofore been established by petition pursuant to law; and
2. Contains more than 500 contiguous acres made up of privately-owned land and land owned by an association or a club 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, was created for municipal and recreational purposes, and, for three or more years, has levied assessments or dues and provided municipal services; or
- c. The area is an area of a county where the following requirements are met:
 1. The county borders on the Atlantic Ocean and has a seaport supporting oceangoing vessels;
 2. ABC stores have been established in the county and the sale of mixed beverages is allowed in six or more municipalities;
 3. The population of the county, according to the 2000 census, exceeds 52,000;
 4. The tourism economy of the county is made up of more than 3,000 tourism-related jobs; and
 5. Tourism expenditures within the county exceed two hundred million dollars (\$200,000,000) annually.
- (14) "Spirituous liquor" or "liquor" means distilled spirits or ethyl alcohol, and any alcohol consumable containing distilled spirits or ethyl alcohol, including spirits of wine, whiskey, rum, brandy, gin and all other distilled spirits and mixtures of cordials, liqueur, and premixed cocktails, in closed containers regardless of their dilution.
- (14a) "Tourism ABC establishment" means a restaurant or hotel that meets both of the following requirements:
- a. Is located on property, a property line of which 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 the State line and Milepost 469, provided that the Eastern Band of Cherokee Indians tribal alcoholic beverage control commission established under G.S. 18B-112 shall have exclusive authority to issue permits pursuant to this subdivision between Milepost 460 and the southern terminus of the national scenic byway at Milepost 469 for any restaurant or hotel that is located wholly on Indian Country lands.
 - b. Is located in a county in which the on-premises or off-premises sale of malt beverages or unfortified wine is authorized in at least one city.

- (14b) "Tourism resort" means:
- a. Any restaurant and lodging facility, whether public or private, owned and operated as a resort property offering food, beverage, lodging, and meeting facilities to travelers and tourists and featuring one or more golf courses and two or more tennis courts along with other recreational and sporting activities, or
 - b. Any restaurant, whether public or private, owned and operated as a resort property offering food and beverage to travelers and tourists and featuring an equestrian center and two or more tennis courts along with other recreational and sporting activities.

Receipts from sporting and recreational activities of a tourism resort shall be at least twenty-five percent (25%) of total gross receipts. Receipts from the sale of alcoholic beverages shall not exceed fifty percent (50%) of total gross receipts. A tourism resort open to the public shall advertise at least quarterly in a regional or national travel or sports industry publication, or in the State travel guide published by the North Carolina Department of Commerce.

- (15) "Unfortified wine" means any wine or alcohol consumable containing sixteen percent (16%) or less alcohol by volume made by fermentation from grapes, fruits, berries, rice, or honey; or by the addition of pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine and produced in accordance with the regulations of the United States. (1981, c. 412, s. 2; 1981 (Reg. Sess., 1982), c. 1262, s. 2; c. 1285, s. 1; 1983, c. 435, s. 41; 1985, c. 69; 1987, c. 443, s. 1; 1989, c. 629, s. 1; 1989 (Reg. Sess., 1990), c. 1024, s. 5; 1991 (Reg. Sess., 1992), c. 920, ss. 1, 10; 1993, c. 415, ss. 1, 2; 1995, c. 466, s. 1; 1997-443, s. 16.27(b); 1999-461, s. 1; 1999-462, ss. 1, 13; 2001-515, s. 1; 2004-135, s. 1; 2004-203, s. 23; 2005-276, s. 31.1(x); 2005-277, s. 1; 2005-344, s. 10.1(a); 2005-392, s. 1; 2005-435, s. 25(a); 2006-253, s. 2; 2006-264, s. 95; 2010-122, s. 1; 2011-145, s. 19.1(g), (gg); 2014-100, s. 17.1(xxx); 2015-98, ss. 1(a), 2(a), 3(b); 2019-182, s. 12; 2019-203, s. 5; 2021-150, s. 27.1; 2022-44, s. 3(a); 2022-51, ss. 4, 9(a).)

§ 18B-102. Manufacture, sale, etc., forbidden except as expressly authorized.

(a) General Prohibition. – It shall be unlawful for any person to manufacture, sell, transport, import, deliver, furnish, purchase, consume, or possess any alcoholic beverages except as authorized by the ABC law.

(a1) Powdered Alcohol Prohibition. – It shall be unlawful for any person to manufacture, sell, transport, import, deliver, furnish, purchase, consume, or possess powdered alcohol.

(b) Violation a Class 1 Misdemeanor. – Unless a different punishment is otherwise expressly stated, any person who violates any provision of this Chapter shall be guilty of a Class 1 misdemeanor. In addition the court may impose the provisions of G.S. 18B-202 and of G.S. 18B-503, 18B-504, and 18B-505. (1923, c. 1, s. 1; C.S., s. 3411(a); 1937, c. 49, s. 24; c. 411; 1939, c. 158, s. 501; 1941, c. 339, ss. 1, 3, 4; 1945, c. 780; c. 903, ss. 1, 3, 10; 1971, c. 872, s. 1; 1973, c. 476, s. 193; c. 1014; 1975, c. 329; c. 411, s. 2; 1977, 2nd Sess., c. 1138, s. 1; 1979, c. 683, s. 1; 1981, c. 412, s. 2; 1989, c. 800, s. 1; 1993, c. 539, s. 310; 1994, Ex. Sess., c. 14, s. 29; c. 24, s. 14(c); 2015-98, s. 2(b).)

§ 18B-102.1. Direct shipments from out-of-state prohibited.

(a) It is unlawful for any person who is an out-of-state retail or wholesale dealer in the business of selling alcoholic beverages to ship or cause to be shipped any alcoholic beverage directly to any North Carolina resident who does not hold a valid wholesaler's permit under Article 11 of this Chapter.

(b) The Commission shall mail a notice by certified mail ordering a person who violates the provisions of subsection (a) of this section to cease and desist any shipments of alcoholic beverages to North Carolina residents. If the offender cannot produce a receipt or otherwise show that applicable State taxes have been paid on the shipped alcohol within 30 days after this notice has been deposited by certified mail addressed to the out-of-state retail or wholesale dealer either at the address shown on the shipment or the last known address of that dealer in any legal registry, such as a registry with the Secretary of State for incorporation of a business, or within 30 days after personal service of the notice on the out-of-state retail or wholesale dealer, it shall be presumptive evidence of his intent to ship alcoholic beverages directly to a North Carolina resident who does not hold a valid wholesaler's permit issued by the Commission.

(c) This section shall not apply to producers of beverage alcohol holding a basic permit from the Bureau of Alcohol, Tobacco and Firearms.

(d) Upon determination by the Commission that a holder of a basic permit from the Bureau of Alcohol, Tobacco and Firearms has made an illegal shipment to consumers in North Carolina, the Commission shall notify the Bureau of Alcohol, Tobacco and Firearms in writing and by certified mail and request the Bureau to take appropriate action.

(e) Whoever violates the provisions of this section shall be guilty of a Class I felony and shall pay a fine of not more than ten thousand dollars (\$10,000). (1997-348, s. 1.)

§ 18B-103. Exemptions.

All of the following activities shall be permitted:

- (1) The use of ethyl alcohol for scientific, chemical, pharmaceutical, mechanical, and industrial purposes.
- (2) The use of ethyl alcohol by persons authorized to obtain it tax free, as provided by federal law.
- (3) The use of ethyl alcohol in the manufacture and preparation of any product unfit for use as a beverage.
- (4) The use of alcoholic beverages by licensed physicians, druggists, or dental surgeons for medicinal or pharmaceutical purposes; or the use of alcoholic beverages by medical facilities established and maintained for the treatment of patients addicted to the use of alcohol or drugs.
- (5) The use of grain alcohol by college, university or State laboratories, and by manufacturers of medicine, for compounding, mixing, or preserving medicines or medical preparations, or for surgical purposes.
- (5a) The manufacture, possession, and consumption of alcoholic beverages for the purpose of conducting scientific, chemical, pharmaceutical, mechanical, industrial, and educational research in connection with teaching, research, or extension programs conducted by, or under the supervision of, an instructor at an accredited community college, public or private college or university, or an

- extension agent in connection with educational programs and activities offered by the North Carolina Cooperative Extension Service.
- (6) The manufacture, importation, and possession of denatured alcohol produced and used as provided by federal law.
 - (7) The manufacture or sale of cider or vinegar.
 - (8) The possession and use of unfortified wine or fortified wine for sacramental purpose by any organized church or ordained minister, including in public school buildings when the use of those buildings is approved by the local school board.
 - (9) The possession and use of alcohol acquired for controlled-drinking programs as authorized under G.S. 20-139.1(g).
 - (10) The use of spirituous liquor in the manufacture of flavors or flavoring extracts that are unfit for beverage use.
 - (11) Under the direct supervision of an instructor during a culinary class that is part of an established culinary curriculum at an accredited college or university, the delivery to or possession or consumption by a student who is less than 21 years of age, when the student is required to taste or imbibe the alcoholic beverage during a culinary class conducted pursuant to the curriculum.
 - (12) The trade or exchange of lawfully purchased spirituous liquor if all of the following requirements are met:
 - a. The transaction only involves the trade or exchange of lawfully purchased spirituous liquor for other lawfully purchased spirituous liquor.
 - b. The trade or exchange is only between individuals, for personal use only, and not for resale.
 - c. The spirituous liquor to be traded or exchanged is or has been approved by the Commission for sale in this State and is not unfit for human consumption.
 - d. The spirituous liquor is not an antique spirituous liquor as that term is defined in G.S. 18B-101(5a). (1923, c. 1, ss. 4, 19, 20; C.S., s. 3411(d), (s), (t); 1935, c. 1141; 1971, c. 872, s. 1; c. 1233; 1981, c. 412, s. 2; c. 747, s. 36; 1981 (Reg. Sess., 1982), c. 1262, s. 3; 1983, c. 435, s. 6; 1985, c. 566, s. 2; 1993, c. 127, s. 1; 2004-199, s. 8; 2009-539, s. 1; 2021-150, s. 23.1.)

§ 18B-104. Administrative penalties.

(a) Penalties. – For any violation of the ABC laws, the Commission may take any of the following actions against a permittee:

- (1) Suspend the permittee's permit for a specified period of time not longer than three years.
- (2) Revoke the permittee's permit.
- (3) For all violations not listed in subdivision (3a) of this subsection, fine the permittee up to five hundred dollars (\$500.00) for the first violation, up to seven hundred fifty dollars (\$750.00) for the second violation within three years, and up to one thousand dollars (\$1,000) for the third violation within three years of the first violation.

- (3a) If the violations involve acts of violence, controlled substances, or prostitution occurring on the licensed premises, fine the permittee up to seven hundred fifty dollars (\$750.00) for the first violation, up to one thousand dollars (\$1,000) for a second violation within three years, and up to one thousand two hundred fifty dollars (\$1,250) for a third violation within three years of the first violation. Additionally, the Commission may impose conditions on the operating hours of the business for violations listed in this subdivision.
- (4) Suspend the permittee's permit under subdivision (1) [of this subsection] and impose a fine under subdivision (3) or (3a) [of this subsection].

(b) **Compromise.** – In any case in which the Commission is entitled to suspend or revoke a permit, the Commission may accept from the permittee an offer in compromise to pay a penalty of not more than five thousand dollars (\$5,000). The Commission may either accept a compromise or revoke a permit, but not both. The Commission may accept a compromise and suspend the permit in the same case.

(b1) **Compromise for Certain Egregious Violations.** – In any case in which there are two or more violations within three years in which the Commission is entitled to suspend or revoke a permit, the Commission may accept from the permittee an offer in compromise to pay a penalty of not more than ten thousand dollars (\$10,000) if the violations involve any of the following acts:

- (1) Acts of violence occurring on the licensed premises.
- (2) The permittee or the permittee's agent or employee knowingly allowing any violation of the controlled substances or prostitution statutes on the licensed premises.

The Commission may also impose conditions on the operating hours of the business as part of a compromise pursuant to this subsection. The Commission may either accept a compromise or revoke a permit, but not both. The Commission may accept a compromise and suspend the permit in the same case.

(c) **Fines and Penalties to Treasurer.** – The clear proceeds of fines and penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) **Effect on Licenses.** – Suspension or revocation of a permit includes automatic suspension or revocation of any related State or local revenue license.

(e) **Effect on Other Permits.** – Unless some other disposition is ordered by the Commission, revocation or suspension of a permit under subsection (a) includes automatic revocation or suspension, respectively, of any other ABC permit held by the same permittee for the same establishment. (1939, c. 158, s. 514; 1943, c. 400, s. 6; 1945, c. 903, s. 1; 1947, c. 1098, ss. 2, 3; 1949, c. 974, ss. 7, 14; 1953, c. 1207, ss. 2-5; 1957, cc. 1048, 1440; 1963, c. 426, ss. 4, 5, 10, 12; c. 460, s. 1; 1971, c. 872, s. 1; 1973, c. 476, s. 193; 1977, c. 669, s. 1; 1981, c. 412, s. 2; 1998-215, s. 27; 2019-49, s. 1.)

§ 18B-105. Advertising.

(a) **General Rule.** – No person shall advertise alcoholic beverages in this State except in compliance with the rules of the Commission.

- (b) **Rule-making Authority.** – The Commission shall have the authority to adopt rules to:
 - (1) Prohibit or regulate advertising of alcoholic beverages by permittees in newspapers, pamphlets, and other print media;

- (2) Prohibit or regulate advertising by on-premises permittees of brands or prices of alcoholic beverages via newspapers, radio, television, and other mass media;
- (3) Prohibit deceptive or misleading advertising of alcoholic beverages;
- (4) Require all advertisements of alcoholic beverages to disclose fully the identity of the advertiser and of the product being advertised;
- (5) Prohibit advertisements of alcoholic beverages on the premises of a permittee, or regulate the size, number, and appearance of those advertisements;
- (6) Prohibit or regulate advertisement of prices of alcoholic beverages on the premises of a permittee;
- (7) Prohibit or regulate alcoholic beverage advertisements on billboards;
- (8) Prohibit alcoholic beverage advertisements on outdoor signs, or regulate the nature, size, number, and appearance of those advertisements;
- (9) Prohibit or regulate advertising of alcoholic beverages by mail;
- (10) Prohibit or regulate contests, games, or other promotions which serve or tend to serve as advertisement for a specific brand or brands of alcoholic beverages; and
- (11) Prohibit or regulate any advertising of alcoholic beverages which is contrary to the public interest. (1923, c. 1, s. 3; C.S., s. 3411(c); 1933, cc. 216, 229; 1945, c. 903, s. 1; 1947, c. 1098, ss. 2, 3; 1957, c. 1048; 1963, c. 426, s. 10; c. 460, s. 1; 1971, c. 872, s. 1; 1981, c. 412, s. 2.)

§ 18B-106. Alcoholic beverages for use on oceangoing ships.

(a) Delivery Permitted. – Alcoholic beverages for use outside the United States on oceangoing vessels shall be delivered as follows:

- (1) Spirituous liquor may be imported into this State under United States customs bonds, held in United States customs bonded warehouses, and transferred between those warehouses. Spirituous liquors may only be released from customs bonds for delivery to an officer or agent of an oceangoing vessel who has obtained a permit from the Commission for that purpose.
- (2) Malt beverages, unfortified wine, and fortified wine may be sold and delivered by any wholesaler or retailer licensed in this State to an officer or agent of an oceangoing vessel. The Commission may require the officer or agent to obtain a permit before purchasing alcoholic beverages under this subdivision.

(b) Definition. – "Oceangoing vessel" means a ship which plies the high seas in interstate or foreign commerce, in the transport of freight or passengers, or both, for hire exclusively.

(c) Rules. – The Commission may issue rules relating to applications for permits and otherwise regulate the importation, sale, and delivery of alcoholic beverages under this section to insure that those beverages are used only on oceangoing vessels outside the United States. (1981, c. 412, s. 2.)

§ 18B-107. Alcoholic beverages for use in air commerce.

(a) Purchase and Storage. – The Commission may issue permits authorizing air carriers offering regularly scheduled or chartered flights in foreign, interstate, or intrastate commerce to purchase malt beverages, unfortified wine, and fortified wine from any wholesaler or retailer licensed in this State, and to transport those alcoholic beverages. The Commission may also

authorize air carriers to store, at facilities approved by the Commission, alcoholic beverages to be sold or served pursuant to subsection (b).

(b) Sale. – Air carriers may sell and serve alcoholic beverages anywhere in this State to passengers while in transit aboard any aircraft. At airports which service airplanes boarding at least 150,000 passengers annually, air carriers may serve complimentary alcoholic beverages to their passengers in air carrier passenger rooms approved by the Commission. Alcoholic beverages may not be sold in such a room unless a permit has been issued under Article 10 authorizing sale there. (1981, c. 412, s. 2.)

§ 18B-108. Sales on trains.

Alcoholic beverages may be sold on railroad trains in this State upon compliance with Article 2C of Chapter 105 of the General Statutes. Malt beverages, unfortified wine, and fortified wine may be sold and delivered by any wholesaler or retailer licensed in this State to an officer or agent of a rail line that carries at least 60,000 passengers annually. (1981, c. 412, s. 2; c. 747, s. 37; 1985, c. 114, s. 5; 2000-140, s. 39; 2006-227, s. 8.)

§ 18B-109. Direct shipment of alcoholic beverages into State.

(a) General Prohibition. – Except as provided in G.S. 18B-1001.1, no person shall have any alcoholic beverage mailed or shipped to him from outside this State unless he has the appropriate ABC permit.

(b) Armed Forces Installation and Indian Country Lands. – No person shall have malt beverages or unfortified wine shipped directly from a point outside this State to an installation of the Armed Forces of the United States within this State if those alcoholic beverages are for resale on the installation or to the Eastern Band of Cherokee Indians for resale on Indian Country lands within this State under the jurisdiction of the Eastern Band of Cherokee Indians.

(c) Wine Shipper Permittees. – It is unlawful for a wine shipper permittee to ship any wines except in compliance with this Chapter and Articles 2C and 5 of Chapter 105 of the General Statutes.

(d) On-Premises Purchases. – A person who purchases wine while visiting the premises of a winery, whether located within or outside the State, may authorize the winery to ship by common carrier, or may personally ship by common carrier, the purchased wine directly to addresses in the State in amounts that can be personally transported in accordance with the laws of this State and of the state in which the winery is located. A winery shipping wine pursuant to this subsection is not required to have a wine shipper permit. (1923, c. 1, s. 2; C.S., s. 3411(b); 1971, c. 872, s. 1; 1975, c. 654, s. 4; 1981, c. 412, s. 2; 2003-402, s. 4; 2011-183, s. 19; 2011-333, s. 1.)

§ 18B-110. Emergency.

When the Governor finds that an emergency, as that term is defined in G.S. 166A-19.3, exists anywhere in this State, the Governor may

- (1) Order the closing of all ABC stores; and
- (2) Order the cessation of all sales, transportation, manufacture, and bottling of alcoholic beverages.

The Governor's order shall apply in those portions of the State designated in the order, for the duration of the state of emergency. Any order by the Governor under this section shall be directed to the Chairman of the Commission and to the Secretary of Public Safety. (1969, c. 869, ss. 4, 5;

1971, c. 872, s. 1; 1977, c. 70, s. 21; 1977, 2nd Sess., c. 1138, s. 16; 1981, c. 412, s. 2; 2011-145, s. 19.1(g); 2012-12, s. 2(cc).)

§ 18B-111. Nontaxpaid alcoholic beverages.

No person may possess, transport, or sell nontaxpaid alcoholic beverages except as authorized by the ABC law. (1981 (Reg. Sess., 1982), c. 1262, s. 4.)

§ 18B-112. Tribal alcoholic beverage control.

(a) Application of This Chapter. – The Eastern Band of Cherokee Indians, a federally recognized Indian tribe and sovereign nation, shall be exempt from the provisions of this Chapter, except for those made applicable by this section. The Eastern Band of Cherokee Indians tribe shall adopt by ordinance the provisions of this Chapter which are made applicable to the tribe by this section, and such ordinance shall be approved by the Secretary of the United States Department of the Interior and published in the Federal Register accordingly. The Eastern Band of Cherokee Indians shall hold lawful tribal elections as set out in G.S. 18B-600(a), and if the result of such election authorizes the activity upon which a vote was held, the activity shall be deemed authorized by this section. For the purposes of this section, the tribal alcoholic beverage control commission shall possess the same powers and authority conveyed upon the North Carolina Alcoholic Beverage Control Commission by any section of this Chapter made applicable to the tribe by this section.

(b) Compliance Required. – The Eastern Band of Cherokee Indians shall comply with the following provisions of this Chapter to the extent they apply to or can be made applicable to the tribe:

- (1) The following provisions of Article 1. – General Provisions.
 - a. G.S. 18B-101(4), (7), (7c), (9), (10), (11), (12), (12a), (13), (14)(14a), (14b), and (15).
 - b. G.S. 18B-102.1.
 - c. G.S. 18B-104.
 - d. G.S. 18B-105, except that this section shall not apply to any establishment where gaming is permitted under a State compact and pursuant to federal law.
 - e. G.S. 18B-109(b).
 - f. G.S. 18B-110.
 - g. G.S. 18B-111.
 - h. G.S. 18B-112.
- (2) Article 1A. – Compensation for Injury Caused by Sales to Underage Persons, to the extent it applies to retail establishments or the tribal alcoholic beverage control commission if it operates ABC stores, or any other permitted establishment, at retail pursuant to the provisions of this section.
- (3) Article 3. – Sale, Possession, and Consumption, except for G.S. 18B-309.
- (4) Article 4. – Transportation.
- (5) Article 5. – Enforcement, except for G.S. 18B-500 and G.S. 18B-501.
- (5a) Article 6. – Elections, compliance with only G.S. 18B-603(f) and (g) are required.
- (6) Article 9. – Issuance of Permits, except for G.S. 18B-902(g) and (h) and G.S. 18B-906.

- (7) Article 10. – Retail Activity.
- (8) Article 11. – Commercial Activity, as clarified by the following:
 - a. The tribal alcoholic beverage control commission may issue commercial activity permits to any qualifying applicant that establishes a commercial business wholly on Indian Country lands and shall have sole enforcement authority over any permittee receiving a permit from the tribal alcoholic beverage control commission only to the extent the regulated conduct occurs on Indian Country lands.
 - b. The Eastern Band of Cherokee Indians shall recognize any permit issued by the North Carolina Alcoholic Beverage Control Commission allowing commercial activity in the same manner as if such permit was issued by the tribal alcoholic beverage control commission. The North Carolina Alcoholic Beverage Control Commission shall recognize any commercial activity permit issued by the tribal alcoholic beverage commission in the same manner as if the permit were issued by the North Carolina Alcoholic Beverage Control Commission.
 - c. The North Carolina Alcoholic Beverage Control Commission shall retain exclusive enforcement authority over all permits it issues to commercial activity permittees for violations of its rules or this Chapter.

Any provision of Articles 12 and 13 of this Chapter which has not been made applicable to the Eastern Band of Cherokee Indians by this section shall act as a bar to engaging in any activity authorized by that Article or section.

(b1) In accordance with G.S. 18B-1004(c), the Eastern Band of Cherokee Indians tribe may adopt an ordinance allowing for the sale of malt beverages, unfortified wine, fortified wine, and mixed beverages beginning at 10:00 A.M. on Sunday pursuant to the licensed premises' permit issued under the authority of G.S. 18B-112(d).

(c) Alcoholic Beverages Which May Be Sold. – No alcoholic beverage may be sold on Indian Country lands under the jurisdiction of the Eastern Band of Cherokee Indians pursuant to this section which has not been approved for sale in this State by the North Carolina Alcoholic Beverage Control Commission.

(d) Establishment of a Tribal Commission. – In accordance with the provisions of 18 U.S.C. § 1161, the Eastern Band of Cherokee Indians is authorized to establish a tribal alcoholic beverage control commission to regulate the purchase, possession, consumption, sale, and delivery of alcoholic beverages on any land designated as Indian Country pursuant to 18 U.S.C. § 1151 under the jurisdiction of the Eastern Band of Cherokee Indians. The tribal commission shall have exclusive authority to issue ABC permits to retail and commercial establishments located wholly on Indian Country lands under the jurisdiction of the Eastern Band of Cherokee Indians and to regulate the purchase, possession, consumption, sale, and delivery of alcoholic beverages at permitted outlets and premises. Permits issued by the tribal commission pursuant to this section shall be deemed issued by the State for the purposes of sales and delivery of beer and wine by wholesalers to the retail outlets located on Indian Country lands. The fees generated by the tribal alcoholic beverage control commission for the issuance of retail permits may be retained by the Eastern Band of Cherokee Indians to offset costs of operating the tribal alcoholic beverage control commission.

(e) Establishment of Rules. – The tribal alcoholic beverage control commission shall adopt the rules of the North Carolina Alcoholic Beverage Control Commission regulating retail outlet activity.

(f) Authority of the North Carolina Alcoholic Beverage Control Commission. – The North Carolina Alcoholic Beverage Control Commission shall have the authority to enter into agreements with the tribal alcoholic beverage control commission to provide for the sale, delivery, and distribution of spirituous liquor to the tribal alcoholic beverage control commission. The tribal alcoholic beverage control commission shall purchase spirituous liquor for resale by the tribal alcoholic beverage control commission exclusively from the North Carolina Alcoholic Beverage Control Commission at the same price and on the same basis that such spirits are purchased by local boards. To the extent there is a conflict between the tribal alcoholic beverage control commission's authority or purpose and the North Carolina Alcoholic Beverage Control Commission's authority or purpose, the North Carolina Alcoholic Beverage Control Commission shall prevail.

(g) Discrimination. – The tribal alcoholic beverage control commission shall not discriminate against non-Indians in the application of the tribal ABC law. Non-Indians shall be entitled to apply for and receive ABC permits in the same manner as an Indian on Indian Country lands under the jurisdiction of the Eastern Band of Cherokee Indians.

(h) Resolution of Contested Cases. – If the tribal alcoholic beverage control commission levies a fine or suspends or revokes a permit pursuant to the provisions of G.S. 18B-104 for a violation of the provisions applicable to the Eastern Band of Cherokee Indians in this section, the permittee shall have the right of appeal of an agency final decision of the tribal commission to the tribal courts. Any further appeal shall be to the appellate courts of the tribe. All fines paid to the tribal commission in satisfaction of any penalty assessed by the tribal commission may be retained by the Eastern Band of Cherokee Indians to offset costs of operating the tribal alcoholic beverage control commission.

(i) Failure to Comply With Laws of This State. – If the Eastern Band of Cherokee Indians fails to adopt the provisions of this Chapter, made applicable to the tribe by this section, by ordinance; fails to amend tribal ordinances to comply with amendments to the provisions of this Chapter, made applicable to the tribe by this section, within six months of passage of such amendments; or fails to comply with the provisions of this Chapter, made applicable to the tribe by this section, as required by 18 U.S.C. § 1161, the North Carolina Alcoholic Beverage Control Commission is authorized to terminate and prohibit future delivery of any alcoholic beverages from any person to the tribal alcoholic beverage control commission until the Eastern Band of Cherokee Indians complies with the provisions of this Chapter made applicable to the tribe by this section and 18 U.S.C. § 1161.

(j) Conflict of Laws. – If any provision of this section or its application conflicts with federal law, the conflict of laws shall be resolved in favor of the federal law unless compliance with the federal law abrogates a right reserved to the State under the Constitution of the United States. (2011-333, s. 3; 2015-98, s. 3(a); 2017-87, s. 4(d); 2019-182, s. 14(c).)

§ 18B-113. Reserved for future codification purposes.

§ 18B-114. Reserved for future codification purposes.

§ 18B-115. Reserved for future codification purposes.

§ 18B-116. Reserved for future codification purposes.

§ 18B-117. Reserved for future codification purposes.

§ 18B-118. Reserved for future codification purposes.

§ 18B-119. Reserved for future codification purposes.

Article 1A.

Compensation for Injury Caused by Sales to Underage Persons.

§ 18B-120. Definitions.

As used in this Article:

- (1) "Aggrieved party" means a person who sustains an injury as a consequence of the actions of the underage person, but does not include the underage person or a person who aided or abetted in the sale or furnishing to the underage person.
- (2) "Injury" includes, but is not limited to, personal injury, property loss, loss of means of support, or death. Damages for death shall be determined under the provisions of G.S. 28A-18-2(b). Nothing in G.S. 28A-18-2(a) or subdivision (1) of this section shall be interpreted to preclude recovery under this Article for loss of support or death on account of injury to or death of the underage person or a person who aided or abetted in the sale or furnishing to the underage person.
- (3) "Underage person" means a person who is less than the age legally required for purchase of the alcoholic beverage in question.
- (4) "Vehicle" shall have the same meaning as prescribed by G.S. 20-4.01(49). (1983, c. 435, s. 37.)

§ 18B-121. Claim for relief created for sale to underage person.

An aggrieved party has a claim for relief for damages against a permittee or local Alcoholic Beverage Control Board if:

- (1) The permittee or his agent or employee or the local board or its agent or employee negligently sold or furnished an alcoholic beverage to an underage person; and
- (2) The consumption of the alcoholic beverage that was sold or furnished to an underage person caused or contributed to, in whole or in part, an underage driver's being subject to an impairing substance within the meaning of G.S. 20-138.1 at the time of the injury; and
- (3) The injury that resulted was proximately caused by the underage driver's negligent operation of a vehicle while so impaired. (1983, c. 435, s. 37.)

§ 18B-122. Burden of proof and admissibility of evidence.

The plaintiff shall have the burden of proving that the sale or furnishing of the alcoholic beverage to the underage person, as defined, was, under the circumstances, negligent. Proof of the sale or furnishing of the alcoholic beverage to an underage person, as defined, without request for identification shall be admissible as evidence of negligence. Proof of good practices (including but not limited to, instruction of employees as to laws regarding the sale of alcoholic beverages,

training of employees, enforcement techniques, admonishment to patrons concerning laws regarding the purchase or furnishing of alcoholic beverages, or detention of a person's identification documents in accordance with G.S. 18B-129 and inquiry about the age or degree of intoxication of the person), evidence that an underage person misrepresented his age, or that the sale or furnishing was made under duress is admissible as evidence that the permittee was not negligent. (1983, c. 435, s. 37.)

§ 18B-123. Limitation on damages.

The total amount of damages that may be awarded to all aggrieved parties pursuant to any claims for relief under this Article is limited to no more than five hundred thousand dollars (\$500,000) per occurrence. When all claims arising out of an occurrence exceed five hundred thousand dollars (\$500,000), each claim shall abate in the proportion it bears to the total of all claims. (1983, c. 435, s. 37.)

§ 18B-124. Joint and several liability.

The liability of the negligent driver or owner of the vehicle that caused the injury and the permittee or ABC board which sold or furnished the alcoholic beverage shall be joint and several, with right of contribution but not indemnification. (1983, c. 435, s. 37.)

§ 18B-125. Exceptions.

This Article does not create a claim for relief against the following:

- (1) One who holds only a brown bagging permit, a special occasions permit, or a limited special occasions permit;
- (2) One who holds only a special one-time permit under G.S. 18B-1002;
- (3) One who holds only permits listed in G.S. 18B-1100;
- (4) One who holds any combination of the permits listed in this section. (1983, c. 435, s. 37.)

§ 18B-126. Statute of limitations.

The statute of limitations is as provided in G.S. 1-54. (1983, c. 435, s. 37.)

§ 18B-127. Duty of clerk of superior court.

When execution on a judgment on a cause of action under G.S. 18B-121 is returned unsatisfied, in whole or in part, the clerk of superior court to whom such return is made shall transmit to the Commission certified copies of the judgment, the execution and return and any other proceedings upon the judgment. (1983, c. 435, s. 37.)

§ 18B-128. Common-law rights not abridged.

The creation of any claim for relief by this Article may not be interpreted to abrogate or abridge any claims for relief under the common law, but this Article does not authorize double recovery for the same injury. (1983, c. 435, s. 37.)

§ 18B-129. No liability for refusal to sell or for holding documents.

(a) No permittee or his agent or employee may be held liable for damages resulting from the refusal to sell or furnish an alcoholic beverage to a person who fails to show proper identification as described in G.S. 18B-302(d), or who appears to be an underage person.

(b) No permittee or his agent or employee may be held civilly liable if the permittee or his agent or employee holds a customer's identification documents for a reasonable length of time in a good faith attempt to determine whether the customer is of legal age to purchase an alcoholic beverage, provided the permittee or his agent or employee informs the customer of the reason for his actions. (1983, c. 435, s. 37.)

§§ 18B-130 through 18B-199. Reserved for future codification purposes.

Article 2.

State Administration.

§ 18B-200. North Carolina Alcoholic Beverage Control Commission.

(a) Creation of Commission; compensation. – The North Carolina Alcoholic Beverage Control Commission is created to consist of a chairman and two associate members. The Commission shall be administratively located within the Department of Public Safety but shall exercise its powers independently of the Secretary of Public Safety. The chairman shall devote his full time to his official duties and receive a salary fixed by the General Assembly in the Current Operations Appropriations Act. The associate members shall be compensated for per diem, subsistence and travel as provided in Chapter 138 of the General Statutes.

(b) Appointment of Members. – Members of the Commission shall be appointed by the Governor to serve at his pleasure.

(c) Vacancy. – The Governor shall fill any vacancy on the Commission by appointing a successor to serve at the Governor's pleasure. If the chairman's seat becomes vacant, the Governor may designate either the new member or an existing member of the Commission as the chairman.

(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 employee to make investigations, hold hearings requested under G.S. 18B-1205, and represent the Commission in contested case hearings or perform any other duties authorized by Chapter 150B. (1937, c. 49, ss. 2, 3; c. 411; 1939, c. 185, s. 5; 1941, c. 107, s. 5; 1963, c. 916, s. 1; 1965, c. 1102, ss. 1, 2; 1969, c. 294, ss. 1, 2; 1971, c. 872, s. 1; 1979, c. 336; 1981, c. 412, s. 2; 1983, c. 717, s. 4; 1983 (Reg. Sess., 1984), c. 1034, s. 164; 1987, c. 827, s. 1; 1993, c. 415, s. 3; 2014-100, s. 15.2A(d).)

§ 18B-201. Conflict of interest; gifts.

(a) Financial Interests Restricted. – No person shall be appointed to or employed by the Commission, a local board, or the ALE Division if that person or a member of that person's family related to 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.

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

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

- (1) The member who financially benefits from the transaction or whose spouse or relative financially benefits from the transaction abstains from participating in any way, including voting, in the decision;
- (2) The minutes of the meeting at which the final decision is reached specifically note the member who is financially benefited or whose spouse or relative is financially benefited and the amount involved in each transaction;
- (3) The next annual audit of the Commission or local board specifically notes the member and the amount involved in each transaction occurring during the year covered by the audit; and
- (4) If the transaction is by a local board, the Commission is notified at least two weeks before final board approval of the transaction.

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

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

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

(g) For purposes of subsection (f) of this section, "business with which associated" shall have the same meaning as in G.S. 138A-3(7). For purposes of this section, "financial benefit" shall mean a direct pecuniary gain or loss, or a direct pecuniary loss to a business competitor.

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

- (1) The financial benefit that accrues to the local ABC board member, the local ABC board member's spouse or any person related to the local ABC board member by blood to a degree of first cousin or closer, or a business with which the local ABC board member is associated is one that is accrued as a member of a profession, occupation, or general class and is no greater than that which could reasonably be foreseen to accrue to all members of that profession, occupation, or general class.
- (2) The financial benefit derived by a local ABC board member, the local ABC board member's spouse or any person related to the local ABC board member by blood to a degree of first cousin or closer, or a business with which the local ABC board member is associated is one that would be enjoyed to an extent no greater than that which other citizens of the State would or could enjoy.
- (3) The financial benefit derived by a local ABC board member, the local ABC board member's spouse or any person related to the local ABC board member by blood to a degree of first cousin or closer, or a business with which the local

ABC board member is so remote, tenuous, insignificant, or speculative that a reasonable person would conclude under the circumstances that the local ABC board member's ability to protect the public interest and perform the local ABC board member's duties would not be compromised.

- (4) When an action affects or would affect the local ABC board member's compensation as a local ABC board member.
- (5) Before the local ABC board member participated in the action, the board member requested and received from the ABC Commission a written advisory opinion that authorized the participation. In authorizing the participation under this subdivision, the ABC Commission shall consider the need for the local ABC board member's particular contribution, such as special knowledge of the subject matter and the effective functioning of the local ABC board.
- (6) When action is ministerial only and does not require the exercise of discretion.
- (7) When the local ABC board records in its minutes that it cannot obtain a quorum in order to take the action because the local ABC board member is disqualified from acting, the local ABC board member may be counted for purposes of a quorum but shall otherwise abstain from taking any further action.
 - (i) Nothing in this section shall allow participation in an action prohibited by G.S. 14-234 or G.S. 133-32.
 - (j) A local board member shall not improperly use or improperly disclose any confidential information.
 - (k) A local board member shall have an affirmative duty to promptly disclose in writing to the local board any conflict of interest or potential conflict of interest. (1981, c. 412, s. 2; 1993, c. 415, s. 4; 2010-122, s. 2; 2011-145, s. 19.1(q); 2014-100, s. 17.1(xxx); 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1; 2019-203, s. 9(a).)

§ 18B-202. Discharge upon conviction.

In addition to imposing any other penalty authorized by law, a judge may remove from office or discharge from employment any Commission or local board member or employee, or any ALE agent, who is convicted of a violation of any provision of this Chapter or of any felony and may declare that person ineligible for membership or employment with the Commission, any local board, or the ALE Division, for a period of not longer than three years. Conviction of a crime under this Chapter or of any felony shall also be grounds for the Commission to remove from office or discharge from employment any local board member or employee. In addition to imposing any other penalty authorized by law, a judge may prohibit an individual convicted of a violation of this Chapter, or of any felony, from participating in any contract to enforce the ABC laws for a local board if that individual is a designated officer of an agency which holds a contract to enforce the ABC laws for a local board. A judge may also prohibit an individual convicted of a violation of this Chapter, or of any felony, from being designated as an officer that enforces the ABC law under a contract with any local board for a period of not longer than three years. (1981, c. 412, s. 2; 2010-122, s. 3; 2011-145, s. 19.1(q); 2014-100, s. 17.1(xxx); 2019-203, s. 9(a).)

§ 18B-203. Powers and duties of the Commission.

- (a) Powers. – The Commission shall have authority to:
 - (1) Administer the ABC laws;

- (2) Provide for enforcement of the ABC laws, in conjunction with the ALE Division;
- (3) Set the prices of alcoholic beverages sold in local ABC stores as provided in Article 8;
- (4) Require reports and audits from local boards as provided in G.S. 18B-205;
- (5) Determine what brands of alcoholic beverages may be sold in this State;
- (6) Contract for State ABC warehousing, as provided in G.S. 18B-204;
- (7) Dispose of damaged alcoholic beverages, as provided in G.S. 18B-806;
- (8) Remove for cause any member or employee of a local board;
- (9) Supervise or disapprove purchasing by any local board and inspect all records of purchases by local boards;
- (10) Approve or disapprove rules adopted by any local board;
- (11) Approve or disapprove the opening and location of ABC stores, as provided in Article 8;
- (12) Issue ABC permits, and impose sanctions against permittees;
- (13) Provide for the testing of alcoholic beverages, as provided in G.S. 18B-206;
- (14) Fix the amount of bailment charges and bailment surcharges to be assessed on liquor shipped from a Commission warehouse;
- (15) Collect bailment charges and bailment surcharges from local boards;
- (16) Notwithstanding any law to the contrary, enter into contracts for design and construction of a warehouse or warehouses and supervise work and materials used in the construction, as provided in G.S. 18B-204;
- (17) Provide for the distribution of spirituous liquor to installations of the Armed Forces of the United States within this State for resale on the installation and to the Eastern Band of Cherokee Indians for resale on Indian Country lands within this State under the jurisdiction of the Eastern Band of Cherokee Indians.
- (18) Provide for the distribution and posting of warning signs to local ABC boards regarding the dangers of alcohol consumption during pregnancy as required under G.S. 18B-808;
- (19) Recognize the holder of a wine importer permit or nonresident wine vendor permit as a primary American source of supply for the wine of a winery. To be considered a primary American source of supply, a wine importer must establish that it has lawfully purchased the wine from the winery, or from an agent of the winery, and by written contract or otherwise has been authorized by the winery to distribute the wine to wholesalers in the United States.
- (20) Promulgate rules to establish performance standards for local boards. Performance standards established pursuant to this subdivision shall include, but not be limited to, standards that address enforcement of ABC laws, store appearance, operating efficiency, solvency, and customer service.
- (21) Promulgate rules to establish mandatory training requirements for local board members, finance officers, and general managers. If personal attendance is required, the Commission shall not require more than four hours of training and shall provide up to two hours of training at convenient locations around the State in conjunction with ethics training.
- (22) Provide for the purchase of spirituous liquor from another ABC board by mixed beverage permittees when an ABC system becomes insolvent, closes, or is

closed by the Commission and the county or municipality in which the system is located has approved the sale of mixed beverages.

(b) Implied Powers. – The Commission shall have all other powers which may be reasonably implied from the granting of the express powers stated in subsection (a), or which may be incidental to, or convenient for, performing the duties given to the Commission. (1937, c. 49, s. 4; cc. 237, 411; 1945, c. 954; 1949, c. 974, s. 9; 1961, c. 956; 1963, c. 426, s. 12; c. 916, s. 2; c. 1119, s. 1; 1965, c. 1063; c. 1102, s. 3; 1967, c. 222, s. 2; c. 1240, s. 1; 1971, c. 872, s. 1; 1973, c. 28; c. 473, s. 1; c. 476, s. 133; c. 606; c. 1288, s. 1; cc. 1369, 1396; 1975, cc. 240, 453, 640; 1977, c. 70, ss. 15.1, 15.2, 16; c. 176, ss. 2, 6; 1977, 2nd Sess., c. 1138, ss. 3, 4, 18; 1979, c. 384, s. 1; c. 445, s. 5; c. 482; c. 801, s. 4; 1981, c. 412, s. 2; c. 747, s. 38; 1981 (Reg. Sess., 1982), c. 1285, s. 2; 1987, c. 136, s. 1; 2003-339, s. 1; 2006-227, s. 10; 2010-122, s. 4; 2011-145, s. 19.1(q); 2011-183, s. 20; 2011-333, s. 2; 2014-100, s. 17.1(xxx); 2019-203, s. 9(a).)

§ 18B-204. State warehouse.

(a) Contracting for Private Warehouse. – The Commission shall provide for the receipt, storage, and distribution of spirituous liquor by one of the following methods:

- (1) By negotiated contract with a privately owned warehouse.
- (2) By negotiated contract with privately owned warehouses in several regions of the State. The Commission shall choose locations for the warehouses to promote efficient distribution of spirituous liquor to all local boards, to maintain control of that liquor, and to insure the Commission's supervision of warehousing procedures.
- (3) By the construction of a warehouse, and by contracting for receipt, storage and distribution of spirituous liquor by an independent contractor, by negotiated contract or by the use of procedures for purchase and contract by State agencies, for the operation of that warehouse.

(a1) Distribution of Spirituous Liquor; No Discrimination. – The Commission shall make a good-faith effort, without discrimination, to make all spirituous liquor distributed by the Commission available to all local boards. The Commission shall adopt rules regarding the ordering of spirituous liquor by local boards and may suspend distribution to a local board of any limited product required to be recorded pursuant to subsection (a3) of this section for a violation of any rule concerning the ordering of the limited product.

(a2) Providing Ordering Advantage Prohibited. – A contractor that has entered into a contract pursuant to this section shall not directly or indirectly provide information to a local board which gives any advantage to one board over another board concerning product selection, availability, or otherwise obtaining spirituous liquor distributed by the Commission. Any violation of this subsection by the contractor, an employee of the contractor, or any person working in concert with the contractor shall be grounds for the Commission to terminate the contract.

(a3) Limited Product Record Required; Transparency. – The Commission shall maintain a record of all products that the Commission either (i) limits distribution of due to limited availability or (ii) allocates the distribution of to local boards. The record shall be updated at least monthly and made available to all local boards and shall include the following for all limited distribution or allocated products received by the Commission:

- (1) The product code number.
- (2) The brand name.
- (3) The quantity received by the Commission.

- (4) The date received by the Commission.
 - (5) The name of each local board that received the product, the date each local board received the product, and the quantity each local board received.
- (b) Audits and Inspections. – Contracts entered into pursuant to this section shall provide all of the following:
- (1) That an annual audited financial statement be prepared and submitted to the Commission by the person contracting with the Commission.
 - (2) That all warehouse records be available for inspection at all times by the Commission and the Department of Revenue.
 - (3) That all warehouse accounts relating to the receipt, storage, or distribution of spirituous liquor be subject to audit by the State Auditor.
- (c) Emergency or Temporary Operation. – If the independent operator of a warehouse changes, or if some other occurrence results in substantially impeded distribution of spirituous liquor from a warehouse, the Commission may operate that warehouse on an interim emergency or temporary basis.
- (d) Rules. – The Commission may adopt rules regarding warehouse operations, and violations of those rules by a party with whom the Commission contracts shall be grounds for termination by the Commission of a contract entered into under this section. (1937, c. 49, s. 4; cc. 237, 411; 1945, c. 954; 1949, c. 974, s. 9; 1961, c. 956; 1963, c. 426, s. 12; c. 916, s. 2; c. 1119, s. 1; 1965, c. 1063; c. 1102, s. 3; 1967, c. 222, s. 2; c. 1240, s. 1; 1971, c. 872, s. 1; 1973, c. 28; c. 473, s. 1; c. 476, s. 133; c. 606; c. 1288, s. 1; cc. 1369, 1396; 1975, cc. 240, 453, 640; 1977, c. 70, ss. 15.1, 15.2, 16; c. 176, ss. 2, 6; 1977, 2nd Sess., c. 1138, ss. 3, 4, 18; 1979, c. 384, s. 1; c. 445, s. 5; c. 482; c. 801, s. 4; 1981, c. 412, s. 2; 1981 (Reg. Sess., 1982), c. 1285, s. 3; 1987, c. 136, s. 2; 2021-150, s. 24.1.)

§ 18B-205. Accounts and reports required.

- (a) Accounts and Reports. – The Commission may require local boards to submit quarterly mixed beverage reports, quarterly and annual audits, monthly sales records, and any other reports or audits relating to the operations of the local ABC systems.
- (b) Accounting System. – The Commission may require local boards to use generally accepted accounting standards and a chart of accounts prescribed by the Commission in the operation of ABC stores, and to record all information necessary and useful to the Commission in auditing the operation of ABC systems and administering the ABC law.
- (c) Audits. – The Commission may audit the operation of any local ABC store or board, and the books of those stores and boards shall remain open to the Commission for inspection. (1937, c. 49, s. 4; cc. 237, 411; 1945, c. 954; 1949, c. 974, s. 9; 1961, c. 956; 1963, c. 426, s. 12; c. 916, s. 2; c. 1119, s. 1; 1965, c. 1063; c. 1102, s. 3; 1967, c. 222, s. 2; c. 1240, s. 1; 1971, c. 872, s. 1; 1973, c. 28; c. 473, s. 1; c. 476, s. 133; c. 606; c. 1288, s. 1; cc. 1369, 1396; 1975, cc. 240, 453, 640; 1977, c. 70, ss. 15.1, 15.2, 16; c. 176, ss. 2, 6; 1977, 2nd Sess., c. 1138, ss. 3, 4, 18; 1979, c. 384, s. 1; c. 445, s. 5; c. 482; c. 801, s. 4; 1981, c. 412, s. 2.)

§ 18B-206. Standards for alcoholic beverages.

- (a) Authority to Set Standards. – The Commission may set standards and adopt rules for alcoholic beverages to protect the public against alcoholic beverages containing harmful or impure substances, alcoholic beverages containing an improper balance of substances as determined by the Commission, spurious or imitation alcoholic beverages, and alcoholic beverages unfit for

human consumption. In setting standards and in issuing rules relating to them, the Commission may follow federal guidelines for standards of identity, labeling and advertising contained in Title 27 of the Code of Federal Regulations, or may adopt more restrictive standards.

(b) **Effective Date of Standards.** – A person possessing alcoholic beverages which do not meet a new standard set by the Commission shall have 60 days after the effective date of the standard to sell or otherwise dispose of those alcoholic beverages.

(c) **Testing.** – The Commission may test malt beverages, unfortified wine, fortified wine, and spirituous liquor possessed or offered for sale in this State to determine whether they meet the standards set by the Commission. If the Commission chooses to test an alcoholic beverage, that test may be performed by the Commission, the Commission may arrange for the State Chemist to perform the testing, or the Commission may have the testing performed in some other manner. The manufacturer of tested alcoholic beverages shall pay the costs of the test. In lieu of testing an alcoholic beverage, the Commission may rely on testing by a federal agency or an agency of another state or may accept test results from a federal agency, an agency of another state, or the manufacturer of the alcoholic beverage or his authorized agent. A manufacturer who submits test results shall also submit a fee of ten dollars (\$10.00) for each test result to cover administrative costs. (1939, c. 158, s. 514; 1943, c. 400, s. 6; 1949, c. 974, s. 14; 1953, c. 1207, ss. 2-4; 1957, c. 1440; 1963, c. 426, ss. 4, 5; 1971, c. 872, s. 1; 1977, c. 70, s. 20.4; 1981, c. 412, s. 2; 2021-150, s. 27.2.)

§ 18B-207. Rules.

The Commission shall have authority to adopt, amend, and repeal rules to carry out the provisions of this Chapter. Those rules shall become effective when adopted and filed pursuant to the provisions of Chapter 150B of the General Statutes. (1937, c. 49, s. 4; cc. 237, 411; 1945, c. 954; 1949, c. 974, s. 9; 1961, c. 956; 1963, c. 426, s. 12; c. 916, s. 2; c. 1119, s. 1; 1965, c. 1063; c. 1102, s. 3; 1967, c. 222, s. 2; c. 1240, s. 1; 1971, c. 872, s. 1; 1973, c. 28; c. 473, s. 1; c. 476, s. 133; c. 606; c. 1288, s. 1; cc. 1369, 1396; 1975, cc. 240, 453, 640; 1977, c. 70, ss. 15.1, 15.2, 16; c. 176, ss. 2, 6; 1977, 2nd Sess., c. 1138, ss. 3, 4, 18; 1979, c. 384, s. 1; c. 445, s. 5; c. 482; c. 801, s. 4; 1981, c. 412, s. 2; 1987, c. 827, s.1.)

§ 18B-208. ABC Commission bonds and funds.

(a) **Issuance of Bonds.** – As a means of raising the funds needed from time to time in the design, acquisition, construction, equipping, maintenance and operation of a warehouse under G.S. 18B-204(a)(3), the Commission may, with the approval of the Governor, at one time or from time to time issue negotiable revenue bonds of the Commission. The issuance of revenue bonds shall not directly or indirectly or contingently obligate the State to levy or to pledge any form of taxation or to make any appropriation for their payment. Revenue bonds issued pursuant to this subsection shall be repaid from the bailment surcharge as provided in subsection (b). These bonds and the income from them are exempt from all taxation within the State.

(b) **Special Fund.** – A special fund in the office of the State Treasurer, the ABC Commission Fund, is created. On and after November 1, 1982, all moneys derived from the collection of bailment charges and bailment surcharges shall be deposited in the ABC Commission Fund for the purpose of carrying out the provisions of this Chapter. The ABC Commission Fund shall be subject to the provisions of the State Budget Act except that no unexpended surplus of this fund shall revert to the General Fund. The Commission shall fix the level of the bailment surcharges at an amount calculated to cover operating expenses of the Commission and the

retirement of bonds issued for construction of a Commission warehouse and offices. Upon payment of the bonds issued pursuant to this section, the Commission shall reduce the bailment surcharge to an amount no greater than necessary to pay operating expenses of the Commission as authorized by the General Assembly.

All moneys credited to the ABC Commission Fund shall be used to carry out the intent and purposes of the ABC law in accordance with plans approved by the North Carolina ABC Commission and the Director of the Budget. The moneys in the Fund shall be expended only upon an appropriation by an act of the General Assembly. (1981 (Reg. Sess., 1982), c. 1285, s. 4; 1983, c. 761, s. 133; 1987, c. 832, s. 1; 1989, c. 800 s. 6; 2006-203, s. 13; 2014-100, s. 15.1.)

§§ 18B-209 through 18B-299. Reserved for future codification purposes.

Article 3.

Sale, Possession, and Consumption.

§ 18B-300. Purchase, possession and consumption of malt beverages and unfortified wine.

(a) Generally. – Except as otherwise provided in this Chapter, the purchase, consumption, and possession of malt beverages and unfortified wine by individuals 21 years old and older for their own use is permitted without restriction.

(a1) Consumption on Premises During Time of Permit Revocation or Suspension. – It shall be unlawful to consume or for a permittee or his agent or employee to allow the consumption of malt beverages or unfortified wine on the premises of any business during the period of time that any on-premises permit issued to the business authorizing the sale and consumption of malt beverages or unfortified wine has been suspended or revoked by the Commission. The prohibition in this subsection does not apply to the premises upon which the business was located at the time the permit was suspended or revoked if the business ceases to operate in that location and the owner of the property is not the permittee, provided that the permittee is not engaged in any other business or other activity on the premises during the period of suspension or revocation.

(b) Consumption at Off-Premises Establishment. – It shall be unlawful to consume, or for a permittee to allow the consumption of, malt beverages or unfortified wine on any premises having only an off-premises permit for the kind of alcoholic beverage being consumed.

(c) Local Ordinance. – A city or county may by ordinance:

- (1) Regulate or prohibit the consumption of malt beverages and unfortified wine on the public streets in that city or county by persons who are not occupants of motor vehicles and on property owned, occupied, or controlled by that city or county;
- (2) Regulate or prohibit the possession of open containers of malt beverages and unfortified wine on public streets in that city or county by persons who are not occupants of motor vehicles and on property owned, occupied, or controlled by that city or county; and
- (3) Regulate or prohibit the possession of malt beverages and unfortified wine on public streets, alleys, or parking lots which are temporarily closed to regular traffic for special events.

For the purposes of this subsection, an open container means a container whose seal has been broken or a container other than the manufacturer's unopened original container. As provided by G.S. 18B-102(a), possession or consumption of alcoholic beverages is unlawful except as authorized by the ABC law. (1939, c. 158, s. 503; 1971, c. 872, s. 1; 1973, c. 1452, ss. 1-3; 1977, c.

176, ss. 2, 3; c. 693; 1979, c. 19, s. 2; c. 445, s. 4; c. 893, s. 11; 1981, c. 412, s. 2; 1983, c. 435, s. 32; 1985, c. 141, s. 1; 1995, c. 144, s. 1; c. 366, s. 2; 2001-79, s. 1; 2013-392, s. 1.)

§ 18B-300.1. Authorization and regulation of social districts.

(a) Policy. – The intent of this section is to regulate open containers of alcoholic beverages that customers of a permittee take from the permittee's licensed premises into another area where consumption of the alcoholic beverages is allowed. This section shall not in any way limit the consumption or possession of alcoholic beverages otherwise allowed under this Chapter.

(b) Definitions. – The following definitions apply in this section:

- (1) Customer. – A person who purchases an alcoholic beverage from a permittee that is in a social district.
- (2) Non-permittee business. – A business that is located in a social district and does not hold any ABC permit.
- (3) Permittee. – An establishment holding any of the following permits issued by the Commission:
 - a. An on-premises malt beverage permit issued pursuant to G.S. 18B-1001(1).
 - b. An on-premises unfortified wine permit issued pursuant to G.S. 18B-1001(3).
 - c. An on-premises fortified wine permit issued pursuant to G.S. 18B-1001(5).
 - d. A mixed beverages permit issued pursuant to G.S. 18B-1001(10).
 - e. A wine shop permit issued pursuant to G.S. 18B-1001(16).
 - f. A distillery permit issued pursuant to G.S. 18B-1100(5).
- (4) Social district. – A defined area in which a person may consume alcoholic beverages sold by a permittee. A social district may include both indoor and outdoor areas of businesses within or contiguous to the defined area during the days and hours set by the local government by ordinance pursuant to subsection (d) of this section. A social district may include privately owned property, including permittees and non-permittee businesses, and multi-tenant establishments, as defined in G.S. 18B-1001.5, and public streets, crosswalks, or parking areas whether or not the streets or parking areas are closed to vehicle traffic.

(c) Local Ordinances Authorized. – Pursuant to G.S. 153A-145.9, a county may adopt an ordinance designating one or more social districts in the parts of the county outside any city. Pursuant to G.S. 160A-205.4, a city may adopt an ordinance designating one or more social districts.

(d) Requirements for Designation. – A social district designated under this section shall meet all of the following requirements:

- (1) The social district shall be clearly defined with signs posted in a conspicuous location indicating which area is included in the social district, the days and hours during which alcoholic beverages may be consumed in the social district, the telephone number for the ALE Division and the local law enforcement agency with jurisdiction over the area comprising the social district, and a clear statement that an alcoholic beverage purchased from a permittee for consumption in a social district shall (i) only be consumed in the social district

and (ii) be disposed of before the person in possession of the alcoholic beverage exits the social district. The hours set by a city or county during which customer-purchased alcoholic beverages may be consumed in a social district shall be in accordance with G.S. 18B-1004.

- (2) The city or county, or the city's or county's designee, shall establish or approve management and maintenance plans for the social district and post these plans, along with a rendering of the boundaries of the social district and days and hours during which alcoholic beverages may be consumed in the social district, on the website for the city or county. The city's or county's designee may include a private entity, including a property owner or property owner's association. Any plan established under this subdivision shall be approved by the governing body of the city or county. The social district shall be maintained in a manner that protects the health and safety of the general public. The city or county may establish guidelines in the ordinance establishing the social district or in its management and maintenance plan to allow for suspension of regular days and hours of alcohol consumption in all or part of a social district during events requiring other permits pursuant to subsection (j) of this section.
- (3) Before allowing consumption of alcoholic beverages in a social district, the city or county shall submit to the Commission a detailed map of the social district with the boundaries of the social district clearly marked, and the days and hours during which alcoholic beverages may be consumed in the social district. The city or county shall only be required to submit a revised map to the Commission if the city or county amends the geographic footprint of a social district. A permittee may be included in the social district even if it chooses to exclude open containers of alcoholic beverages purchased from other permittees in the social district.
- (4) The city or county, or the city's or county's designee, shall develop or approve uniform signs indicating that a non-permittee business is included in the social district and allows alcoholic beverages on its premises when the social district is active and distribute the signs to non-permittee businesses that are included in the social district. The city's or county's designee may include a private entity, including a property owner or property owner's association. The signs may be in the form of a sticker, placard, or other format as deemed appropriate by the city or county. A participating non-permittee business shall display the uniform sign at all times during the times when the social district is active. A customer may not bring an alcoholic beverage into a non-permittee business that does not display the uniform sign. No non-permittee business shall be required to participate or be included in a social district or to allow customers to bring alcohol onto its premises.

(e) Open Containers Sold by Permittees. – A permittee located in a social district may sell open containers of alcoholic beverages and allow customers to exit its licensed premises to the social district in accordance with the following requirements:

- (1) The permittee shall only sell and serve alcoholic beverages on its licensed premises.

- (2) The permittee shall only sell an open container of an alcoholic beverage for consumption in the social district and off the premises of the permittee in a container that meets all of the following requirements:
 - a. The container clearly identifies the permittee from which the alcoholic beverage was purchased.
 - b. The container clearly displays a logo or some other mark that is unique to the social district in which it will be consumed.
 - c. The container is not comprised of glass.
 - d. The container displays, in no less than 12-point font, the statement, "Drink Responsibly – Be 21."
 - e. The container shall not hold more than 16 fluid ounces.
- (3) Nothing in this subsection shall be construed to authorize the sale and delivery of alcoholic beverage drinks in excess of the limitation set forth in G.S. 18B-1010.

(f) **Limitations on Open Containers.** – Except where otherwise allowed by local ordinance, the possession and consumption of an open container of an alcoholic beverage in a social district is subject to all of the following requirements:

- (1) A customer may only possess and consume open containers of alcoholic beverages that were purchased from a permittee located in the social district.
- (2) Customer-purchased open containers of alcoholic beverages in the social district shall only be in containers meeting the requirements set forth in subsection (e) of this section, except for open containers sold by a permittee for consumption on the permittee's premises.
- (3) A customer may only possess and consume open containers of alcoholic beverages in the social district during the days and hours set by the city or county in accordance with subsection (b) of this section, not to exceed the hours for consumption authorized pursuant to G.S. 18B-1004.
- (4) A customer shall not possess at one time open containers of alcoholic beverages in the social district in excess of the number of alcoholic beverages that may be sold and delivered by a retail permittee as set forth in G.S. 18B-1010.
- (5) A customer shall dispose of any open container of an alcoholic beverage purchased from a permittee in the customer's possession prior to exiting the social district unless the customer is reentering the licensed premises of the permittee where the customer purchased the alcoholic beverage.
- (6) Notwithstanding G.S. 18B-300 and G.S. 18B-301, a permittee or non-permittee business may allow a customer to possess and consume on the business's premises alcoholic beverages purchased from a permittee in the social district.

(g) **Limitations on Closed Containers.** – A person, including a customer who is in possession of an open container of an alcoholic beverage authorized under this section, may possess alcoholic beverages in closed containers in a social district to the extent allowed by law.

(h) **Responsibilities of Non-Permittee Businesses.** – A non-permittee business that is part of a social district and that allows customers to bring alcoholic beverages onto its premises shall not be responsible for enforcement of this Chapter. All non-permittee businesses that are part of a social district and that allow customers to bring alcoholic beverages onto their premises shall clearly post signage on any exits that do not open to the social district indicating that alcoholic beverages may not be taken past that point. During the days and hours when the social district is

active, a non-permittee business that allows customers to bring alcoholic beverages onto its premises shall allow law enforcement officers access to the areas of the premises accessible by customers.

(i) Multi-Tenant Establishments Located in a Social District. – Permittees and non-permittee businesses in a multi-tenant establishment located within a social district may participate in the social district regardless of whether the multi-tenant establishment has a common area entertainment permit.

(j) Interaction with Other Permits. – The Commission shall issue permits for special events occurring partially or entirely within the boundaries of a social district as follows:

- (1) The Commission may issue special one-time permits pursuant to G.S. 18B-1002(a)(2) or (a)(5) for events occurring on premises located partially or entirely within the boundaries of a social district. If the event is scheduled to occur during hours when alcoholic beverages may be consumed in the social district, the event permittee shall, in addition to obtaining such signed law enforcement notification as may be required under the Commission's rules, include in such notification a statement that the event is to occur in a social district during days and hours designated for consumption of alcoholic beverages.
- (2) A permittee holding a winery special event permit, malt beverage special event permit, or spirituous liquor special event permit pursuant to G.S. 18B-1114.1, 18B-1114.5, and 18B-1114.7, respectively, may sell and serve products at special events taking place in a social district.
- (3) A permittee holding a mixed beverages catering permit pursuant to G.S. 18B-1001(12) may serve spirituous liquor to guests at events taking place in a social district. (2022-49, s. 3(f).)

§ 18B-300.2. Interaction between contiguous social districts and common area entertainment permittees.

If the boundary of a social district directly borders a designated consumption area established by the owner or property owners' association of a multi-tenant establishment that holds a common area entertainment permit, the owner or property owners' association of the multi-tenant establishment and the local government that designated the social district may enter into a memorandum of understanding signed by both parties that allows open containers approved for possession and consumption in the designated consumption area to be possessed and consumed in the social district, and open containers approved for possession and consumption in the social district to be possessed and consumed in the designated consumption area during days and hours when both the social district and the designated consumption area are active. All requirements of G.S. 18B-300.1 and G.S. 18B-1001.5 shall apply when a customer takes an alcoholic beverage from a social district to a designated consumption area that is contiguous to or within the social district or from a designated consumption area to a social district that is contiguous to or overlapping with the designated consumption area. A customer may not take a container comprised of glass from a designated consumption area to a contiguous social district or the area of an overlapping social district that is outside the designated consumption area. The holder of the common area entertainment permit shall submit to the Commission a copy of the memorandum of understanding signed by both parties. Either party may terminate a memorandum of understanding by notifying the other party and the Commission in writing of the termination. (2022-49, s. 4.)

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

(a) Possession at Home. – It shall be lawful, without an ABC permit, for any person at least 21 years old to possess for lawful purposes any amount of fortified wine and spirituous liquor at his home or a temporary residence, such as a hotel room.

(b) Possession on Other Property. – It shall be lawful, without an ABC permit, for a person to possess for his personal use and the use of his guests not more than eight liters of fortified wine or spirituous liquor, or eight liters of the two combined, at the following places:

- (1) The residence of any other person with that person's consent;
- (2) Any other property not primarily used for commercial purposes and not open to the public at the time the alcoholic beverage is possessed, if the owner or other person in charge of the property consents to that possession and consumption;
- (3) An establishment with a brown-bagging permit as defined in G.S. 18B-1001(7).

(b1) Possession in a Social District or Common Area. – It shall be lawful, without an ABC permit, for a person to possess an open container of fortified wine or spirituous liquor in a social district or a designated consumption area under a common area entertainment permit in compliance with the provisions of G.S. 18B-300.1 or G.S. 18B-1001.5, respectively.

(c) Special Occasions. – It shall be lawful for a person to possess, without a permit and not for sale, any amount of fortified wine or spirituous liquor for a private party, private reception, or private special occasion, at the following places:

- (1) His home or a temporary residence, such as a hotel room;
- (2) Any other property not primarily used for commercial purposes, which is under his exclusive control and supervision, and which is not open to the public during the event;
- (3) The licensed premises of any business for which the Commission has issued a special occasions permit under G.S. 18B-1001(8), if he is the host of that private function and has the permission of the permittee.

(d) Consumption. – It shall be lawful for a person to consume fortified wine and spirituous liquor in any place where it is lawful for him to possess those alcoholic beverages under subsections (a) through (c).

(e) Incident to Sale. – It shall be lawful to possess fortified wine and spirituous liquor at any place, such as an ABC store, where possession is a necessary incident to lawful sale. Consumption at such a place shall be unlawful unless the establishment has a permit authorizing consumption on the premises as well as sale.

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

- (1) Any person to consume fortified wine, spirituous liquor, or mixed beverages or to offer such beverages to another person at any of the following places:
 - a. Unless a consumer tasting authorized by G.S. 18B-1114.7 is being conducted, on the premises of an ABC store.
 - b. Upon any property used or occupied by a local board.
 - c. On any public road, street, highway, or sidewalk, unless a consumer tasting authorized by G.S. 18B-1114.7 is being conducted.
- (2) Any person to display publicly at an athletic contest fortified wine, spirituous liquor, or mixed beverages;

- (3) Any person to permit any fortified wine, spirituous liquor, or mixed beverages to be possessed or consumed upon any premises not authorized by this Chapter;
- (4) Any person to possess or consume any fortified wine, spirituous liquor, or mixed beverages upon any premises where such possession or consumption is not authorized by law, or where the person has been forbidden to possess or consume that beverage by the owner or other person in charge of the premises;
- (5) Any person to possess on any of the premises described in subsections (a) through (c) a greater amount of fortified wine or spirituous liquor than authorized by this Chapter;
- (6) Any permittee, other than a mixed beverage or culinary permittee, to possess spirituous liquor or mixed beverages on his licensed premises.
- (7) Any person to possess on his person or consume malt beverages or unfortified wine upon any property owned or leased by a local board of education and used by the local board of education for school purposes. Provided, however, the prohibition in G.S. 18B-102(a) and this subdivision shall not apply on property owned by a local board of education which was leased for 99 years or more to a nonprofit auditorium authority created prior to 1991 whose governing board is appointed by a city board of aldermen, a county board of commissioners, or a local school board. (1905, c. 498, ss. 6-8; Rev., ss. 3526, 3534; C.S., s. 3371; 1937, c. 49, ss. 12, 16, 22; c. 411; 1955, c. 999; 1967, c. 222, ss. 1, 8; c. 1256, s. 3; 1969, c. 1018; 1971, c. 872, s. 1; 1973, c. 1226; 1977, c. 176, s. 1; 1977, 2nd Sess., c. 1138, ss. 8-12, 18; 1979, c. 384, s. 3; c. 609, s. 2; c. 718; c. 893, s. 10; 1981, c. 412, s. 2; c. 747, s. 39; 1983, c. 917, s. 1; 1985, c. 566, s. 1; 1991, c. 459, s. 1; 1993, c. 508, s. 1; 1995, c. 372, s. 1; 2017-87, s. 2(a); 2019-182, s. 6(b); 2022-49, s. 1.)

§ 18B-302. Sale to or purchase by underage persons.

- (a) Sale. – It is unlawful for any person to do any of the following:
 - (1) Sell malt beverages or unfortified wine to anyone less than 21 years old.
 - (2) Sell fortified wine, spirituous liquor, or mixed beverages to anyone less than 21 years old.
- (a1) Give. – It is unlawful for any person to do any of the following:
 - (1) Give malt beverages or unfortified wine to anyone less than 21 years old.
 - (2) Give fortified wine, spirituous liquor, or mixed beverages to anyone less than 21 years old.
- (b) Purchase, Possession, or Consumption. – It is unlawful for a person less than 21 years old to do any of the following:
 - (1) Purchase, attempt to purchase, or possess malt beverages or unfortified wine.
 - (2) Purchase, attempt to purchase, or possess fortified wine, spirituous liquor, or mixed beverages.
 - (3) Consume any alcoholic beverage.
- (c) Aider and Abettor. –
 - (1) By Underage Person. – Any person who is under the lawful age to purchase and who aids or abets another in violation of subsection (a), (a1), or (b) of this section is guilty of a Class 2 misdemeanor.

- (2) By Person over Lawful Age. – Any person who is over the lawful age to purchase and who aids or abets another in violation of subsection (a), (a1), or (b) of this section is guilty of a Class 1 misdemeanor.
- (d) Defense. – It is a defense to a violation of subsection (a) of this section if the seller does any of the following:
- (1) Shows that the purchaser produced a driver's license, a special identification card issued under G.S. 20-37.7 or issued by the state agency of any other state authorized to issue similar official state special identification cards for that state, a military identification card, or a passport, showing the purchaser's age to be at least the required age for purchase and bearing a physical description of the person named on the card reasonably describing the purchaser.
 - (2) Produces evidence of other facts that reasonably indicated at the time of sale that the purchaser was at least the required age.
 - (3) Shows that at the time of purchase, the purchaser utilized a biometric identification system that demonstrated (i) the purchaser's age to be at least the required age for the purchase and (ii) the purchaser had previously registered with the seller or seller's agent a drivers license, a special identification card issued under G.S. 20-37.7 or issued by the state agency of any other state authorized to issue similar official state special identification cards for that state, a military identification card, or a passport showing the purchaser's date of birth and bearing a physical description of the person named on the document.
- (e) Fraudulent Use of Identification. – It is unlawful for any person to enter or attempt to enter a place where alcoholic beverages are sold or consumed, or to obtain or attempt to obtain alcoholic beverages, or to obtain or attempt to obtain permission to purchase alcoholic beverages, in violation of subsection (b) of this section, by using or attempting to use any of the following:
- (1) A fraudulent or altered drivers license.
 - (2) A fraudulent or altered identification document other than a drivers license.
 - (3) A drivers license issued to another person.
 - (4) An identification document other than a drivers license issued to another person.
 - (5) Any other form or means of identification that indicates or symbolizes that the person is not prohibited from purchasing or possessing alcoholic beverages under this section.
- (f) Allowing Use of Identification. – It is unlawful for any person to permit the use of the person's drivers license or any other form of identification of any kind issued or given to the person by any other person who violates or attempts to violate subsection (b) of this section.
- (g) Conviction Report Sent to Division of Motor Vehicles. – The court shall file a conviction report with the Division of Motor Vehicles indicating the name of the person convicted and any other information requested by the Division if the person is convicted of any of the following:
- (1) A violation of subsection (e) or (f) of this section.
 - (2) A violation of subsection (c) of this section.
 - (3) A violation of subsection (b) of this section, if the violation occurred while the person was purchasing or attempting to purchase an alcoholic beverage.
 - (4) A violation of subsection (a1) of this section.

Upon receipt of a conviction report, the Division shall revoke the person's license as required by G.S. 20-17.3.

(h) Handling in Course of Employment. – Nothing in this section prohibits an underage person from selling, transporting, possessing, or dispensing alcoholic beverages in the course of employment, if the employment of the person for that purpose is lawful under applicable youth employment statutes and Commission rules.

(i) Purchase, Possession, or Consumption by 19 or 20-Year Old. – A violation of subdivision (b)(1) or (b)(3) of this section by a person who is 19 or 20 years old is a Class 3 misdemeanor.

(j) Screening Test. – Notwithstanding any other provisions of law, a law enforcement officer may require any person the officer has probable cause to believe is less than 21 years old and has consumed alcohol to submit to an alcohol screening test using a device approved by the Department of Health and Human Services. The results of any screening device administered in accordance with the rules of the Department of Health and Human Services are admissible in any court or administrative proceeding. A refusal to submit to an alcohol screening test is admissible in any court or administrative proceeding.

(k) Exception. – Notwithstanding the provisions in this section, it is not unlawful for a person less than 21 years old to consume unfortified wine or fortified wine during participation in an exempted activity under G.S. 18B-103(4), (8), or (11). (1933, c. 216, s. 8; 1959, c. 745, s. 1; 1967, c. 222, s. 3; 1969, c. 998; 1971, c. 872, s. 1; 1973, c. 27; 1977, 2nd Sess., c. 1138, s. 2; 1979, c. 683, s. 2; 1981, c. 412, s. 2; c. 747, ss. 40, 41; 1983, c. 435, ss. 32, 35; c. 740, ss. 1, 2; Ex. Sess., c. 5; 1985, c. 141, ss. 2-3; 1993, c. 539, s. 311; 1994, Ex. Sess., c. 24, s. 14(c); 1999-406, s. 7; 2001-461, ss. 2, 3; 2001-487, s. 42(b); 2005-350, s. 6(a); 2006-253, s. 26; 2007-537, s. 1; 2015-264, s. 7; 2021-88, s. 4(a); 2021-150, s. 10.1(a).)

§ 18B-302.1. Penalties for certain offenses related to underage persons.

(a) A violation of G.S. 18B-302(a) or (a1) is a Class 1 misdemeanor. Notwithstanding the provisions of G.S. 15A-1340.23, if the court imposes a sentence that does not include an active punishment, the court must include among the conditions of probation a requirement that the person pay a fine of at least two hundred fifty dollars (\$250.00) as authorized by G.S. 15A-1343(b)(9) and a requirement that the person complete at least 25 hours of community service, as authorized by G.S. 15A-1343(b1)(6). If the person has a previous conviction of this offense in the four years immediately preceding the date of the current offense, and the court imposes a sentence that does not include an active punishment, the court must include among the conditions of probation a requirement that the person pay a fine of at least five hundred dollars (\$500.00) as authorized by G.S. 15A-1343(b)(9) and a requirement that the person complete at least 150 hours of community service, as authorized by G.S. 15A-1343(b1)(6).

(b) A violation of G.S. 18B-302(c)(2) is a Class 1 misdemeanor. Notwithstanding the provisions of G.S. 15A-1340.23, if the court imposes a sentence that does not include an active punishment, the court must include among the conditions of probation a requirement that the person pay a fine of at least five hundred dollars (\$500.00) as authorized by G.S. 15A-1343(b)(9) and a requirement that the person complete at least 25 hours of community service, as authorized by G.S. 15A-1343(b1)(6). If the person has a previous conviction of this offense in the four years immediately preceding the date of the current offense, and the court imposes a sentence that does not include an active punishment, the court must include among the conditions of probation a requirement that the person pay a fine of at least one thousand dollars (\$1,000) as authorized by

G.S. 15A-1343(b)(9) and a requirement that the person complete at least 150 hours of community service, as authorized by G.S. 15A-1343(b1)(6).

(c) In addition to the punishments imposed under this section, the court may impose the provisions of G.S. 18B-202 and of G.S. 18B-503, 18B-504, and 18B-505. (1999-433, s. 1; 2007-537, s. 2.)

§ 18B-302.2. Medical treatment; limited immunity.

(a) Limited Immunity for Samaritan. – Notwithstanding any other provision of law, a person under the age of 21 shall not be prosecuted for a violation of G.S. 18B-302 for the possession or consumption of alcoholic beverages if all of the following requirements and conditions are met:

- (1) The person sought medical assistance for an individual experiencing an alcohol-related overdose by contacting the 911 system, a law enforcement officer, or emergency medical services personnel.
- (1a) The person acted in good faith when seeking medical assistance, upon a reasonable belief that he or she was the first to call for assistance.
- (2) The person provided his or her own name to the 911 system or to a law enforcement officer upon arrival.
- (3) Repealed by Session Laws 2015-94, s. 2, effective August 1, 2015, and applicable to offenses committed on or after that date.
- (4) The person did not seek the medical assistance during the course of the execution of an arrest warrant, search warrant, or other lawful search.
- (5) The evidence for prosecution of a violation of G.S. 18B-302 for the possession or consumption of alcoholic beverages was obtained as a result of the person seeking medical assistance for the alcohol-related overdose.

(b) Limited Immunity for Overdose Victim. – The immunity described in subsection (a) of this section shall extend to the person who needed medical assistance if the requirements in subdivisions (1), (1a), (4), and (5) of subsection (a) are satisfied.

(c) Probation or Release. – A person shall not be subject to arrest or revocation of pretrial release, probation, parole, or post-release if the arrest or revocation is based on an offense for which the person is immune from prosecution under subsection (a) or (b) of this section. The arrest of a person for an offense for which subsection (a) or (b) of this section may provide the person with immunity will not itself be deemed to be a commission of a new criminal offense in violation of a condition of the person's pretrial release, condition of probation, or condition of parole or post-release.

(d) Civil Liability for Arrest or Charges. – In addition to any other applicable immunity or limitation on civil liability, a law enforcement officer who, acting in good faith, arrests or charges a person who is thereafter determined to be entitled to immunity under this section shall not be subject to civil liability for the arrest or filing of charges. (2013-23, s. 3; 2015-94, s. 2.)

§ 18B-303. (Repealed) Amounts of alcoholic beverages that may be purchased. (1905, c. 498, ss. 6-8; Rev., ss. 3526, 3534; C.S., s. 3371; 1937, c. 49, ss. 12, 16, 22; c. 411; 1955, c. 999; 1967, c. 222, ss. 1, 8; c. 1256, s. 3; 1969, c. 1018; 1971, c. 872, s. 1; 1973, c. 1226; 1977, c. 176, s. 1; 1977, 2nd Sess., c. 1138, ss. 8-12, 18; 1979, c. 384, s. 3; c. 609, s. 2; c. 718; c. 893, s. 10; 1981, c. 412, s. 2; 1989, c. 553, s. 1; 1993, c. 508, s. 2; 2001-262, s.

5; 2006-253, s. 3.2; 2019-182, s. 23(a); repealed by 2022-44, s. 3(b), effective July 7, 2022.)

§ 18B-304. Sale and possession for sale.

(a) Offense. – It shall be unlawful for any person to sell any alcoholic beverage, or possess any alcoholic beverage for sale, without first obtaining the applicable ABC permit and revenue licenses.

(b) Prima Facie Evidence. – Possession of the following amounts of alcoholic beverages, without a permit authorizing that possession, shall be prima facie evidence that the possessor is possessing those alcoholic beverages for sale:

- (1) More than 80 liters of malt beverages, other than draft malt beverages in kegs;
- (2) More than eight liters of spirituous liquor; or
- (3) Any amount of nontaxpaid alcoholic beverages. (1913, c. 44, s. 2; 1915, c. 97, s. 8; 1923, c. 1, ss. 2, 6, 10; C.S., ss. 3379, 3411(b), (f), (j); 1937, c. 49, ss. 13, 15; 1945, c. 635; 1949, c. 1251, s. 2; 1951, c. 850; 1955, c. 560; 1957, c. 984; c. 1235, s. 1; 1963, c. 932; 1967, c. 222, ss. 4, 6; 1969, c. 789; 1971, c. 872, s. 1; 1975, c. 654, s. 4; 1977, c. 176, ss. 1-3; 1981, c. 412, s. 2; c. 747, s. 42; 1989, c. 553, s. 2; 1993, c. 508, s. 3.)

§ 18B-305. Other prohibited sales.

(a) Sale to Intoxicated Person. – It shall be unlawful for a permittee or his employee or for an ABC store employee to knowingly sell or give alcoholic beverages to any person who is intoxicated.

(b) Discretion for Seller. – Any person authorized to sell alcoholic beverages under this Chapter may, in his discretion, refuse to sell to anyone. It shall be unlawful for any person to knowingly buy alcoholic beverages for someone who has been refused the right to purchase under this subsection.

(c) Notwithstanding subsection (b) of this section, no permittee may refuse to sell alcoholic beverages to a person solely based on that person's race, religion, color, national origin, sex, or disability. (1937, c. 49, ss. 11, 15; c. 411; 1971, c. 872, s. 1; 1977, 2nd Sess., c. 1138, s. 5; 1981, c. 412, s. 2; 1999-462, s. 5.)

§ 18B-306. Making wines and malt beverages for private use.

(a) Authority. – An individual may make, possess, and transport wines and malt beverages for the individual's own use, the use of the individual's family and guests, or the use at organized affairs, exhibitions, or competitions. For purposes of this section, the term "organized affairs, exhibitions, or competitions" includes homemaker's contests, tastings, and judgments.

(b) Selling Prohibited. – Wines and malt beverages made pursuant to this section may not be sold or offered for sale.

(c) Kits. – Wine kits and malt beverage kits may be sold in this State.

(d) Permit. – No ABC permit is required to make wines or malt beverages pursuant to this section. (1971, c. 872, s. 1; 1973, c. 1218; 1981, c. 412, s. 2; c. 747, s. 43; 1985, c. 114, s. 6; 2017-87, s. 10.)

§ 18B-307. Manufacturing offenses.

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

- (1) Sell or possess equipment or ingredients intended for use in the manufacture of any alcoholic beverage, except equipment and ingredients provided under a Brew on Premises permit or a Winemaking on Premises permit; or
- (2) Knowingly allow real or personal property owned or possessed by him to be used by another person for the manufacture of any alcoholic beverage, except pursuant to a Brew on Premises permit or a Winemaking on Premises permit.

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

(c) **Second Offense of Manufacturing.** – A second offense of unlawful manufacturing of alcoholic beverage shall be a Class I felony. (1905, c. 498, s. 2; Rev., s. 3533; 1923, c. 1, ss. 4, 6, 26; C.S., ss. 3407, 3411(d), (f), (z); 1937, c. 49, s. 13; 1945, c. 635; 1951, c. 850; 1955, c. 560; 1957, c. 984; c. 1235, s. 1; 1969, c. 789; 1971, c. 872, s. 1; 1979, c. 699, s. 1; 1981, c. 412, s. 2; c. 747, s. 44; 1997-467, s. 1; 2006-222, s. 2.2; 2006-227, s. 2.)

§ 18B-308: Repealed by Session Laws 2019-182, s. 14(a), effective September 1, 2019, and applicable to offenses committed on or after that date.

§ 18B-309. Alcoholic beverage sales in Urban Redevelopment Areas.

(a) A food business as defined in G.S. 18B-1000(3), a retail business as defined in G.S. 18B-1000(7), or an eating establishment as defined in G.S. 18B-1000(2) that holds an ABC permit under this Chapter and is located in a part of a city that has been designated as an Urban Redevelopment Area under Article 22 of Chapter 160A of the General Statutes shall not have alcoholic beverage sales in excess of fifty percent (50%) of the business's total annual sales. The city council, or its designee, shall file a certified copy of the official action and original documents, including a map or similar information, designating the area as an Urban Redevelopment Area. The Commission shall make this information available to any permittee who makes a request for this information to the Commission.

(b) Upon request of a city, the Commission shall investigate the total annual alcohol sales and total sales of a business as defined in this section. The Commission shall report the results of such an investigation to the city council, and the report shall contain only the percentage of annual alcohol sales in proportion to the business's total annual sales. A city may request an investigation of a particular business by the Commission only once in each calendar year. These audits may be conducted by the Commission only upon the request of the city council.

(c) Businesses covered by this section shall maintain full and accurate monthly records of their finances, separately indicating each of the following:

- (1) Amounts expended by the business for the purchase of alcoholic beverages and the quantity of alcoholic beverages purchased;
- (2) Amounts collected from the sale of alcoholic beverages sold; and
- (3) Amounts collected from the sale of food, nonalcoholic beverages, and all other items sold by the business.

Records of purchases of alcoholic beverages and sales of alcoholic beverages shall be filed separate and apart from all other records maintained on the premises, and all records related to alcoholic beverages, including original invoices, shall be maintained on the premises for three

years and shall be open for inspection and audit pursuant to G.S. 18B-502. (1999-322, s. 1; 2001-515, s. 3(a).)

§§ 18B-310 through 18B-399. Reserved for future codification purposes.

Article 4.

Transportation.

§ 18B-400. (Repealed) Amounts that may be transported. (1923, c. 1, s. 25; C.S., s. 3411(y); 1937, c. 49, ss. 14, 16; c. 411; 1967, c. 222, ss. 1, 7; c. 1256, s. 3; 1969, c. 598, ss. 2, 3; c. 1018; 1971, c. 872, s. 1; 1977, c. 176, s. 1; c. 586; 1979, c. 607, s. 1; 1981, c. 412, s. 2; 1985, c. 757, s. 163; repealed by 2022-44, s. 3(c), effective July 7, 2022.)

§ 18B-401. Manner of transportation.

(a) **Opened Containers.** – Except as authorized by a common carrier vehicle permit under G.S. 18B-1001(23), it shall be unlawful for a person to transport fortified wine or spirituous liquor in the passenger area of a motor vehicle in other than the manufacturer's unopened original container. It shall be unlawful for a person who is driving a motor vehicle on a highway or public vehicular area to consume in the passenger area of that vehicle any malt beverage or unfortified wine. Violation of this subsection shall constitute a Class 3 misdemeanor.

(b) **Taxis.** – It shall be unlawful for a person operating a for-hire passenger vehicle as defined in G.S. 20-4.01(27)f., to transport fortified wine or spirituous liquor unless the vehicle is transporting a paying passenger who owns the alcoholic beverage being transported. A violation of this subsection shall not be grounds for suspension of the driver's license for illegal transportation of intoxicating liquors under G.S. 20-16(a)(8).

(c) **Definitions.** – The definitions in Chapter 20 of the General Statutes apply in interpreting this section. If the seal on a container of alcoholic beverages has been broken, it is opened within the meaning of this section. For purposes of this section, "passenger area of a motor vehicle" means the area designed to seat the driver and passengers and any area within the reach of a seated driver or passenger, including the glove compartment. In the case of a station wagon, hatchback or similar vehicle, the area behind the last upright back seat shall not be considered part of the passenger area. (1923, c. 1, s. 25; C.S., s. 3411(y); 1937, c. 49, ss. 14, 16; c. 411; 1967, c. 222, ss. 1, 7; c. 1256, s. 3; 1969, c. 598, ss. 2, 3; c. 1018; 1971, c. 872, s. 1; 1977, c. 176, s. 1; c. 586; 1979, c. 607, s. 1; 1981, c. 412, s. 2; c. 747, s. 45; 1983, c. 435, s. 7; 1989, c. 553, s. 3; 1993, c. 508, s. 4; c. 539, s. 312; 1994, Ex. Sess., c. 24, s. 14(c); 2017-102, s. 5.2(b); 2021-150, s. 28.3; 2022-44, s. 3(d).)

§ 18B-402. (Repealed) Alcoholic beverages purchased out-of-State. (1923, c. 1, s. 25; C.S., s. 3411(y); 1937, c. 49, ss. 14, 16; c. 411; 1967, c. 222, ss. 1, 7; c. 1256, s. 3; 1969, c. 598, ss. 2, 3; c. 1018; 1971, c. 872, s. 1; 1977, c. 176, s. 1; c. 586; 1979, c. 607, s. 1; 1981, c. 412, s. 2; 1981 (Reg. Sess., 1982), c. 1262, s. 5; repealed by 2022-44, s. 3(e), effective July 7, 2022.)

§ 18B-403. (Repealed) Purchase-transportation permit. (1969, c. 617, s. 1; 1971, c. 872, s. 1; 1973, c. 94; c. 819, s. 1; 1975, ss. 1-4; 1977, c. 176, ss. 1, 2, 4; 1979, c. 19, ss. 3, 4; c. 286, s. 1; c. 445, ss. 1, 3; c. 1076, ss. 1, 2, 3; 1981, c. 412, s. 2; 1981 (Reg. Sess., 1982),

c. 1262, ss. 6-8; 1983, c. 457, s. 1; 2019-182, ss. 5(a), 23(b); repealed by 2022-44, s. 3(f), effective July 7, 2022.)

§ 18B-403.1. Purchase-transportation permit for keg or kegs of malt beverages.

(a) Purchase-Transportation. – A person who is not a permittee may purchase and transport for off-premises consumption a keg or kegs as defined in G.S. 18B-101(7c) after obtaining a purchase-transportation permit. Failure to obtain a purchase-transportation permit according to this section is a violation of G.S. 18B-303(b).

(b) Issuance. – A person holding a permit (permittee) pursuant to G.S. 18B-1001(2) shall issue a purchase-transportation permit for a keg or kegs of malt beverage to a purchaser. A copy of the purchase-transportation permit shall be maintained by the permittee for 90 days. Upon request by any person, the permittee shall maintain the permit for a requested period in excess of 90 days.

(c) Form. – A purchase-transportation permit shall be issued on a printed form adopted and provided by the Commission. The Commission shall adopt rules specifying the content of the permit form.

(d) Restrictions on Permit. – A purchase may be made only from the store named on the permit. One copy of the permit shall be kept by the purchaser and one by the permittee from whom the purchase is made. The purchaser shall display his copy of the permit to any law enforcement officer upon request.

(e) Violation. – The first violation of this section by a permittee shall result in a warning to the permittee. (2006-253, s. 3.1; 2010-122, s. 1.)

§ 18B-404. Additional provisions for purchase and transportation by mixed beverage permittees.

(a), (b) Repealed by Session Laws 2022-44, s. 3(h), effective July 7, 2022.

(c) Designated Store. – A local board may designate a store within its system to make sales to mixed beverages permittees.

(d) Repealed by Session Laws 2022-44, s. 3(h), effective July 7, 2022.

(e) Electronic Payment. – A local board shall accept electronic payments for any spirituous liquor purchased by a mixed beverages permittee. A local board may not charge a fee for accepting electronic payments under this subsection. For purposes of this subsection, the term "electronic payment" means payment by debit card or by electronic funds transfer as defined in G.S. 105-228.90, but does not include payment by charge card or credit card.

(f) **[Delivery Service. –]** A local board shall offer delivery service to mixed beverage permittees. In providing delivery of purchased products to mixed beverage permittees, the local board may use its employees or contract with one or more independent contractors and may charge a fee to the permittee. A local board in a Tier 1 or Tier 2 county, as defined in G.S. 143B-472.35(a2)(18), may request an exemption to this requirement from the ABC Commission. The Commission shall grant the request if the local board can show evidence of unreasonable hardship or difficulty incurred by implementing delivery service. (1981, c. 412, s. 2; c. 747, ss. 46, 47; 1987, c. 136, s. 3; 1991, c. 459, s. 10; c. 565, ss. 5, 7; 1991 (Reg. Sess., 1992), c. 920, s. 2; 1999-462, s. 4; 2003-218, s. 3; 2019-182, s. 17(a); 2021-150, s. 30.1; 2022-44, s. 3(h).)

§ 18B-405. (Repealed) Transportation by permittee. (1923, c. 1, s. 15; C.S., s. 3411(o); 1939, c. 158, s. 503; 1971, c. 872, s. 1; 1975, c. 411, s. 7; 1977, c. 70, s. 20; c. 176, s. 7; 1979,

c. 286, s. 5; 1981, c. 412, s. 2; 1987, c. 136, s. 4; repealed by 2022-44, s. 3(i), effective July 7, 2022.)

§ 18B-406. (Repealed) Unlawful transportation. (1981, c. 412, s. 2; repealed by 2022-44, s. 3(j), effective July 7, 2022.)

§§ 18B-407 through 18B-499. Reserved for future codification purposes.

Article 5.

Law Enforcement.

§ 18B-500. Alcohol law-enforcement agents.

(a) Appointment. – The Secretary of Public Safety shall appoint and supervise the Director of the Division of Alcohol Law Enforcement of the Department of Public Safety. The Director of the Division of Alcohol Law Enforcement of the Department of Public Safety may appoint and supervise a sufficient number of assistants who shall be competent and qualified to do the work of the Division. The Director is responsible for making all hiring and personnel decisions of the Division. Notwithstanding the provisions of this Chapter or Chapter 143A of the General Statutes, the Director may hire or fire personnel and transfer personnel within the Division. The Director may also appoint a regular employee of the Commission as an ALE agent, provided the employee was employed by the ABC Commission and serving as an ALE agent on January 1, 2019. Alcohol law-enforcement agents shall be designated as "alcohol law-enforcement agents." Persons serving as reserve alcohol law-enforcement agents are considered employees of the Division for workers' compensation purposes while performing duties assigned or approved by the Director of the Division or the Director's designee.

(b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace officer, an alcohol law-enforcement agent shall have authority to arrest and take other investigatory and enforcement actions for any criminal offense:

- (1) Occurring, encountered, or otherwise discovered on the premises of, or elsewhere when the conduct relates to, a location under application for or holding a permit issued by the North Carolina Alcoholic Beverage Control Commission or the North Carolina Education Lottery Commission.
- (2) Encountered or otherwise discovered while investigating or enforcing matters for the North Carolina Alcoholic Beverage Control Commission or the North Carolina Education Lottery Commission or encountered or otherwise discovered while investigating or enforcing the provisions of this Chapter, Chapter 18C of the General Statutes, G.S. 14-313, or Parts 1 and 2 of Article 37 of Chapter 14 of the General Statutes.
- (3) Encountered or otherwise discovered while carrying out any duty or function assigned to the Division by law.
- (4) Occurring in an agent's presence.
- (5) When assisting another law enforcement agency.

(b1) Authority. – Alcohol law-enforcement agents have authority as peace officers to execute criminal process, respond to and take enforcement action for any crime of violence or breach of the peace, and any additional duties as may from time to time be directed by the Governor or the Secretary of Public Safety when needed for security purposes at a public event or to protect persons or property because of a disaster or state of emergency.

(b2) Primary Responsibilities. – The primary responsibilities of an alcohol law-enforcement agent are the enforcement of this Chapter, Chapter 18C of the General Statutes, G.S. 14-313, and Parts 1 and 2 of Article 37 of Chapter 14 of the General Statutes.

(c) Territorial Jurisdiction. – An alcohol law-enforcement agent is a State officer with jurisdiction throughout the State.

(d) Service of Commission Orders. – Alcohol law-enforcement agents may serve and execute notices, orders, or demands issued by the Alcoholic Beverage Control Commission or the North Carolina State Lottery Commission for the surrender of permits or relating to any administrative proceeding. While serving and executing such notices, orders, or demands, alcohol law-enforcement agents shall have all the power and authority possessed by law-enforcement officers when executing an arrest warrant.

(e) Discharge. – Alcohol law-enforcement agents are subject to the discharge provisions of G.S. 18B-202.

(f) Repealed by Session Laws 1995, c. 507, s. 6.2(a).

(g) Shifting of Personnel From One District to Another. – The Director of the Alcohol Law Enforcement Division may, from time to time, shift the forces from one district to another or consolidate more than one district force at any point for special purposes. Whenever an agent of the Alcohol Law Enforcement Division is transferred from one district to another for the convenience of the State or for reasons other than the request of the agent, the Department shall be responsible for transporting the household goods, furniture, and personal apparel of the agent and members of the agent's household. (1939, c. 158, s. 514; 1943, c. 400, s. 6; 1949, c. 974, ss. 11, 14; c. 1251, s. 4; 1951, c. 1056, s. 1; c. 1186, ss. 1, 2; 1953, c. 1207, ss. 2-4; 1957, c. 1440; 1961, c. 645; 1963, c. 426, ss. 1, 2, 4, 5, 12; 1967, c. 868; 1971, c. 872, s. 1; 1977, c. 70, s. 17; 1981, c. 412, s. 2; 1983, c. 629, s. 1; c. 768, ss. 25.1, 25.2; 1995, c. 466, s. 2; c. 507, s. 6.2(a); 2005-276, ss. 31.1(y), 31.1(z); 2005-344, ss. 10.1(b), 10.1(c); 2006-264, s. 35; 2011-145, s. 19.1(z); 2011-391, s. 43(j); 2012-83, s. 3; 2014-100, s. 17.1(www); 2018-5, s. 16B.3(b); 2019-203, s. 4.)

§ 18B-501. Local ABC officers.

(a) Appointment. – Except as provided in subsection (f), each local board shall hire one or more ABC enforcement officers. Local ABC enforcement officers shall be designated as "ABC Officers". The local board may designate one officer as the chief ABC officer for that board.

(b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace officer, a local ABC officer may arrest and take other investigatory and enforcement actions for any criminal offense; however, the primary responsibility of a local ABC officer is enforcement of the ABC laws and Article 5 of Chapter 90 (The Controlled Substances Act).

(c) Territorial Jurisdiction. – A local ABC officer has jurisdiction anywhere in the county in which he is employed except that a city ABC officer's territorial jurisdiction is subject to any limitation included in any local act governing that city ABC system. A local ABC officer may pursue outside his normal territorial jurisdiction anyone who commits an offense within that jurisdiction, as provided in G.S. 15A-402(d).

(d) Assisting Other Local Agencies. – The local ABC officers employed by a local board shall constitute a "law-enforcement agency" for purposes of G.S. 160A-288, and a local board shall have the same authority as a city or county governing body to approve cooperation between law-enforcement agencies under that section.

(e) Assisting State and Federal Enforcement. – A local ABC officer may assist State and federal law-enforcement agencies in the investigation of criminal offenses in North Carolina, under the following conditions:

- (1) The local board employing the officer has adopted a resolution approving such assistance and stating the conditions under which it may be provided;
- (2) The State or federal agency has made a written request for assistance from that local board, either for a particular investigation or for any investigation that might require assistance within a certain period of time;
- (3) The local ABC officer is supervised by someone in the requesting agency; and
- (4) As soon as practical after the assistance begins, an acknowledgement of the action is placed in the records of the local board.

A local ABC officer shall have territorial jurisdiction throughout North Carolina while assisting a State or federal agency under this section. While providing that assistance the officer shall continue to be considered an employee of the local board for purposes of salary, worker's compensation, and other benefits, unless a different arrangement is negotiated between the local board and the requesting agency.

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

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

- (1) The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at ABC permitted outlets.
- (2) The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at other locations.
- (3) The number of agencies assisted with ABC law or controlled substance related matters.
- (4) The number of alcohol education and responsible server programs presented.

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

(g) Discharge. – Local ABC officers and the designated officers of agencies which contract with local boards for enforcement of the ABC laws are subject to the discharge and ineligibility provisions of G.S. 18B-202. (1949, c. 1251, s. 4; 1961, c. 645; 1963, c. 426, s. 2; 1967, c. 868; 1971, c. 872, s. 1; 1973, c. 29; 1977, c. 908; 1981, c. 412, s. 2; 1993, c. 193, s. 2; 1995, c. 466, ss. 3, 4; 2010-122, ss. 5, 6, 7(a); 2021-182, s. 3(e).)

§ 18B-502. Inspection of licensed premises.

(a) Authority. – To procure evidence of violations of the ABC law, alcohol law-enforcement agents, employees of the Commission, local ABC officers, and officers of local law-enforcement agencies that have contracted to provide ABC enforcement under G.S. 18B-501(f) shall have authority to investigate the operation of each licensed premises for which an ABC permit has been issued, to make inspections that include viewing the entire premises, and to examine the books and records of the permittee. The inspection authorized by this section may be made at any time it reasonably appears that someone is on the premises. Alcohol law-enforcement agents are also authorized to be on the premises to the extent necessary to enforce the provisions of Article 68 of Chapter 143 of the General Statutes. For purposes of this subsection, the phrase "licensed premises for which an ABC permit has been issued" includes a social district authorized under G.S. 18B-300.1 and an extended area authorized under G.S. 18B-904(h).

(b) Interference with Inspection. – Refusal by a permittee or by any employee of a permittee to permit officers to enter the premises to make an inspection authorized by subsection (a) shall be cause for revocation, suspension or other action against the permit of the permittee as provided in G.S. 18B-104. It shall be a Class 2 misdemeanor for any person to resist or obstruct an officer attempting to make a lawful inspection under this section. (1939, c. 158, s. 514; 1943, c. 400, s. 6; 1949, c. 974, ss. 11, 14; c. 1251, s. 4; 1951, c. 1056, s. 1; c. 1186, ss. 1, 2; 1953, c. 1207, ss. 2-4; 1957, c. 1440; 1961, c. 645; 1963, c. 426, ss. 1, 2, 4, 5, 12; 1967, c. 868; 1971, c. 872, s. 1; 1977, c. 70, s. 17; 1981, c. 412, s. 2; 1993, c. 539, s. 313; 1994, Ex. Sess., c. 24, s. 14(c); 1998-212, s. 19.11(f); 2021-150, s. 22.1; 2022-49, s. 3(a).)

§ 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 order any of the following dispositions of alcoholic beverages seized as evidence of an ABC law violation:

- (1) The destruction of any malt beverages except that amount needed for evidence at trial.
- (2) 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) The destruction of the alcoholic beverages if storage or sale is not practical.
- (4) 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 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 favor of the owner or possessor, but possession of the alcoholic beverages by 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. 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 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 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 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, if the owner or possessor is found not guilty or the charge is dismissed or otherwise resolved in favor of the owner or possessor, but the possession of the alcoholic beverages by 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 the charge is dismissed or otherwise resolved in favor of the owner or possessor, and if possession of the alcoholic beverages by that owner or possessor was lawful when the beverages were seized, the proceeds from the sale of those alcoholic beverages shall be paid to 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 claims any of the following 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) To be the owner of alcoholic beverages that are wrongfully held.
- (2) To be the owner of alcoholic beverages that are needed as evidence in another proceeding.
- (3) To be entitled to proceeds from a sale of seized alcoholic beverages.
- (4) To be entitled to restitution for alcoholic beverages wrongfully destroyed. (1923, c. 1, s. 12; C.S., s. 3411(l); 1939, c. 12; 1941, c. 310; 1957, c. 1235, s. 3; 1971, c. 872, s. 1; 1981, c. 412, s. 2; 1993, c. 415, s. 5.)

§ 18B-504. Forfeiture.

(a) Property Subject to Forfeiture. – The following kinds of property shall be subject to forfeiture:

- (1) Motor vehicles, boats, airplanes, and all other conveyances used to transport nontaxpaid alcoholic beverages in violation of the ABC laws;
- (2) Containers for alcoholic beverages which are manufactured, possessed, sold, or transported in violation of the ABC laws; and
- (3) Equipment or ingredients used in the manufacture of alcoholic beverages in violation of the ABC laws.

(b) Exemption for Forfeiture. – Property which may be possessed lawfully shall not be subject to forfeiture when it was used unlawfully by someone other than the owner of the property and the owner did not consent to the unlawful use.

(c) Seizure of Property. – If property subject to forfeiture has not already been seized as part of an arrest or search, a law-enforcement officer may apply to a judge for an order authorizing seizure of that property. An order for seizure may be issued only after criminal process has been issued for an ABC law violation in connection with that property. The order shall describe the property to be seized and shall state the facts establishing probable cause to believe that the property is subject to forfeiture.

(d) Custody until Trial. – A law-enforcement officer seizing property subject to forfeiture shall provide for its safe storage until trial. The officer may destroy stills and perishable materials seized under subdivision (a)(3), if storage is impractical and if the absence of the property will not be likely to adversely affect the defendant's right to defend against the charge that is the basis for the forfeiture. If the officer having custody of the property is satisfied that it will be returned at the time of trial, he may return the property to the owner upon receiving a bond for the value of the property, signed by sufficient sureties. If the property is not returned at the time of trial, the full amount of the bond shall be forfeited to the court. Property which it is unlawful to possess may not be returned to the owner.

(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 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, 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 the order does not go into effect until the Commission determines that the property is no longer needed for the administrative proceeding.

(f) Disposition of Forfeited Property. – A judge ordering forfeiture of property may order any one of the following dispositions:

- (1) Sale at public auction;
- (2) Sale at auction after notice to certain named individuals or groups, if only a limited number of people would have use for that property;
- (3) Delivery to a named State or local law-enforcement agency, if the property is not suited for sale, with preference to be given in the following order, to: the agency that seized the property, the ALE Division, the Commission, the local board of the jurisdiction in which the property was seized, and the Department of Justice; or
- (4) Destruction, if possession of the property would be unlawful and it could not be used or is not wanted for law enforcement, or if sale or other disposition is not practical.

(g) Proceeds of Sale. – If forfeited property is sold, the proceeds of that sale shall be paid to the school fund of the county in which the property was seized, except as provided in subsection (h). Before placing the proceeds in the school fund the agency making the sale may deduct and retain the costs of storing the property and conducting the sale.

(h) Innocent Parties. – At any time before forfeiture is ordered, an owner of seized property or a holder of a security interest in seized property, other than the defendant, may apply to protect his interest in the property. The application may be made to any judge who has jurisdiction to try the offense with which the property is associated. If the judge finds that the property owner or holder of a security interest did not consent to the unlawful use of the property, and that the property may be possessed lawfully by the owner or holder, the judge may order:

- (1) That the property be returned to the owner, if it is not needed as evidence at trial;
- (2) That the property be returned to the owner following trial or other resolution of the case; or
- (3) That, if the property is sold following trial, a specified sum be paid from the proceeds of that sale to the holder of the security interest.

(i) Defendant Unavailable. – When property is seized for forfeiture, but the owner is unknown, the district attorney may seek forfeiture under this section by an action in rem against the property. If the owner is known and has been charged with an offense, but is unavailable for trial, the district attorney may seek forfeiture either by an action in rem against the property or by motion in the criminal action.

(j) When No Charge is Made. – Any owner of property seized for forfeiture may apply to a judge to have the property returned to him if no criminal charge has been made in connection with that property within a reasonable time after seizure. The judge may not order the return of the property if possession by the owner would be unlawful. (1923, c. 1, s. 6; C.S., s. 3411(f); 1927, c. 18; 1945, c. 635; 1951, c. 850; 1955, c. 560; 1957, c. 1235, s. 1; 1969, c. 789; 1971, c. 872, s. 1; 1977, c. 854, s. 2; 1981, c. 412, s. 2; c. 747, s. 48; 1993, c. 415, s. 6; 2011-145, s. 19.1(q); 2014-100, s. 17.1(xxx); 2019-203, s. 9(a).)

§ 18B-505. Restitution.

When a person is convicted of a violation of the ABC laws, the court may order him to make restitution to any law-enforcement agency for reasonable expenditures made in purchasing alcoholic beverages from him or his agent as part of an investigation leading to his conviction. (1981, c. 412, s. 2.)

§§ 18B-506 through 18B-599. Reserved for future codification purposes.

Article 6.

Elections.

§ 18B-600. Places eligible to hold alcoholic beverage elections.

(a) Kinds of Elections. – The following kinds of alcoholic beverage elections shall be permitted:

- (1) Malt beverage;
- (2) Unfortified wine;
- (3) ABC store; and
- (4) Mixed beverage.

(a1) ABC Store Elections Requiring Merger. – A jurisdiction located in a county where an ABC board is already in operation may hold an ABC store election only if all of the following criteria are met:

- (1) The jurisdiction has negotiated the details of the merger required by G.S. 18B-700(c1) if the establishment of ABC stores is approved.
- (2) The details of the planned merger, including the distribution of profits, have been determined in accordance with G.S. 18B-703, and have been made available to all registered voters in the jurisdiction where the ABC store election is to be held.

(b) County Elections. – Any county may hold a malt beverage, unfortified wine, or ABC store election. A county may hold a mixed beverage election only if the county already operates at least one county ABC store or a county election on ABC stores is to be held at the same time as the mixed beverage election.

(c) City Malt Beverage and Unfortified Wine Elections. – A city may hold a malt beverage or unfortified wine election only if the county in which the city is located has already held such an

election, the vote in the last county election was against the sale of that kind of alcoholic beverage, and one or more of the following apply:

- (1) The city has a population of 500 or more according to the most recent federal decennial census.
- (2) The city operates an ABC store.
- (3) The city has a population of 400 or more but less than 500 according to the most recent federal decennial census and had a population of 500 or more according to the prior federal decennial census.

(c1) Certain City Malt Beverage and Unfortified Wine Elections. – A city may hold a malt beverage or unfortified wine election only if all of the following criteria are met:

- (1) The county in which more than fifty percent (50%) of the area of the primary corporate limits of the city is located has already held such an election, and the vote in the last county election was against the sale of that kind of alcoholic beverage.
- (2) The city has a population of 200 or more.
- (3) The county in which more than fifty percent (50%) of the area of the primary corporate limits of the city is located also contains three or more other cities that have previously voted to allow malt beverage or unfortified wine sales.

(d) City ABC Store Elections. – A city may hold an ABC store election only if all of the following criteria are met:

- (1) The city has at least 1,000 registered voters.
- (2) The county in which the city is located does not operate ABC stores.
- (3) At least one other city in the same county operates an ABC store.

(e) City Mixed Beverage Elections. – A city may hold a mixed beverage election if the city has at least 500 registered voters. Provided, that if a city that qualifies for an election under this subsection approves the sale of mixed beverages, mixed beverages permittees in the city may purchase liquor from the ABC store designated by the local ABC board that has been approved by the Commission for this purpose.

(e1) Small City Mixed Beverage Elections. – A city may also hold a mixed beverage election if the city has at least 300 registered voters and is located in a county with at least one other city that has approved the sale of mixed beverages. Provided, that if a city that qualifies for an election under this subsection approves the sale of mixed beverages, mixed beverages permittees in the smaller city may purchase liquor from the ABC store designated by any local ABC board in any other city that has approved the sale of mixed beverages.

This subsection shall not apply to Alamance, Avery, Burke, Caldwell, Carteret, Cleveland, Henderson, Onslow, Polk, Robeson, Rowan, Rutherford, and Wilkes Counties.

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

(e3) Small Town Mixed Beverage Elections. – A town may hold a mixed beverage election if the town (i) has at least 200 registered voters, is located in a county bordering the Neuse River and Pamlico Sound that has not approved the sale of mixed beverages, and that county has only one city that has approved the sale of mixed beverages or (ii) has at least 200 registered voters, has a total area of less than 1 square mile, operates an ABC store, and is located in a county that has at

least three cities that have approved the sale of mixed beverages. Provided, that if a town that qualifies for an election under this subsection approves the sale of mixed beverages, mixed beverages permittees in the town may purchase liquor from the ABC store designated by any local ABC board in any other city that has approved the sale of mixed beverages.

(e4) Multicounty/City ABC Elections. – If a city is located in two or more counties, the following provisions shall apply:

- (1) The city may hold a malt beverage or unfortified wine election if any county in which a portion of the city is located has already held such an election, the vote in the last election of the particular type was against the sale of that type of alcoholic beverage, and the city has a population of 500 or more.
- (2) The city may hold a mixed beverage election if the city has at least 500 registered voters and a county in which a portion of the city is located operates ABC stores, or a municipality in either county in which the city is located operates an ABC store.
- (3) If an election is held by a city under this subsection, all of the city voters may vote in the election. If the vote is for approval, alcoholic beverages may be sold on the basis of that approval and under the provisions of this Chapter. If the sale of mixed beverages is approved, the mixed beverage permittees shall purchase their liquor from one or more ABC stores located within the city that have been designated by the local boards for those purchases. The remaining gross receipts shall be distributed in accordance with existing law applicable to those ABC stores, except that after the applicable distributions have been made pursuant to G.S. 18B-805(b), (c), and (d), the local share of the mixed beverages surcharge and the guest room cabinet surcharge required by G.S. 18B-804(b)(8) and (9) shall be distributed one-half to the general fund of the city where the mixed beverage permittees are located and one-half to the local ABC boards from whose stores liquor is purchased.

(e5) Small Resort Town ABC Elections. – A town may hold a mixed beverage election if it:

- (1) Was incorporated after 1990 and prior to the effective date of this subsection;
- (2) Has at least 100 residents;
- (3) Is located in a county that borders another state and that has two other municipalities which have ABC stores; and
- (4) At the time of the election, has corporate boundaries that border or include land in three counties.

Provided, that if a town that qualifies for an election under this subsection approves the sale of mixed beverages, mixed beverages permittees in the town may purchase liquor from the ABC store designated by any local ABC board in any other city that has approved the sale of mixed beverages.

(f) Township Elections. – An election may be called on any of the propositions listed in G.S. 18B-602 in any township located within:

- (1) A county where ABC stores have heretofore been established by petition pursuant to law.
- (2) A county where ABC stores have been established pursuant to law, in which county according to data from the North Carolina Department of Commerce: (i) one-third or more of the employment is travel related, (ii) spending on travel exceeds four hundred million dollars (\$400,000,000) per year, and where the entirety of two townships consists of one island (and several smaller islands not

- (16) Distillery permit – \$300.00.
 - (17) Fuel alcohol permit – \$100.00.
 - (18) Wine importer permit – \$300.00.
 - (19) Wine wholesaler permit – \$300.00.
 - (20) Malt beverage importer permit – \$300.00.
 - (21) Malt beverage wholesaler permit – \$300.00.
 - (22) Bottler permit – \$300.00.
 - (23) Salesman permit – \$100.00.
 - (24) Vendor representative permit – \$50.00.
 - (25) Nonresident malt beverage vendor permit – \$100.00.
 - (26) Nonresident wine vendor permit – \$100.00.
 - (27) Any special one-time permit under G.S. 18B-1002 – \$50.00.
 - (28) Winery special event permit – \$200.00.
 - (29) Mixed beverages catering permit – \$200.00.
 - (30) Guest room cabinet permit – \$1,000.
 - (31) Liquor importer/bottler permit – \$500.00.
 - (32) Cider and vinegar manufacturer permit – \$200.00.
 - (33) Brew on premises permit – \$400.00.
 - (34) Wine producer permit – \$300.00.
 - (35) Wine tasting permit – \$100.00.
 - (36) Repealed by Session Laws 2005-380, s. 1, effective September 8, 2005, and applicable to wine shipper permit applications submitted on or after that date.
 - (37) Wine shop permit – \$100.00.
 - (38) Winemaking on premises permit – \$400.00.
 - (39) Wine shipper packager permit – \$100.00.
 - (40) Malt beverage special event permit – \$200.00.
 - (41) Malt beverage tasting permit – \$100.00.
 - (42) Spirituous liquor tasting permit – \$100.00.
 - (43) Antique spirituous liquor permit – \$100.00.
 - (44) Spirituous liquor special event permit – \$200.00.
 - (45) Special auction permit – \$750.00.
 - (46) Common area entertainment permit – \$750.00.
 - (47) Delivery service permit – \$400.00.
 - (48) Nonresident spirituous liquor vendor permit – \$100.00.
 - (49) Airport central storage permit – \$400.00.
 - (50) Common carrier vehicle permit – \$1,000.
 - (51) Packaging and logistics permit – \$300.00.
- (e) Repealed by Session Laws 1998-95, s. 29, effective May 1, 1999.
- (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.
- (h) Recycling Plan Required. – Each applicant for an on-premises malt beverage permit, on-premises unfortified wine permit, on-premises fortified wine permit, or a mixed beverages permit shall prepare and submit with the application a plan for the collection and recycling of all recyclable beverage containers of all beverages to be sold at retail on the premises. A permittee who is not able to find a recycler for its beverage containers may apply to the Alcoholic Beverage

sell unfortified wine for consumption on the premises, provided that the sale of wine for consumption on the premises does not exceed forty percent (40%) of the establishment's total sales for any 30-day period. The holder of a wine-tasting permit not engaged in the preparation or sale of food on the premises is not subject to Part 6 of Article 8 of Chapter 130A of the General Statutes.

- (17) Winemaking on Premises Permit. – A permit may be issued to a business, located in a jurisdiction where the sale of unfortified wine is allowed, where individual customers who are 21 years old or older may purchase ingredients and rent the equipment, time, and space to make unfortified wine for personal use in amounts set forth in 27 C.F.R. § 24.75. Except for wine produced for testing equipment or recipes and samples pursuant to this subdivision, the permit holder shall not engage in the actual production or manufacture of wine. Samples may be consumed on the premises only by a person who has a nonrefundable contract to ferment at the premises, and the samples may not exceed one ounce per sample. All wine produced at a winemaking on premises facility shall be removed from the premises by the customer and may only be used for home consumption and the personal use of the customer.
- (18) Malt Beverage Tasting Permit. – A malt beverage tasting permit authorizes malt beverage tastings on a premises holding a retail permit by the retail permit holder or his employee. A representative of the brewery whose beverages are being featured at the tasting shall be present at the tasting unless the wholesaler or a wholesaler's employee determines that no representative of the brewery needs to be present. A malt beverage tasting consists of the offering of a sample of one or more malt beverage products, in amounts of no more than two ounces for each sample, without charge, to customers of the business. Any persons pouring malt beverage at a malt beverage tasting shall be at least 21 years of age.
- a. Representatives of the brewery which produced the malt beverage, a wholesaler, or a wholesaler's employee may assist with the tasting. Assisting with a malt beverage tasting includes:
1. Pouring samples for customers.
 2. Checking the identification of patrons being served at the malt beverage tasting.
- b. When a representative of the brewery that produced the malt beverage, a malt beverage wholesaler, or a malt beverage wholesaler's employee assists in a malt beverage tasting conducted by a retail permit holder:
1. The retail permit holder shall designate an employee to actively supervise the malt beverage tasting.
 2. A retail permit holder's employee shall not supervise more than three malt beverage tasting areas.
 3. No more than four malt beverages may be tasted at any one tasting area.
 4. The malt beverage tasting shall not last longer than four hours from the time designated as the starting time by the retail permit holder.

- c. The retail permit holder shall be solely liable for any violations of this Chapter occurring in connection with the malt beverage tasting. The Commission shall adopt rules to assure that the tastings are limited to samplings and not a subterfuge for the unlawful sale or distribution of malt beverages, and that the tastings are not used by industry members for unlawful inducements to retail permit holders. Except for purposes of this subdivision, the holder of a malt beverage tasting permit shall not be construed to hold a permit for the on-premises sale or consumption of alcoholic beverages. Any food business is eligible for a malt beverage tasting permit.
- (19) Spirituous liquor tasting permit. – The holder of any distillery permit authorized by G.S. 18B-1105 may conduct a consumer tasting event on the premises of the distillery subject to the following conditions:
- a. Any person pouring spirituous liquor at a tasting shall be an employee of the distillery and at least 21 years of age.
 - b. The person pouring the spirituous liquor shall be responsible for checking the identification of patrons being served at the tasting.
 - c. Each consumer is limited to tasting samples of 0.25 ounce of each spirituous liquor which total no more than 1.5 ounces of spirituous liquor in any calendar day.
 - d. The consumer shall not be charged for any spirituous liquor tasting sample.
 - e. The spirituous liquor used in the consumer tasting event shall be distilled or produced at the distillery where the event is being held by the permit holder conducting the event.
 - f. A consumer tasting event shall not be allowed when the sale of spirituous liquor is otherwise prohibited.
 - g. Tasting samples are not to be offered to, or allowed to be consumed by, any person under the legal age for consuming spirituous liquor.
 - h. Consumer tasting events authorized under this subdivision may be conducted on any part of the licensed premises of the distillery, except as prohibited by federal law.
- The distillery permit holder shall be solely liable for any violations of this Chapter occurring in connection with the tasting. The Commission shall adopt rules to assure that the tastings are limited to samplings and not a subterfuge for the unlawful sale or distribution of spirituous liquor and that the tastings are not used by industry members for unlawful inducements to retail permit holders.
- (20) Antique spirituous liquor permit. – A permit under this subdivision may be issued to a holder of a mixed beverages permit issued under subdivision (10) of this section. Notwithstanding any law to the contrary, the permit holder may sell at retail antique spirituous liquor for use in mixed beverages for consumption on premises. The acquisition of antique spirituous liquor on or after September 1, 2015, shall be in accordance with the process established by rule of the Commission for special orders of spirituous liquor that is not on the list approved by the Commission.
- (21) Repealed by Session Laws 2022-49, s. 2(b), effective July 7, 2022.

- (22) Airport Central Storage Permit. – A permit under this subdivision may be issued to the owner of a bonded storage warehouse that meets the federal Transportation Security Administration (TSA) security standards (49 C.F.R. §§ 1542.1 through 1542.307). This permit authorizes the permittee to contract with retail permittees holding permits issued pursuant to G.S. 18B-1001(1), (3), (5), and (10) with one or more retail locations at airports which service airplanes boarding at least 150,000 passengers annually to do the following: (i) store at a central receiving facility located on or within 5 miles of the airport property and outside the retail permittee's licensed premises alcoholic beverages to be sold or served at the retail permittee's airport locations as approved by the Commission and (ii) transport alcoholic beverages from the central receiving facility to the retail permittee's premises or support locations within the airport terminal pursuant to subsections (d) and (e) of G.S. 18B-1115. Alcoholic beverages stored pursuant to this subdivision shall be the property of the retail permittee. The portion of the airport central storage permitted premises where the retail permittee's alcoholic beverages are stored shall be deemed an extension of the retail permittee's permitted premises for storage only and subject to inspection pursuant to G.S. 18B-503.
- (23) Common Carrier Vehicle Permit. – Notwithstanding the results of any local election, a permit under this subdivision may be issued to a business primarily engaged in this State in the intrastate operation of common carriers of passengers and operating under a certificate of authority issued by the North Carolina Utilities Commission. A common carrier vehicle permit authorizes the sale or service of malt beverages, unfortified wine, fortified wine, and mixed beverages in the passenger area of a common carrier of passengers for consumption by passengers in the passenger area during journeys of 75 miles or longer that do not terminate within 10 miles of the origin of the journey. The permit issued to the business shall cover all common carriers of passengers owned by the business. The permit or a copy of the permit shall be prominently displayed on each common carrier of passengers on which alcoholic beverages are served or sold. Notwithstanding G.S. 18B-101(12a), the passenger area of a permittee's common carrier of passengers constitutes the premises for the permit. This permit shall not allow consumption of alcohol on a common carrier of passengers by any employee of the permittee. A permittee may not sell or serve alcoholic beverages to a passenger between the hours of 2:00 A.M. and 7:00 A.M., and a passenger may not be allowed to consume alcoholic beverages between the hours of 2:30 A.M. and 7:00 A.M. Notwithstanding G.S. 18B-1004(c) or any local ordinance, alcoholic beverages may not be sold or consumed before 10:00 A.M. on Sundays. For purposes of this subdivision, a common carrier of passengers has the same meaning as in G.S. 20-4.01(27)d. (1945, c. 903, s. 1; 1947, c. 1098, ss. 2, 3; 1949, c. 974, s. 1; 1957, cc. 1048, 1448; 1963, c. 426, ss. 10, 12; c. 460, s. 1; 1971, c. 872, s. 1; 1973, c. 476, s. 128; 1975, c. 586, s. 1; c. 654, ss. 1, 2; c. 722, s. 1; 1977, c. 70, s. 19; c. 182, s. 1; c. 669, ss. 1, 2; c. 676, ss. 1, 2; c. 911; 1979, c. 348, ss. 2, 3; c. 683, ss. 5, 6, 11, 12; 1981, c. 412, s. 2; 1981 (Reg. Sess., 1982), c. 1262, ss. 16, 17, 22; 1983, c. 457, s. 3; c. 583, ss. 2-5; 1985, c. 89, ss. 1-3; c. 596, s. 1; 1987, c. 391, s. 2; c. 434, s. 1;

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

(d) A wine shipper permittee shall be subject to jurisdiction of the North Carolina courts by virtue of applying for a wine shipper permit and shall comply with any audit or other compliance requirements of the Commission and the Department of Revenue. (2003-402, s. 2; 2004-203, s. 26(a); 2005-380, s. 2; 2006-227, s. 4.)

§ 18B-1001.2. Additional wine shipping requirements.

(a) A wine shipper permittee shall:

- (1) Compile and submit to the Commission quarterly a summary indicating all wine products shipped, including brand and price of each product, date of each shipment, quantity of each shipment, and amount of excise and sales tax remitted to the Department of Revenue. The report shall include all wine products shipped on the permittee's behalf under contract with a wine shipper packager.
- (2) Register with the Department of Revenue as a wine shipper permittee and provide any additional information required by the Department.

(b) The Commission may adopt rules to carry out the provisions of this section and other related provisions governing the direct shipping of wine. (2003-402, s. 3; 2006-227, s. 5.)

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

The holder of a wine shipper packager permit may provide services for the warehousing, packaging, and shipment of wine on behalf of a winery holding a wine shipper permit. A wine shipper packager permit authorizes the holder to receive, in closed containers, wine produced by and belonging to a wine shipper permittee and to place the unopened wine in containers or packaging materials as a service to the wine shipper permittee in connection with the marketing and sale of its wine products. A wine shipper packager may package and return wine products to the wine shipper permittee or, on behalf of the wine shipper permittee, may package and ship wine products in closed containers to individual purchasers inside and outside this State in accordance with the provisions of G.S. 18B-1001.1. The permit may be issued to a USDA-approved company specializing in warehousing and contract packaging. (2006-227, s. 6.)

§ 18B-1001.4. Authorization of delivery service permit.

(a) Authorization. – The holder of a delivery service permit, or the permit holder's employee or independent contractor, may deliver malt beverages, unfortified wine, or fortified wine on behalf of a retailer holding a permit issued pursuant to subdivisions (1) through (6) and (16) of G.S. 18B-1001 to a location designated by the purchaser. A delivery service permittee may also facilitate delivery through technology services that connect consumers and licensed retailers through the use of the Internet, mobile applications, and other similar technology.

(b) Training and Payment. – Prior to making any deliveries, each individual delivering alcoholic beverages pursuant to a delivery service permit shall successfully complete a course

conducted or approved by the Commission related to the delivery of alcoholic beverages. Upon receipt of a proposed training program from a holder of a delivery service permit, the Commission shall have 15 business days to approve, deny, or request modifications to the proposed training program. An individual delivering alcoholic beverages pursuant to a delivery service permit shall not handle or possess funds used to purchase an alcoholic beverage that is to be delivered, but may facilitate the sales transaction in a manner that does not involve taking possession of funds.

(c) Age of Recipient and Notice. – An individual may only deliver alcoholic beverages pursuant to a delivery service permit to an individual who is at least 21 years of age and who immediately takes actual possession of the alcoholic beverages purchased. A delivery of alcoholic beverages in a package that obscures the manufacturer's original packaging shall have affixed to the outside of the package a notice in 26-point type or larger stating: "CONTAINS ALCOHOLIC BEVERAGES; AGE VERIFICATION REQUIRED."

(d) Limitations. – A delivery service permittee shall deliver alcoholic beverages only within the time allowed for lawful sales and consumption in the jurisdiction where the delivery is located. No delivery shall be made to any jurisdiction within the State that has not authorized the sale of the purchased alcoholic beverages. A delivery service permittee shall not deliver alcoholic beverages to the premises of another licensed retailer or more than 50 miles from the retailer's licensed premises. Only alcoholic beverages purchased for personal consumption and from a licensed retailer's existing inventory located on the retailer's premises may be delivered pursuant to a delivery service permit.

(e) Scope and Construction. – A delivery service permit is not required for a common carrier lawfully transporting or shipping alcoholic beverages. Nothing in this section shall be construed as exempting the delivery of alcoholic beverages pursuant to a delivery service permit from the requirements set forth in Article 4 of Chapter 18B of the General Statutes. Nothing in this section shall be construed to require a technology services company to obtain a delivery service permit if the company does not employ or contract with delivery drivers, but rather provides software or an application that connects consumers and licensed retailers for the delivery of alcoholic beverages from the licensed retailer. Nothing in this section shall be construed to require a retailer that holds a permit issued pursuant to subdivisions (1) through (6) and (16) of G.S. 18B-1001 to obtain a delivery service permit in order for employees of the retail permittee to deliver malt beverages, unfortified wine, or fortified wine to a location designated by the purchaser, however, the other provisions of this section apply to the retailer.

(f) Penalties for Violations in Residence Halls. – Notwithstanding G.S. 18B-104, if a delivery service permittee commits a violation of this Chapter when delivering to a residence hall located on the premises of an institution of higher education the delivery service permittee shall be subject to a fine of up to one thousand dollars (\$1,000) for the first violation, up to one thousand five hundred dollars (\$1,500) for a second violation within three years of the first violation, and up to two thousand dollars (\$2,000) for a third or subsequent violation within three years of the first violation. In any case in which there are two or more violations within three years by a delivery service permittee when delivering to a residence hall on the premises of an institution of higher education in which the Commission is entitled to suspend or revoke a permit, the Commission may accept from the permittee an offer in compromise to pay a penalty of not more than ten thousand dollars (\$10,000). The Commission may either accept a compromise or revoke a permit, but not both. The Commission may accept a compromise and suspend the permit in the same case. (2019-182, s. 20(a); 2021-150, s. 26.1; 2022-51, s. 13(a).)

§ 18B-1001.5. Authorization of common area entertainment permit.

(a) Policy. – The intent of this section is to regulate open containers of alcoholic beverages that customers of a multi-tenant establishment take from a permittee's licensed premises into another area where consumption of the alcoholic beverages is allowed. This section shall not in any way limit the consumption or possession of alcoholic beverages otherwise allowed under this Chapter.

(b) Definitions. – For purposes of this section:

- (1) Common area. – An indoor or outdoor portion of a multi-tenant establishment that is open to the public.
- (2) Customer. – A person who purchases an alcoholic beverage from a permittee that is in a designated consumption area.
- (3) Designated consumption area. – An indoor or outdoor common area on the premises of a multi-tenant establishment designated by the owner or property owners' association of the multi-tenant establishment for consumption of alcoholic beverages and either of the following:
 - a. Any indoor or outdoor area of a permittee business that is contiguous to the designated common area.
 - b. Any indoor or outdoor area of a non-permittee business that is contiguous to the designated common area and that chooses to allow customers to bring open containers of alcoholic beverages onto its premises.
- (4) Mixed-use development. – An integrated development containing both residential and nonresidential uses and adhering to a comprehensive plan and located on a single tract of land, or on two or more tracts of land which may be separated only by a privately maintained street or other right-of-way, or which may be contained in a single building.
- (5) Multi-tenant establishment. – A building or structure, or multiple buildings and structures on the same property, or within the same planned development project, that may be subject to a common declaration of restrictive covenants administered by a common property owners' association, and under common ownership, control, or property owners' association governance, that contains or contain multiple businesses that sell food, goods, services, or a combination of food, goods, and services, and that include or are connected by common areas. The term multi-tenant establishment includes a mixed-use development.
- (6) Non-permittee business. – A business that is a commercial tenant of a multi-tenant establishment and does not hold any ABC permit.
- (7) Permittee. – A business that is a tenant of a multi-tenant establishment and that holds any of the following permits issued by the Commission:
 - a. An on-premises malt beverage permit issued pursuant to G.S. 18B-1001(1).
 - b. An on-premises unfortified wine permit issued pursuant to G.S. 18B-1001(3).
 - c. An on-premises fortified wine permit issued pursuant to G.S. 18B-1001(5).
 - d. A mixed beverages permit issued pursuant to G.S. 18B-1001(10).
 - e. A wine shop permit issued pursuant to G.S. 18B-1001(16).

f. A distillery permit issued pursuant to G.S. 18B-1100(5).

(c) Authorization. – A common area entertainment permit may be issued to the owner or property owners' association of a multi-tenant establishment that has at least two tenants anywhere within the multi-tenant establishment that are permittees. A customer of a permittee may exit the permittee's licensed premises with an open container of the alcoholic beverage sold by the tenant and consume the alcoholic beverage within the confines of any indoor or outdoor designated consumption area.

(d) Designation of Areas Allowed for Consumption. – The owner or property owners' association of a multi-tenant establishment that holds a common area entertainment permit shall designate one or more areas as designated consumption areas. A designated consumption area may include the premises of any business that is open to customers, if the business chooses to allow outside alcoholic beverages on its premises during the days and hours set by the owner or property owners' association of the multi-tenant establishment pursuant to subsection (e) of this section. A permittee may be included in the designated consumption area even if it chooses to exclude open containers of alcoholic beverages purchased from other permittees. A designated consumption area may include privately maintained streets, parking spaces on privately maintained streets, sidewalks, and courtyards. Privately maintained streets and parking areas may be open to vehicular traffic during the dates and times when the designated consumption area is active. The boundaries of a designated consumption area must be marked in a way that clearly indicates to customers where the boundaries of the designated consumption area are located, such as with conspicuous signage, in the discretion of the owner or property owners' association. Vertical delineated boundaries shall not be required to indicate the boundaries of a designated consumption area. The owner or property owners' association of the multi-tenant establishment shall submit to the Commission for review and approval (i) a plat or site map of the multi-tenant establishment property with the designated consumption areas clearly marked or (ii) a detailed map of the relevant building or buildings on the multi-tenant establishment property with the designated consumption area clearly marked. The Commission shall reject any plat or map submitted under this subsection that does not meet the requirements of this section. The owner or property owners' association of the multi-tenant establishment shall submit a plat or map as required under this subsection for each renewal of the permit issued under this section and at least 10 days prior to making any adjustments to a designated consumption area.

(e) Days and Hours When Consumption is Allowed. – Customer-purchased alcoholic beverages may only be consumed within designated consumption areas during the hours in which the alcoholic beverage may be sold under G.S. 18B-1004, and the owner or property owners' association of the multi-tenant establishment may further limit the days and times in which an alcoholic beverage may be consumed in a designated consumption area. The owner or property owners' association of the multi-tenant establishment shall post signs in conspicuous locations on the multi-tenant establishment property indicating the days and times in which a customer may consume alcoholic beverages in a designated consumption area.

(f) Open Containers Sold by Permittees. – A permittee located in a designated consumption area may sell open containers of alcoholic beverages and allow customers to exit the premises to the designated consumption area in accordance with the following requirements:

- (1) The permittee shall only sell and serve alcoholic beverages on its licensed premises.

- (2) The permittee shall only sell an open container of an alcoholic beverage for consumption in the designated consumption area and off the premises of the permittee in a container that meets all of the following requirements:
 - a. The container clearly identifies the permittee from which the alcoholic beverage was purchased.
 - b. The container clearly displays a logo or some other mark that is unique to the designated consumption area in which it will be consumed.
 - c. No later than January 1, 2024, the container shall not be comprised of glass.
 - d. The container displays, in no less than 12-point font, the statement, "Drink Responsibly – Be 21."
 - e. The container shall not hold more than 16 fluid ounces.
- (3) Nothing in this subsection shall be construed to authorize the sale and delivery of alcoholic beverage drinks in excess of the limitation set forth in G.S. 18B-1010.

(g) Limitations on Open Containers. – Unless open containers otherwise allowed by law are allowed in designated consumption areas by the owner or property owners' association of the multi-tenant establishment, the possession and consumption of an open container of an alcoholic beverage in a designated consumption area is subject to all of the following requirements:

- (1) A customer may only possess and consume open containers of alcoholic beverages that were purchased from a permittee located in the designated consumption area.
- (2) Customer-purchased open containers of alcoholic beverages in the designated consumption area shall only be in containers meeting the requirements set forth in subsection (f) of this section, except for open containers sold by a permittee for consumption on the permittee's premises.
- (3) A customer may only possess and consume open containers of alcoholic beverages in the designated consumption area during the days and hours set by the owner or property owners' association of the multi-tenant establishment in accordance with subsection (e) of this section, not to exceed the hours for consumption authorized pursuant to G.S. 18B-1004.
- (4) A customer shall not possess at one time open containers of alcoholic beverages in the designated consumption area in excess of the number of alcoholic beverages that may be sold and delivered by a retail permittee as set forth in G.S. 18B-1010.
- (5) A customer shall dispose of any open container of an alcoholic beverage in the customer's possession prior to exiting the designated consumption area.
- (6) Notwithstanding G.S. 18B-300 and G.S. 18B-301, a permittee or non-permittee business may allow a customer to possess and consume on the business's premises alcoholic beverages purchased from a permittee in the designated consumption area.

(h) Closed Containers. – A person, including a customer who is in possession of an open container of an alcoholic beverage authorized under this section, may possess alcoholic beverages in closed containers in a designated consumption area to the extent otherwise allowed by this Chapter.

(i) Responsibilities of Non-Permittee Businesses. – A non-permittee business that is part of a designated consumption area and that allows customers to bring alcoholic beverages onto its premises shall not be responsible for enforcement of this Chapter. All non-permittee businesses that are part of a designated consumption area and that allow customers to bring alcoholic beverages onto their premises shall clearly post signage on any exits that do not open to a designated consumption area indicating that alcoholic beverages may not be taken past that point. During the days and hours when the designated consumption area is active, a non-permittee business that allows customers to bring alcoholic beverages onto its premises shall allow law enforcement officers access to the areas of the premises accessible by customers.

(j) Responsibilities of Permit Holder. – The owner or property owners' association of a multi-tenant establishment shall comply with this section but shall not be responsible for enforcement of other sections of this Chapter. The Commission shall take no action against the owner or property owners' association of a multi-tenant establishment for violations of other sections of this Chapter unless the owner or property owners' association of the multi-tenant establishment knowingly committed the violation or knowingly allowed the violation to occur. (2022-49, s. 2(c).)

§ 18B-1002. Special one-time permits.

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

- (1) A permit may be issued to a person who acquires ownership or possession of alcoholic beverages through bankruptcy, inheritance, foreclosure, judicial sale, or other special occurrence, and who does not already have a permit authorizing the sale of that kind of alcoholic beverage. The permit may authorize the sale or other disposition of the alcoholic beverages in a manner prescribed by the Commission.
- (2) A permit may be issued to a nonprofit organization to allow the retail sale of malt beverages, unfortified wine, fortified wine, or mixed beverages, or to allow brown-bagging, at a single fund-raising event of that organization. A permit for this purpose shall not be issued for the sale of any kind of alcoholic beverage in a jurisdiction where the sale of that alcoholic beverage is not lawful.
- (3) A permit may be issued to a permittee who is going out of business to authorize the sale or other disposition of his alcoholic beverages stock in a manner that would not otherwise be authorized under his permit.
- (4) A permit may be issued to a collector of wine, decorative decanters of spirituous liquor, or antique spirituous liquor authorizing that person to bring into the State, transport, or possess as a collector, a greater amount of those alcoholic beverages than is otherwise authorized by this Chapter, or to sell those alcoholic beverages in a manner prescribed by the Commission.
- (5) A permit may be issued to a unit of local government, or to a nonprofit organization or a political organization to serve wine, malt beverages, and spirituous liquor at a ticketed event held to allow the unit of local government or organization to raise funds. For purposes of this subdivision "nonprofit organization" means an organization that is exempt from taxation under Section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the Internal Revenue Code or is exempt under similar provisions of the General

Statutes as a bona fide nonprofit charitable, civic, religious, fraternal, patriotic, or veterans' organization or as a nonprofit volunteer fire department, or as a nonprofit volunteer rescue squad or a bona fide homeowners' or property owners' association. For purposes of this subdivision "political organization" means an organization covered by the provisions of G.S. 163-96(a)(1) or (2) or a campaign organization established by or for a person who is a candidate who has filed a notice of candidacy, paid the filing fees or filed the required petition, and been certified as a candidate. The issuance of this permit shall also allow the use for culinary purposes of spirituous liquor lawfully purchased for use in mixed beverages. The issuance of this permit shall also allow a nonprofit organization to offer alcoholic beverages in the manufacturer's original closed container as a prize in a raffle or sell alcoholic beverages in the manufacturer's original closed container at auction at the ticketed event to allow the nonprofit organization to raise funds.

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

(b) Intent. – Permits under this section are to be issued only for the limited circumstances listed in subsection (a) of this section and not as substitutes for other permits required by this Chapter.

(c) Conditions of Permit. – A permit issued under this section shall be valid only for the single transaction or the kind of activity specified in the permit and shall be subject to any conditions the Commission may impose as to the time, place and manner of the authorized activity.

(d) Administrative Procedure. – Denial or revocation of a permit under this section shall not entitle the applicant or permittee to a hearing under Chapter 150B. (1977, c. 854, s. 1; 1981, c. 412, s. 2; 1987, c. 434, s. 2; c. 827, s. 1; 1989, c. 130; c. 800, ss. 13, 14; 2001-262, s. 9; 2008-159, s. 1; 2017-6, s. 3; 2017-87, s. 3(b); 2018-100, s. 5(e); 2018-145, s. 13(a); 2018-146, ss. 3.1(a), (b), 6.1; 2022-44, s. 3(p).)

§ 18B-1002.1. Special auction permit.

(a) Permit Authorized. – A permit may be issued upon application to an auction firm or auctioneer licensed by the North Carolina Auctioneers Commission pursuant to Chapter 85B of the General Statutes to allow the licensed auction firm or auctioneer to sell at auction items described in G.S. 18B-1002(a)(4). An auction held under this section may receive competing bids that are in person or by telephone, fax, or online.

(b) Conditions of Permit. – A permit issued under this section is valid only for the auction specified in the permit.

(c) Administrative Procedure. – Denial or revocation of a permit under this section does not entitle the applicant or permittee to a hearing under Chapter 150B of the General Statutes. (2017-87, s. 3(c); 2022-44, s. 3(q).)

§ 18B-1003. Responsibilities of permittee.

(a) Premises. – For purposes of this Chapter, a permittee shall be responsible for the entire premises for which the permit is issued. The permittee shall keep the premises clean, well-lighted and orderly.

(b) Employees. – For purposes of this Chapter, a permittee shall be responsible for the actions of all employees of the business for which the permit is issued. Each holder of a salesman's permit shall be responsible for all sales and deliveries made by his helpers.

(c) Certain Employees Prohibited. – A permittee shall not knowingly employ in the sale or distribution of alcoholic beverages any person who has been:

- (1) Convicted of a felony within three years;
- (2) Convicted of a felony more than three years previously and has not had his citizenship restored;
- (3) Convicted of an alcoholic beverage offense within two years; or
- (4) Convicted of a misdemeanor controlled substances offense within two years; [or]
- (5) A past permit holder under Chapter 18B of the General Statutes whose permit had been revoked within the last 18 months and who had been the permit holder at the location where the person would be employed.

For purposes of this subsection, "conviction" has the same meaning as in G.S. 18B-900(b). To avoid undue hardship, the Commission may, in its discretion, exempt persons on a case-by-case basis from this subsection.

(c1) Posting Human Trafficking Hotline. – All permittees shall prominently display on the premises in a place that is clearly conspicuous and visible to employees a public awareness sign created and provided by the North Carolina Human Trafficking Commission that contains the National Human Trafficking Resource hotline information.

(d) Financial Responsibility. – A permittee shall pay all judgments rendered against him under the provisions of Article 1A of this Chapter. When the Commission is informed, under the provisions of G.S. 18B-127 that there is an outstanding unsatisfied judgment against a permittee, the Commission shall suspend all of the permittee's permits. Notice and hearing are not required for a suspension under this subsection, and the suspension shall become effective immediately upon the Commission's receipt of the report. The suspension shall remain in effect until the permittee demonstrates that he has satisfied the judgment by payment in full. Nothing in this section relieves the permittee of the obligation to pay any applicable fees as a precondition of the reinstatement of his permit. (1981, c. 412, s. 2; 1983, c. 435, s. 40; 2006-253, s. 28; 2017-57, s. 17.4(b); 2017-197, s. 5.8; 2018-97, s. 5.4.)

§ 18B-1004. Hours for sale and consumption.

(a) Hours. – Except as otherwise provided in this section, it shall be unlawful to sell malt beverages, unfortified wine, fortified wine, or mixed beverages between the hours of 2:00 A.M.

includes or simulates the penetration, however slight, by any object into the genital or anal opening of a person's body; or

- (3) Any conduct or entertainment that includes the fondling of the breasts, buttocks, anus, vulva, or genitals.

(b) Supervision. – It shall be unlawful for a permittee to fail to superintend in person or through a manager the business for which a permit is issued.

(c) Exception. – This section does not apply to persons operating theaters, concert halls, art centers, museums, or similar establishments that are primarily devoted to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value. (2003-382, s. 2.)

§ 18B-1006. Miscellaneous provisions on permits.

(a) School and College Campuses. – No permit for the sale of alcoholic beverages shall be issued to a business on the campus or property of a public school, college, or university. This subsection shall not apply to the following:

- (1) A regional facility as defined by G.S. 160A-480.2 operated by a facility authority under Part 4 of Article 20 of Chapter 160A of the General Statutes.
- (2) Property owned by a local board of education and leased for 99 years or more to a nonprofit auditorium authority created prior to 1991 whose governing board is appointed by a city governing board, a county board of commissioners, or a local school board.
- (3) A hotel.
- (4) A nonprofit alumni organization.
- (5) Restaurants, eating establishments, food businesses, or retail businesses on the property defined by G.S. 116-198.33(4).
- (6) Any golf courses owned or leased by the public college or university and open to the public for use.
- (7) The sale of malt beverages, unfortified wine, or fortified wine at the following:
 - a. Performing arts centers located on property owned or leased by the public college or university.
 - b. Any stadiums that support a NASCAR-sanctioned one-fourth mile asphalt flat oval short track, that are owned or leased by the public college or university.
- (8) Special one-time permits as described in G.S. 18B-1002(a)(5) for the Loudermilk Center for Excellence facility at the University of North Carolina at Chapel Hill.
- (9) Special one-time permits described in G.S. 18B-1002(a)(6).
- (10) A stadium, athletic facility, or arena on the campus or property of a public college or university, if the Board of Trustees of the public college or university has voted to allow the issuance of permits for use at that stadium, athletic facility, or arena. If a Board of Trustees votes to allow the issuance of permits in accordance with this subdivision, the Board of Trustees shall provide written notice to the Commission that it has voted to allow the issuance of permits. For purposes of this subdivision, the term "public college or university" does not include a community college. Any permit described in G.S. 18B-1001, 18B-1002(a)(2), or 18B-1002(a)(5) may be issued pursuant to this subdivision

to applicants meeting the requirements for the requested permit. Notwithstanding the issuance of a mixed beverages permit pursuant to G.S. 18B-1001(10), this subdivision does not authorize the sale of mixed beverages when the stadium, athletic facility, or arena is being used for a sports event sponsored by the public college or university. This subdivision does not apply to any sales authorized under subdivisions (1) through (8) of this subsection. For purposes of this subdivision, the premises of a stadium, athletic facility, or arena shall include any area that meets all of the following requirements:

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

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

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

(b) Lockers at Clubs. – A private club or congressionally-chartered veterans organization which has been issued a brown-bagging permit may, but is not required to, provide lockers for its members to store their alcoholic beverages. If lockers are provided, however, they shall not be shared but shall be for individual members. Each locker and each bottle of alcoholic beverages on the premises shall be labelled with the name of the member to whom it belongs. No more than eight liters each of malt beverages or unfortified wine may be stored by a member at one time. No more than eight liters of either fortified wine or spirituous liquor, or eight liters of the two combined, may be stored by a member at one time.

(c) Wine Sales. – Holders of retail or wholesale permits for the sale of unfortified or fortified wine may buy and sell only wines on the Commission's approved list. The Commission

may authorize the importation and purchase of wines not on the approved list by permittees and others. An authorization shall state the kind and amount of wine that may be imported and purchased and the time within which the transaction shall be completed.

(d) Unlawful Possession or Consumption. – It shall be unlawful for a permittee to possess or consume, or allow any other person to possess or consume, on the licensed premises, any fortified wine or spirituous liquor, the possession or consumption of which is not authorized either by the permits issued to him for the premises or by any other provision of the ABC law.

(e) Facsimile Permit. – It shall be unlawful for any person to produce or possess any false or facsimile permit, or for a permittee to display any false or facsimile permit on his licensed premises.

(f) Failure to Surrender Permit. – It shall be unlawful for any person to refuse to surrender any permit to the Commission upon lawful demand of the Commission or its agents.

(g) Restrictions on Sales at Cooking Schools. – Retail sales of food or alcoholic beverages to be consumed on the premises of a cooking school are restricted to bona fide enrolled students of that school. Violation of this subsection is a ground for administrative action under G.S. 18B-104.

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

(i) Tour Boats. – The Commission may issue permits to boats that conduct regularly scheduled tours upon the rivers or waterways of this State under the following conditions:

- (1) A boat shall offer food and non-alcoholic beverages for sale on each tour on which alcoholic beverages are served.
- (2) Repealed by Session Laws 2022-51, s. 10, effective July 7, 2022.
- (3) A boat may hold the permits listed in G.S. 18B-1001(1), (3), (5), (7), and (10), but no off-premises sales may be made pursuant to those permits;
- (4) A boat shall have a home port in an area where issuance of any of the permits listed in subdivision (3) is legal, and all passengers shall enter the boat at the home port or at other ports listed on a preannounced itinerary. The boat's permits are valid during tours that leave and return to the boat's home port, and apply regardless of whether the boat crosses into an area where sales are not legal, if the boat docks only at a port listed on the preannounced itinerary, except in an emergency; and
- (5) A boat conducting tours along the intracoastal waterway and navigable waterways that enters into the intracoastal waterway, pursuant to a preannounced itinerary that includes visits to two or more cities, may serve alcoholic beverages pursuant to ABC permits issued according to the jurisdiction of its home port in the following manner:
 - a. While on tour, alcoholic beverages may be served to passengers;
 - b. While docked in any other port alcoholic beverages may be served only to tour passengers;
 - c. During special city-sponsored events and festivals, in which case the boat may open its galley and bars at dockside to the general public and sell those alcoholic beverages that are lawful in the jurisdiction in which it is docked. Any sales in this manner shall be in accordance with the requirements of any ordinances of the jurisdiction in which the boat is docked.

- (6) Liquor purchased for resale in mixed beverages may be purchased only from the local board for the jurisdiction of the boat's home port.
- (j) Recreation Districts. – Notwithstanding the provisions of Article 6 of this Chapter, the Commission may issue permits for the sale of malt beverages, unfortified wine, fortified wine, and mixed beverages to qualified businesses in a recreation district.

A "recreation district" is an area that meets any of the following requirements:

- (1) 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.
- (1a) An area that is located in a county that has not approved the issuance of mixed beverages 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 90 acres where five or more motorsports-related events are held each year. The Commission shall issue a permit under the authority set forth in this subdivision only to a facility where five or more motorsports-related events are held, or a qualified business contracting with or located at a facility where five or more motorsports-related events are held, and the sale and consumption of alcoholic beverages shall only occur during a motorsports-related event held at the facility.
- (2) An area that is located in a county that borders a county which has held elections pursuant to G.S. 18B-600(f) and borders on another state and which (i) contains a facility of at least 225 acres where four or more public auto racing events are held each year or (ii) contains a facility of at least 140 acres where 80 or more motor sports events are held each year.
- (3) A recreation district includes the area within a half-mile radius of a racing facility that meets the requirements of subdivision (1) or (2) of this subsection.
- (4) Repealed by Session Laws 2004-203, s. 27, effective August 17, 2004.
- (k) Residential Private Club and Sports Club Permits. – The Commission may issue the permits listed in G.S. 18B-1001, without approval at an election, to a residential private club or a sports club, except if the sale of mixed beverages is not lawful within a jurisdiction and that locality has voted against the sale of mixed beverages in a referendum conducted on or after September 1, 2001. If the issuance of permits is prohibited by the exception in the previous sentence, the Commission may renew existing permits and may continue to issue permits for a business location that had previously held permits under this subsection. No permit may be issued to any residential private club or sports club that practices discrimination on the basis of race, gender or ethnicity.
- (l) Repealed by Session Laws 2004-203, s. 65, effective August 17, 2004.
- (m) Interstate Interchange Economic Development Zones. –
 - (1) The Commission may issue permits listed in G.S. 18B-1001(10), without approval at an election, to qualified establishments defined in G.S. 18B-1000(4), (6), and (8) located within one mile of an interstate highway interchange located in a county that:
 - a. Has approved the sale of malt beverages, unfortified wine, and fortified wine, but not mixed beverages;
 - b. Operates ABC stores;
 - c. Borders on another state; and

- d. Lies north and east of the Roanoke River.
- (2) The Commission may issue permits listed in G.S. 18B-1001(1), (3), (5), and (10) to qualified establishments defined in G.S. 18B-1000(4), (6), and (8) and may issue permits listed in G.S. 18B-1001(2) and (4) to qualified establishments defined in G.S. 18B-1000(3) in any county that qualifies for issuance of permits pursuant to G.S. 18B-1006(k). These permits may be issued without approval at an election and shall be issued only to qualified establishments that meet all of the following requirements:
 - a. Located within one mile of any interstate highway interchange in that county;
 - b. Located within one mile of an establishment issued a permit under G.S. 18B-1006(k); and
 - c. Is, or is located within one-quarter mile of, a hotel with 70 or more rooms.
- (3) Repealed by Session Laws 2004-203, s. 28, effective August 17, 2004.
- (n) National Historic Landmark District. – The Commission may issue permits listed in G.S. 18B-1001(10), without approval at an election, to qualified establishments defined in G.S. 18B-1000(4) and (6) located within a National Historical Landmark as defined in 16 U.S.C. § 470a(a)(1)(B) located in a county that meets all of the following requirements:
 - (1) Has approved the sale of malt beverages and unfortified wine but not mixed beverages.
 - (2) Has at least one city that has approved the operation of an ABC store and the sale of mixed beverages.
 - (3) Has at least 150,000 population based on the last federal census.
- (n1) State Boundary Certification. – The Commission may issue permits listed in G.S. 18B-1001(2) and (4), without approval at an election, to qualified establishments defined in G.S. 18B-1000(7) that meet all of the following requirements:
 - (1) The establishment is located in a county that borders on another state.
 - (2) The location of the establishment was reclassified from out-of-state to North Carolina as a result of a State boundary certification.
 - (3) The establishment was licensed or permitted by the previous state of record to sell malt beverages and unfortified wine.
- (n2) Event Centers. – The Commission may issue permits listed in G.S. 18B-1001(10) and (12), without approval at an election, to qualified establishments defined in G.S. 18B-1000(4) and (6) that meet all of the following requirements:
 - (1) The establishment is located in a county that has more than two man-made lakes.
 - (2) The establishment is located in a county that has approved the sale of malt beverages and unfortified wine but not mixed beverages.
 - (3) The establishment is open to the public and includes on its premises a hotel with accommodations for 20 or more overnight guests, agritourism activities as defined in G.S. 99E-30, and firearm sports.
- (o) Expired.
- (p) The Commission shall issue a special occasion permit under G.S. 18B-1001(8) to a mixed beverage permittee in a sports facility occupied by a major league professional sports team with suites available for sale or lease to patrons of the facility to authorize patrons to make

- (2) Refill any spirituous liquor container having a mixed beverages tax stamp with any other alcoholic beverage, or add to the contents of such a container any other alcoholic beverage.
- (3) Transfer from one container to another a mixed beverages tax stamp.
- (4) Possess any container of spirituous liquor not bearing a mixed beverages tax stamp, except for containers being brought onto the premises by the host of a private function under a special occasion permit.

(c) **Price List.** – Each mixed beverages permittee shall have available for its customers the printed prices of the most common or popular mixed beverages offered for sale by the permittee. Violation of this subsection shall not be a criminal offense, but shall be punishable under G.S. 18B-104.

(d) When a temporary mixed beverages permit has been issued to a new permittee for the continuation of a business at the same location, the permittee going out of business may sell existing mixed beverages inventory to the new permittee, and the Commission may request that the local ABC board restamp the inventory with the mixed beverages tax stamp assigned by the local board to the new mixed beverages permittee. (1981, c. 412, s. 2; c. 746, s. 2; 1981 (Reg. Sess., 1982), c. 1262, s. 20; 1989, c. 800, s. 15; 1991, c. 565, ss. 6, 7; 1991 (Reg. Sess., 1992), c. 920, s. 8; 1995, c. 466, s. 13; 2022-44, s. 3(s).)

§ 18B-1008. Rules concerning retail permits.

The Commission is authorized to use broad discretion in further defining the kinds of places eligible for permits under this Article. The rules may state the kind and amount of food that shall be sold to qualify in each category, the relationship between food sales and other receipts, the size of the establishment required for each category, the kinds of facilities needed to qualify, the kinds of activities at which alcoholic beverages may not be sold, and any other matters which are necessary to determine which businesses are bona fide establishments of the kinds listed in G.S. 18B-1000. Rules concerning private clubs may also include requirements that the club have a membership committee to review all applications for membership, that the club charge membership dues substantially greater than what would be paid by a one-time or casual user, that the club restrict use by nonmembers, and that the club provide facilities or activities other than those directly related to the use of alcoholic beverages. (1981, c. 412, s. 2; 2009-381, s. 1.)

§ 18B-1009. In-stand sales.

(a) Nothing in this Chapter shall be construed to prohibit a retail permittee from selling for consumption, malt beverages in the seating areas of stadiums, ballparks, and other similar public places with a seating capacity of 3,000 or more during professional sporting events, provided that:

- (1) The seating areas are designated as part of the retail permittee's licensed premises;
- (2) The retail permittee has notified the Commission, in writing, of its intent to sell malt beverages in the seating areas at sporting events;
- (3) Service of food and nonalcoholic beverages is available in the seating areas;
- (4) The retail permittee has certified to the Commission that it has trained its employees:
 - a. To identify underage persons and intoxicated persons; and
 - b. To refuse to sell malt beverages to those persons as required by G.S. 18B-305; and

(5) The employees do not verbally shout or hawk the sale of malt beverages.

(b) The North Carolina Alcoholic Beverage Control Commission shall adopt rules for the suspension of alcohol sales in the latter portion of professional sporting events in order to protect public safety at these events. (1997-167, s. 1; 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2013-83, ss. 1, 2.)

§ 18B-1010. Sale and delivery of more than one drink at a time to a single patron.

(a) Except as otherwise provided in this section, the holder of an on-premises malt beverage permit, on-premises unfortified wine permit, on-premises fortified wine permit, or mixed beverages permit issued under G.S. 18B-1001 may sell and deliver alcoholic beverage drinks to a single patron with the following limitations:

(1) Not more than two alcoholic beverage drinks at one time if the alcoholic beverage drinks are any of the following:

- a. A malt beverage.
- b. Unfortified wine.
- c. Fortified wine.

(2) Not more than one alcoholic beverage at one time if an alcoholic beverage drink is a mixed beverage or contains spirituous liquor.

(b) Repealed by Session Laws 2021-150, s. 11.1(a), effective September 10, 2021, and applicable to the sale and delivery of alcoholic beverages on or after that date. (2019-182, s. 13(a); 2021-150, s. 11.1(a).)

§ 18B-1011. Retail permittee off-site airport storage.

(a) Permittees holding permits issued pursuant to G.S. 18B-1001(1), (3), (5), and (10) for premises located within airport terminals may contract with an airport central storage permittee for storage at the airport central storage permittee's licensed premises of the permittee's alcoholic beverages to be sold at the retail permittee's airport locations as authorized by the Commission. The permittee may contract with the airport central storage permittee to transport the retail permittee's alcoholic beverages from the airport central storage facility to the retail permittee's premises or support location.

(b) The location where the retail permittee's alcoholic beverages are stored on the airport central storage permittee's premises shall be deemed an extension of the retail permittee's licensed premises for purposes of this Chapter. (2021-150, s. 19.4.)

Article 11.

Commercial Activity.

§ 18B-1100. Commercial permits.

The Commission may issue the following commercial permits:

- (1) Unfortified winery
- (2) Fortified winery
- (3) Limited winery
- (4) Brewery
- (5) Distillery
- (6) Fuel alcohol
- (7) Wine importer
- (8) Wine wholesaler

- (9) Malt beverages importer
- (10) Malt beverages wholesaler
- (11) Bottler
- (12) Salesman
- (13) Vendor representative
- (14) Nonresident malt beverage vendor
- (15) Nonresident wine vendor
- (16) Winery special show
- (17) Liquor importer/bottler permit
- (18) Cider and vinegar manufacturer
- (19) Wine producer permit
- (20) Malt beverage special event permit.
- (21) Spirituous liquor special event permit.
- (22) Nonresident spirituous liquor vendor permit.
- (23) Airport central storage permit. (1981, c. 412, s. 2; c. 747, s. 59; 1989, c. 737, s. 1; 1995, c. 404, s. 3; 1997-134, s. 1; 2001-262, s. 8; 2001-487, s. 49(g); 2009-377, s. 3; 2021-150, ss. 6.4(a), 19.3.)

§ 18B-1101. Authorization of unfortified winery permit.

The holder of an unfortified winery permit may:

- (1) Manufacture unfortified wine;
- (2) Sell, deliver and ship unfortified wine in closed containers to wholesalers licensed under this Chapter as authorized by the ABC laws, except that wine may be sold to exporters and nonresident wholesalers only when the purchase is not for resale in this State;
- (2a) Receive, in closed containers, unfortified wine produced inside or outside North Carolina under the winery's label from grapes, berries, or other fruits owned by the winery, and sell, deliver, and ship that wine to wholesalers, exporters, and nonresident wholesalers in the same manner as its wine manufactured in North Carolina. This provision may be used only by a winery during its first three years of operation or when there is substantial damage to its grapes, berries, or other fruits from catastrophic crop loss. This provision may be used only three years out of every 10 years and notice must be given to the Commission each time this provision is used;
- (3) Ship its wine in closed containers to individual purchasers inside and outside this State in accordance with the provisions of G.S. 18B-1001, 18B-1001.1, and 18B-1001.2, and other applicable provisions of this Chapter;
- (4) Furnish or sell "short-filled" packages, on which State taxes have been or will be paid, to its employees for the use of the employees or their families and guests in this State;
- (5) Regardless of the results of any local wine election, sell the wine owned by the winery at the winery for on- or off-premise consumption upon obtaining the appropriate permit under G.S. 18B-1001;
- (6) Sell the wine manufactured by the winery or produced under the winery's label under subdivision (2a) of this section for on- or off-premise consumption at no

§ 18B-1103. (Repealed) Authorization of limited winery permit. (1981, c. 412, s. 2; c. 747, s. 61; repealed by 2022-44, s. 1, effective July 7, 2022.)

§ 18B-1104. Authorization of brewery permit.

- (a) Authorized Acts. – The holder of a brewery permit may:
- (1) Manufacture malt beverages.
 - (2) Purchase malt, hops and other ingredients used in the manufacture of malt beverages.
 - (3) Sell, deliver and ship malt beverages in closed containers to wholesalers licensed under this Chapter as authorized by the ABC laws, except that malt beverages may be sold to exporters and nonresident wholesalers only when the purchase is not for resale in this State. However, nothing in this subdivision shall prohibit the holder of a brewery permit from selling malt beverages to a nonresident wholesaler, nonresident malt beverage vendor, bottler, or other similar party for resale in this State if the malt beverages are shipped from the brewery to wholesalers licensed under this Chapter.
 - (4) Receive malt beverages manufactured by the permittee in some other state for transshipment to (i) dealers in other states or (ii) wholesalers licensed under this Chapter as authorized by the ABC laws.
 - (5) Furnish or sell marketable malt beverage products, or packages which do not conform to the manufacturer's marketing standards, if State taxes have been or will be paid, to its employees for the use of the employees or their families and guests in this State.
 - (6) Give its products to customers, visitors, and employees for consumption on its premises. Nothing in this subdivision shall be construed as excluding customers and visitors at the brewery as part of a paid or complimentary tour of the brewery.
 - (6a) Receive, in closed containers, and sell at the brewery, malt beverages produced inside or outside North Carolina under contract with a contract brewery. The contract brewery that manufactures the malt beverages shall be responsible for all aspects associated with manufacturing the product, subject to the rules of the Commission and the Department of Revenue. The brewery, not the contract brewery, shall be responsible for registering the contracted product with the Commission, submitting the appropriate reports regarding the malt beverages, and remitting the appropriate taxes if required by those rules. The contract malt beverages may be sold also at affiliated retail outlets of the brewery physically located on or adjacent to the brewery. Any malt beverages received from a contract brewery under this subdivision shall be made available for sale by the brewery to wholesalers for distribution to retailers, without discrimination, in the same manner as if the malt beverages were being imported by the brewery. Contract brewing is authorized between affiliated breweries, but shall not be used as a means to allocate production quantities between affiliated breweries to obtain a malt beverage wholesaler permit pursuant to subdivision (8) of this subsection where either brewery would not otherwise qualify for a permit, and

the Commission shall have no authority to grant an exemption to this requirement pursuant to G.S. 18B-1116(b).

- (7) In an area where the sale of any type of alcoholic beverage is authorized by law, and upon receiving the appropriate permit under G.S. 18B-1001, sell at the brewery, and any additional retail location authorized under subdivision (8) of this subsection, any or all of the following:
- a. The brewery's malt beverages that have been approved by the Commission for sale in North Carolina.
 - b. Malt beverages manufactured by the permittee in some other state that have been approved by the Commission for sale in North Carolina.
 - c. Any other alcoholic beverages approved by the Commission for sale in North Carolina, if sale of the alcoholic beverage is otherwise authorized in that area.

(7a) Repealed by Session Laws 2019-182, s. 21(a), effective October 1, 2019.

(7b) Regardless of the results of any local malt beverage election, sell the malt beverages owned by the brewery at the brewery for on- or off-premise consumption upon obtaining the appropriate permit under G.S. 18B-1001.

(8) Obtain a malt beverage wholesaler permit to sell, deliver, and ship at wholesale up to 50,000 barrels of malt beverages manufactured by the brewery per year to unaffiliated retail permittees. 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 100,000 barrels of malt beverages produced by it per year. The barrelage limitations set forth in this subdivision apply regardless of the number or type of permits that may be issued to a brewery under this Chapter. A brewery not exceeding the sales quantity limitations in this subdivision may also sell the malt beverages manufactured by the brewery, and malt beverages produced under subdivision (6a) of this subsection, at not more than three other locations in the State, where the sale is legal, upon obtaining the appropriate permits under G.S. 18B-1001. A brewery operating any additional retail location pursuant to this subdivision under a different trade name than that used at the brewery shall also offer for sale at that location a reasonable selection of competitive malt beverage products. A sale at any additional retail location under this subdivision shall not be considered a wholesale sale for the purposes of Article 13 of this Chapter. Except as provided in G.S. 18B-1116(b), the Commission shall have no authority to grant an exemption to or otherwise allow a brewery permittee more than the three additional retail locations authorized by this subdivision. Malt beverages manufactured by a supplier permittee that owns five percent (5%) or more of a brewery permittee acting under the authority granted in this subdivision shall be included in determining whether the brewery permittee complies with the barrelage limitations set forth in this subdivision.

(b) Sales or Gifts. – A sale or gift under subdivision (5) or (6) of subsection (a) of this section shall not be considered a retail or wholesale sale under the ABC laws.

(c) Tax Compliance. – By October 1 of each year, the Commission shall confirm that the holder of a brewery permit is in compliance with G.S. 18B-900(a)(8). The provisions of G.S. 18B-900(f) apply to the confirmation required under this subsection, except that the

- (3) Transport into or out of the distillery the maximum amount of liquor allowed under federal law, if the transportation is related to the distilling process.
- (4) Sell spirituous liquor distilled or produced at the distillery in closed containers to visitors who tour the distillery for consumption off the premises. The length, content, and other parameters of the tour shall be at the discretion of the distillery, and the distillery shall not be required to maintain records related to tours. Sales under this subdivision are allowed only in a county where the establishment of a county or municipal ABC store has been approved pursuant to G.S. 18B-602(g) and may occur between the hours of 9:00 A.M. and 9:00 P.M. on Monday through Saturday of each week, from 12:00 noon to 9:00 P.M. on Sundays, and from 9:00 A.M. to 9:00 P.M. on each of the following holidays that do not fall on a Sunday: New Year's Day, Fourth of July, Labor Day, and Thanksgiving Day. Spirituous liquor sold under this subdivision shall (i) be listed as a code item for sale in the State, (ii) be sold at the price set by the Commission for the code item pursuant to G.S. 18B-804(b), and (iii) have affixed to its bottle any labeling requirements set by law. A bottle of spirituous liquor sold under this subdivision may have personalized labeling. The personalized labeling shall comply with any other labeling requirements set by law. The personalized labeling shall not cover any portion of the manufacturer's original label. For purposes of this subdivision, the term "personalized labeling" means the inclusion of any of the following on the label:
 - a. The name of the purchaser of the bottle or the name of any individual, business entity, or club on whose behalf the bottle is purchased.
 - b. "Bottled for," "distilled for," "in honor of," or other similar language.
 - c. Dates, locations, occasions, and other similar information.
- (4a) In an area where the sale of mixed beverages is authorized by law, sell mixed beverages for consumption on the premises. If a distillery elects to sell mixed beverages containing spirituous liquor other than that produced at the distillery, the distillery shall obtain a mixed beverages permit pursuant to G.S. 18B-1001.
- (4b) If the distillery is located on a property used for bona fide farm purposes, as defined in G.S. 160D-102(3), sell mixed beverages containing only spirituous liquor produced at the distillery for consumption on the premises regardless of the results of any local mixed beverage election.
- (4c) In an area where the sale of mixed beverages has not been approved by a local election, sell mixed beverages containing only spirituous liquor produced at the distillery for consumption on the premises upon obtaining a mixed beverages permit under G.S. 18B-1001.
- (5) Conduct consumer tastings, sell mixed beverages, and provide spirituous liquor in closed containers in accordance with G.S. 18B-1114.7.
- (6) Sell malt beverages, unfortified wine, and fortified wine, for consumption on the premises upon obtaining the appropriate permit under G.S. 18B-1001.

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

storage, shipping, and for the purpose of labeling or relabeling the outer packaging, such as a box or carton.

- (2) Package or repackage malt beverages, unfortified wine, fortified wine, and spirituous liquor received from a supplier, and label or relabel the outer packaging.
- (3) Subject to the record-keeping requirements of G.S. 18B-1115, transport into or out of the State in closed containers the maximum amounts of malt beverages, unfortified wine, fortified wine, and spirituous liquor allowed under federal law, if the transportation is related to the packaging, labeling, sale, or storage permitted by this section.
- (4) Deliver and ship malt beverages, unfortified wine, and fortified wine as provided in this section in closed containers to suppliers and wholesalers licensed under this Chapter.
- (5) Deliver and ship spirituous liquor as provided in this section in closed containers at wholesale to exporters and local boards within the State.
- (6) Subject to the laws of other jurisdictions, deliver and ship malt beverages, unfortified wine, fortified wine, and spirituous liquor as provided in this section to out-of-state suppliers or at wholesale or retail to private or public agencies or establishments of other states or nations.

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

(c) **Distribution Agreements.** – Malt beverage and wine distribution agreements applicable between a wholesaler and an original supplier are governed by Articles 12 and 13 of this Chapter. (2022-44, s. 2(b).)

§ 18B-1111. Authorization of salesman permit.

(a) **Authorized Acts.** – The holder of a salesman permit may sell and transport malt beverages for a malt beverage wholesaler or sell and transport unfortified and fortified wine for a wine wholesaler.

(b) **Persons Required to Obtain Permit.** – All route salesmen and salesmen working at a wholesaler's warehouse shall obtain the permit described in this section. All salesmen shall be at least 18 years old.

(c) **Validity Period.** – A salesman permit shall be valid as provided in G.S. 18B-903(a), except that it shall be valid only so long as the salesman is employed by the same wholesaler. (1951, c. 378, ss. 1, 2, 5-8; 1963, c. 426, s. 13; 1971, c. 872, s. 1; 1975, c. 330, s. 2; c. 411, s. 8; 1981, c. 412, s. 2; 2022-69, s. 2.)

§ 18B-1112. Authorization of vendor representative permit.

(a) **Authorized Acts.** – The holder of a vendor representative permit may represent an unfortified winery, fortified winery, limited winery, brewery, bottler, importer, nonresident malt beverage vendor, or nonresident wine vendor, either as an employee or an agent, to solicit orders for that commercial permittee's product. The vendor representative may sell, deliver, and ship

alcoholic beverages in this State only to permittees to whom the commercial permittee he represents may sell, deliver, or ship.

(b) Number of Permits. – A vendor representative shall secure a separate permit for each commercial permittee he represents. A permit may not be issued without the approval of the commercial permittee. (1981, c. 747, s. 63; 1981 (Reg. Sess., 1982), c. 1262, s. 21.)

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

The holder of a nonresident malt beverage vendor permit may sell, deliver, and ship malt beverages in this State only to wholesalers, 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, an importer, or a bottler outside North Carolina who desires to sell, deliver, and ship malt beverages into this State. (1981, c. 747, s. 63; 1993, c. 415, s. 23.)

§ 18B-1113.1. Authorization of optional nonresident spirituous liquor vendor permit.

(a) The following businesses may apply for and obtain a nonresident spirituous liquor vendor permit:

- (1) A business located outside the State that is licensed or permitted to manufacture spirituous liquor in the jurisdiction where the business is located and whose products are lawfully sold in this State.
- (2) A brokerage.
- (3) A liquor importer/bottler.

(b) The holder of a nonresident spirituous liquor vendor permit may deliver and ship spirituous liquor that has been approved for sale in this State to the permit holder's (i) employees in the State and (ii) brokerage if the brokerage also holds a nonresident spirituous liquor vendor permit for the purposes of conducting special events pursuant to G.S. 18B-1114.7. The permit holder may not ship or deliver more spirituous liquor to its employees or brokerage than is necessary for any consumer tasting event scheduled within one calendar month of the shipment or delivery. Nothing in this section shall be interpreted to require a business to possess or obtain a nonresident spirituous liquor vendor permit to do business in the State or to obtain a spirituous liquor special event permit pursuant to G.S. 18B-1114.7.

(c) For purposes of this section, "distillery" means the holder of a distillery permit issued under G.S. 18B-1105 or a business located outside the State that is licensed or permitted to manufacture spirituous liquor in the jurisdiction where the business is located and whose products are lawfully sold in this State. (2021-150, s. 6.2(a); 2022-51, s. 3.)

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

The holder of a nonresident wine vendor permit may sell, deliver, and ship unfortified and fortified wine in this State only to wholesalers, 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, and ship unfortified and fortified wine into this State. The holder of a nonresident wine vendor permit may sell, deliver, and ship into this State only wine for which it is a primary American source of supply. To be considered a primary American source of

supply, a nonresident wine vendor must establish that it has lawfully purchased the wine from the winery, or from an agent of the winery, and by written contract or otherwise has been authorized by the winery to distribute the wine to wholesalers in the United States. (1981, c. 747, s. 63; 1993, c. 415, s. 24; 2006-227, s. 13.)

§ 18B-1114.1. Authorization of winery special event permit.

(a) Authorization. – The holder of an unfortified winery permit, a limited winery permit, a viticulture/enology course authorization, a wine producer permit, or a vendor representative permit may obtain a winery special event permit allowing the winery or wine producer to give free tastings of its wine; to sell branded merchandise such as glassware, cups, signs, t-shirts, hats, and other apparel; and to sell its wine by the glass or in closed containers, at shopping malls and at trade shows, conventions, wine festivals, street festivals, holiday festivals, agricultural festivals, farmers markets, balloon races, local fund-raisers, and other similar events approved by the Commission.

(b) Limitation. – A winery special event permit is valid only in a jurisdiction that has approved the establishment of ABC stores or has approved the sale of unfortified wine. (1989, c. 737, s. 2; 1991, c. 267, s. 1; 1991 (Reg. Sess., 1992), c. 1007, s. 24; 1993, c. 553, s. 71; 2001-262, s. 3; 2001-487, s. 49(e); 2005-350, s. 3(b); 2017-87, s. 18; 2017-108, s. 19; 2017-212, s. 8.1; 2018-100, s. 6(a); 2021-150, s. 6.2(e).)

§ 18B-1114.2. Effect of cider and vinegar manufacturer permit.

The holder of a cider and vinegar manufacturer permit may purchase and transport unlimited quantities of out-of-date unfortified or fortified wines from wine wholesalers for the sole purpose of manufacturing a food product item. Any manufacturer of cider or vinegar may apply for this permit. (1997-134, s. 2.)

§ 18B-1114.3. Authorization of wine producer permit.

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

- (1) Ship crops grown on land owned by it in North Carolina to a winery, inside or outside the State, for the manufacture and bottling of unfortified wine from those crops and may receive that wine back in closed containers.
- (2) Sell, deliver, and ship the unfortified wine manufactured from its crops in closed containers to wholesalers and retailers licensed under this Chapter as authorized by the ABC laws and also sell to exporters and nonresident wholesalers when the purchase is not for resale in this State.
- (3) Regardless of the results of any local wine election, sell the wine manufactured from its crops for on-or off-premise consumption upon obtaining the appropriate permit under G.S. 18B-1001.

(b) Limitation on Sales. – The holder of a wine producer permit may not sell, in total, annually, more than 20,000 gallons of wine manufactured off its premises from crops it has grown. (2001-262, s. 4; 2001-487, s. 49(c).)

§ 18B-1114.4. Viticulture/Enology course authorization.

(a) Authorization. – The holder of a viticulture/enology course authorization may:

- (1) Manufacture wine from grapes grown on the school's campus or the school's contracted or leased property for the purpose of providing instruction and education on the making of unfortified wines.

- (2) Possess wines manufactured during the viticulture/enology program for the purpose of conducting wine-tasting seminars and classes for students who are 21 years of age or older.
- (3) Sell wines produced during the course to wholesalers or to retailers upon obtaining a wine wholesaler permit under G.S. 18B-1107, except that the permittee may not receive shipments of wines from other producers.
- (4) Sell wines produced during the course, upon obtaining a permit under G.S. 18B-1001(4).

(b) **Limitation.** – Authorization for a viticulture/enology course shall be granted by the Commission only for a community college or college that offers a viticulture/enology program as a part of its curriculum offerings for students of the school. Wines may be manufactured only from grapes grown in a viticulture/enology course vineyard that is located on the school's campus or the school's contracted or leased property.

(c) The holder of a viticulture/enology course authorization who obtains a wine wholesaler permit under G.S. 18B-1107 subject to the limitation in subsection (a) of this section may obtain a winery special event permit under G.S. 18B-1114.1, and where the permit is valid may participate in approved events and sell at retail at those events any wine produced incident to the operation of the viticulture/enology program. The holder of a viticulture/enology course authorization may participate in not more than six winery special events within a 12-month period and may sell up to 25 cases of wine at each event. Net proceeds from the program's retail sale of wine pursuant to this subsection shall be retained by the school and used for support of the viticulture/enology program.

(d) The holder of a viticulture/enology course authorization shall not be considered a winery for the purposes of this Chapter or Chapter 105 of the General Statutes. (2002-102, s. 1; 2005-350, s. 3(a); 2009-539, s. 2.)

§ 18B-1114.5. Authorization of malt beverage special event permit.

(a) **Authorization.** – The holder of a brewery permit, a malt beverages importer permit, a brewing, distillation, and fermentation course authorization, a nonresident malt beverage vendor permit, or a vendor representative permit may obtain a malt beverage special event permit allowing the permittee to give free tastings of its malt beverages; to sell branded merchandise such as glassware, cups, signs, t-shirts, hats, and other apparel; and to sell its malt beverages by the glass or in closed containers at shopping malls and at trade shows, conventions, malt beverage festivals, street festivals, holiday festivals, agricultural festivals, farmers markets, balloon races, local fund-raisers, and other similar events approved by the Commission. Except for a brewery operating under the provisions of G.S. 18B-1104(a)(8), all malt beverages sampled or sold pursuant to this section must be purchased from a licensed malt beverages wholesaler.

(b) **Limitation.** – A malt beverage special event permit is valid only in a jurisdiction that has approved the establishment of ABC stores or has approved the sale of malt beverages. A malt beverage special event shall not be used as subterfuge for malt beverages suppliers to ship directly to retail permittees unless otherwise authorized by law. (2009-377, s. 4; 2014-115, s. 28.2(b); 2014-120, s. 17(b); 2017-87, s. 16(e); 2018-100, s. 6(b); 2019-182, s. 9; 2021-150, s. 6.2(f).)

§ 18B-1114.6. Brewing, Distillation, and Fermentation course authorization.

(a) **Authorization.** – The holder of a brewing, distillation, and fermentation course authorization may:

§ 18B-1300. Purpose.

Pursuant to the authority of the State under the Twenty-First Amendment to the United States Constitution, the General Assembly finds that regulation of the business relations between malt beverage manufacturers and importers and the wholesalers of such products is necessary to:

- (1) Maintain stability and healthy competition in the malt beverage industry in this State.
- (2) Promote and maintain a sound, stable and viable three-tier system of distribution of malt beverages to the public.
- (3) Promote the compelling interest of the public in fair business relations between malt beverage suppliers and wholesalers, and in the continuation of beer franchise agreements on a fair basis.
- (4) Maintain a uniform system of control over the sale, purchase and distribution of malt beverages in the State.
- (5) Prevent unfair or unlawful trade practices by enabling wholesalers to refuse to participate in such practices without fear of arbitrary or unlawful retribution from suppliers.
- (6) Provide wholesalers with rights and remedies in addition to those existing by contract or common law.
- (7) Govern all agreements between suppliers and wholesalers, including any renewals or amendments.
- (8) Protect wholesalers against unfair treatment by suppliers.
- (9) Preserve investments made by wholesalers in franchise agreements through minimization of arbitrary termination.
- (10) Promote consumer choice by ensuring an independent wholesale distribution tier that enables wholesalers to distribute competing products of other suppliers.
- (11) Prevent vertical integration of the malt beverage market. (1989, c. 142, s. 1; 2019-18, s. 4.)

§ 18B-1301. Definitions.

- (1) "Supplier" means a brewer, bottler, or importer of malt beverages, including anyone who holds a brewery, malt beverages importer or nonresident malt beverages vendor permit.
- (2) "Wholesaler" means the holder of a malt beverages wholesaler permit. (1989, c. 142, s. 1; 1995, c. 466, s. 14.)

§ 18B-1302. Franchise agreement.

- (a) Nature of Agreement. – A franchise agreement is a commercial relationship between a wholesaler and supplier of a definite or indefinite duration, whether written or oral, including:
- (1) A relationship whereby a wholesaler is granted the right to offer and sell the brands of malt beverages offered by the supplier; or
 - (2) An agreement whereby a supplier grants to a wholesaler a license to use a trade name, trademark, service mark or related characteristic and in which there is a community of interest in the marking of the products of the supplier by lease or otherwise.
- (b) Existence of Agreement. – A franchise agreement as described in subsection (a) exists when:

- (3) Withdraw money from or otherwise access a wholesaler's bank accounts without the wholesaler's consent.
- (4) Present a franchise agreement, amendment, or renewal to a wholesaler that attempts to waive compliance with any provision of this Article or that requires a wholesaler to waive compliance with any provision of this Article. A wholesaler entering into a franchise agreement containing provisions in conflict with this Article shall not be deemed to waive rights protected by, or in compliance with, any provision of this Article.
- (5) Induce or coerce, or attempt to induce or coerce, any wholesaler to assent to any franchise agreement, amendment, or renewal that does not comply with this Article and the laws of this State.
- (6) Coerce or attempt to coerce a wholesaler, or its designated or anticipated successor, to sign a franchise agreement, amendment, or renewal to a franchise agreement by threatening to refuse to approve or delay issuing an approval for the sale, transfer, or merger of a wholesaler's business.
- (7) Terminate, cancel, or nonrenew or attempt to terminate, cancel, or nonrenew a franchise agreement on the basis that the wholesaler fails to agree or consent to an amendment to the franchise agreement.
- (8) Prohibit a wholesaler from distributing the product of any other supplier, except that a supplier may prohibit a wholesaler from distributing the product of another supplier if reasonable grounds exist for prohibiting the wholesaler's acquisition of the product and the acquisition would result in the wholesaler acquiring eighty percent (80%) or more by volume of all malt beverage products sold in the territory being acquired at the time of the acquisition.
- (9) Refuse to approve or require a wholesaler to terminate a brand manager or successor manager without good cause. A supplier has good cause only if the person designated for approval by the wholesaler fails to meet reasonable standards and qualifications.
- (10) Discriminate in price, allowance, rebate, refund, payment term, commission, discount, or service between wholesalers licensed in North Carolina. As used in this subsection, "discriminate" means the granting of a more favorable price, allowance, rebate, refund, payment term, commission, discount, or service to one North Carolina wholesaler than to another North Carolina wholesaler based on the quantity of malt beverages purchased or for any other reason, but "discriminate" shall exclude the granting of more favorable freight and transportation costs, price promotions on malt beverage products for special events in a particular market not to exceed 14 consecutive days, point-of-sale advertising materials, sponsorships, consumer specialty items, consumer sweepstakes, and novelties. A supplier may, however, offer a lower price or discount in order to match that of a competing supplier on a similar category of malt beverage products in the entire State or in a particular market. (1989, c. 142, s. 1; 2012-4, s. 1.)

§ 18B-1305. Cause for termination of franchise agreement.

(a) **Meaning of Good Cause.** – Good cause for altering or terminating a franchise agreement, or failing to renew or causing a wholesaler to resign from such an agreement, exists

when the wholesaler fails to comply with provisions of the agreement which are reasonable, material, not unconscionable, and which are not discriminatory when compared with the provisions imposed, by their terms or in the manner of enforcement, on other similarly situated wholesaler by the supplier. The meaning of good cause set out in this section may not be modified or superseded by provisions in a written franchise agreement prepared by a supplier if those provisions purport to define good cause in a manner different than specified in this section. In any dispute over alteration, termination, failure to renew or causing a wholesaler to resign from a franchise agreement, the burden is on the supplier to establish that good cause exists for the action.

(a) Termination by a Small Brewery. – A brewery's authorization to distribute its own malt beverage products pursuant to G.S. 18B-1104(a)(8) shall revert back to the brewery, in the absence of good cause, following the fifth business day after confirmed receipt of written notice of such reversion by the brewery to the wholesaler. The brewery shall pay the wholesaler fair market value for the distribution rights for the affected brand. For purposes of this subsection, "fair market value" means the highest dollar amount at which a seller would be willing to sell and a buyer willing to buy at the time the self-distribution rights revert back to the brewery, after each party has been provided all information relevant to the transaction. This subsection only applies to a brewery that sells to consumers at the brewery, to wholesalers, to retailers, and to exporters fewer than 25,000 barrels of malt beverages produced by it per year. Malt beverages manufactured by a supplier permittee that owns five percent (5%) or more of a brewery permittee shall be included in determining whether the brewery permittee complies with the barrelage limitations set forth in this subdivision. For purposes of this subsection, the term "barrel" is as defined in G.S. 18B-1104.

(b) Notice of Cause. – At least 90 days before altering, terminating or failing to renew a franchise agreement for good cause, the supplier must give the wholesaler written notice of the intended action and the specific reasons for it. If the cause for the alteration, termination or failure to renew is subject to correction by the wholesaler, and the wholesaler makes such correction within 45 days of receipt of the notice, the notice shall be void.

(c) Termination for Cause without Advance Notice. – A supplier may terminate or fail to renew a franchise agreement for any of the following reasons, and the termination shall be complete upon receipt by the wholesaler of a written notice of the termination and the reason:

- (1) Insolvency of the wholesaler, the dissolution or liquidation of the wholesaler, or the filing of any petition by or against the wholesaler under any bankruptcy or receivership law which materially affects the wholesaler's ability to remain in business.
- (2) Revocation of the wholesaler's State or federal permit or license for more than 30 days.
- (3) Conviction of the wholesaler, or of a partner or individual who owns ten percent (10%) or more of the partnership or stock of the wholesaler, of a felony which might reasonably be expected to adversely affect the goodwill or interest of the wholesaler or supplier. The provisions of this subdivision shall not apply, however, if the wholesaler or its existing partners or stockholders shall have the right to purchase the interest of the offending partner or stockholder, and such purchase is completed within 30 days of the conviction.
- (4) Fraudulent conduct by the wholesaler in its dealings with the supplier or its products.
- (5) Failure of the wholesaler to pay for the supplier's products according to the established terms of the supplier.

supplier's products as well as by the value such assets have to the wholesaler unrelated to the supplier's products. "Fair market value" means the highest dollar amount at which a seller would be willing to sell and a buyer willing to buy at a time prior to the alteration, termination or failure to renew, when each possesses all information relevant to the transaction. (1989, c. 142, s. 1; 2012-4, s. 1.)

§ 18B-1307. Transfer or merger of wholesaler's business.

(a) **Right of Transfer to Designated Family Member.** – An individual's interest in a wholesaler business, including the rights under the franchise agreement with the supplier, may be transferred or assigned to a designated family member. The transfer or assignment shall not be effective until written notice is given to the supplier, but the supplier's consent is not required for the transfer or assignment. "Designated family member" means the wholesaler's spouse, child, grandchild, parent, brother, sister, niece, or nephew. With respect to an incapacitated individual having an ownership interest in a wholesaler, the term "designated family member" also means the person appointed by the court as the conservator of such individual's property. The term also includes the appointed and qualified personal representative and the testamentary trustee of a deceased wholesaler.

(b) **Approval of Certain Transfers and Mergers.** – Upon notice to and approval by the supplier, an individual owning an interest in a wholesaler may sell, assign or transfer that interest, including the wholesaler's rights under its franchise agreement with the supplier, to any qualified person. Likewise, a wholesaler may merge with another wholesaler in the State, transferring to the new wholesaler entity the merging wholesaler's existing franchise rights. Within 30 days of receipt of notice of the intended sale, assignment, transfer, or merger, the supplier shall request any additional relevant, material information reasonably necessary for deciding whether to approve the transaction. The supplier shall have 30 days from receipt of that information to object to the sale, assignment, transfer, or merger. The supplier may object only if the proposed transferee, or the wholesalership resulting from the merger, fails to meet qualifications and standards that are nondiscriminatory, material, reasonable and consistently applied to North Carolina wholesalers by the supplier. The burden shall be upon the supplier to prove that the proposed transferee or merged wholesaler is not qualified. In determining whether the proposed transferee or merged wholesaler is a qualified person, the supplier shall consider, but is not limited to, the following factors:

- (1) Whether the proposed transferee has the financial capacity to purchase the wholesaler or the specified interest upon terms that will not jeopardize the future operation of the business, or whether the new entity resulting from a merger will have such financial capacity to operate successfully, and whether under such ownership the wholesaler will be able to provide financial support necessary to the successful operation of the business, including market spending, capital expenditures, and any equity capitalization or refinancing requirements.
- (2) Whether the proposed transferee, or the new entity resulting from a merger, has the proven business experience to hire and maintain a management team to successfully operate the business.
- (3) If the proposed transferee does not have experience in the beer business, whether the transferee has other experience to enable it to operate a

distributorship successfully and whether the transferee is willing to participate in training provided by the supplier.

- (4) Whether the proposed transferee, or a party to the merger, already is a wholesaler for the supplier in a different territory and, if so, whether sufficient time and attention can be devoted to an additional market area.

In determining whether a proposed transferee, or the entity resulting from a merger, is a qualified person, a supplier must consider the business on its own merits and may not designate a specifically identified person as the only purchaser who will be approved. Nothing in this subsection is intended to or should be construed to authorize a supplier to match and reassign to a designee the right to purchase the ownership interest, subject to the designee purchasing the ownership interest. Provided, however, a supplier may match and reassign to a designee the right to purchase the ownership interest, subject to the designee purchasing the ownership interest at the price and on the conditions applicable to the purchase proposed by the transferee, if the total annual gross sales of the supplier's malt beverages sold by the selling wholesaler total no more than five percent (5%) of the selling wholesaler's total annual gross sales of wine and malt beverages in dollars.

(c) Damages. – A supplier who disapproves or prevents a proposed assignment or change of ownership or merger in violation of this section shall be liable to the wholesaler who proposed to make the sale, assignment, transfer, or merger for the difference between the disapproved sale price and a subsequent actual price of a sale of the same assets completed within a reasonable period. If, however, the proposed transfer or sale was to a business associate at a bargain price, the amount of compensation shall be at least the fair market value of the interest proposed to be sold or transferred, minus the proceeds of an actual sale of the interest completed within a reasonable time. (1989, c. 142, s. 1; 2012-4, s. 1; 2018-100, s. 7(a).)

§ 18B-1308. Article part of all franchise agreements.

The provisions of this Article shall be part of all franchise agreements as defined in G.S. 18B-1302 and may not be altered by the parties. A wholesaler's rights under this Article may not be waived or superseded by the provisions of a written franchise agreement prepared by a supplier that are in any way inconsistent with or contrary to any part of this Article. The rights of a wholesaler under this Article shall remain in effect regardless of a provision in a written franchise agreement prepared by a supplier that purports to require arbitration of a franchise dispute or that purports to require legal remedies to be sought in a different jurisdiction. (1989, c. 142, s. 1; 2012-4, s. 1.)

§ 18B-1309. Mediation at direction of Alcoholic Beverage Control Commission.

If a dispute arises between a wholesaler and supplier under this Article, and such dispute appears likely to lead to litigation, the Commission, upon request of any party or on its own initiative, may require the parties to participate in mediation in an effort to resolve the dispute. This authority shall be in addition to the Commission's authority to issue declaratory rulings pursuant to G.S. 150B-4. The Commission may designate the mediator, in which case the Commission shall pay the mediator's fee, or the Commission may direct the parties to agree upon and share the costs of a mediator. If the parties then cannot agree upon a mediator, the Commission shall designate the mediator, and the fees shall be divided evenly by the parties. The Commission shall direct that the mediation be completed within a specified period of time. Except for injunctive relief, no lawsuit

or other legal action concerning the dispute may be filed until the mediation is completed and is unsuccessful, unless necessary to avoid expiration of a statute of limitation. (2012-4, s. 1.)