

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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HOUSE BILL 95  
Committee Substitute Favorable 4/1/15

Short Title: Tribal Alcoholic Beverage Control.

(Public)

Sponsors:

Referred to:

February 23, 2015

1 A BILL TO BE ENTITLED  
2 AN ACT TO AUTHORIZE THE EASTERN BAND OF CHEROKEE INDIANS TRIBAL  
3 ALCOHOLIC BEVERAGE CONTROL COMMISSION TO ISSUE WINE SHIPPER  
4 PERMITS AND COMMERCIAL ABC PERMITS AND TO CLARIFY THAT THE  
5 EASTERN BAND OF CHEROKEE INDIANS TRIBAL ALCOHOLIC BEVERAGE  
6 CONTROL COMMISSION MAINTAINS EXCLUSIVE AUTHORITY TO ISSUE  
7 CERTAIN PERMITS.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 18B-112 reads as rewritten:

10 "§ 18B-112. Tribal alcoholic beverage control.

11 ...

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

15 (1) The following provisions of Article 1. – General Provisions.

- 16 a. G.S. 18B-101(4), (7), (7c), (9), (10), (11), (12), (12a), (13),  
17 (14)(14a), (14b), and (15).  
18 b. G.S. 18B-102.1.  
19 c. G.S. 18B-104.  
20 d. G.S. 18B-105, except that this section shall not apply to any  
21 establishment where gaming is permitted under a State compact and  
22 pursuant to federal law.  
23 e. G.S. 18B-109(b).  
24 f. G.S. 18B-110.  
25 g. G.S. 18B-111.  
26 h. G.S. 18B-112.

27 (2) Article 1A. – Compensation for Injury Caused by Sales to Underage  
28 Persons, to the extent it applies to retail establishments or the tribal alcoholic  
29 beverage control commission if it operates ABC stores, or any other  
30 permitted establishment, at retail pursuant to the provisions of this section.

31 (3) Article 3. – Sale, Possession, and Consumption, except for G.S. 18B-308  
32 and G.S. 18B-309.

33 (4) Article 4. – Transportation.

34 (5) Article 5. – Enforcement, except for G.S. 18B-500 and G.S. 18B-501.

35 (6) Article 6. – Elections, compliance with only G.S. 18B-603(f) and (g) are  
36 required.



1           (7) Article 9. – Issuance of Permits, except for G.S. 18B-902(g) and (h) and  
2           G.S. 18B-906.

3           ~~(7)(8)~~ Article 10. – Retail Activity, except for G.S. 18B-1001.1, 18B-1001.2, and  
4           18B-1001.3 Activity.

5           (9) Article 11. – Commercial Activity, as clarified by the following:

6           a.     The tribal alcoholic beverage control commission may issue  
7           commercial activity permits to any qualifying applicant that  
8           establishes a commercial business wholly on Indian Country lands  
9           and shall have sole enforcement authority over any permittee  
10           receiving a permit from the tribal alcoholic beverage control  
11           commission only to the extent the regulated conduct occurs on Indian  
12           Country lands.

13           b.     The Eastern Band of Cherokee Indians shall recognize any permit  
14           issued by the North Carolina Alcoholic Beverage Control  
15           Commission allowing commercial activity in the same manner as if  
16           such permit was issued by the tribal alcoholic beverage control  
17           commission. The North Carolina Alcoholic Beverage Control  
18           Commission shall recognize any commercial activity permit issued  
19           by the tribal alcoholic beverage commission in the same manner as if  
20           the permit were issued by the North Carolina Alcoholic Beverage  
21           Control Commission.

22           c.     The North Carolina Alcoholic Beverage Control Commission shall  
23           retain exclusive enforcement authority over all permits it issues to  
24           commercial activity permittees for violations of its rules or this  
25           Chapter.

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

29           ...

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

44           ...."

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

46           "(14a) "Tourism ABC establishment" means a restaurant or hotel that meets both of  
47           the following requirements:

48           a.     Is located on property, a property line of which is located within 1.5  
49           miles of the end of an entrance or exit ramp of a junction on a  
50           national scenic parkway designed to attract local, State, national, and  
51           international tourists between the State line and Milepost ~~460~~ 469,

1 provided that the Eastern Band of Cherokee Indians tribal alcoholic  
2 beverage control commission established under G.S. 18B-112 shall  
3 have exclusive authority to issue permits pursuant to this subdivision  
4 between Milepost 460 and the southern terminus of the national  
5 scenic byway at Milepost 469 for any restaurant or hotel that is  
6 located wholly on Indian Country lands.

- 7 b. Is located in a county in which the on-premises or off-premises sale  
8 of malt beverages or unfortified wine is authorized in at least one  
9 city."

10 **SECTION 3.** This act is effective when it becomes law.