

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 714*
Judiciary Committee Substitute Adopted 6/14/18

Short Title: ABC Regulation and Reform.

(Public)

Sponsors:

Referred to:

May 17, 2018

1 A BILL TO BE ENTITLED
2 AN ACT TO STRENGTHEN THE PERMITTING ENFORCEMENT AUTHORITY OF THE
3 ABC COMMISSION AND TO MAKE OTHER CHANGES TO THE ABC LAWS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 18B-104 reads as rewritten:

6 "**§ 18B-104. Administrative penalties.**

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

9 (1) Suspend the permittee's permit for a specified period of time not longer than
10 three ~~years;~~ years.

11 (2) Revoke the permittee's ~~permit;~~ permit.

12 (3) Fine the permittee up to five hundred dollars (\$500.00) for the first violation,
13 up to seven hundred fifty dollars (\$750.00) for the second ~~violation;~~ violation
14 within three years, and up to one thousand dollars (\$1,000) for the third
15 ~~violation;~~ or violation within three years for all violations not listed in
16 subdivision (3a) of this subsection.

17 (3a) Fine the permittee up to seven hundred fifty dollars (\$750.00) for the first
18 violation, up to one thousand dollars (\$1,000) for a second violation within
19 three years, and up to one thousand two hundred fifty dollars (\$1,250) for a
20 third violation within three years if the violations involve acts of violence,
21 controlled substances, or prostitution occurring on the licensed premises.
22 Additionally, the Commission may impose conditions on the operating hours
23 of the business for violations listed in this subdivision.

24 (4) Suspend the permittee's permit under subdivision (1) and impose a fine under
25 subdivision ~~(3);~~ (3) or (3a).

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

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

36 (1) Acts of violence occurring on the licensed premises.



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

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

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

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

13 (e) Effect on Other Permits. – Unless some other disposition is ordered by the
14 Commission, revocation or suspension of a permit under subsection (a) includes automatic
15 revocation or suspension, respectively, of any other ABC permit held by the same permittee for
16 the same establishment."

17 **SECTION 2.** G.S. 18B-900 reads as rewritten:

18 **"§ 18B-900. Qualifications for permit.**

19 (a) Requirements. – To be eligible to receive and to hold an ABC permit, a person must
20 satisfy all of the following requirements:

21 (1) Be at least 21 years old, ~~unless the person is a manager of a business in which~~
22 ~~ease the person shall be at least 19 years old.~~

23 (2) Be a resident of North Carolina unless:

24 a. He is an officer, director or stockholder of a corporate applicant or
25 permittee and is not a manager or otherwise responsible for the
26 day-to-day operation of the business; or

27 b. He has executed a power of attorney designating a qualified resident
28 of this State to serve as attorney in fact for the purposes of receiving
29 service of process and managing the business for which permits are
30 sought; or

31 c. He is applying for a nonresident malt beverage vendor permit, a
32 nonresident wine vendor permit, or a vendor representative permit.

33 (3) Not have been convicted of a felony within three years, and, if convicted of a
34 felony before then, has had his citizenship restored.

35 (4) Not have been convicted of an alcoholic beverage offense within two years.

36 (5) Not have been convicted of a misdemeanor controlled substance offense
37 within two years.

38 (6) Not have had an alcoholic beverage permit revoked within three years, except
39 where the revocation was based solely on a permittee's failure to pay the
40 annual registration and inspection fee required in G.S. 18B-903(b1).

41 (7) Not have, whether as an individual or as an officer, director, shareholder or
42 manager of a corporate permittee, an unsatisfied outstanding final judgment
43 that was entered against him in an action under Article 1A of this Chapter.

44 (8) Be current in filing all applicable tax returns to the State and in payment of all
45 taxes, interest, and penalties that are collectible under G.S. 105-241.22. This
46 subdivision does not apply to the following ABC permits:

47 a. Special occasion permit under G.S. 18B-1001(8).

48 b. Limited special occasion permit under G.S. 18B-1001(9).

49 c. Special one-time permit under G.S. 18B-1002.

50 d. Salesman permit under G.S. 18B-1111.

1 To avoid undue hardship, however, the Commission may decline to take action under
2 G.S. 18B-104 against a permittee who is in violation of subdivisions (3), (4), or (5).

3 (b) Definition of Conviction. – A person has been "convicted" for the purposes of
4 subsection (a) when he has been found guilty, or has entered a plea of guilty or nolo contendere,
5 and judgment has been entered against him. A felony conviction in another jurisdiction shall
6 disqualify a person from being eligible to receive or hold an ABC permit if his conduct would
7 also constitute a felony in North Carolina. A conviction of an alcoholic beverage offense or
8 misdemeanor drug offense in another jurisdiction shall disqualify a person from being eligible to
9 receive or hold an ABC permit if his conduct would constitute an offense in North Carolina,
10 unless the Commission determines that under North Carolina procedure judgment would not
11 have been entered under the same circumstances. Revocation of a permit in another jurisdiction
12 shall disqualify a person if his conduct would be grounds for revocation in North Carolina.

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

- 16 (1) The owner of a sole ~~proprietorship~~; proprietorship.
17 (2) Each member of a firm, association or general ~~partnership~~; partnership.
18 (2a) Each general partner in a limited ~~partnership~~; partnership.
19 (2b) Each manager and any member with a twenty-five percent (25%) or greater
20 interest in a limited liability ~~company~~; company.
21 (3) Each officer, director and owner of twenty-five percent (25%) or more of the
22 stock of a corporation except that the requirement of subdivision (a)(1) does
23 not apply to such an officer, director, or stockholder unless he or she is a
24 manager or is otherwise responsible for the day-to-day operation of the
25 ~~business~~; business.
26 (4) The manager of an establishment operated by a ~~corporation other than an~~
27 ~~establishment with only off-premises malt beverage, off-premises unfortified~~
28 ~~wine, or off-premises fortified wine permits~~; corporation.
29 (5) Any manager who has been empowered as attorney-in-fact for a nonresident
30 individual or partnership.
31 (6) Any manager or person otherwise responsible for the day-to-day operation of
32 the business, if none of the persons listed in subdivisions (1) through (5) of
33 this subsection is a manager or person otherwise responsible for the
34 day-to-day operation of the business.

35"

36 **SECTION 3.** G.S. 18B-901 reads as rewritten:

37 **"§ 18B-901. Issuance of permits.**

38 ...

39 (c) Factors in Issuing Permit. – Before issuing a permit, the Commission shall be satisfied
40 that the applicant is a suitable person to hold an ABC permit and that the location is a suitable
41 place to hold the permit for which the applicant has applied. To be a suitable place, the local
42 governing body shall return a Zoning and Compliance Form to the Commission on a form
43 provided by the Commission to show the establishment is in compliance with all applicable
44 building and fire codes and, if applicable, has been notified that it is located in an Urban
45 Redevelopment Area as defined by Article 22 of Chapter 160A of the General Statutes and as
46 required by G.S. 18B-904(e)(2). Other factors the Commission shall consider in determining
47 whether the applicant and the business location are suitable are all of the following:

- 48 (1) The reputation, character, and criminal record of the applicant.
49 (2) ~~The number of places already holding ABC permits within the neighborhood.~~
50 (3) ~~Parking facilities and traffic conditions in the neighborhood.~~
51 (4) ~~Kinds of businesses already in the neighborhood.~~

- 1 (5) ~~Whether the establishment is located within 50 feet of a church, public school,~~
2 ~~or any nonpublic school as defined by Part 1 or Part 2 of Article 39 of Chapter~~
3 ~~115C of the General Statutes.~~
- 4 (6) Zoning laws, laws, the number of places already holding ABC permits within
5 the neighborhood, parking facilities and traffic conditions in the
6 neighborhood, types of businesses already in the neighborhood, and whether
7 the establishment is located within 50 feet of a church, public school, or any
8 nonpublic school as defined in Part 1 or Part 2 of Article 39 of Chapter 115C
9 of the General Statutes.
- 10 (7) The recommendations of the local governing body.
- 11 (8) Any other evidence that would tend to show whether the applicant would
12 comply with the ABC laws.
- 13 (9) Whether the operation of the applicant's business at that location would be
14 detrimental to the neighborhood, including evidence admissible under
15 G.S. 150B-29(a) of any of the following:
- 16 a. Past revocations, suspensions, and violations of ABC laws by prior
17 permittees related to or associated with the applicant, or a business
18 with which the applicant is associated, within the immediate preceding
19 12-month period at this location.
- 20 b. Evidence of illegal drug activity on or about the licensed premises.
- 21 c. Evidence of fighting, disorderly conduct, and other dangerous
22 activities on or about the licensed premises.

23 "

24 **SECTION 4.** G.S. 18B-904 reads as rewritten:

25 **"§ 18B-904. Miscellaneous provisions concerning permits.**

- 26 (a) Who Receives Permit. – An ABC permit shall authorize the permitted activity only
27 on the premises of the establishment named in the permit. An ABC permit shall be issued to the
28 owner of the business conducted on the premises, or to the management company employed to
29 independently manage and operate the business. The ABC Commission may determine if a
30 management agreement delegates sufficient managerial control and independence to a manager
31 or management company to require an ABC permit to be issued to the manager.
- 32 (b) Posting Permit. – Each ABC permit that is held by an establishment shall be posted
33 in a prominent place on the premises.
- 34 (c) Business Not Operating. – An ABC permit shall automatically expire and shall be
35 surrendered to the Commission if the person to whom it is issued does not commence the activity
36 authorized by the permit within six months of the date the permit is effective. Before the
37 expiration of the six-month period, the Commission may waive this provision in individual cases
38 for good cause.
- 39 (d) Notice of Issuance. – Upon issuing a permit the Commission shall send notice of the
40 issuance, with the name and address of the permittee and the establishment, to:
- 41 (1) The Department of Revenue;
- 42 (2) The local board, if one exists, for the city or county in which the establishment
43 is located;
- 44 (3) The governing body, sheriff, and tax collector of the county in which the
45 establishment is located;
- 46 (4) If the establishment is located inside a city, the governing body, chief of
47 police, and tax collector for the city; and
- 48 (5) The ALE Branch.
- 49 (e) Business or Location No Longer Suitable. –
- 50 (1) ~~The If the Commission may suspend or revoke a permit issued by it if, after~~
51 ~~compliance with the provisions of Chapter 150B of the General Statutes, it~~

1 finds that the location occupied by the permittee is no longer a suitable place
 2 to hold ABC permits or that the operation of the business with an ABC permit
 3 at that location is detrimental to the ~~neighborhood~~neighborhood, the
 4 Commission may commence a contested case under Chapter 150B of the
 5 General Statutes for the suspension or revocation of a permit issued by it.

6 (2) The Commission shall suspend or revoke a permit issued by it if a permittee
 7 is in violation of G.S. 18B-309. Notwithstanding ~~subdivision (e)(1) of this~~
 8 ~~section, G.S. 18B-906,~~ the Commission shall, by order and without prior
 9 hearing, summarily suspend or revoke a permit issued by it if a permittee is in
 10 violation of G.S. 18B-309(c) when, prior to the period of time for which the
 11 audit is to be conducted, the city council has filed information designating the
 12 location of the Urban Redevelopment Area as required under G.S. 18B-309(a)
 13 and has provided actual notice to permittees located in the Urban
 14 Redevelopment Area that they are located in such an area and must abide by
 15 G.S. 18B-309(c). Upon entry of a summary order under this subdivision, the
 16 Commission shall promptly notify all interested parties that the order has been
 17 entered and of the reasons therefore. The order will remain in effect until it is
 18 modified or vacated by the Commission. The permittee may, within 30 days
 19 after receipt of notice of the order, ~~make written request to the Commission~~
 20 ~~for a hearing on the matter. If a hearing is requested, after compliance with~~
 21 ~~the provisions of~~commence a contested case under Chapter 150B of the
 22 General Statutes, the Commission shall issue an order to affirm, reverse, or
 23 modify its previous action.Statutes for the reversal or modification of the
 24 Commission's order.

25 (3) ~~Notwithstanding G.S. 18B-906, If the Commission shall revoke a permit~~
 26 ~~issued by it if, after complying with the provisions of Chapter 150B of the~~
 27 ~~General Statutes and without a finding of mitigating evidence or~~
 28 ~~circumstances, it finds evidence that the permittee or the permittee's employee~~
 29 ~~has been found responsible by a court of competent jurisdiction or the~~
 30 ~~Commission for two or more violations on separate dates of knowingly~~
 31 ~~allowing a violation of the gambling, disorderly conduct, prostitution,~~
 32 ~~controlled substance, or felony criminal counterfeit trademark laws as those~~
 33 ~~offenses are prohibited pursuant to G.S. 18B-1005(a)(2), (a)(3), or (b),~~
 34 ~~G.S. 18B-1005.1, or G.S. 80-11.1(b)(2) or (3), at a single ABC-licensed~~
 35 ~~premises within a 12-month period.~~period, the Commission may commence a
 36 contested case under Chapter 150B of the General Statutes for the revocation
 37 of a permit issued by it. The permittee and the owner of the property have the
 38 responsibility to monitor the conduct on the licensed premises pursuant to
 39 G.S. 18B-1005(b) and G.S. 19-1. Revocation of permits pursuant to this
 40 subdivision shall only apply to the permits issued to the location where the
 41 violations occurred.

42 (4) Notwithstanding G.S. 18B-906, the Commission ~~shall immediately~~shall, by
 43 order and without prior hearing, summarily suspend or revoke permits issued
 44 by it ~~for a period of 30 days~~ if both of the following apply:
 45 a. Alcohol Law Enforcement ~~agents or~~agents, local ABC Board
 46 ~~officers~~officers, or local law enforcement agencies provide advance
 47 notice to the Commission Legal Division staff of the ongoing
 48 undercover operation.
 49 b. Upon execution of the search warrant resulting from the undercover
 50 operation, five or more persons are criminally charged with violations

1 of the gambling, disorderly conduct, prostitution, controlled
2 substance, or felony criminal counterfeit trademark laws.

3 Upon entry of a summary order under this subdivision, the Commission shall
4 promptly notify all interested parties that the order has been entered and the
5 reasons therefore. The order shall remain in effect until it is modified or
6 vacated by the Commission. The permittee may, within 30 days after receipt
7 of notice of the order, commence a contested case under Chapter 150B of the
8 General Statutes for reversal or modification of the Commission's order.

9 (f) Local Government Objections. – The governing body of a city or county may
10 designate an official of the city or county, by name or by position, to make recommendations
11 concerning the suitability of a person or of a location for an ABC permit. The governing body of
12 a city or county shall notify the Commission of an official designated under this subsection. An
13 official designated under this subsection shall be allowed to testify at a contested case hearing in
14 which the suitability of a person or of a location for an ABC permit is an issue without further
15 qualification or authorization.

16 (g) Nothing in this Chapter shall be deemed to preempt local governments from
17 regulating the location or operation of adult establishments or other sexually oriented businesses
18 to the extent consistent with the constitutional protection afforded free speech, or from requiring
19 any additional fee for licensing as permitted under G.S. 160A-181.1(c)."

20 **SECTION 5.** G.S. 18B-1000 reads as rewritten:

21 "**§ 18B-1000. Definitions concerning establishments.**

22 The following requirements and definitions shall apply to this Chapter:

23 (1) Community theatre. – An establishment owned and operated by a bona fide
24 nonprofit organization that is engaged solely in the business of sponsoring or
25 presenting amateur or professional theatrical events to the public. A permit
26 issued for a community theatre is valid only during regularly scheduled
27 theatrical events sponsored by such nonprofit organization.

28 (1a) Convention center. – An establishment that meets either of the following
29 requirements:

30 a. A publicly owned or operated establishment that is engaged in the
31 business of sponsoring or hosting conventions and similar large
32 gatherings, including auditoriums, armories, civic centers, convention
33 centers, and coliseums.

34 b. A privately owned facility located in a city that has a population of at
35 least 200,000 but not more than 250,000 by the 2000 federal census
36 and is located in a county that has previously authorized the issuance
37 of mixed beverage permits by referendum. To qualify as a convention
38 center under this subdivision, the facility shall meet each of the
39 following requirements:

40 1. The facility shall be certified by the appropriate local official
41 as being consistent with the city's redevelopment plan for the
42 area in which the facility is located.

43 2. The facility shall contain at least 7,500 square feet of floor
44 space that is available for public use and shall be used
45 exclusively for banquets, receptions, meetings, and similar
46 gatherings.

47 3. The facility's annual gross receipts from the sale of alcoholic
48 beverages shall be less than fifty percent (50%) of the gross
49 receipts paid to all providers at permitted functions for food,
50 nonalcoholic beverages, alcoholic beverages, service, and
51 facility usage fees (excluding receipts or charges for

entertainment and ancillary services not directly related to providing food and beverage service). The person to whom a permit has been issued for a privately owned facility shall be required to maintain copies of all contracts and invoices for items supplied by providers for a period of three years from the date of the event.

A permit issued for a convention center shall be valid only for those parts of the building used for conventions, banquets, receptions, and other events, and only during scheduled activities.

- (1b) Cooking school. – An establishment substantially engaged in the business of operating a school in which cooking techniques are taught for a fee.
- (2) Eating establishment. – An establishment engaged in the business of regularly and customarily selling food, primarily to be eaten on the premises. Eating establishments shall include businesses that are referred to as restaurants, cafeterias, or cafes, but that do not qualify under subdivision (6). Eating establishments shall also include lunchstands, grills, snack bars, fast-food businesses, and other establishments, such as drugstores, which have a lunch counter or other section where food is sold to be eaten on the premises.
- (3) Food business. – An establishment engaged in the business of regularly and customarily selling food, primarily to be eaten off the premises. Food businesses shall include grocery stores, convenience stores, and other establishments, such as variety stores or drugstores, where food is regularly sold, and shall also include establishments engaged primarily in selling unfortified or fortified wine or both, for consumption off the premises.
- (4) Hotel. – An establishment substantially engaged in the business of furnishing lodging. A hotel shall have a restaurant either on or closely associated with the premises. The restaurant and hotel need not be owned or operated by the same person.
- (4a) Private bar. – An establishment that is organized and operated as a for-profit entity and that is not open to the general public but is open only to the members of the organization and their bona fide guests for the purpose of allowing its members and their guests to socialize and engage in recreation.
- (5) ~~Private club. – An establishment that is organized and operated solely for a social, recreational, patriotic, or fraternal purpose and that is not open to the general public, but is open only to the members of the organization and their bona fide guests. This provision does not, however, prohibit such an establishment from being open to the general public for raffles and bingo games as required by G.S. 14-309.11(a) and G.S. 14-309.13. Except for bona fide religious organizations, no organization that discriminates in the selection of its membership on the basis of religion shall be eligible to receive any permit issued under this Chapter.~~ qualifies under Section 501(c) of the Internal Revenue Code of 1954, as amended, 26 U.S.C. § 501(c), and has been in operation for a minimum of 12 months prior to application for an ABC permit.
- (5a) Residential private club. – A private club that is located in a privately owned, primarily residential and recreational development.
- (6) Restaurant. – An establishment substantially engaged in the business of preparing and serving meals. To qualify as a restaurant, an establishment's gross receipts from food and nonalcoholic beverages shall be not less than thirty percent (30%) of the total gross receipts from food, nonalcoholic beverages, and alcoholic beverages. A restaurant shall also have a kitchen and an inside dining area with seating for at least 36 people.

- 1 (7) Retail business. – An establishment engaged in any retail business, regardless
2 of whether food is sold on the premises.
- 3 (8) Sports club. – An establishment that meets either of the following
4 requirements:
- 5 a. The establishment is substantially engaged in the business of
6 providing equine boarding, training, and coaching services, and the
7 establishment offers on-site dining, lodging, and meeting facilities and
8 hosts horse trials and other events sanctioned or endorsed by the
9 United States Equestrian Federation, Inc.; or
- 10 b. The establishment is substantially engaged in the business of
11 providing an 18-hole golf course, two or more tennis courts, or both.
12 The sports club can either be open to the general public or to members and
13 their guests. To qualify as a sports club, an establishment's gross receipts for
14 club activities shall be greater than its gross receipts for alcoholic beverages.
15 This provision does not prohibit a sports club from operating a restaurant.
16 Receipts for food shall be included in with the club activity fee.
- 17 (9) Congressionally chartered veterans organizations. – An establishment that is
18 organized as a federally chartered, nonprofit veterans organization, and is
19 operated solely for patriotic or fraternal purposes.
- 20 (10) Wine producer. – A farming establishment of at least five acres committed to
21 the production of grapes, berries, or other fruits for the manufacture of
22 unfortified wine."

23 **SECTION 6.** G.S. 18B-1001 reads as rewritten:

24 **"§ 18B-1001. Kinds of ABC permits; places eligible.**

25 When the issuance of the permit is lawful in the jurisdiction in which the premises are located,
26 the Commission may issue the following kinds of permits:

- 27 (1) On-Premises Malt Beverage Permit. – An on-premises malt beverage permit
28 authorizes (i) the retail sale of malt beverages for consumption on the
29 premises, (ii) the retail sale of malt beverages in the manufacturer's original
30 container for consumption off the premises, and (iii) the retail sale of malt
31 beverages in a cleaned and sanitized container that is filled or refilled and
32 sealed for consumption off the premises and that identifies the permittee and
33 the date the container was filled or refilled. It also authorizes the holder of the
34 permit to ship malt beverages in closed containers to individual purchasers
35 inside and outside the State. The permit may be issued for any of the
36 following:
- 37 a. Restaurants.
- 38 b. Hotels.
- 39 c. Eating establishments.
- 40 d. Food businesses.
- 41 e. Retail businesses.
- 42 f. Private clubs.
- 43 g. Convention centers.
- 44 h. Community theatres.
- 45 i. Breweries as authorized by subdivisions (7) and (8) of
46 G.S. 18B-1104(a).
- 47 j. Private bars.
- 48 (2) Off-Premises Malt Beverage Permit. – An off-premises malt beverage permit
49 authorizes (i) the retail sale of malt beverages in the manufacturer's original
50 container for consumption off the premises, (ii) the retail sale of malt
51 beverages in a cleaned and sanitized container that is filled or refilled and

1 sealed for consumption off the premises and that identifies the permittee and
2 the date the container was filled or refilled, and (iii) the holder of the permit
3 to ship malt beverages in closed containers to individual purchasers inside and
4 outside the State. The permit may be issued for any of the following:

- 5 a. Restaurants.
- 6 b. Hotels.
- 7 c. Eating establishments.
- 8 d. Food businesses.
- 9 e. Retail businesses.
- 10 f. The holder of a brewing, distillation, and fermentation course
11 authorization under G.S. 18B-1114.6. A school obtaining a permit
12 under this subdivision is authorized to sell malt beverages
13 manufactured during its brewing, distillation, and fermentation
14 program at one noncampus location in a county where the permittee
15 holds and offers classes on a regular full-time basis in a facility owned
16 by the permittee.

- 17 (3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine
18 permit authorizes (i) the retail sale of unfortified wine for consumption on the
19 premises, either alone or mixed with other beverages, (ii) the retail sale of
20 unfortified wine in the manufacturer's original container for consumption off
21 the premises, and (iii) the retail sale of unfortified wine dispensed from a tap
22 connected to a pressurized container utilizing carbon dioxide or similar gas
23 into a cleaned and sanitized container that is filled or refilled and sealed for
24 consumption off the premises and that identifies the permittee and the date the
25 container was filled or refilled. The permit also authorizes the permittee to
26 transfer unfortified wine, not more than four times per calendar year, to
27 another on-premises unfortified wine permittee that is under common
28 ownership or control as the transferor. Except as authorized by this
29 subdivision, transfers of wine by on-premises unfortified wine permittees,
30 purchases of wine by a retail permittee from another retail permittee for the
31 purpose of resale, and sale of wine by a retail permittee to another retail
32 permittee for the purpose of resale are unlawful. In addition, a particular brand
33 of wine may be transferred only if both the transferor and transferee are
34 located within the territory designated between the winery and the wholesaler
35 on file with the Commission. Prior to or contemporaneous with any such
36 transfer, the transferor shall notify each wholesaler who distributes the
37 transferred product of the transfer. The notice shall be in writing or verifiable
38 electronic format and shall identify the transferor and transferee, the date of
39 the transfer, quantity, and items transferred. The holder of the permit is
40 authorized to ship unfortified wine in closed containers to individual
41 purchasers inside and outside the State. Orders received by a winery by
42 telephone, Internet, mail, facsimile, or other off-premises means of
43 communication shall be shipped pursuant to a wine shipper permit and not
44 pursuant to this subdivision. The permit may be issued for any of the
45 following:

- 46 a. Restaurants.
- 47 b. Hotels.
- 48 c. Eating establishments.
- 49 d. Private clubs.
- 50 e. Convention centers.
- 51 f. Cooking schools.

- 1 g. Community theatres.
2 h. Wineries.
3 i. Wine producers.
4 j. Retail businesses.
5 k. Private bars.
- 6 (4) Off-Premises Unfortified Wine Permit. – An off-premises unfortified wine
7 permit authorizes (i) the retail sale of unfortified wine in the manufacturer's
8 original container for consumption off the premises, (ii) the retail sale of
9 unfortified wine dispensed from a tap connected to a pressurized container
10 utilizing carbon dioxide or similar gas into a cleaned and sanitized container
11 that is filled or refilled and sealed for consumption off the premises and that
12 identifies the permittee and the date the container was filled or refilled, and
13 (iii) the holder of the permit to ship unfortified wine in closed containers to
14 individual purchasers inside and outside the State. The permit may be issued
15 for retail businesses. The permit also authorizes the permittee to transfer
16 unfortified wine, not more than four times per calendar year, to another
17 off-premises unfortified wine permittee that is under common ownership or
18 control as the transferor. Except as authorized by this subdivision, transfers of
19 wine by off-premises unfortified wine permittees, purchases of wine by a
20 retail permittee from another retail permittee for the purpose of resale, and
21 sale of wine by a retail permittee to another retail permittee for the purpose of
22 resale are unlawful. In addition, a particular brand of wine may be transferred
23 only if both the transferor and transferee are located within the territory
24 designated between the winery and the wholesaler on file with the
25 Commission. Prior to or contemporaneous with any such transfer, the
26 transferor shall notify each wholesaler who distributes the transferred product
27 of the transfer. The notice shall be in writing or verifiable electronic format
28 and shall identify the transferor and transferee, the date of the transfer,
29 quantity, and items transferred. The permit may also be issued to the holder
30 of a viticulture/enology course authorization under G.S. 18B-1114.4. A
31 school obtaining a permit under this subdivision is authorized to sell wines
32 manufactured during its viticulture/enology program at one non-campus
33 location in a county where the permittee holds and offers classes on a regular
34 full-time basis in a facility owned by the permittee. The permit may also be
35 issued for a winery or a wine producer for sale of its own unfortified wine
36 during hours when the winery or wine producer's premises is open to the
37 public, subject to any local ordinance adopted pursuant to G.S. 18B-1004(d)
38 concerning hours for the retail sale of unfortified wine. A winery obtaining a
39 permit under this subdivision is authorized to sell wine manufactured by the
40 winery at one additional location in the county under the same conditions
41 specified in G.S. 18B-1101(5) for the sale of wine at the winery; provided,
42 however, that no other alcohol sales shall be authorized at the additional
43 location. Orders received by a winery by telephone, Internet, mail, facsimile,
44 or other off-premises means of communication shall be shipped pursuant to a
45 wine shipper permit and not pursuant to this subdivision.
- 46 (5) On-Premises Fortified Wine Permit. – An on-premises fortified wine permit
47 authorizes the retail sale of fortified wine for consumption on the premises,
48 either alone or mixed with other beverages, and the retail sale of fortified wine
49 in the manufacturer's original container for consumption off the premises. The
50 permit also authorizes the permittee to transfer fortified wine, not more than
51 four times per calendar year, to another on-premises fortified wine permittee

1 that is under common ownership or control as the transferor. Except as
2 authorized by this subdivision, transfers of wine by on-premises fortified wine
3 permittees, purchases of wine by a retail permittee from another retail
4 permittee for the purpose of resale, and sale of wine by a retail permittee to
5 another retail permittee for the purpose of resale are unlawful. In addition, a
6 particular brand of wine may be transferred only if both the transferor and
7 transferee are located within the territory designated between the winery and
8 the wholesaler on file with the Commission. Prior to or contemporaneous with
9 any such transfer, the transferor shall notify each wholesaler who distributes
10 the transferred product of the transfer. The notice shall be in writing or
11 verifiable electronic format and shall identify the transferor and transferee, the
12 date of the transfer, quantity, and items transferred. The holder of the permit
13 is authorized to ship fortified wine in closed containers to individual
14 purchasers inside and outside the State. Orders received by a winery by
15 telephone, Internet, mail, facsimile, or other off-premises means of
16 communication shall be shipped pursuant to a wine shipper permit and not
17 pursuant to this subdivision. The permit may be issued for any of the
18 following:

- 19 a. ~~Restaurants;~~Restaurants.
- 20 b. ~~Hotels;~~Hotels.
- 21 c. ~~Private clubs;~~clubs.
- 22 d. ~~Community theatres;~~theatres.
- 23 e. ~~Wineries;~~Wineries.
- 24 f. Convention centers.
- 25 g. Private bars.

26 (6) Off-Premises Fortified Wine Permit. – An off-premises fortified wine permit
27 authorizes the retail sale of fortified wine in the manufacturer's original
28 container for consumption off the premises and it authorizes the holder of the
29 permit to ship fortified wine in closed containers to individual purchasers
30 inside and outside the State. The permit may be issued for food businesses.
31 The permit may also be issued for a winery for sale of its own fortified wine.
32 Orders received by a winery by telephone, Internet, mail, facsimile, or other
33 off-premises means of communication shall be shipped pursuant to a wine
34 shipper permit and not pursuant to this subdivision. The permit also authorizes
35 the permittee to transfer fortified wine, not more than four times per calendar
36 year, to another off-premises fortified wine permittee that is under common
37 ownership or control as the transferor. Except as authorized by this
38 subdivision, transfers of wine by off-premises fortified wine permittees,
39 purchases of wine by a retail permittee from another retail permittee for the
40 purpose of resale, and sale of wine by a retail permittee to another retail
41 permittee for the purpose of resale are unlawful. In addition, a particular brand
42 of wine may be transferred only if both the transferor and transferee are
43 located within the territory designated between the winery and the wholesaler
44 on file with the Commission. Prior to or contemporaneous with any such
45 transfer, the transferor shall notify each wholesaler who distributes the
46 transferred product of the transfer. The notice shall be in writing or verifiable
47 electronic format and shall identify the transferor and transferee, the date of
48 the transfer, quantity, and items transferred.

49 (7) Brown-Bagging Permit. – A brown-bagging permit authorizes each individual
50 patron of an establishment, with the permission of the permittee, to bring up
51 to eight liters of fortified wine or spirituous liquor, or eight liters of the two

- combined, onto the premises and to consume those alcoholic beverages on the premises. The permit may be issued for any of the following:
 - a. ~~Restaurants;~~Restaurants.
 - b. ~~Hotels;~~Hotels.
 - c. Private ~~clubs;~~clubs.
 - d. Community ~~theatres;~~theatres.
 - e. Congressionally chartered veterans organizations.
 - f. Private bars.

(8) Special Occasion Permit. – A special occasion permit authorizes the host of a reception, party or other special occasion, with the permission of the permittee, to bring fortified wine and spirituous liquor onto the premises of the business and to serve the same to his guests. The permit may be issued for any of the following:

- a. ~~Restaurants;~~Restaurants.
- b. ~~Hotels;~~Hotels.
- c. Eating ~~establishments;~~establishments.
- d. Private ~~clubs;~~clubs.
- e. Convention centers.
- f. Private bars.

(9) Limited Special Occasion Permit. – A limited special occasion permit authorizes the permittee to bring fortified wine and spirituous liquor onto the premises of a business, with the permission of the owner of that property, and to serve those alcoholic beverages to the permittee's guests at a reception, party, or other special occasion being held there. The permit may be issued to any individual other than the owner or possessor of the premises. An applicant for a limited special occasion permit shall have the written permission of the owner or possessor of the property on which the special occasion is to be held.

(10) Mixed Beverages Permit. – A mixed beverages permit authorizes the retail sale of mixed beverages for consumption on the premises. The permit also authorizes a mixed beverages permittee (i) to obtain a purchase-transportation permit under G.S. 18B-403 and 18B-404, (ii) to obtain an antique spirituous liquor permit under subdivision (20) of this section, and (iii) to use for culinary purposes spirituous liquor lawfully purchased for use in mixed beverages. The permit may be issued for any of the following:

- a. ~~Restaurants;~~Restaurants.
- b. ~~Hotels;~~Hotels.
- c. Private ~~clubs;~~clubs.
- d. Convention ~~centers;~~centers.
- e. Community ~~theatres;~~theatres.
- f. Nonprofit ~~organizations;~~ and organizations.
- g. Political organizations.
- h. Private bars.

...."

SECTION 7. G.S. 130A-247 reads as rewritten:

"§ 130A-247. Definitions.

The following definitions shall apply throughout this Part:

...

(1b) "Private bar" means an organization that meets the definition of a private bar set forth in G.S. 18B-1000(4a).

...."

SECTION 8. G.S. 130A-248 reads as rewritten:

1 **"§ 130A-248. Regulation of food and lodging establishments.**

2 (a) For the protection of the public health, the Commission shall adopt rules governing
3 the sanitation of establishments that prepare or serve drink or food for pay and establishments
4 that prepare and sell meat food products or poultry products. However, any establishment that
5 prepares or serves food or drink to the public, regardless of pay, shall be subject to the provisions
6 of this Article if the establishment that prepares or serves food or drink holds an ABC permit, as
7 defined in G.S. 18B-101, meets any of the definitions in G.S. 18B-1000, and does not meet the
8 definition of a private bar as provided in G.S. 130A-247(1b) or a private club as provided in
9 G.S. 130A-247(2).

10"

11 **SECTION 9.** G.S. 130A-250 reads as rewritten:

12 **"§ 130A-250. Exemptions.**

13 The following shall be exempt from this Part:

- 14 (1) Establishments that provide lodging described in G.S. 130A-248(a1) with
15 four or fewer lodging units.
- 16 (2) Condominiums.
- 17 (3) Establishments that prepare or serve food or provide lodging to regular
18 boarders or permanent houseguests only. However, the rules governing food
19 sanitation adopted under G.S. 130A-248 apply to establishments that are not
20 regulated under G.S. 130A-235 and that prepare or serve food for pay to 13
21 or more regular boarders or permanent houseguests who are disabled or who are
22 55 years of age or older. Establishments to which the rules governing food
23 sanitation are made applicable by this subdivision that are in operation as of 1
24 July 2000 may continue to use equipment and construction in use on that date
25 if no imminent hazard exists. Replacement equipment for these establishments
26 shall comply with the rules governing food sanitation adopted under
27 G.S. 130A-248.
- 28 (4) Private homes that occasionally offer lodging accommodations, which may
29 include the providing of food, for two weeks or less to persons attending
30 special events, provided these homes are not bed and breakfast homes or bed
31 and breakfast inns.
- 32 (4a) Private bars.
- 33 (5) Private clubs.

34"

35 **SECTION 10.** Section 1 of this act becomes effective October 1, 2018. Sections 2,
36 5, and 6 of this act are effective when they become law and apply to new permits issued on or
37 after that date. Permits issued to private clubs as defined in G.S. 18B-1000(5) prior to the
38 effective date of this act shall be grandfathered and may remain in effect and eligible for renewal
39 as a private bar under G.S. 18B-1005(4a) or a private club under G.S. 18B-1005(5), as applicable,
40 notwithstanding Section 5 of this act. The remainder of this act is effective when it becomes law.