

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 838

Short Title: ABC Law Changes.-AB

(Public)

Sponsors: Senator Bingham.

Referred to: Commerce, Small Business and Entrepreneurship.

March 19, 2007

A BILL TO BE ENTITLED

1 AN ACT TO INCREASE THE FINES FOR PENALTIES AND OFFERS IN
2 COMPROMISE FOR ALCOHOLIC BEVERAGE CONTROL LAW
3 VIOLATIONS, TO REQUIRE AGENTS OF THE DIVISION OF ALCOHOL
4 LAW ENFORCEMENT TO SERVE AND EXECUTE ALCOHOLIC BEVERAGE
5 CONTROL AND NORTH CAROLINA STATE LOTTERY COMMISSION
6 ORDERS, NOTICES, AND DEMANDS, TO CHANGE ABC PERMIT
7 REGISTRATION AND INSPECTION FEE REVOCATIONS TO SUSPENSIONS,
8 TO ALLOW LOCAL GOVERNMENTS AND NONPROFIT ORGANIZATIONS
9 TO HAVE SPECIAL ONE-TIME PERMITS TO SELL AND SERVE MALT
10 BEVERAGES, WINES, MIXED BEVERAGES, AND SPIRITUOUS LIQUORS
11 AT FUND-RAISERS, TO MAKE TECHNICAL CORRECTIONS TO
12 COMMERCIAL PERMITS, AND TO ALLOW WINEMAKING ON PREMISES
13 PERMITS AT UNFORTIFIED WINERIES AS RECOMMENDED BY THE
14 ALCOHOLIC BEVERAGE COMMISSION.
15

16 The General Assembly of North Carolina enacts:

17 **SECTION 1.** G.S. 18B-104(a)(3) reads as rewritten:

18 "(3) Fine the permittee up to ~~five hundred dollars (\$500.00)~~ one thousand
19 dollars (\$1,000) for the first violation, up to ~~seven hundred fifty dollars~~
20 ~~(\$750.00)~~ one thousand five hundred dollars (\$1,500) for the second
21 violation, and up to ~~one thousand dollars (\$1,000)~~ two thousand
22 dollars (\$2,000) for the third violation; or".

23 **SECTION 2.** G.S. 18B-104(b) reads as rewritten:

24 "(b) Compromise. – In any case in which the Commission is entitled to suspend or
25 revoke a permit, the Commission may accept from the permittee an offer in compromise
26 to pay a penalty of not more than ~~five thousand dollars (\$5,000)~~ twenty-five thousand
27 dollars (\$25,000). The Commission may either accept a compromise or revoke a permit,
28 but not both. The Commission may accept a compromise and suspend the permit in the
29 same case."

1 **SECTION 3.** G.S. 18B-500(d) reads as rewritten:

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

8 **SECTION 4.** G.S. 18B-900(a) reads as rewritten:

9 **"§ 18B-900. Qualifications for permit.**

10 (a) Requirements. – To be eligible to receive and to hold an ABC permit, a
11 person shall:

- 12 (1) Be at least 21 years old, unless the person is a manager of a business
13 selling only malt beverages and unfortified wine, in which case the
14 person shall be at least 19 years old;
- 15 (2) Be a resident of North Carolina unless:
 - 16 a. He is an officer, director or stockholder of a corporate applicant
17 or permittee and is not a manager or otherwise responsible for
18 the day-to-day operation of the business; or
 - 19 b. He has executed a power of attorney designating a qualified
20 resident of this State to serve as attorney in fact for the purposes
21 of receiving service of process and managing the business for
22 which permits are sought; or
 - 23 c. He is applying for a nonresident malt beverage vendor permit, a
24 nonresident wine vendor permit, or a vendor representative
25 permit;
- 26 (3) Not have been convicted of a felony within three years, and, if
27 convicted of a felony before then, shall have had his citizenship
28 restored;
- 29 (4) Not have been convicted of an alcoholic beverage offense within two
30 years;
- 31 (5) Not have been convicted of a misdemeanor controlled substance
32 offense within two years; and
- 33 (6) Not have had an alcoholic beverage permit revoked within three years,
34 except where the revocation was based solely on a permittee's failure
35 to pay the annual registration and inspection fee required in G.S.
36 18B-903(b1).
- 37 (7) Not have, whether as an individual or as an officer, director,
38 shareholder or manager of a corporate permittee, an unsatisfied
39 outstanding final judgment that was entered against him in an action
40 under Article 1A of this Chapter.
- 41 (8) Be a United States citizen with a valid social security number or valid
42 documentation demonstrating legal presence in the United States and
43 that documentation is issued to the applicant under the authority of the
44 United States government.

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 **SECTION 5.** G.S. 18B-903(b1) reads as rewritten:

4 "(b1) Registration. – Each person holding a malt beverage, fortified wine, or
5 unfortified wine permit issued pursuant to G.S. 18B-902(d)(1) through
6 G.S. 18B-902(d)(6) shall register by May 1 of each year on a form provided by the
7 Commission, in order to provide information needed by the State in enforcing this
8 Chapter and to support the costs of that enforcement. The registration required by this
9 subsection shall be accompanied by an annual registration and inspection fee of two
10 hundred dollars (\$200.00) for each permit held. The fee shall be paid by May 1 of each
11 year. A registration fee shall not be refundable. Failure to pay the annual registration
12 and inspection fee shall result in ~~revocation of the permit~~ a suspension of the permit
13 until the registration fee is received by the Commission and the permits are reinstated."

14 **SECTION 6.** G.S. 18B-1002(5) reads as rewritten:

15 "(5) A permit may be issued to a unit of local government, or to a nonprofit
16 organization or a political organization to sell or serve wine, malt
17 beverages, mixed beverages, and spirituous liquor at a ticketed event
18 held to allow the unit of local government or organization to raise
19 funds. For purposes of this subdivision "nonprofit organization" means
20 an organization that is exempt from taxation under Section 501(c)(3),
21 501(c)(4), 501(c)(6), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of
22 the Internal Revenue Code or is exempt under similar provisions of the
23 General Statutes as a bona fide nonprofit charitable, civic, religious,
24 fraternal, patriotic, or veterans' organization or as a nonprofit volunteer
25 fire department, or as a nonprofit volunteer rescue squad or a bona fide
26 homeowners' or property owners' association. For purposes of this
27 subdivision "political organization" means an organization covered by
28 the provisions of G.S. 163-96(a)(1) or (2) or a campaign organization
29 established by or for a person who is a candidate who has filed a notice
30 of candidacy, paid the filing fees or filed the required petition, and
31 been certified as a candidate. The issuance of this permit will also
32 allow the issuance of a purchase-transportation permit under
33 G.S. 18B-403 and 18B-404 and the use for culinary purposes of
34 spirituous liquor lawfully purchased for use in mixed beverages."

35 **SECTION 7.** G.S. 18B-1100 reads as rewritten:

36 "**§ 18B-1100. Commercial permits.**

37 The Commission may issue the following commercial permits:

- 38 (1) Unfortified winery
- 39 (2) Fortified winery
- 40 (3) Limited winery
- 41 (4) Brewery
- 42 (5) Distillery
- 43 (6) Fuel alcohol
- 44 (7) Wine importer

- 1 (8) Wine wholesaler
- 2 (9) Malt beverages importer
- 3 (10) Malt beverages wholesaler
- 4 (11) Bottler
- 5 (12) Salesman
- 6 (13) Vendor representative
- 7 (14) Nonresident malt beverage vendor
- 8 (15) Nonresident wine vendor
- 9 (16) Winery special show
- 10 (17) Liquor importer/bottler permit
- 11 (18) Cider and vinegar ~~manufacturer~~manufacturer
- 12 (19) Wine producer ~~permit~~permit."

13 **SECTION 8.** G.S. 18B-1101 is amended by adding a new subdivision to
14 read:

15 "**§ 18B-1101. Authorization of unfortified winery permit.**

16 The holder of an unfortified winery permit may:

- 17 ...
- 18 (8) Allow winemaking on premises as allowed by a permit issued pursuant
- 19 to G.S. 18B-1001(17).
- 20 ..."

21 **SECTION 9.** Sections 1 and 2 of this act become effective December 1,
22 2007, and apply to offenses committed on or after that date. The remainder of this act is
23 effective when it becomes law.