

May 13, 2010

H 1717. MODERNIZATION OF THE STATE ABC SYSTEM (=S 1112). Filed 5/13/10. *TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL SYSTEM, AS RECOMMENDED BY THE JOINT STUDY COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL.*

Identical to S 1112, filed 5/12/10.

Intro. by R. Warren.

GS 18B

June 9, 2010

H 1717. MODERNIZATION OF THE STATE ABC SYSTEM. Filed 5/13/10. House committee substitute makes the following changes to 1st edition. Changes title to *AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL SYSTEM, TO ENSURE THE INTEGRITY OF THE THREE TIER SYSTEM, AND TO REQUIRE MINIMUM STANDARDS AGE STANDARDS LAW ENFORCEMENT.* Adds the following new sections.

Conflict of Interest and gifts. Amends GS 18B-201 to make members of the Commission and local boards subject to provisions of GS 133-32 (regulation of gifts and favors to government contractors) and to make members of the Commission subject to provisions of Article 4, Chapter 138A (State Government Ethics Act). Also prohibits, subject to listed exceptions, any local board member from using the board position in a way that will result in financial benefit to the board member, the board member's spouse, any relative of the board member who is a first cousin or closer, or the board member's business. Prohibits a board member from disclosing confidential information and provides that all local board members have an affirmative duty to disclose in writing any conflict or potential conflict of interest. Makes conforming changes.

Discharge Upon Conviction. Amends GS 18B-202 to provide that in addition to penalties already set out in that statute, a judge may prohibit an officer of an agency which holds a contract to enforce ABC laws for a local board who is convicted of violating a provision of GS Chapter 18B or of any felony from participating in any contract to enforce ABC laws, and may prohibit the officer from being designated as an ABC law enforcement officer for a period no longer than 3 years.

Wineries. Amends GS 18B-1213 to provide that any successor to the rights of a winery is subject to the same obligations as a purchaser of a winery with regard to terms and conditions of agreements in effect regarding that winery on the date of purchase or acquisition. Effective when the act becomes law.

Age restriction on certification. Amends GS 93B-9 to allow certifications from the Criminal Justice Education and Training Standards Commission and the Sheriff's Education and Training Standards Commission to be issued to only those individuals who are more than 18 years of age. Effective when the act becomes law.

Changes the following provisions in the original bill.

Powers of the Commission. Authorizes Commission to establish mandatory training for finance officers as well as local board members and managers. Provides that the Commission shall not require more than four hours of training and shall provide up to 2 hours of training at convenient locations around the state in conjunction with ethics training if personal attendance is required. Also removes the requirement that performance standards address solvency.

Law Enforcement. Removes provision in GS 18B-501(f) requiring that contracted and non-contracted law enforcement agencies' officers receive the same training in ABC law enforcement that is provided to local ABC officers. Provides that provisions requiring reports from local ABC officers and contracted law enforcement agencies to the local board is effective January 1, 2011.

Local ABC boards. Provision that new GS 18B-700 (changes to appointment and organization of local boards) supersedes all local acts is effective October 1, 2011 (was, October 1, 2010).

Compensation. Amends GS 18B-700 to add requirement that any change in compensation for a local board member or general manager of a local board that is approved by the appointing authority shall be reported to the Commission within 30 days of the change. Changes minimum bond required for each local board member and general manager of the board or finance officer to not less than \$50,000 (was \$100,000 in original bill).

Financial Operations. Amends GS 18B-702 to also allow a local board to designate the finance officer of the appointing authority with consent of the appointing authority as the local board's finance officer. Defines good cause for when a board general manager may also be the finance officer, and limits such approval to a period of 36 months. Makes amendments to GS 18B-702 requiring local boards to prepare, adopt and operate under a balanced budget effective July 1, 2011 (was, May 1, 2011) and applicable for local board fiscal years beginning July 1, 2011. Also requires that the Commission offer training and education to local boards to help implement the change. The Commission will have no further training requirements after December 31, 2013.

Ethics Requirements and Performance Standards. Amends new GS 18B-706 to require the Commission to develop a model ethics policy that local ABC boards may adopt to comply with new requirements. Also clarifies procedure in GS 18B-705 when local board is failing new performance standards. When the Commission determines that a local board is failing, it must meet with the chair of the local board and the appointing authority. The appointing authority, in consultation with the Commission and the local board, must develop a performance improvement plan within 60 days of that meeting. The plan must state a date for improvements to occur, but no more than 12 months from the time the plan is developed. Requires the Commission to issue a notice of intent to the appointing authority and the local board before taking action to avoid insolvency.

Stores. Deletes proposed changes to GS 18B-801(d) concerning insolvent ABC systems. Amends GS 18B-801(c) to delete the provision allowing the Commission to order a local board to close a store when the Commission determines that operation of the store is not profitable enough to justify continuation.

June 16, 2010

H 1717. MODERNIZATION OF THE STATE ABC SYSTEM. Filed 5/13/10. House committee substitute makes the following changes to 2nd edition.

Amends GS 18B-202 to clarify that its discharge provisions apply to local law enforcement officers who serve as designated officers of an agency that holds a contract to enforce the ABC laws for a local board providing that the individual is convicted of violating the state ABC laws or of any felony. Also provides that a judge may prohibit an individual who is convicted of a violation of the ABC laws or 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.

Amends GS 18B-203(a) to add to the powers and duties of the State ABC Commission (Commission) the authority to allow mixed beverage permit holders located in an ABC system that has become insolvent or been closed to purchase alcohol from another ABC board providing that the county or municipality in which the insolvent or closed system is located has approved the sale of mixed beverages.

Amends GS 18B-501(g) to provide that local ABC officers and law enforcement contracted with local boards to enforce the ABC laws are subject to the discharge and ineligibility provisions GS 18B-202.

Amends GS 18B-600(e) to allow any city with at least 1,000 (was, 500) registered voters to hold a mixed beverage election. Provides that if a city meeting the requirement for an election approves the sale of mixed beverages, mixed beverage permittees would be allowed to buy alcohol from the ABC store designated by the local ABC board that has been approved by the Commission for that purpose.

Amends GS 18B-700(a) to permit a local ABC board to have three or five members (was, three) except when the board is a board for a merged ABC system under GS 18B-703 and a different number of members has been agreed upon as a part of the negotiated merger. Also provides for the term lengths for new board members based on whether the board has three or five members.

Amends proposed new subsection (g1) of GS 18B-700 to provide that the subsection references *general manager* as defined in GS 18B-101.

Amends 18B-702(j) to clarify there are exceptions to the designation of the finance officer for the local board as indicated in subsection (j).

Amends proposed GS 18B-705 to remove from the duties of the Commission to ensure compliance of local boards with established performance standards by monitoring ABC law enforcement efforts.

Makes technical changes to the title. Makes technical and conforming changes, and renumbers sections to reflect an added section.

June 22, 2010

H 1717. MODERNIZATION OF THE STATE ABC SYSTEM. Filed 5/13/10. House amendment makes the following changes to 3rd edition. Amendment #1 amends GS 18B-600(d) to provide that a city may hold an ABC store election if the city has at least 1,000 (was, 500) registered voters. Also amends GS 18B-600(e) to provide that a city may hold a mixed beverage election if the city has at least 500 (was, 1,000) registered voters.

June 29, 2010

H 1717. MODERNIZATION OF THE STATE ABC SYSTEM. Filed 5/13/10. Senate committee substitute makes the following changes to 4th edition.

Amends Section 4 of SL 2004-92 to rename the Rowan County ABC Board as the Rowan/Kannapolis ABC Board. Provides criteria for appointing board members and for the duration of terms. Requires that the cities of Kannapolis and Salisbury, and Rowan County have equal representation on the Rowan/Kannapolis ABC Board. Provides that members and employees of the Rowan/Kannapolis ABC Board are subject to the removal provisions of GS 18B-202. Effective when it becomes law and applies to appointments and vacancies that occur on or after that date.

Deletes proposed changes to GS 18B-1213 (obligations of purchaser).

Provides that nothing in this act is to be construed to repeal or amend SL 1997-224, applicable to Mecklenburg County, or SL 1985-889, applicable to the Greensboro ABC Board.

Makes organizational changes and makes conforming changes to the title.

July 7, 2010

H 1717. MODERNIZATION OF THE STATE ABC SYSTEM. Filed 5/13/10. Senate committee substitute makes the following changes to 5th edition.

Amends GS 18B-1213 to clarify that the purchaser and any successor to the import rights of a winery (was, the purchaser) is obligated to all the terms and conditions in effect on the date of purchase or other acquisition of the right to distribute the brand (was, in effect on the date of purchase). Becomes effective September 15, 2010, and applies to all existing franchise agreements. Provides that the shipment of wine to a wholesaler in North Carolina after the effective date of September 15, 2010 constitutes acceptance by the supplier of the terms of the bill which are to be incorporated into the contract between the supplier and the wholesaler. Specifies that GS 18B-1213, as amended, would not apply to any pending administrative action before the ABC Commission or to pending litigation or claims that accrued before the act's effective date.

Current law defines *winery* to mean any holder of an unfortified winery permit, fortified winery permit, limited winery permit, or nonresident wine vendor permit issue under the authority of GS Chapter 18B who sells at least 1,000 cases of wine in North Carolina annually. Amends GS 18B-1201(4) to change the number of cases that must be sold annually to meet the definition of *winery* to 1,250 cases per year. Effective September 15, 2010.

Renumbers sections accordingly and makes a technical change.

July 28, 2010

SL 2010-122 (H 1717). MODERNIZATION OF THE STATE ABC SYSTEM. AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL SYSTEM, TO ENSURE THE INTEGRITY OF THE THREE-TIER SYSTEM, TO REQUIRE MINIMUM AGE STANDARDS FOR LAW ENFORCEMENT, AND TO REQUIRE THAT THE CITY OF KANNAPOLIS, THE CITY OF SALISBURY, AND ROWAN COUNTY HAVE EQUAL

REPRESENTATION ON THE ROWAN/KANNAPOLIS ABC BOARD. Summarized in *Daily Bulletin* 5/13/10, 6/9/10, 6/16/10, 6/22/10, 6/29/10, and 7/7/10. Enacted July 21, 2010. Section 6 is effective January 1, 2011. Section 16 is effective October 1, 2011. Section 18 is effective May 1, 2011. Sections 25 and 26 are effective September 15, 2010. Sections 27 and 28 are effective July 21, 2010. The remainder is effective October 1, 2010.