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## Alcoholic Beverage Control

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Very few Alcoholic Beverage Control (ABC) bills were enacted this year, and only two or three of those were of general public interest. However, the trend toward authorizing beverage sales by certain retail establishments without a city or county vote on the issue took a big step forward with the passage of S.L. 2001-130 (H 1143) “regarding the issuance of ABC permits to residential private clubs and sports clubs.”

### **Residential Private Club and Sports Club Permits**

Since the end of prohibition in the 1930s, North Carolina has had a system of local option elections governing the sale of alcoholic beverages. Under G.S. Chapter 18B, no city or county is allowed to have legal sales of beer, wine, spirituous liquor, or mixed beverages without having the issue submitted to the voters. In addition, Section 24, Article II, of the North Carolina Constitution prohibits “local acts regulating trade.” Therefore, this system of local option elections cannot be bypassed by a local act of the North Carolina General Assembly. Over the past decade or so, this has led to numerous public acts that have only local application. Thus, under the provisions of G.S. 18B-1006, ABC permits can be obtained by certain establishments in recreation districts, economic development and tourist districts, interstate interchange economic development zones, national historic landmark districts, and by residential private and sports clubs, without a city or county election.

To meet the permit requirements for a residential private club or sports club, as formerly defined, the establishment had to be in a county that had a population of less than 45,000 with three or four cities that had approved the sales of malt beverages and unfortified wine or satisfied other requirements designed to limit the application of the section to a few localities. S.L. 2001-130 amends G.S. 18B-1006(k) to remove these restrictive limitations, thereby making permits for residential private and sports clubs available statewide. (The counties of Lincoln, Harnett, Davie, Graham, Swain, Yancey, and McDowell were exempted from the act.) Finally, S.L. 2001-130

seems to say that the state ABC Commission may not issue any new ABC permits to a club located within a jurisdiction that votes against the sale of mixed beverages in a referendum conducted on or after September 1, 2001. The exact meaning of this provision will have to await interpretation by the state ABC Commission and perhaps by the courts. This act was effective May 25, 2001.

## **Wine Permits and Sales**

S.L. 2001-262 (S 823) and S.L. 2001-487 (H 338) make several significant changes to the law regulating wine sales and permits. Among these are the following:

1. G.S. 18B-1001 was amended by the creation of a wine tasting permit, which may be obtained by any food business. In addition, the holder of an unfortified winery permit or a wine grower may obtain a special event permit allowing the permittee to give free tastings at trade shows, conventions, shopping malls, and other designated places [G.S. 18B-1114.1(a)].
2. New G.S. 18B-1114.3 was added authorizing a wine producer permittee to ship crops to a "winery inside or outside the state, for the manufacture and bottling of unfortified wine," which may then be shipped back to the producer. The permittee is also authorized to sell wine manufactured from its crops for on- or off-premises consumption, regardless of the results of any local wine election. *See* Section 49, (c), S.L. 2001-487.
3. G.S. 18B-303(a) was amended to allow the purchase of fifty liters (formerly twenty liters) of unfortified wine without a permit. S.L. 2001-262 became effective July 4, 2001, and S.L. 2001-487 became effective December 16, 2001.

## **Joint ABC Store Operations**

G.S. 18B-703, which was enacted in 1981, provides for the merger of local ABC systems. Under this statute, any city governing body or board of county commissioners may merge its ABC system with one or more other cities or counties if the ABC stores in those jurisdictions serve the same general area and the merger is approved by the state ABC Commission in Raleigh. The statute requires that the cities and counties involved in the merger agree upon a formula for the distribution of profits before the merger takes place. S.L. 2001-128 (H 446) adds a new subsection (h) to this statute allowing two or more governing bodies of cities or counties to enter into an agreement allowing one or more stores located within the jurisdictions to be controlled and operated by the local ABC board specified in the agreement, even though the store or stores are located outside the boundaries of the county or municipality of the local ABC board that would be operating them. Issues not addressed by this subsection must be negotiated by the parties, subject to the approval of the state ABC Commission. S.L. 2001-128 became effective May 25, 2001.

## **Bills That Failed to Pass**

As is the case in most years, several interesting proposals did not receive a favorable committee report or otherwise failed to pass both houses. House Bill 179 would have allowed the state ABC Commission to consider in issuing a permit for the premises whether a prospective permittee was located within 250 feet of a church, public school, or church school. Current G.S. 18B-901(c) allows this factor to be considered only if the establishment is located within fifty feet of the church or school. House Bill 1248, another significant proposal that failed, would have given local governments some authority with regard to the sale of malt beverages in kegs. Under current G.S. 18B-303, a person may not purchase more than eighty liters of malt beverages in cans

or bottles, but there is no restriction on the amount of draft malt beverages in kegs that may be purchased at one time. The proposed act would have authorized ordinances requiring an application for the purchase of the kegs to contain certain information, including the destination of the keg and the name, address, and age of the purchaser.

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