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## Alcoholic Beverage Control

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The 2007 session was a quiet one for changes in the alcoholic beverage control (ABC) law. Only a handful of bills were enacted and none altered the structure of the ABC system or significantly affected the kinds of permits that can be obtained or what they allow. The Carolina Panthers may now begin selling beer earlier on Sundays, permit holders were given some leeway on recycling deadlines, and more violators of ABC laws will lose their driver's licenses. Attempts to increase alcohol taxes and to commence a study of the ABC laws were unsuccessful.

### **ABC Violations and Drivers' Licenses**

Since 1983 underage persons who buy alcohol, attempt to do so using fraudulent identification, or help someone else buy illegally can lose their drivers' licenses for a year, in addition to whatever punishment results from the ABC violation. The same applies to someone over twenty-one who lends a driver's license or ID card to an underage person to be used for purchasing alcohol. In S.L. 2007-537 (H 1277) the General Assembly expanded these provisions, partly in response to some highly publicized incidents in Wake County in which parents furnished alcohol to minors at parties for high schoolers. A minor could lose his or her license in these circumstances, but the parents who provided the alcohol would not.

The new legislation amends G.S. 18B-302 in several ways. It creates a separate offense [G.S. 18B-302(a1)] making it a crime to give alcohol to a person under twenty-one (current law treats sales or gifts in a single offense, but with this change selling and giving are made into separate offenses). The clerk of court must report to the Division of Motor Vehicles (DMV) convictions of any violations of the new gift offense and any convictions of aiding and abetting the purchase of alcohol by a minor when the offender is over twenty-one (previously only offenders under twenty-one would be reported). S.L. 2007-537 makes violation of the new gift provision a Class 1 misdemeanor, and if the court does not impose an active sentence it must include as a condition of probation a minimum \$250 fine and 25 hours of community service for a

first offense and a \$500 fine and 150 hours of community service for a second offense that occurs within a four-year period. The act amends G.S. 20-17.3 to require DMV to revoke for one year the driver's license of a person convicted of giving alcohol to or aiding and abetting the purchase of alcohol by a minor when the person convicted is over twenty-one. The revocation may not run concurrently with any other revocation already in effect. A judge may grant a limited driving privilege to any person whose license is revoked as a result of a conviction of one of these offenses. (This act does not change the current law that revokes the driver's license of minors convicted of an illegal purchase or attempt to purchase. In addition, current law does not revoke a driver's license for conviction of illegal sale to a minor or of illegal consumption or possession by a minor; these provisions also remain unchanged.)

The act is effective for offenses occurring on or after December 1, 2007.

## **Permit Changes**

The regulatory changes affecting permit holders were minimal. Current law provides that issuance of off-premises beer and wine permits is lawful automatically in *townships* that have approved the sale of mixed drinks. One section of S.L. 2007-402 (H 267) extends that provision to any incorporated *municipality* that has approved mixed drinks, regardless of whether there is a contrary local act.

In 2005 the General Assembly enacted G.S. 18B-1006.1 requiring all on-premises permit holders to separate and recycle beverage containers starting January 1, 2008. S.L. 2007-402 modifies the 2005 law by specifying that each on-premises permit application must include a plan for recycling containers but that failure to recycle is not grounds for revoking a permit. The 2007 act allows a permit holder to apply to the ABC Commission for a one-year stay of the recycling requirement if the holder cannot find a recycler. The commission will grant the postponement if the Division of Pollution Prevention and Environmental Assistance in the Department of Environment and Natural Resources certifies that recycling is not available for that permit holder.

A winemaking permit is available to a business that provides equipment and ingredients to individuals who come to that location to make their own wines for personal use. S.L. 2007-402 authorizes licensed wineries to allow winemaking by individuals on their premises as well. It is not clear if these wineries must obtain a separate winemaking permit to sell ingredients and allow individuals to make their own wine or if the winery permit now automatically authorizes that activity.

## **Sales at Panthers Games**

Under general state ABC law, sales of any kind of alcoholic beverage, on-premises or off-premises, may not begin before noon on Sunday. Tucked into this year's budget [S.L. 2007-323 (H 1473)], enacted at session's end, was a provision in Section 6.25 authorizing sales to begin one hour earlier on Sunday for the holders of permits for "in-stand" sales under G.S. 18B-1009. That statute allows the sale of beer in the stands of stadiums with a seating capacity of 60,000 or more in cities with a population of more than 450,000. The only venue to which the statute applies is the Carolina Panthers professional football stadium in Charlotte. Panthers fans at Bank of America Stadium can now start warming up at 11:00 a.m. for those early kickoffs.

## **Elections**

Only one minor change was made in the law concerning ABC elections. Under current law a city located in more than one county may hold a mixed drink election if that city has at least 500 voters (the general requirement for all municipal mixed drink elections) and one of the counties in

which the city is located already operates ABC stores. (The ABC store requirement stems from the fact that mixed drink permit holders must purchase their liquor from a local store.) Under S.L. 2007-386 (S 661) a city in more than one county may hold a mixed drink election if either one of the counties *or* any other municipality in one of the two counties operates ABC stores. Presumably the legislation was designed to benefit a particular municipality, but its identity is not specified.

## **Criminal Offenses**

Other chapters in this publication address new criminal offenses that involve alcohol or affect alcohol-related businesses. An increase in punishment and other changes affecting dealers in used metals, as enacted in S.L. 2007-301 (H 367), are of interest to those in the beer business because of the rapidly growing problem of theft of beer kegs as the price of metal increases. Another act, S.L. 2007-134 (S 125), makes it unlawful to make, sell, use, or possess an alcohol vaporizing device, a device used for inhaling alcohol vapor. Both of these acts became effective December 1, 2007.

## **Legislation Not Enacted**

A variety of other bills affecting alcohol use and sales were introduced but did not make sufficient progress to be eligible for consideration in 2008. These included legislation to allow breweries and wineries to offer discount coupons directly to customers, an increase in the volume of beer a brewpub can manufacture and continue to be its own wholesaler, and a bottle deposit bill. None of the several bills to increase or adjust alcohol taxes were considered at any length. Legislation creating a study commission to review and revise the ABC laws was proposed but not enacted. The last general revision of the ABC laws occurred in 1981, prompted largely by the enactment of mixed drink legislation several years earlier, and some confusion and clutter has crept into G.S. Chapter 18B since then. Much of the difficulty has resulted from nominally statewide legislation intended to solve local problems, enacted because the state constitution prohibits local acts regulating trade. The bill authorizing new studies got caught in the rush to adjournment, however, and the ABC study was among those not enacted.

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