

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

D

HOUSE DRH10187-LKf-59 (2/27)

Short Title: Beer/Wine Shippers Permits. (Public)

Sponsors: Representative Gibson.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ALCOHOLIC BEVERAGE COMMISSION TO
ISSUE BEER AND WINE SHIPPERS PERMITS TO ALLOW THE DIRECT
SHIPMENT OF MALT BEVERAGES AND WINES TO RESIDENTS OF NORTH
CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-902(d) reads as rewritten:

"(d) Fees. – An application for an ABC permit shall be accompanied by payment
of the following application fee:

- (1) On-premises malt beverage permit – \$400.00.
- (2) Off-premises malt beverage permit – \$400.00.
- (3) On-premises unfortified wine permit – \$400.00.
- (4) Off-premises unfortified wine permit – \$400.00.
- (5) On-premises fortified wine permit – \$400.00.
- (6) Off-premises fortified wine permit – \$400.00.
- (7) Brown-bagging permit – \$400.00, unless the application is for a restaurant seating less than 50, in which case the fee shall be \$200.00.
- (8) Special occasion permit – \$400.00.
- (9) Limited special occasion permit – \$50.00.
- (10) Mixed beverages permit – \$1,000.
- (11) Culinary permit – \$200.00.
- (12) Unfortified winery permit – \$300.00.
- (13) Fortified winery permit – \$300.00.
- (14) Limited winery permit – \$300.00.
- (15) Brewery permit – \$300.00.
- (16) Distillery permit – \$300.00.
- (17) Fuel alcohol permit – \$100.00.

- 1 (18) Wine importer permit – \$300.00.
- 2 (19) Wine wholesaler permit – \$300.00.
- 3 (20) Malt beverage importer permit – \$300.00.
- 4 (21) Malt beverage wholesaler permit – \$300.00.
- 5 (22) Bottler permit – \$300.00.
- 6 (23) Salesman permit – \$100.00.
- 7 (24) Vendor representative permit – \$50.00.
- 8 (25) Nonresident malt beverage vendor permit – \$100.00.
- 9 (26) Nonresident wine vendor permit – \$100.00.
- 10 (27) Any special one-time permit under G.S. 18B-1002 – \$50.00.
- 11 (28) Winery special event permit – \$200.00.
- 12 (29) Mixed beverages catering permit – \$200.00.
- 13 (30) Guest room cabinet permit – \$1,000.
- 14 (31) Liquor importer/bottler permit – \$500.00.
- 15 (32) Cider and vinegar manufacturer permit – \$200.00.
- 16 (33) Brew on premises permit – \$400.00.
- 17 (34) Wine producer permit – \$300.00.
- 18 (35) Wine tasting permit – \$100.00.
- 19 (36) Malt beverage shipper permit – \$100.00.
- 20 (37) Wine shipper permit – \$100.00."

21 **SECTION 2.** G.S. 18B-1100 reads as rewritten:

22 **"§ 18B-1100. Commercial permits.**

23 The Commission may issue the following commercial permits:

- 24 (1) Unfortified winery
- 25 (2) Fortified winery
- 26 (3) Limited winery
- 27 (4) Brewery
- 28 (5) Distillery
- 29 (6) Fuel alcohol
- 30 (7) Wine importer
- 31 (8) Wine wholesaler
- 32 (9) Malt beverages importer
- 33 (10) Malt beverages wholesaler
- 34 (11) Bottler
- 35 (12) Salesman
- 36 (13) Vendor representative
- 37 (14) Nonresident malt beverage vendor
- 38 (15) Nonresident wine vendor
- 39 (16) Winery special show
- 40 (17) Liquor importer/bottler permit
- 41 (18) Cider and vinegar manufacturer.
- 42 (19) Wine producer permit.
- 43 (20) Malt beverage shipper permit.
- 44 (21) Wine shipper permit."

1 **SECTION 3.** Chapter 18B of the General Statutes is amended by adding a
2 new section to read:

3 **"§ 18B-1114.3. Authorization of malt beverage shipper permit.**

4 (a) Holders of malt beverage shipper permits may sell and ship not more than
5 two cases of malt beverage per month to any person in North Carolina to whom
6 alcoholic beverages may be lawfully sold. All sales and shipments shall be for personal
7 consumption only and not for resale. A case of malt beverages shall mean any
8 combination of packages containing not more than 288 ounces of malt beverage. Any
9 brewery located within or outside the State may apply to the Commission for issuance
10 of a malt beverage shipper permit that shall authorize the shipment of brands of malt
11 beverages identified in the application. Any person located within or without the State
12 who is authorized to sell malt beverages at retail in their state of domicile and who is
13 not a brewery may nevertheless apply for a malt beverage shipper permit. Any brewery
14 that applies for a malt beverage shipper permit or authorizes any other person, other
15 than a retail off-premises permittee, to apply for a permit to ship the brewery's brands of
16 malt beverage shall notify any wholesale permittees that have been authorized to
17 distribute those brands within this State that an application has been filed for a malt
18 beverage shipper permit. The notice shall be given in writing and in a form prescribed
19 by the Commission. The Commission may adopt rules necessary to implement the
20 provisions of this section, including rules to allow the malt beverage shipper permittee
21 to amend the brands of malt beverages identified in the permit application.

22 (b) Any applicant for a malt beverage shipper permit that does not own or have
23 the right to control the distribution of the brands of malt beverage identified in the
24 permit application may be issued the permit if the applicant obtains the written consent
25 of the brewery whose brands of malt beverage are contained in the application. Any
26 retail off-premises malt beverage permittee who purchases malt beverages from anyone
27 authorized to sell malt beverages in North Carolina shall be presumed to have the
28 authorization of the winery or supplier to ship its brands. Any brewery that has supplied
29 written authorization to a malt beverage shipper permittee to sell and ship its brands of
30 malt beverage shall not be restricted by any provision of this section from withdrawing
31 the authorization at any time. If the authorization is withdrawn, the brewery shall
32 promptly notify the Commission of its decision to withdraw from the malt beverage
33 shipper permittee the authority to sell and ship any of its brands, and the permittee shall
34 promptly file with the Commission an amendment to its permit application eliminating
35 the withdrawn brand or brands.

36 (c) The direct shipment of malt beverage by malt beverage shipper permittees
37 made pursuant to this section shall be by approved common carrier only. The
38 Commission shall adopt rules under which common carriers may apply for approval to
39 provide common carriage of malt beverages shipped by holders of permits issued
40 pursuant to this section. These rules shall include provisions that require:

41 (1) The recipient to demonstrate, upon delivery, that he is at least 21 years
42 of age.

43 (2) The recipient to sign an electronic or paper form or other
44 acknowledgment of receipt as approved by the Commission.

1 (3) The Commission-approved common carrier to submit any information
2 that the Commission may require.

3 The Commission-approved common carrier shall refuse delivery when the proposed
4 recipient appears to be under the age of 21 years and refuses to present valid
5 identification. All malt beverage shipper permittees shipping malt beverages pursuant to
6 this section shall affix a notice in 16-point type or larger to the outside of each package
7 of malt beverage shipped within or to the State in a conspicuous location stating:
8 'CONTAINS ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON AGED 21
9 YEARS OR OLDER REQUIRED FOR DELIVERY'. Any delivery of malt beverages
10 to a minor by a common carrier shall constitute a violation by the common carrier. The
11 common carrier and the malt beverage shipper permittee shall be liable only for their
12 independent acts.

13 (d) For purposes of Chapter 105 of the General Statutes, each shipment of malt
14 beverages by a malt beverage shipper permittee shall constitute a sale in North Carolina.
15 The permittee shall collect the taxes due to the State and remit any excise taxes or any
16 sales taxes to the Department of Revenue."

17 **SECTION 4.** Chapter 18B of the General Statutes is amended by adding a
18 new section to read:

19 "**§ 18B-1114.3. Authorization of wine shipper permit.**

20 (a) Holders of wine shipper permits may sell and ship not more than two cases of
21 wine per month to any person in North Carolina to whom alcoholic beverages may be
22 lawfully sold. All sales and shipments shall be for personal consumption only and not
23 for resale. A case of wine shall mean any combination of packages containing not more
24 than nine liters of wine. Any winery located within or outside the State may apply to the
25 Commission for issuance of a wine shipper permit that shall authorize the shipment of
26 brands of wines identified in the application. Any person located within or without the
27 State who is authorized to sell wines at retail in their state of domicile and who is not a
28 winery may nevertheless apply for a wine shipper permit. Any winery that applies for a
29 wine shipper permit or authorizes any other person, other than a retail off-premises
30 permittee, to apply for a permit to ship the winery's brands of wine shall notify any
31 wholesale permittees that have been authorized to distribute those brands within this
32 State that an application has been filed for a wine shipper permit. The notice shall be
33 given in writing and in a form prescribed by the Commission. The Commission may
34 adopt rules necessary to implement the provisions of this section, including rules to
35 allow the wine shipper permittee to amend the brands of wines identified in the permit
36 application.

37 (b) Any applicant for a wine shipper permit that does not own or have the right to
38 control the distribution of the brands of wine identified in the permit application may be
39 issued the permit if the applicant obtains the written consent of the winery whose brands
40 of wine are contained in the application. Any retail off-premises wine permittee who
41 purchases wines from anyone authorized to sell wines in North Carolina shall be
42 presumed to have the authorization of the winery or supplier to ship its brands. Any
43 winery that has supplied written authorization to a wine shipper permittee to sell and
44 ship its brands of wine shall not be restricted by any provision of this section from

1 withdrawing the authorization at any time. If the authorization is withdrawn, the winery
2 shall promptly notify the Commission of its decision to withdraw from the wine shipper
3 permittee the authority to sell and ship any of its brands, and the permittee shall
4 promptly file with the Commission an amendment to its permit application eliminating
5 the withdrawn brand or brands.

6 (c) The direct shipment of wine by wine shipper permittees made pursuant to this
7 section shall be by approved common carrier only. The Commission shall adopt rules
8 under which common carriers may apply for approval to provide common carriage of
9 wines shipped by holders of permits issued pursuant to this section. These rules shall
10 include provisions that require:

11 (1) The recipient to demonstrate, upon delivery, that he is at least 21 years
12 of age.

13 (2) The recipient to sign an electronic or paper form or other
14 acknowledgment of receipt as approved by the Commission.

15 (3) The Commission-approved common carrier to submit any information
16 that the Commission may require.

17 The Commission-approved common carrier shall refuse delivery when the proposed
18 recipient appears to be under the age of 21 years and refuses to present valid
19 identification. All wine shipper permittees shipping wines pursuant to this section shall
20 affix a notice in 16-point type or larger to the outside of each package of wine shipped
21 within or to the State in a conspicuous location stating: 'CONTAINS ALCOHOLIC
22 BEVERAGES; SIGNATURE OF PERSON AGED 21 YEARS OR OLDER
23 REQUIRED FOR DELIVERY'. Any delivery of wines to a minor by a common carrier
24 shall constitute a violation by the common carrier. The common carrier and the wine
25 shipper permittee shall be liable only for their independent acts.

26 (d) For purposes of Chapter 105 of the General Statutes, each shipment of wines
27 by a wine shipper permittee shall constitute a sale in North Carolina. The permittee shall
28 collect the taxes due to the State and remit any excise taxes or any sales taxes to the
29 Department of Revenue."

30 **SECTION 5.** G.S. 18B-102.1(a) reads as rewritten:

31 "(a) It is unlawful for any person who is an out-of-state retail or wholesale ~~dealer~~
32 ~~in dealer in~~ the business of selling alcoholic ~~beverages-beverages~~ who does not hold a
33 malt beverage shipper permit or a wine shipper permit to ship or cause to be shipped
34 any alcoholic beverage directly to any North Carolina resident who does not hold a
35 valid wholesaler's permit under Article 11 of this Chapter."

36 **SECTION 6.** G.S. 18B-109(a) reads as rewritten:

37 "(a) General Prohibition. – No person shall have any alcoholic beverage mailed or
38 shipped to him from outside this State unless he has the appropriate ABC ~~permit~~permit
39 or unless the shipper holds a malt beverage shipper permit or a wine shipper permit."

40 **SECTION 7.** This act is effective when it becomes law.