

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE BILL 1500  
Committee Substitute Favorable 5/4/05  
Third Edition Engrossed 5/10/05  
Senate Commerce Committee Substitute Adopted 7/6/05

Short Title: Wine-Tasting/Wineries Wholesale Lic. Changes. (Public)

Sponsors:

Referred to:

April 21, 2005

A BILL TO BE ENTITLED

AN ACT TO AMEND THE REQUIREMENTS TO HOLD A WINE-TASTING PERMIT, THE LAW CONCERNING COMMUNITY COLLEGE VITICULTURE/ENOLOGY PROGRAMS, AND THE LAW GOVERNING WINE DISTRIBUTION AGREEMENTS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 18B-1001(15) reads as rewritten:

"(15) Wine-Tasting Permit. – A wine-tasting permit authorizes wine tastings on ~~the a premises conducted and supervised by the permittee. holding a retail permit, by the retail permit holder or his employee.~~ A wine tasting consists of the offering of a sample of one or more unfortified wine products, in amounts of no more than one ounce for each sample, without charge, to customers of the business. Any person pouring wine at a wine tasting shall be at least 21 years of age.

a. Representatives of the winery, which produced the wine, ~~or the wine producer-producer, a wholesaler, or a wholesaler's employee~~ may assist with the ~~tastings in a manner consistent with existing law.~~ tasting. Assisting with a wine tasting includes:

1. Pouring samples for customers.
2. Checking the identification of patrons being served at the wine tasting.

b. When a representative of the winery that produced the wine, the wine producer, a wine wholesaler, or a wine wholesaler's employee assists in a wine tasting conducted by a retail permit holder:

- 1           1.     The retail permit holder shall designate an employee to  
2                 actively supervise the wine tasting.
- 3           2.     A retail permit holder's employee shall not supervise  
4                 more than three wine-tasting areas.
- 5           3.     No more than six wines may be tasted at any one tasting  
6                 area.
- 7           4.     The wine tasting shall not last longer than four hours  
8                 from the time designated as the starting time by the retail  
9                 permit holder.

10           c.     The retail permit holder shall be solely liable for any violations  
11                 of this Chapter occurring in connection with the wine tasting.

12           The Commission shall adopt rules to assure that the tastings are limited  
13           to samplings and not a subterfuge for the unlawful sale or distribution  
14           of wine, and that the tastings are not used by industry members for  
15           unlawful inducements to retail permit holders, ~~and do not violate~~  
16           ~~existing rules.~~ holders. Except for purposes of this subsection, the  
17           holder of a wine-tasting permit shall not be construed to hold a permit  
18           for the on-premises sale or consumption of alcoholic beverages. Any  
19           food business is eligible for a wine-tasting permit."

20           **SECTION 2.** G.S. 18B-1114.4 reads as rewritten:

21           "**§ 18B-1114.4. Viticulture/Enology course authorization.**

22           (a)     Authorization. – The holder of a viticulture/enology course authorization  
23           may:

- 24           (1)     Manufacture wine from grapes grown on the school's campus or the  
25                 school's contracted or leased property for the purpose of providing  
26                 instruction and education on the making of unfortified wines.
- 27           (2)     Possess wines manufactured during the viticulture/enology program  
28                 for the purpose of conducting wine-tasting seminars and classes for  
29                 students who are 21 years of age or older.
- 30           (3)     Sell wines produced during the course to wholesalers or to retailers  
31                 upon obtaining a wine wholesaler permit under G.S. 18B-1107, except  
32                 that the permittee may not receive shipments of wines from other  
33                 producers.

34           (b)     Limitation. – Authorization for a viticulture/enology course shall be granted  
35           by the Commission only for a community college or college that offers a  
36           viticulture/enology program as a part of its curriculum offerings for students of the  
37           school. ~~No retail sales of wine shall be made by the students, instructor, or school.~~  
38           Wines may be manufactured only from grapes grown in a viticulture/enology course  
39           ~~vineyard, not to exceed five acres, vineyard~~ vineyard that is located on the school's campus or the  
40           school's contracted or leased property.

41           (c)     The holder of a viticulture/enology course authorization who obtains a wine  
42           wholesaler permit under G.S. 18B-1107 subject to the limitation in subsection (a) of this  
43           section may manufacture wines from grapes grown by others until June 30, 2004.  
44           ~~Otherwise, wine may be manufactured only as provided in subsection (b) of this section.~~

1 obtain a winery special event permit under G.S. 18B-1114.1, and where the permit is  
2 valid may participate in approved events and sell at retail at those events any wine  
3 produced incident to the operation of the viticulture/enology program. The holder of a  
4 viticulture/enology course authorization may participate in not more than six winery  
5 special events within a 12-month period and may sell up to 25 cases of wine at each  
6 event. Net proceeds from the program's retail sale of wine pursuant to this subsection  
7 shall be retained by the school and used for support of the viticulture/enology program.

8 (d) The holder of a viticulture/enology course authorization shall not be  
9 considered a winery for the purposes of this Chapter or Chapter 105 of the General  
10 Statutes."

11 **SECTION 3.** G.S. 18B-1114.1(a) reads as rewritten:

12 "(a) Authorization. – The holder of an unfortified winery permit, a limited winery  
13 permit, a viticulture/enology course authorization, or a wine producer permit may obtain  
14 a winery special permit allowing the winery or wine producer to give free tastings of its  
15 wine, and to sell its wine by the glass or in closed containers, at trade shows,  
16 conventions, shopping malls, wine festivals, street festivals, holiday festivals,  
17 agricultural festivals, balloon races, local fund-raisers, and other similar events  
18 approved by the Commission."

19 **SECTION 4.** G.S. 18B-1200 reads as rewritten:

20 "**§ 18B-1200. Construction; findings and ~~purpose~~purpose; exceptions.**

21 (a) This Article shall be liberally construed and applied to promote its underlying  
22 purposes and policies.

23 (b) The underlying purposes and policies of the Article are:

- 24 (1) To promote the compelling interest of the public in fair business  
25 relations between wine wholesalers and wineries, and in the  
26 continuation of wine wholesalerships on a fair basis;
- 27 (2) To protect wine wholesalers against unfair treatment by wineries;
- 28 (3) To provide wine wholesalers with rights and remedies in addition to  
29 those existing by contract or common law; and
- 30 (4) To govern all wine wholesalerships, including any renewals or  
31 amendments, to the full extent consistent with the Constitution of this  
32 State and the United States.

33 (c) The effect of this Article may not be waived or varied by contract or  
34 agreement. Any contract or agreement purporting to do so is void and unenforceable to  
35 the extent of that waiver or variance.

36 (d) A North Carolina winery holding a valid wine wholesaler permit issued  
37 pursuant to G.S. 18B-1101(7) and G.S. 18B-1107, when acting as its own master  
38 wholesaler, shall not be subject to the provisions of G.S. 18B-1204, 18B-1205, and  
39 18B-1207."

40 **SECTION 5.** This act is effective when it becomes law. Section 4 of this act  
41 shall be effective prospectively only and shall not apply to pending litigation or claims  
42 that accrued before the effective date of this act.