

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 909

Short Title: Sale of Antique Spirituous Liquor. (Public)

Sponsors: Representatives Hager and J. Bell (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Alcoholic Beverage Control, if favorable, Finance.

April 20, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE AND REGULATE THE SALE OF ANTIQUE SPIRITUOUS
3 LIQUOR.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 18B-101 reads as rewritten:

6 "§ 18B-101. Definitions.

7 As used in this Chapter, unless the context requires otherwise:

8 ...

9 (5) "ALE Branch" means the Alcohol Law Enforcement Branch of the
10 Department of Public Safety.

11 (5a) "Antique spirituous liquor" means spirituous liquor that has been bottled for
12 at least 20 years, is in the original, unopened bottle, is intended for beverage
13 use, and is no longer in production.

14 (5b) "Bailment surcharge" means the charge imposed on each case of liquor
15 shipped from a Commission warehouse as provided in G.S. 18B-208. This
16 bailment surcharge is in addition to the bailment charge imposed by
17 G.S. 18B-804(b)(2).

18"

19 SECTION 2. G.S. 18B-1001 is amended by adding a new subsection to read:

20 "(20) Antique spirituous liquor permit. – A permit under this subdivision may be
21 issued to a holder of a mixed beverages permit issued under subdivision (10)
22 of this subsection. Notwithstanding any law to the contrary, the permit
23 holder may sell at retail antique spirituous liquor for use in mixed beverages
24 for consumption on premises. Every initial and renewal application for a
25 permit under this subdivision shall include a complete inventory of the
26 antique spirituous liquor the permit holder possesses. If the permit holder
27 acquires antique spirituous liquor after filing the inventory required under
28 this subdivision, the permit holder shall amend the inventory filed to include
29 the acquired antique spirituous liquor prior to its sale. The acquisition of
30 antique spirituous liquor on or after August 1, 2015, shall be in accordance
31 with the process established by rule of the Commission for special orders of
32 spirituous liquor that is not on the list approved by the Commission. Nothing
33 in the process established by rule of the Commission shall be construed as
34 prohibiting the acquisition of antique spirituous liquor from a seller other
35 than a distiller. The permit holder shall be solely liable for any violations of



* H 9 0 9 - V - 1 *

1 this Chapter occurring in connection with the sale of antique spirituous
2 liquor. The Commission shall adopt rules to assure (i) that the permit holder
3 is the lawful owner of the antique spirituous liquor and (ii) that antique
4 spirituous liquor sold under this subdivision is safe for human consumption."

5 **SECTION 3.** G.S. 18B-902(d) is amended by adding a new subdivision to read:

6 "(43) Antique spirituous liquor permit – \$100.00."

7 **SECTION 4.** G.S. 18B-1001(10) reads as rewritten:

8 "(10) Mixed Beverages Permit. – A mixed beverages permit authorizes the retail
9 sale of mixed beverages for consumption on the premises. The permit also
10 authorizes a mixed beverages permittee (i) to obtain a
11 purchase-transportation permit under G.S. 18B-403 and 18B-404, (ii) to
12 obtain an antique spirituous liquor permit under subdivision (20) of this
13 section, and (iii) to use for culinary purposes spirituous liquor lawfully
14 purchased for use in mixed beverages. The permit may be issued for any of
15 the following:

- 16 a. Restaurants;
- 17 b. Hotels;
- 18 c. Private clubs;
- 19 d. Convention centers;
- 20 e. Community theatres;
- 21 f. Nonprofit organizations; and
- 22 g. Political organizations."

23 **SECTION 5.** G.S. 18B-804 reads as rewritten:

24 **"§ 18B-804. Alcoholic beverage pricing.**

25 (a) Uniform Price of Spirituous Liquor. – The retail price of spirituous liquor sold in
26 ABC stores shall be uniform throughout the State, unless otherwise provided by the ABC law.

27 (b) Sale Price of Spirituous Liquor. – The sale of spirituous ~~liquor~~ liquor, including
28 antique spirituous liquor, sold at the uniform State price shall consist of the following
29 components:

- 30 (1) The distiller's ~~price-price~~, except for antique spirituous liquor, which shall be
31 the price paid by the Commission to purchase the antique spirituous liquor.
- 32 (2) The freight and bailment charges of the State warehouse as determined by
33 the Commission.
- 34 (3) A markup for local boards as determined by the Commission.
- 35 (4) The tax levied under G.S. 105-113.80(c), which shall be levied on the sum
36 of subdivisions (1), (2), and (3).
- 37 (5) An additional markup for local boards equal to three and one-half percent (3
38 1/2%) of the sum of subdivisions (1), (2), and (3).
- 39 (6) A bottle charge of one cent (1¢) on each bottle containing 50 milliliters or
40 less and five cents (5¢) on each bottle containing more than 50 milliliters.
 - 41 (6a) The bailment surcharge.
 - 42 (6b) An additional bottle charge for local boards of one cent (1¢) on each bottle
43 containing 50 milliliters or less and five cents (5¢) on each bottle containing
44 more than 50 milliliters.
- 45 (7) A rounding adjustment, the formula of which may be determined by the
46 Commission, so that the sale price will be divisible by five.
- 47 (8) If the spirituous liquor is sold to a mixed beverage permittee for resale in
48 mixed beverages, a charge of twenty dollars (\$20.00) on each four liters and
49 a proportional sum on lesser quantities.

- 1 (9) If the spirituous liquor is sold to a guest room cabinet permittee for resale, a
2 charge of twenty dollars (\$20.00) on each four liters and a proportional sum
3 on lesser quantities.

4"

5 **SECTION 6.** G.S. 105-113.80(c) reads as rewritten:

6 "(c) Liquor. – An excise tax of thirty percent (30%) is levied on liquor sold in ABC
7 stores. Pursuant to G.S. 18B-804(b), the price of liquor on which this tax is computed is the
8 distiller's price plus (i) the State ABC warehouse freight and bailment ~~charges, charges~~ and (ii) a
9 markup for local ABC boards. Pursuant to G.S. 18B-804(b), and except as otherwise provided
10 by law, the price of antique spirituous liquor on which this tax is computed is the price paid by
11 the Commission to purchase the antique spirituous liquor plus (i) the State ABC warehouse
12 freight and bailment charges and (ii) a markup for local ABC boards."

13 **SECTION 7.** Upon obtaining a permit under G.S. 18B-1001(20), as enacted by
14 Section 2 of this act, and paying the excise tax set forth in G.S. 105-113.80(c), a person may
15 sell any antique spirituous liquor (i) in his or her possession prior to or on the effective date of
16 this act or (ii) acquired by bequest or inheritance after the effective date of this act. For
17 purposes of applying the applicable provisions of G.S. 105-113.80(c) to antique spirituous
18 liquor subject to this section, the reference to "the price paid by the Commission to purchase
19 the antique spirituous liquor" shall be construed to mean the fair market value determined by
20 the ABC Commission of the antique spirituous liquor.

21 **SECTION 8.** No later than August 1, 2015, the ABC Commission shall establish
22 and adopt temporary rules to implement the provisions of this act.

23 **SECTION 9.** Sections 1 through 6 of this act become effective upon adoption of
24 rules pursuant to Section 8 of this act. The remainder of this act is effective when it becomes
25 law.