

**Charlotte Area *Hotel* Association
Membership Meeting
July 21, 2010**

Alcohol in North Carolina

Danny Sellers, VP of Training

SHOW PROS ENTERTAINMENT SERVICES INC.

Alcohol Risk Reduction Training Institute

www.showprostaff.com



Reducing Liability

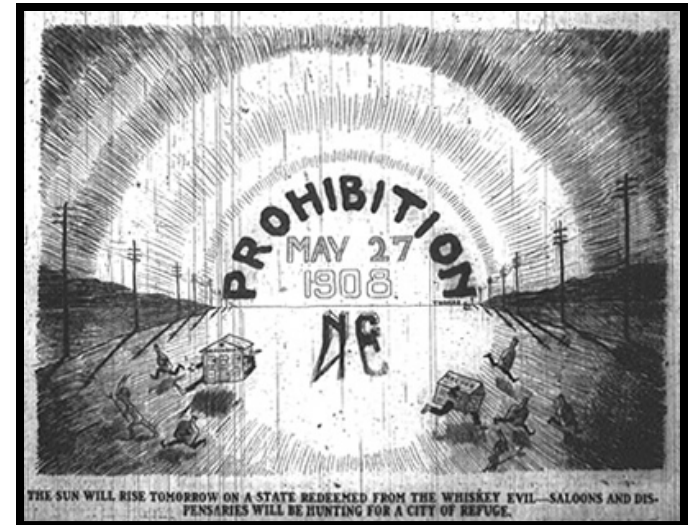
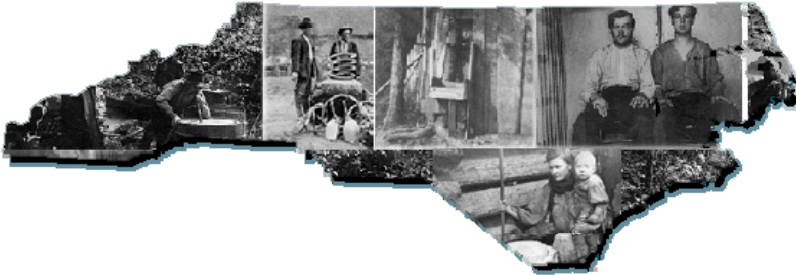


Managing Risk



Increasing Profits

A Short History Lesson, 1908



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The 21st Amendment

Repeal of Prohibition - 1933



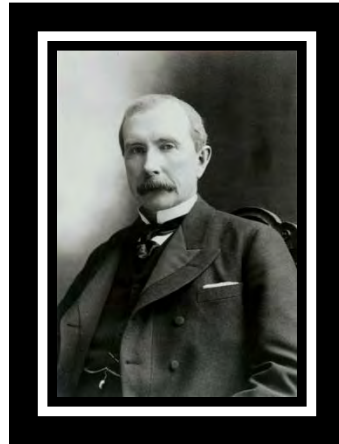
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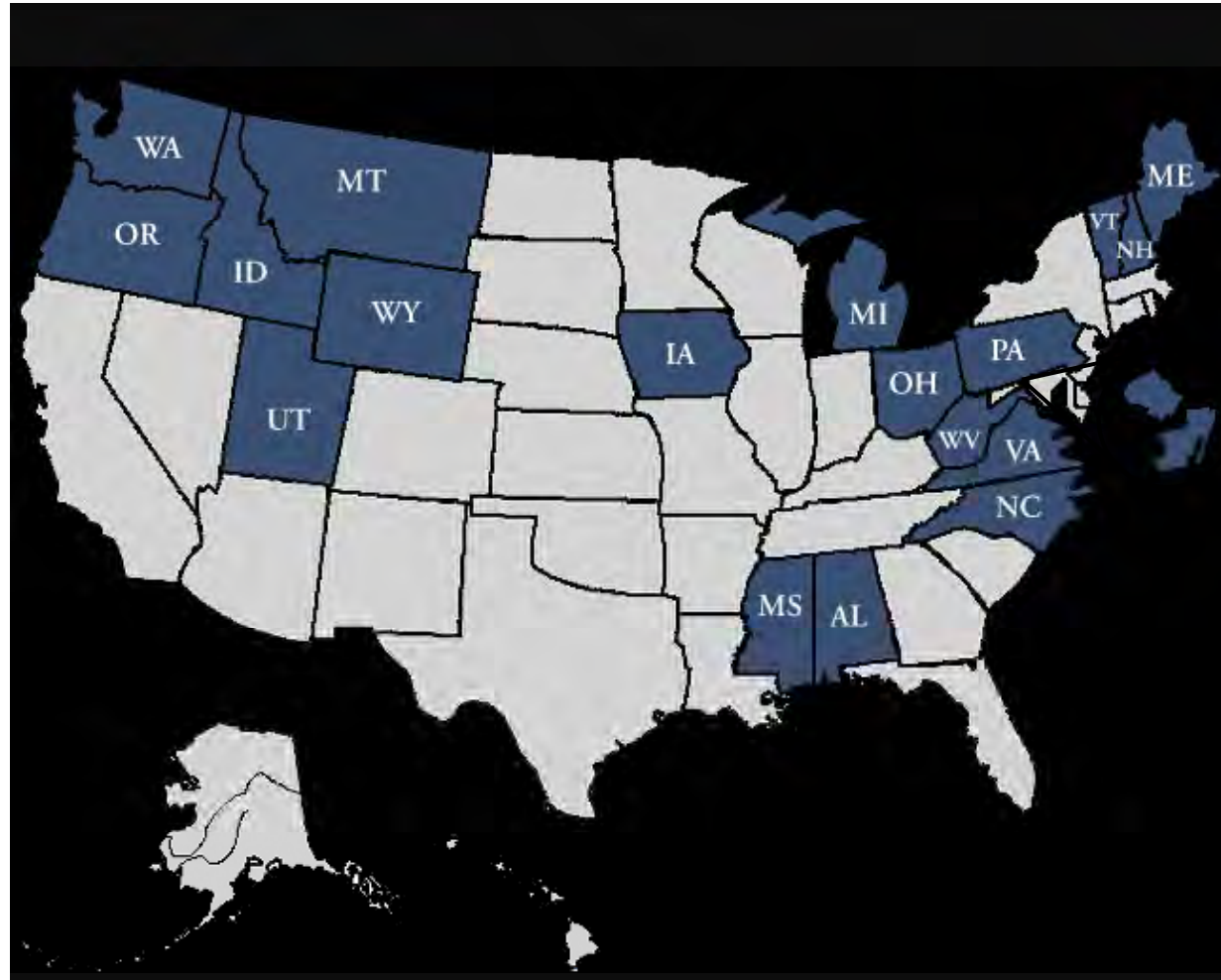
“Toward Alcohol Control” - 1933

“Only as the profit motive is eliminated is there any hope of controlling the liquor traffic in the interest of a decent society. To approach the problem from any other angle is only to tinker with it and insure failure. This point cannot be too heavily stressed.”



~John D. Rockefeller, Jr.

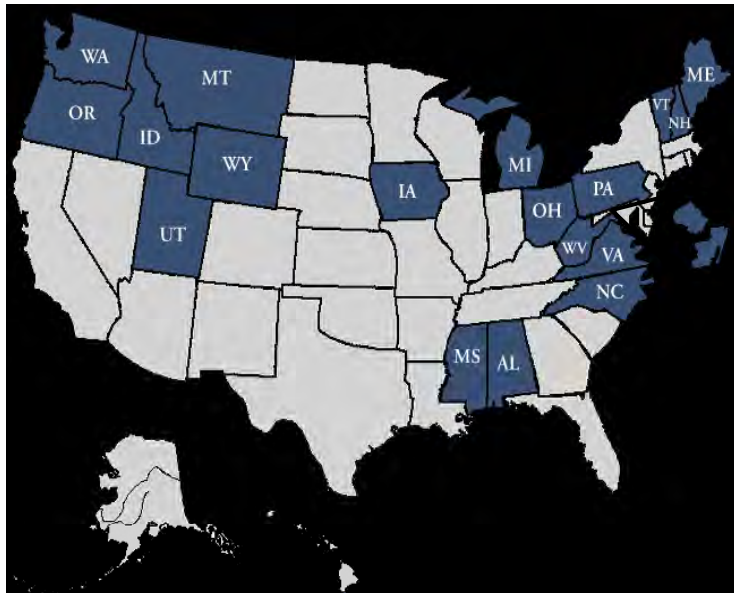
The Control System



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Control vs. Open

19 Control States

Open State (licensed)

Control State

Where the money goes.....	pocket of the owner.....	back to the community
Who owns and operates.....	private citizen(s).....	state/county/or city
Employees.....	private citizen.....	state/county/or city employees
Price of Spirits.....	set by owner.....	uniform pricing
Spirits Consumption.....	Control states consume 16% less than licensed states	
Revenue.....	Control states generate 115% more revenue than licensed states	

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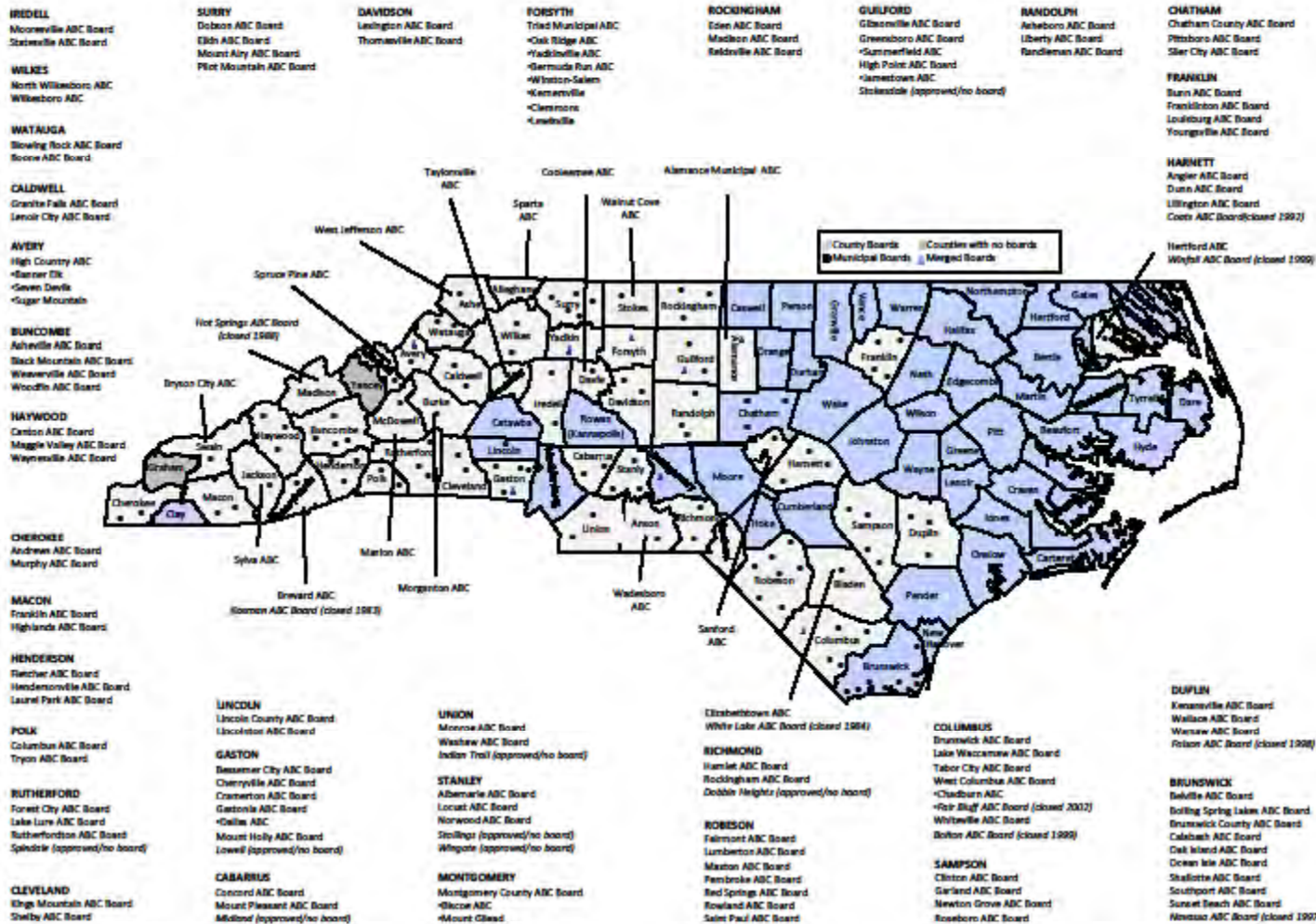
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A “local option” System

- 1935 – NC General Assembly request Study Commission
- 1937 – The Alcohol Control Act formed
 - ➔ State Alcohol Board created (now known as Alcoholic Beverage Control Commission)
 - ➔ North Carolina becomes a Monopoly State
 - ➔ “Local Option”
 - ➔ Patchwork system





Alcohol in NC



SHOW PROS
Entertainment
Services Inc.

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North Carolina Alcoholic Beverage Control Commission

Duties and Responsibilities

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State ABC Commission

Powers. – The Commission shall have authority to:

- **Administer the ABC laws;**
- Set the prices of alcoholic beverages sold in local ABC stores
- Contract for State ABC warehousing
- Supervise or disapprove purchasing by any local board and inspect all records of purchases by local boards;
- Approve or disapprove the opening and location of ABC stores
- **Issue ABC permits**, and **impose sanctions** against permittees
- Provide alcohol education and training
- **Approve and disapprove all alcoholic beverage brands** sold in NC

North Carolina – First ABC Store



ABC Boards – Today



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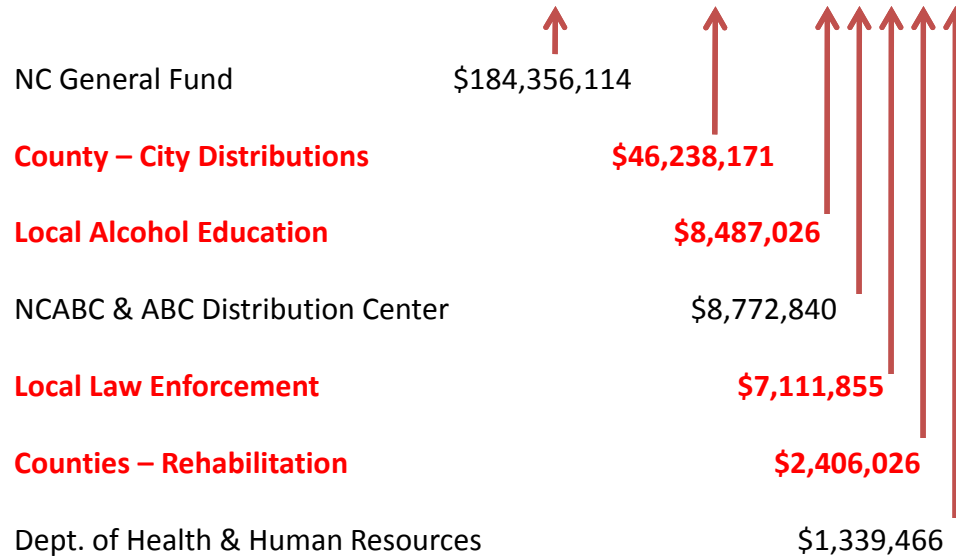
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Mecklenburg County ABC Board - 62 : 2009 Revenue		Opened: September 25, 1947
Income		
Liquor Sales to Public:		\$61,185,914
Liquor Sales to Mixed Beverage Permittees:		\$34,587,212
Fortified Wine Sales to Public:		\$309,213
Interest Income:		\$104,123
Other Income:		\$160,675
Total Income:		\$96,347,137
Taxes		
State Excise Tax:		\$17,293,531
Mixed Beverage Tax to Dept. of Revenue:		\$2,959,602
Mixed Beverage Tax to Dept. of Human Services:		\$295,960
Rehabilitation Contribution:		\$282,684
Sales Tax on Wine:		\$20,904
Total Taxes:		\$20,852,681
Expenses		
Cost of Goods Sold:		\$50,126,024
Operating Expenses:		\$13,529,754
Other Expenses:		\$194,021
Total Expenses:		\$63,849,799
Profit		
Profit Before Distributions:		\$11,644,657
Profit Percent		
Profit Percentage of Income:		12.11 %
Statutory Distributions		
Law Enforcement:		\$1,483,994
Alcohol Education:		\$3,196,962
Local:		\$7,447,369
Total Distributions:		\$12,128,325

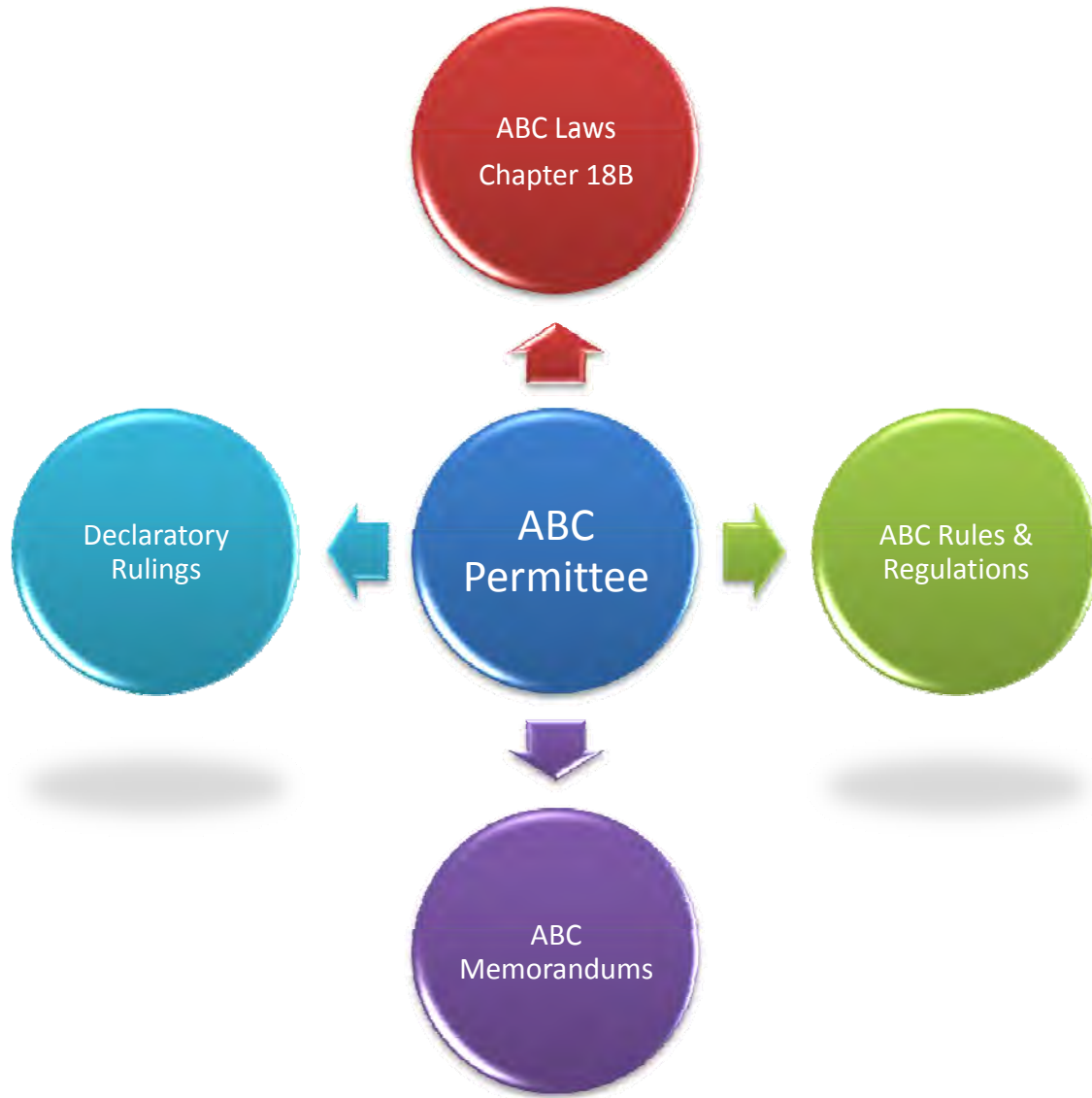


Total Distribution of Funds to State of NC - 2009

\$258,711,498



ABC PERMITTEES



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ENFORCEMENT



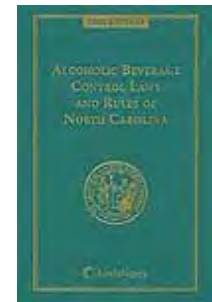
CHAPTER 18B
&
NC ADMINISTRATIVE CODE

Chapter 18B – ABC Laws

- 14 Articles
- Articles = Sections (example – article 4 = 18B-400)
- 18B = Laws (criminal statutes)

NC Administrative Code – Title 4

- 3 sections
- 2R – Organizational rules, P&P
- 2S - Retail Information
- 2T - Industry member relationships
- Administrative rules (administrative violation rules)



NC ABC PERMITS
“A CONVENIENCE SYSTEM”

• **Interstate Interchange Economic Development Zones.** –

(1) The Commission may issue permits listed in G.S. 18B-1001(10), without approval at an election, to qualified establishments defined in G.S. 18B-1000(4), (6), and (8) located within one mile of an interstate highway interchange located in a county that:

- a. Has approved the sale of malt beverages, unfortified wine, and fortified wine, but not mixed beverages;
- b. Operates ABC stores;
- c. Borders on another state; and
- d. Lies north and east of the Roanoke River

• **Recreation Districts.** – Notwithstanding the provisions of Article 6 of this Chapter, the Commission may issue permits for the sale of malt beverages, unfortified wine, fortified wine, and mixed beverages to qualified businesses in a recreation district.

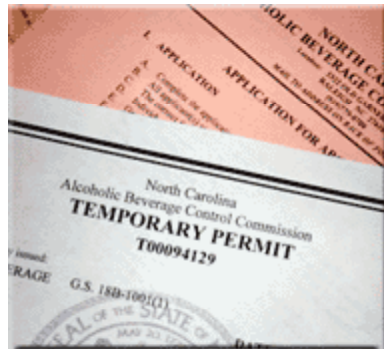
A "recreation district" is an area that meets any of the following requirements:

- (1) An area that is located in a county that has not approved the issuance of permits, has at least two cities that have approved the sale of malt beverages, wine, and the operation of an ABC store, and contains a facility of at least 450 acres where five or more public auto racing events are held each year.
- (2) An area that is located in a county that borders a county which has held elections pursuant to G.S. 18B-600(f) and borders on another state and which
 - (i) contains a facility of at least 225 acres where four or more public auto racing events are held each year or
 - (ii) contains a facility of at least 140 acres where 80 or more motor sports events are held each year.
- (3) A recreation district includes the area within a half-mile radius of a racing facility that meets the requirements of subdivision (1) or (2) of this subsection.



TYPES of Retail Permits

- Community Theatre
- Convention Center
- Cooking School
- Eating Establishment
- Food Business
- Hotel
- Wine Producer
- Private Club
- Residential Private Club
- Restaurant
- Retail Business
- Sports Club
- Congressionally Chartered Veterans Organizations



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KINDS of Retail Permits

- Malt Beverage
- Unfortified Wine
- Fortified Wine
- Brown-bagging
- Special Occasion
- Limited Special Occasion
- Mixed Beverages
- Mixed Beverages Guest Room Cabinet
- Mixed Beverage Catering
- Brew On-premises
- Culinary

- Wine Tasting
- Wine Shop
- Winemaking on Premise
- Malt Beverage Tasting



On-premise vs. Off-premise permits

On-Premises Malt Beverage Permit – An on-premises malt beverage permit *authorizes the retail sale of malt beverages for consumption on the premises* and *the retail sale of malt beverages in the manufacturer's original container for consumption off the premises*. It also authorizes the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State.

Off-Premises Malt Beverage Permit. – An off-premises malt beverage permit authorizes *the retail sale of malt beverages in the manufacturer's original container for consumption off the premises* and *it authorizes the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State*.

NOTE: No spirituous liquor may leave the ABC permitted premises.

VIOLATION PROCESS

Violation Reported by LE to NCABCC



**NCABCC sends notice of alleged violation to permittee.
OFFER IN COMPROMISE MADE**



Accept offer acknowledge guilt

Deny guilt



Fine

OAH Hearing

Suspension

Verdict = recommended penalty

Fine + suspended suspension



Surrender permits

warning

NCABCC monthly hearing



Case Adjudicated by ABCC



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State of North Carolina
Alcoholic Beverage Control Commission
3323 Garner Road
Raleigh, NC 27610
Summary of Action Taken On
Thursday, April 15, 2010

SECTION I
CONTESTED CASES

1. Partnership
T/A El Parniso II
2302-A High Point Road
Greensboro, NC 27408
0008563A-999
AJ AZ

Final Agency Decision - 10-day suspension and payment of \$900.00
superintend.

2. Youngs Market, LLC
T/A Youngs Market
518 Chestnut Street
Wilmington, NC 28401
800092816

SECTION II
OFFERS IN COMPROMISE

6. Masaharu Tsujii
T/A Akashi Japanese Restaurant
2528 High Point Road
Greensboro, NC 27403

Written Warning

7. Big Apple Food Mart Corp.
T/A Big Apple Food Mart
1505 Holloway Street
Durham, NC 27703
00162208AK-999
AK AO AM

Offer in Compromise - Five-day suspension, suspended upon payment of \$500.00 on charge of allowing violations of the controlled substance statutes to occur on the premises.

Responsible Alcohol Seller Program

10-2 Lowes Food Stores, Inc.
T/A Lowes Foods 159
1537 Freeway Drive
Reidsville, NC 27320
011289-899
AK AO AM

Offer in Compromise - Nine-day suspension, suspended upon payment of \$700.00, on charge of selling to an underage person. Respondent attended a Responsible Alcohol Seller Program on March 9, 2010.

61-3 A and Sons, Inc.
T/A Discount Food Mart
2009 West English Road
High Point, NC 27262
00171996AK-999
AK AO AM

Offer in Compromise - 10-day suspension, suspended upon payment of \$500.00, on charge of unauthorized possession/consumption of spirituous liquor. Respondent attended a Responsible Alcohol Seller Program on April 6, 2010.

MOST COMMON ABC VIOLATIONS

VIOLATION	ADMINISTRATIVE PENALTY
Sales to Underage Persons	1 st - \$1200, 2 nd \$3500, 3 rd \$5000
Sales to Intoxicated Persons	1 st - \$1200, 2 nd \$3500, 3 rd \$5000
Liquor Bottle Missing Tax Stamp	Varies \$200 - \$4000
Failure to Deface Tax Stamp	Varies \$200 - \$4000
Failure to Supervise	\$500 up
Purchase from Retailer	\$1000 up

SAMPLE HOTEL ABC VIOLATIONS

- FHCC, LLC
T/A **Doubletree Hotel Fayetteville**
1965 Cedar Creek Road
Fayetteville, NC 28312

Offer in Compromise – Seven-day suspension, suspended upon payment of \$200.00, on charge of tax stamps not permanently defaced.

- Noble Management Group, LLC
T/A **Hyatt Place Charlotte Arrowood**
7900 Forest Point Boulevard
Charlotte, NC 28273

Offer in Compromise – 12-day suspension, suspended upon payment of \$1,200.00, on charge of selling to an underage person.

- Sajani Hotels, LLC
T/A **Wyndham Garden Hotel Greensboro Airport**
6426 Burnt Poplar Road
Greensboro, NC 27409

Offer in Compromise – 10-day suspension, suspended upon payment of \$1,000.00, on charges of allowing patrons to possess or consume mixed beverages in unauthorized location (parking lot) and failure to superintend.

- Tremelco, Inc.
T/A **Wootens Edgewater Motel**
1100-A Edgewater Place
Morehead City, NC 28557

Offer in Compromise – 10-day suspension, suspended upon payment of \$1,000.00, on charges of failure to purchase malt beverages only from a wholesaler and failure to keep premises clean.

- LA Greensboro Associates, LP
T/A **Clarion Hotel Greensboro**
415 Swing Road
Greensboro, NC 27409

Offer in Compromise – Six-day suspension, suspended upon payment of \$600.00, on charge of missing tax stamps.



LAWS AND RULES

(Is it better to ask for permission or forgiveness?)

GAMBLING

N.C.G.S. 14- 292

§ 14-292. Gambling.

Except as provided in Chapter 18C of the General Statutes or in Part 2 of this Article, **any person or organization that operates any game of chance or any person who plays at or bets on any game of chance at which any money, property or other thing of value is bet**, whether the same be in stake or not, shall be guilty of a Class 2 misdemeanor. This section shall not apply to a person who plays at or bets on any lottery game being lawfully conducted in any state.



CASINO NIGHTS



DISTRICT ATTORNEY'S OFFICE
Peter S. Gilchrist, III

State of North Carolina
26th Prosecutorial District
Mecklenburg County



MECKLENBURG COUNTY ALCOHOLIC BEVERAGE CONTROL BOARD



“if they ask..no”. May 28, 2010 ABCC Attorney

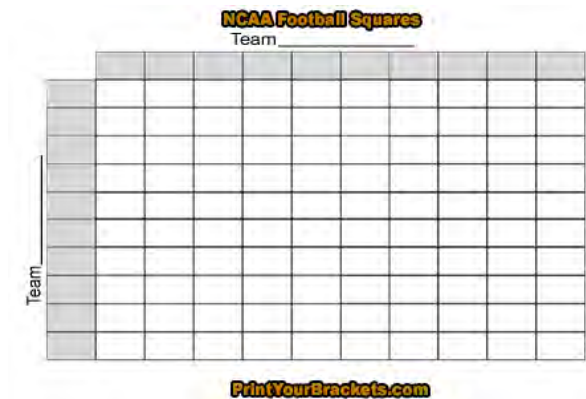
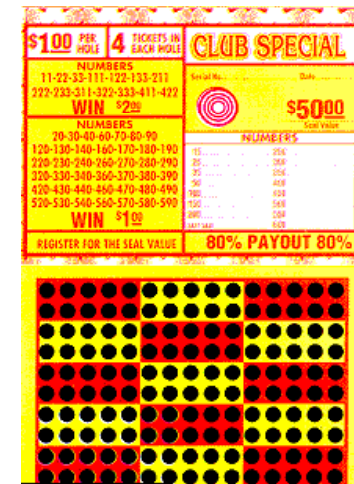
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OTHER PROHIBITED PRACTICES

- Tip Boards
- Punch Boards
- Electronic Gambling
- Poker Tournaments
- Sports Pools



POSSESSION OF ALCOHOL

N.C.G.S. 18B- 301

It shall be lawful, without an ABC permit, for a person to possess for his personal use and the use of his guest not more than eight liters of fortified wine or spirituous liquor; or eight liters of the two combined, at his home or a temporary residence, such as a HOTEL room.

Patrons possessing their own spirituous liquor bottles in common areas of the hotel, which are covered under your ABC permits is prohibited.

MANAGERS RECEPTIONS

ABC RULE 2S.0106(E)

Hotels operating lodging, restaurant and lounge facilities under one set of ABC permits may offer lodging guests up to two alcoholic beverages per guest per day in the price of the room package under the following conditions:

- (1) The reception or social hour is held on the licensed premises of the hotel;
- (2) The hotel issues a voucher for the beverages that can be used by the guest to obtain the beverage of his choice;
- (3) Nonalcoholic beverages shall also be offered to lodging guests during the function; and
- (4) The hotel must account for the beverages by an internal accounting procedure to insure that the price of each beverage included in the room rate package is the same price as is being charged other patrons in the lounge or restaurant for the same beverage.

VIP FLOORS

VIP Floors should be treated like managers receptions. Bottles of liquor cannot be sold to just one person. There is no specific rules which govern VIP floors.

BOTTLE SERVICE

Bottle service is a feature of many upscale bars and nightclubs where patrons may purchase entire bottles of liquor for their personal consumption.

Wikipedia 2010



TRADE PRACTICE GUIDELINES

ABC RULE 2T

- ABC Rule 2T.0603 Holding of Checks Prohibited
- ABC Rule 2T.0604 Collection of Amount of Sale
- ABC Rule 2T.0607 Draught Malt Beverage Sales:
Accessories; Deliveries
- ABC Rule 2T.0705 Quantity Discounts Prohibited
- ABC Rule 2T.0709 Privilege of Return
- ABC Rule 2T.0711 Prohibited Trade Practices
- ABC Rule 2T.0712 Accepted Trade Practices

TYPICAL VIOLATIONS OBSERVED

- Duplicating ABC Permits
- Failure to deface tax stamps
- Tied house issues
- Failure to have employees properly trained
- Employees violating ABC rules/laws
- Sales to minor violations (stings)
- Sales to intoxicated patrons
- Violating laws/rules to accommodate guest

WHY TRAIN EMPLOYEES?

- **Reduces Liability**

- The first defense to a DRAM SHOP law suit is proof of training in North Carolina.

- **Helps to Prevent ABC Violations**

- Properly trained employees are less likely to violation ABC rules. Should an employee get caught selling to an underage or intoxicated person, proof of “approved” training will help to mitigate the penalties.

HOW SHOW PROS CAN HELP

- **INSPECTION**

- We provide comprehensive inspections of your facility including viewing books, records, locked storage areas, invoices, mixing stations, interior/exterior, permits and employees working

- **TRAINING**

- We provide Alcohol Risk Reduction Training to all employees. Our program utilizes fatal vision goggles for hands on training and has a testing component at the end of the training. The business and employee receive a certificate of training.

QUESTIONS

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Thank You

**SHOW PROS ENTERTAINMENT
SERVICES INC.**



www.showprostaff.com

704-525-3784