



# ServSafe® Alcohol Course

## State of North Carolina Supplement

*Revised November 2023*

### **An important note about your credential**

To complete the ServSafe® Alcohol Course in North Carolina, review the content of this supplement in addition to what you've learned in the course.

Once you have completed the course, passed the exam, and printed your card, *you must write the ServSafe® Vendor number on your card.*

That vendor number is **NC400-01300**

## Table of Contents

|  |   |
|--|---|
| <b>Dram Shop laws in North Carolina</b> .....  | 3 |
| <b>Prohibited Sales</b> .....  | 3 |
| <b>Penalties for violations of North Carolina Alcoholic Beverage Control Commission (NC ABC) Rules § 18B-104. Administrative penalties</b> ..... | 3 |
| <b>Penalties for certain offenses related to underage persons § 18B-302.1</b> ....   | 4 |
| <b>Compensation for Injury Caused by Sales to Underage Persons</b> .....   | 5 |
| <b>Prohibited Conduct on the ABC Licensed Premises Including Drug Use and Gambling</b> .....   | 6 |
| <b>Tobacco &amp; Minors</b> .....  | 6 |
| <b>Age Requirements for Selling and Serving Alcoholic Beverages in North Carolina</b> .....  | 6 |
| <b>Hours of Sale and Consumption, Including Clearing of Tables</b> .....   | 7 |
| <b>Amounts that May Be Served to One Customer</b> .....  | 7 |

## Dram Shop laws in North Carolina

Dram shop laws are a special kind of civil liability for people who sell alcohol. These laws allow a person who was not even at a business to sue for injuries caused by a guest who was drinking there. For example, consider a guest who drinks alcohol at your establishment and leaves intoxicated. On the drive home, this guest kills another driver. Under dram shop law, the business, the owner, the manager, and employees can be sued for the death of that other driver. North Carolina's dram shop laws hold permitted businesses accountable and liable for serving or selling alcohol to minors or intoxicated persons when intoxication results in death, injuries, or property damage. Please note that dram shop law applies to both on-premise and off-premise permittees.

## Prohibited Sales

In North Carolina, it is unlawful to sell or serve alcohol to any person who is visibly intoxicated. It is also unlawful to sell or serve alcohol to persons less than 21 years of age. It is illegal for persons under 21 years of age to possess, purchase, or consume alcoholic beverages.

## Penalties for violations of North Carolina Alcoholic Beverage Control Commission (NC ABC) Rules § 18B-104. Administrative penalties

**Summary:** Violations of North Carolina ABC laws may result in actions including permit suspension up to three years or permit revocation. Fines or penalties can range from \$500 (first violation) to \$10,000 (egregious violations) depending on the nature of the infraction.

(a) Penalties. – For any violation of the ABC laws, the Commission may take any of the following actions against a permittee:

(1) Suspend the permittee's permit for a specified period of time not longer than three years.

(2) Revoke the permittee's permit.

(3) For all violations not listed in subdivision (3a) of this subsection, fine the permittee up to five hundred dollars (\$500.00) for the first violation, up to seven hundred fifty dollars (\$750.00) for the second violation within three years, and up to one thousand dollars (\$1,000) for the third violation within three years of the first violation.

(3a) If the violations involve acts of violence, controlled substances, or prostitution occurring on the licensed premises, fine the permittee up to seven hundred fifty dollars (\$750.00) for the first violation, up to one thousand dollars (\$1,000) for a second violation within three years, and up to one thousand two hundred fifty dollars (\$1,250) for a third violation within three years of the first violation. Additionally, the Commission may impose conditions on the operating hours of the business for violations listed in this subdivision.

(4) Suspend the permittee's permit under subdivision (1) [of this subsection] and impose a fine under subdivision (3) or (3a) [of this subsection].

(b) Compromise. – In any case in which the Commission is entitled to suspend or revoke a permit, the Commission may accept from the permittee an offer in compromise to pay a penalty of not more than five thousand dollars (\$5,000). The Commission may either accept a compromise or revoke a permit, but not both. The Commission may accept a compromise and suspend the permit in the same case.

(b1) Compromise for Certain Egregious Violations. – In any case in which there are two or more violations within three years in which the Commission is entitled to suspend or revoke a permit, the Commission may accept from the permittee an offer in compromise to pay a penalty of not more than ten thousand dollars (\$10,000) if the violations involve any of the following acts:

(1) Acts of violence occurring on the licensed premises.

(2) The permittee or the permittee's agent or employee knowingly allowing any violation of the controlled substances or prostitution statutes on the licensed premises. The Commission may also impose conditions on the operating hours of the business as part of a compromise pursuant to this subsection. The Commission may either accept a compromise or revoke a permit, but not both. The Commission may accept a compromise and suspend the permit in the same case.

(c) Fines and Penalties to Treasurer. – The clear proceeds of fines and penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) Effect on Licenses. – Suspension or revocation of a permit includes automatic suspension or revocation of any related State or local revenue license.

(e) Effect on Other Permits. – Unless some other disposition is ordered by the Commission, revocation or suspension of a permit under subsection (a) includes automatic revocation or suspension, respectively, of any other ABC permit held by the same permittee for the same establishment. (1939, c. 158, s. 514; 1943, c. 400, s. 6; 1945, c. 903, s. 1; 1947, c. 1098, ss. 2, 3; 1949, c. 974, ss. 7, 14; 1953, c. 1207, ss. 2-5; 1957, cc. 1048, 1440; 1963, c. 426, ss. 4, 5, 10, 12; c. 460, s. 1; 1971, c. 872, s. 1; 1973, c. 476, s. 193; 1977, c. 669, s. 1; 1981, c. 412, s. 2; 1998-215, s. 27; 2019-49, s. 1.)

## Penalties for certain offenses related to underage persons § 18B-302.1

**Summary:** Certain offenses related to underage persons may be considered a Class 1 misdemeanor, which may result in active punishment, probation, fines of ranging from \$250.00 to \$1,000, and/or community service ranging from 25 hours to 150 hours.

(a) A violation of G.S. 18B-302(a) or (a1) is a Class 1 misdemeanor. Notwithstanding the provisions of G.S. 15A-1340.23, if the court imposes a sentence that does not include an active punishment, the court must include among the conditions of probation a requirement that the person pay a fine of at least two hundred fifty dollars (\$250.00) as authorized by G.S. 15A-1343(b)(9) and a requirement that the person complete at least 25 hours of community service, as authorized by G.S. 15A-1343(b1)(6). If the person has a previous conviction of this offense in the four years immediately preceding the date of the current offense, and the court imposes a sentence that does not include an active punishment, the court must include among the conditions of probation a requirement that the person pay a fine of at least five hundred dollars (\$500.00) as authorized by G.S. 15A-1343(b)(9) and a requirement that the person complete at least 150 hours of community service, as authorized by G.S. 15A-1343(b1)(6).

(b) A violation of G.S. 18B-302(c)(2) is a Class 1 misdemeanor. Notwithstanding the provisions of G.S. 15A-1340.23, if the court imposes a sentence that does not include an active punishment, the court must include among the conditions of probation a requirement that the person pay a fine of at least five hundred dollars (\$500.00) as authorized by G.S. 15A-1343(b)(9) and a requirement that the person complete at least 25 hours of community service, as authorized by G.S. 15A-1343(b1)(6). If the person has a previous conviction of this offense in the four years

immediately preceding the date of the current offense, and the court imposes a sentence that does not include an active punishment, the court must include among the conditions of probation a requirement that the person pay a fine of at least one thousand dollars (\$1,000) as authorized by G.S. 15A-1343(b)(9) and a requirement that the person complete at least 150 hours of community service, as authorized by G.S. 15A-1343(b)(6).

(c) In addition to the punishments imposed under this section, the court may impose the provisions of G.S. 18B-202 and of G.S. 18B-503, 18B-504, and 18B-505. (1999-433, s. 1; 2007-537, s. 2.)

## **Compensation for Injury Caused by Sales to Underage Persons**

**Summary:** If alcohol is negligently sold or furnished to underage persons, aggrieved parties may seek relief for damages up to \$500,000. Proof of good practices, such as employee instruction of laws regarding the sale of alcoholic beverages, is admissible as evidence that the permittee was not negligent.

### **§ 18B-121. Claim for relief created for sale to underage person.**

An aggrieved party has a claim for relief for damages against a permittee or local Alcoholic Beverage Control Board if:

- (1) The permittee or his agent or employee or the local board or its agent or employee negligently sold or furnished an alcoholic beverage to an underage person; and
- (2) The consumption of the alcoholic beverage that was sold or furnished to an underage person caused or contributed to, in whole or in part, an underage driver's being subject to an impairing substance within the meaning of G.S. 20-138.1 at the time of the injury; and
- (3) The injury that resulted was proximately caused by the underage driver's negligent operation of a vehicle while so impaired. (1983, c. 435, s. 37.)

### **§ 18B-122. Burden of proof and admissibility of evidence.**

The plaintiff shall have the burden of proving that the sale or furnishing of the alcoholic beverage to the underage person, as defined, was, under the circumstances, negligent. Proof of the sale or furnishing of the alcoholic beverage to an underage person, as defined, without request for identification shall be admissible as evidence of negligence. Proof of good practices (including but not limited to, instruction of employees as to laws regarding the sale of alcoholic beverages, training of employees, enforcement techniques, admonishment to patrons concerning laws regarding the purchase or furnishing of alcoholic beverages, or detention of a person's identification documents in accordance with G.S. 18B-129 and inquiry about the age or degree of intoxication of the person), evidence that an underage person misrepresented his age, or that the sale or furnishing was made under duress is admissible as evidence that the permittee was not negligent. (1983, c. 435, s. 37.)

### **§ 18B-123. Limitation on damages.**

The total amount of damages that may be awarded to all aggrieved parties pursuant to any claims for relief under this Article is limited to no more than five hundred thousand dollars (\$500,000) per occurrence. When all claims arising out of an occurrence exceed five hundred thousand dollars (\$500,000), each claim shall abate in the proportion it bears to the total of all claims. (1983, c. 435, s. 37.)

## Prohibited Conduct on the ABC Licensed Premises Including Drug Use and Gambling

### 18B 1005 Conduct on licensed premises

(a) Certain Conduct: It shall be unlawful for a permittee or his agent or employee to knowingly allow any of the following kinds of conduct to occur on his licensed premises:

(1) Any violation of this Chapter;

(2) Any fighting or other disorderly conduct that can be prevented without undue danger to the permittee, his employees or patrons; or;

(3) Any violation of the controlled substances, gambling, or prostitution statutes, or any other unlawful acts.

(4) through (6) Repealed by Session Laws 2003-382, s. 1, effective August 1, 2003.

(b) Supervision: It shall be unlawful for a permittee to fail to superintend in person or through a manager the business for which a permit is issued

### 15B 0205 to 0210

- 14B NCAC 15B .0205 GAMBLING: GAMBLING DEVICES PROHIBITED
  - (a) No permittee or his employee shall engage in gambling nor allow any other person to engage in gambling on the licensed premises.
  - (b) No permittee or his employees shall possess or permit the possession by another person of any gambling devices on the licensed premises.
- 14B NCAC 15B .0210 COOPERATION WITH LAW ENFORCEMENT OFFICERS
  - No permittee or his employee shall interfere with or fail to cooperate with an ALE agent or any other law enforcement officer in the performance of his duties.

## Tobacco & Minors

### Youth Access to Tobacco Products (NCGS 14-313)

**Unlawful to Distribute:** It is unlawful to sell, furnish, give, or provide tobacco products or nicotine vapor products, including tobacco product samples or cigarette wrapping papers, to the ultimate consumer, who is less than 21 years of age.

## Age Requirements for Selling and Serving Alcoholic Beverages in North Carolina

**Mixed Beverage Permits:** Bartenders and other employees who mix drinks containing spiritous liquors must be at least 21 years of age.

**Malt Beverage & Wine Permits:** Servers who prepare, serve, sell, or delivery alcoholic beverages must be at least 18 years of age.

**Minors:** Permitted business may employ 16- and 17-year-olds if these minors do not prepare, serve, sell, or deliver alcoholic beverages.

## Hours of Sale and Consumption, Including Clearing of Tables

Alcohol products can only be sold or served during the following times:

- **Monday through Saturday** between the hours of 7 a.m. and 2 a.m. Tables must be cleared of all alcohol by 2:30 a.m.
- **Sunday** after noon, unless otherwise allowed by local ordinance. Some communities allow Sunday sales to begin at 10:00 a.m. Check with your local city council or county commission.

## Amounts that May Be Served to One Customer

North Carolina places limitations on the number of drinks that may be sold or served on premises to a single customer at one time. The following amounts may be served to a single customer at one time:

- One mixed drink containing spiritous liquor
- One shot and one beer together, also known as a boilermaker
- Two alcoholic beverages (malt beverage, unfortified wine, fortified wine)
- One carafe or bottle of wine

A pitcher of alcoholic beverages must only be served to two or more customers.