



## S734- Regulatory Reform Act of 2014

10.22.2014

The Regulatory Reform Act, SB 734, went into effect on September 18, 2014. It includes provisions that allow colleges with brewing programs to obtain licenses to begin selling beer produced during the program to wholesalers and retailers. See new G.S. 18B-1114.6. The bill also allows colleges with brewing programs to sell beer at an off campus retail location in the county, to sell beer at beer festivals and special events, and to conduct free tastings. As a result of the new provisions, colleges will be able to gain exposure for their brewing programs, recoup costs to fund the programs, and allow students to gain feedback on the beers they create, as well as gain experience in the marketing and sales process.

The bill is an exception to the Umstead Act, which generally prohibits state agencies from competing with private businesses.

A similar statute already exists for the sale of wine produced from colleges that hold viticulture and winemaking courses. See G.S. 18B-1114.4.

Details on the new legislation are included below.

### **Brewing/Distillation/Fermenting Course Authorization and Sale of Beer Produced at Wholesale and Retail**

The legislation provides that a college or community college that offers a brewing, distillation, and fermentation program as part of its curriculum may:

1. Manufacture malt beverages on the school's campus or the school's contracted or leased property for purposes of providing educational instruction;
2. Possess malt beverage manufactured during the program for conducting tastings seminars and classes for students 21 years and up;
3. Sell malt beverages produced during the course to wholesalers or to retailers, upon obtaining a malt beverage wholesaler permit. The school as permittee may not receive shipments of malt beverages from other producers;
4. Sell malt beverages produced during the course to individuals at retail at one noncampus location in a county where the permittee holds and offers classes on a

regular full-time basis in a facility owned by the permittee, upon obtaining an off-premises malt beverage permit;

5. Sell malt beverages produced during the course at retail by the glass or in closed containers and/or provide free tastings of its malt beverages at special events, including trade shows, conventions, shopping malls, malt beverage festivals, street festivals, holiday festivals, agricultural festivals, balloon races, and other local fund-raisers, upon obtaining a malt beverage wholesaler permit and malt beverage special event permit. The college or community college may participate in no more than 6 malt beverage special events within a 12 month period and may sell up to 64 cases of malt beverages, or its equivalent, at each event. For purposes of this section, a “case of malt beverages” equals a package of no more than 24 12-ounce bottles. Net proceeds from the retail sale of the malt beverages shall be retained by the school for the support of the brewing, distillation, and fermentation program.

The legislation provides that a college or community college acting under these provisions shall not be considered a “brewery” for purposes of North Carolina ABC laws and taxation laws. This means that the North Carolina Beer Franchise Law, which governs brand disputes and commercial relationships between suppliers and wholesalers for the right to offer and sell brands of malt beverages in the state, would not apply to colleges or community colleges offering brands to wholesalers. The “brewery” exemption will likely also offer colleges significant tax savings and may prevent colleges from having to comply with some of the ABC regulations on marketing and advertising.

## **Related People**

- M. Keith Kapp – 919.981.4024 – [kkapp@williamsmullen.com](mailto:kkapp@williamsmullen.com)
- Jennifer A. Morgan – 919.981.4051 – [jmorgan@williamsmullen.com](mailto:jmorgan@williamsmullen.com)