

Topic: LIQUOR LAW

# ADMINISTRATION OF JUSTICE MEMORANDA

This issue distributed to:

PUBLISHED BY THE INSTITUTE OF GOVERNMENT  
University of North Carolina at Chapel Hill

District attorneys, police attorneys, magistrates, police chiefs, sheriffs, ABC enforcement officers, district court judges, public defenders.

JANUARY 1978

02/78

## CONVERSION OF LIQUOR OFFENSES TO METRIC MEASUREMENTS

by Michael Crowell

Chapter 176 of the 1977 Session Laws provided that effective January 1, 1978, all the measurements in Chapter 18A of the General Statutes, the alcoholic beverage control laws, were to be converted to metric sizes. As a result, various crimes included in Chapter 18A have been restated in metric terms; for example, whereas previously it was unlawful to transport more than one gallon of alcoholic beverage without a permit, beginning on January 1, it became unlawful to transport more than four liters. Some of the bottles sold in the ABC stores are already in metric sizes--the half-gallon bottle of whiskey you last bought may actually have been a 1.75-liter container--and the federal government has mandated that all spirituous liquors be in metric bottles by January 1, 1980. The half-gallon bottles (which account for over a quarter of the sales in the ABC stores) should all be replaced by 1.75-liter bottles soon after January 1, 1978, and fifths will be replaced by 750-milliliter bottles in the next year. Pints will be the last bottles to be phased out. All wines must be converted by January 1, 1979.

This memorandum is intended to explain the changes that took place on January 1 and provides tables for law enforcement officers, prosecutors, and judicial officials to use in determining whether the liquor laws are being violated. Magistrates and district attorneys will soon also be sent a revised version of the Institute's Arrest Warrant Forms: Liquor Offenses, with the forms written in metric terms.

Any discussion of North Carolina liquor offenses must begin with a review of certain definitions. These are the terms used in Chapter 18A and in this memorandum:

Intoxicating liquor--any spirituous, vinous, malt, or fermented beverage containing 1/2 of 1 per cent or more of alcohol by volume.

Malt beverage--any beer or other brewed or fermented beverage containing not more than 5 per cent of alcohol by weight.

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TABLE I

OFFENSE BEFORE JANUARY 1, 1978

Possession Offenses

Possession of more than one gallon of alcoholic beverages (but no limit if the possession is at a special occasion). G.S. 18A-30 and 18A-3.\*

Possession of spirituous liquor for sale (presumed from possession of more than one gallon). G.S. 18A-7.

Possession of more than three gallons of alcoholic beverages by restaurant having culinary permit. G.S. 18A-31.1 and G.S. 18A-3.\*

Possession of wine (unfortified or fortified) for sale (presumed from possession of more than five gallons). G.S. 18A-7.

Possession of malt beverages for sale (presumed from possession of more than 20 gallons, unless it is draft malt beverage in kegs). G.S. 18A-7.

Selling Offenses

Sale of more than one gallon of alcoholic beverage, the amount that lawfully may be transported (five gallons if buyer has permit). G.S. 18A-26.

Sale of more than five gallons of unfortified wine (20 gallons if buyer has permit). G.S. 18A-34(d).

Sale of more than 20 gallons of malt beverage (but no limit if draft malt beverage is in kegs). G.S. 18A-34(d).

Transportation Offenses

Transportation of more than one gallon of alcoholic beverages (five gallons with permit). G.S. 18A-26 and 18A-3.\*

Transportation of more than five gallons of unfortified wine (20 gallons with permit). G.S. 18A-35 and 18A-3.\*

OFFENSE ON AND AFTER JANUARY 1, 1978

Possession Offenses

Possession of more than four liters of alcoholic beverages (still with no limit at a special occasion).

Possession of spirituous liquor for sale (presumed from possession of more than four liters).

Possession of more than 12 liters of alcoholic beverages by restaurant having culinary permit.

Possession of wine (unfortified or fortified) for sale (presumed from possession of more than 20 liters).

Possession of malt beverages for sale (presumed from possession of more than 80 liters, unless it is draft malt beverage in kegs).

Selling Offenses

Sale of more than four liters of alcoholic beverage, the amount that lawfully may be transported (20 liters if buyer has permit).

Sale of more than 20 liters of unfortified wine (80 liters if buyer has permit).

Sale of more than 80 liters of malt beverage (still no limit if draft malt beverage is in kegs).

Transportation Offenses

Transportation of more than four liters of alcoholic beverages (20 liters with permit).

Transportation of more than 20 liters of unfortified wine (80 liters with permit).

\*For these offenses the person should be charged under G.S. 18A-3, the statute generally prohibits any sale, possession, transportation, etc., of intoxicating liquor except as authorized by Chapter 18A. The other statute cited allows possession, sale, etc., of a certain amount--thus the need to go to G.S. 18A-3 to find a statement that exceeding the authorized amount is unlawful.

Unfortified wine--any wine with an alcoholic content produced only by natural fermentation or by the addition of pure cane, beet, or dextrose sugar, with an alcoholic content of not less than 5 per cent and not more than 14 per cent by volume.

Alcoholic beverage--any beverage containing more than 14 per cent alcohol by volume.

Fortified wine--any wine made by fermentation from grapes, fruits, berries, rice, or honey to which nothing but pure brandy has been added, having an alcoholic content of over 14 per cent but not more than 21 per cent of alcohol by volume.

Spirituous liquor--any alcoholic beverage with an alcoholic content of more than 21 per cent by volume.

The most important thing to remember about these terms is that beer and unfortified wine are not alcoholic beverages, since they do not contain over 14 per cent alcohol.

Table I is a list of the liquor offenses in Chapter 18A that are defined by how much liquor the defendant has. Offenses that are not defined by quantity, such as selling an alcoholic beverage to someone under 21, are not affected by the metric conversion. On the left is the pre-1978 offense and on the right is the offense as of January 1, 1978.

To determine whether Chapter 18A is being violated after January 1, officers must be able to compute metric sizes. Probably the easiest way to do this will be to think in terms of ounces. Until January 1, it was unlawful to transport more than one gallon of alcoholic beverages, which is 128 ounces (32 ounces in a quart, four quarts in a gallon). Beginning on January 1, it became unlawful to transport more than four liters, which is 135.2 ounces (33.8 ounces in a liter). Because all the liquor offenses are stated in terms of multiples of the basic four-liter limit, which is more than the old one-gallon basic figure, a person may legally have a little bit more after January 1 than before. Any amount that he could lawfully have had before January 1 is still lawful after that date. So a person who has five fifths of whiskey in his car after January 1 has a gallon and still has less than four liters. If he has a purchase-transportation permit and has 10 half-gallons, he has five gallons and still has less than 20 liters.

Table II is a comparison of the old liquor limits and the new limits, both converted to ounces:

TABLE II

<u>Old Limit</u>	<u>Limit as of January 1</u>
1 gallon = 128 ounces	4 liters = 135.2 ounces
3 gallons = 384 ounces	12 liters = 405.6 ounces
5 gallons = 640 ounces	20 liters = 676.0 ounces
20 gallons = 2,560 ounces	80 liters = 2,704.0 ounces

Determining whether an offense has been committed should not be difficult when all the bottles are in metric sizes. Obviously four-liter bottles equal the four-liter limit and anything more than that is unlawful. There are 1,000 milliliters in a liter, so two 500-milliliter bottles equal one liter and eight 500-milliliter bottles equal four liters. Five 750-milliliter bottles equal 3,750 milliliters or 3.75 liters, which is less than the four-liter limit, but six 750-milliliter bottles equal 4,500 milliliters or 4.5 liters.

The real problems will come when a person has some bottles that are in metric sizes and some that are not. Table III lists the sizes of bottles that spirituous liquors have been sold in and the metric sizes that are replacing them, each shown with the number of ounces it contains.

TABLE III

<u>Old Container</u>		<u>Closest Metric Container</u>	
Pint	-- 16 ounces	500-milliliters	-- 16.9 ounces
Fifth	-- 25.6 ounces	750-milliliters	-- 25.4 ounces
Quart	-- 32 ounces	Liter	-- 33.8 ounces
Half-gallon	-- 64 ounces	1.75-liters	-- 59.2 ounces

Using that table, plus a calculator, an officer will be able to tell whether the limit is being violated no matter what combination of bottles the person has. For example, a person with three fifths and two liters of whiskey will have 144.4 ounces (three fifths = 76.8 oz. and two liters = 67.6 oz.), and thus will have more than 135.2 ounces in the four-liter limit. If he has three fifths and two 750-milliliter bottles, he will have only 127.6 ounces (three fifths = 76.8 oz. and two 750-milliliter bottles = 50.8 oz.) and will be under the four-liter limit. In fact, since the 750-milliliter bottle is slightly less than a fifth and since five fifths is a gallon, which is less than four liters, any combination of fifths and 750-milliliter bottles totaling five will be under the four-liter limit. If a person has two half-gallons or two 1.75-liter bottles, can he also have any other size container and still be within the four-liter limit? Two half-gallons is 128 ounces and the four-liter limit is 135.2 ounces. Since nothing smaller than 16 ounces (the pint) is sold, a person who has two half-gallons may have no more. But two 1.75-liter bottles equals 118.4 ounces, which is still 16.8 ounces short of the 135.2 ounces in the four-liter limit. Thus a person with two 1.75-liter bottles may also carry a pint bottle (16 oz.) but not a 500-milliliter bottle (16.9 oz., which puts him .1 oz. over the limit). A person who has a 20-liter (676 oz.) purchase-transportation permit may have 10 half-gallons (equaling five gallons or 640 oz.) plus one liter or one quart or one fifth or one 750-milliliter (before January 1 the smallest bottle that could be carried with such a permit was a fifth; beginning January 1, it is a 750-milliliter). If the person with the permit bought his liquor in 1.75-liter bottles, he could buy eleven bottles instead of ten (eleven 1.75-liter bottles = 651.2 oz. and the 20-liter limit is 676 oz.), but he could buy nothing smaller in addition, since only a pint or a 500-milliliter bottle would keep him within the 20-liter limit and both

of those are below the minimum size allowed to be purchased under the special permit.

To add to the confusion, wine will come in some different-sized metric bottles. In addition to the containers listed above for spirituous liquors, metric wine bottles will include a 1.5-liter size (50.7 ounces) and a three-liter size (101 ounces). In some places wine is now sold in tenth sizes (half a fifth or 12.8 ounces); that size will be replaced with a 375-milliliter bottles (12.7 ounces). Wine will not come in the 500-milliliter and 1.75-liter sizes that are used for spirituous liquors.

Finally, malt beverage containers are not being converted to metric sizes, although the statutes concerning malt beverage offenses have been rewritten in terms of liters. The only significant limit on malt beverages is the 80-liter limit (previously 20 gallons) on the amount that can be sold to a person. There is no limit on how much a person can buy or transport, though possession of more than 80 liters creates a presumption that the person has it for sale, which is against the law unless he has a license. If the amount over 80 liters is, in fact, possessed and being transported for one's own use, no law has been violated. The limit on sale and the presumption about possessing for sale do not apply if the product is draft malt beverage in kegs.

Twenty gallons (the previous limit) is 2,560 ounces. A person had 20 gallons of beer if he had six cases of 16-ounce cans plus 16 more cans. The new 80-liter limit is more than 20 gallons, a total of 2,704 ounces. Therefore a buyer may now buy seven cases of 16-ounce cans of beer plus one additional 16-ounce can. For beer in 12-ounce cans, the 20-gallon limit translated to eight cases plus 21 additional cans, but under the 80-liter limit one may buy nine cases and nine additional cans.