



North Carolina Spirits Association

Legislative Report
April 7, 2023

Since the legislature is taking an “Easter Break” and will not meet next week, we will not publish a legislative report on April 14. The next legislative report will be published on April 21.

Tax Relief for All

On Wednesday, Senators Berger (R), Rabon (R), and P. Newton (R) introduced Senate Bill 651, titled "Tax Relief for All," which seeks to expedite the already planned phased-in personal income tax cuts. Under this bill, the decreases in the personal income tax rate in 2023 and beyond would be accelerated as follows:

2022	4.99%
2023	4.75% → 4.5%
2024	4.6% → 3.99%
2025	4.5% → 3.49%
2026	4.25% → 2.99%
After 2026	3.99%. → 2.49%

These proposed decreases in the personal income tax rate are likely to be included in the Senate budget and subject to negotiation in the final budget between the House and Senate.

Representative Tricia Cotham (D-Mecklenburg) Changes Party Affiliation

This week North Carolina State Representative Tricia Cotham (Mecklenburg) announced her switch to the Republican Party, citing increasing hostility from her Democrat colleagues and “vicious” attacks by left-leaning groups on social media. Republicans now have a supermajority in both chambers of the state legislature (72 registered House Republicans), giving them enough votes to override vetoes by Democrat Governor Roy Cooper without the need for any Democrat votes. Cotham’s switch could mean major ramifications for the last two years of Governor Cooper’s term, as Republican leaders have promised to revisit bills he previously vetoed and pass contentious bills on their own. Democrats have criticized Cotham’s decision and called for her resignation.

Legislation to Increase Legislative Appointment Power

North Carolina Senate Republicans have passed a bill that would reduce the number of appointments Democrat Governor Roy Cooper makes to state boards and commissions, claiming

that most members on such commissions are gubernatorial picks, which does not reflect diversity of thought or representation. Critics warn that this legislation will set up another legal showdown between the governor and the legislature over separation of powers.

House Passes State Budget Bill

The North Carolina House of Representatives passed a \$29.7 billion budget bill by the vote of 78-37 on second reading and 78-38 on third reading. The budget proposal calls for \$3 billion less in spending than what Democratic Governor Roy Cooper suggested in earlier budget recommendations. The House Republicans' budget proposal includes a 10.2% average raise for public school teachers over the next two years and a 7.5% raise for most state employees over the biennium. The budget includes tax cuts for individuals and businesses, \$2 billion for water and sewer projects, and several agency provisions and appointee changes. The budget now heads to the state Senate for further discussions after the House and Senate's week-long "Easter break" that begins Monday.

The legislature adjourned on Thursday and will reconvene on Monday April 17.

Bills of Interest

House Bill 578, Incentivize Space Spirits, would incentivize new technologies in the manufacturing of spirituous liquor by capping the tax on certain purchases, including spirituous liquor that has been aged for at least twelve months in orbit. **Introduced by Representative Hawkins and referred to the House ABC Committee.**

Senate Bill 489, ABC Technical/Clarifying Changes, would amend G.S. 18B-93(c), the statutes governing change of ownership, to clarify that during the transition period under the prior owner's permit, the buyer maintains the ability to purchase and sell malt beverages, unfortified wine, fortified wine, and spirituous liquor for on-premises or off-premises consumption. The bill would also add hold harmless language that states the previous permittee is not responsible for any actions or omissions of the new person operating the establishment. Additionally, the bill specifies that if the permit is suspended or revoked due to the actions of the new operator, the prior permittee is not prevented from obtaining a permit for a different establishment.

Further, the bill seeks to amend the definition of a bar and rename "Private Bar" to simply "Bar" in the regulations governing ABC permits. Any establishment that held permits as a private bar on July 7, 2022, and meets the new definition of a bar can renew its permits for as long as it remains in operation. Such establishments would be exempt from regulations on food and licensing facilities under Part 6 of Article 8 of GS Chapter 130A. The proposed amendments are retroactive to July 7, 2022. **Introduced by Sens. Moffitt (R) and Johnson (R) and referred to the Senate Rules Committee.**

Senate Bill 490, ABC Omnibus 2023, would make several changes to North Carolina's alcohol laws, some of which were requested by the NC Spirits Association, to include:

In Section 1, the definition of premixed cocktails is clarified and exempted from the mixed beverage tax if they come in a closed package for resale. Mixed beverage permit holders and their employees are also allowed to handle premixed cocktails sold in a closed package for resale.

Section 2 permits members and employees of the Alcoholic Beverage Control Commission and local ABC boards to sample free products for sensory analysis and quality control, with limits on the amount of each product that can be sampled.

Section 3 allows counties, cities, and the Eastern Band of Cherokee Indians tribe to adopt ordinances permitting Sunday operation of ABC stores if the local ABC board petitions the appropriate governing body to do so, and an ordinance is adopted. If Sunday sales are authorized, the ABC store could not open before 12 noon. The bill would delete the ability of local ABC Stores to close on New Year's Day, Fourth of July and Labor Day, and maintains the closure on Thanksgiving Day and Christmas Day.

Section 4 allows alcohol industry members to provide advertising specialty items and product displays to retailers as long as the cumulative value of items per brand is less than \$1,000 per year and the items have not been customized for an individual permittee. The use of industry-branded plug-in coolers is also permitted as long as the total value of the coolers is less than \$1,500 per brand.

Section 5 reinstates "cocktails to go", permitting certain mixed beverage permit holders to sell retail mixed beverages for off-premises consumption in containers of 750 ml or less, with exceptions made for transportation in a vehicle and for drinks sold for delivery and consumption off premises.

Section 6 permits mixed beverage permit holders to purchase spirituous liquor from any ABC store located in the same county as the permit holder.

Section 7 allows mixed beverage permittees to use clear adhesives to prevent the mixed beverages tax stamp affixed to the container from falling off.

Section 8 requires local ABC boards that plan to sell allocated liquors to create a plan that must be approved by the ABC Commission prior to sale, and limits the sale of allocated products to retail customers who are residents of the county where the local ABC board is located. Reselling or advertising for resell any allocated products purchased from a local ABC board is made a Class 1 misdemeanor offense.

Section 9 requires the ABC Commission to inform industry members and local ABC boards at least 60 days before the effective date of a retail price reduction for a spirituous liquor product, and limits the time that the price may be reduced. The bill would require the ABC Commission to adopt rules to address orders placed by a local board for a product with an approved retail price reduction when the product is out of stock while the approved retail price reduction is in effect.

Section 10 allows ABC stores to sell consumer specialty items and physical or electronic gift cards, but prohibits the sale of any tobacco, vapor, or hemp product or paraphernalia. The ABC Commission is permitted to approve a different retail price for spirituous liquor products packaged with branded specialty items.

Section 11 permits the ABC Commission to approve sales of spirituous liquor products below the price paid by the local ABC board for the products.

Section 12 permits alcoholic beverage sales on trains operating on rail lines that are at least 100 miles long and connected to the federal rail network.

Section 13 permits the sale of two mixed beverages to a customer per day, per distillery, for a consumer tasting under a spirituous liquor special event permit.

Section 14 extends the deadline for change of ownership permit applications from 60 days to 120 days, and allows the ABC Commission to extend this period in its discretion beyond 120 days.

Introduced by Senators Moffitt (R) and Johnson (R) and referred to the Senate Rules Committee.

Senate Bill 526, ABC Law Change, would authorize beer and wine wholesalers to offer quantity discounts to retail permittees. The holder of a malt beverage wholesaler or wine wholesaler permit may do either of the following: (1) Offer retail permittees a quantity discount on the purchase of malt beverages or wine, provided the same discount is available to all permittees; or (2) Charge a set fee for the purchase of less than a full case of a product.

Introduced by Senators Moffitt (R) and Johnson (R).

*Prepared By: David P. Ferrell, Esq. – NC Spirits Association Lobbyist
NEXSEN PRUET PLLC
4141 Parklake Ave, Suite 200
Raleigh, North Carolina 27612
Telephone: (919) 573-7421
dferrell@nexsenpruet.com
www.nexsenpruet.com*