



North Carolina Spirits Association

Legislative Report
February 5, 2021

Lawmakers returned to Raleigh this week to continue the 2021 long session and took the first votes on substantive bills. The main issues taken up this week included a COVID-19 funding bill, legislation on K-12 in-person schooling, and a bill to extend the date on a previous ABC permit exemption. More COVID-19 relief is expected in the next few weeks, and preliminary work will soon begin on the budget. The Senate crafts the budget first this year but will have to wait closer to tax filing to have an accurate prediction of revenue numbers.

Senate Bill 36, 2020 COVID Relief Bill Modifications, is now on the Governor's desk after receiving a unanimous vote in both chambers. The Governor is expected to quickly sign the bill into law. The bill largely makes technical changes to COVID-19 relief bills passed last year and shifts some federal funds around. It extends many dates and reporting deadlines for previous appropriations of federal money to reflect recent federal law changes which granted more time for states to spend COVID-19 stimulus funds. The bill allows parents of school-aged children more time to apply for the \$335 Extra Credit grant. The program application window closed in December 2020 but will now be open until May 31, 2021. The bill also makes three main appropriations. First, it includes \$95 million to assist health care providers and local governments administering vaccines. Second, the incredibly popular Hope Act, which provides emergency rental assistance to avoid evictions, will receive an additional \$546 million. Third, the bill contains \$1.6 billion for local school districts to cover COVID-19 expenditures and costs as schools prepare for in-classroom instruction.

On a largely partisan 29-16 vote, the Senate tentatively-approved Senate Bill 37, which would require local education administrations to offer students in grades K-12 the option of in-person instruction. Current law allows schools to choose from three plans: Plan A with most students in-person; Plan B with some students in-person; and Plan C with no students-in person. Grades 6 through 12 must choose Plan B or C. Senate Bill 37 does not require parents to opt in to in-person learning, but does give them that option. Schools would also be allowed to modify instructional requirements based on needs and resources and could move to remote learning if COVID-19 exposure leads to insufficient staff available, upon notifying the State Department of Public Instruction. Bill supporters cite studies that they claim show that COVID-19 exposure rates at schools are lower than the general population and point to in-person instruction being safe when done properly. They also expressed concerns about students' mental health and ability to learn when out of the classroom. Democrats attempted to amend the bill to give local school administrations more flexibility on when to offer in-person instruction but the amendments failed. Governor Cooper has indicated that he opposes the bill. He does support allowing schools to offer in-person instruction, but believes that decisions need to be local and made on a case-by-case basis.

The House and Senate adjourned on Thursday and will return on Monday, February 8.

MEETING WITH HOUSE ABC COMMITTEE CHAIR

This week I met with Representative Tim Moffitt (R-Henderson), Chair of the House ABC Committee, to discuss the North Carolina Spirits Association and its legislative agenda for 2021. Representative Moffitt is generally supportive of the issues important to NCSA, and he appreciated our support for the bars and restaurants during the pandemic. We agreed to stay in touch and work together on issues this session. Representatives Boles (R-Moore) and Hardister (R-Guilford) are Vice Chairs of the House ABC Committee and will remain involved in the alcohol policy of the state for the House.

BILLS OF INTEREST

House Bill 4, Extend ABC Permit Renewal Fee Deferral, would extend the previously-enacted deferral of ABC permit fees. The extension applies to permittees who have been unable to operate due to COVID-19 restrictions and would expire once those restrictions are rescinded or expire. The bill is in response to reports that around 124 ABC permits have been canceled due to nonpayment. Many permitted facilities have been unable to operate or have been forced to operate at a greatly-reduced capacity during the pandemic. The bill also requires the ABC Commission to reinstate inactive permits. **Introduced by Representatives Moffitt, Boles, Bell and Paré and referred to the House ABC Committee.**

The bill was approved this week by the House ABC Committee, passed the House 116-1 and is now in the Senate awaiting consideration.

House Bill 11, Regulate Alcohol Consumables, would add “alcohol consumable” to the definition of “alcoholic beverage” in our State’s laws regulating alcoholic beverages. “Alcohol consumable” would mean any manufactured and packaged ice cream, ice pop, or gelatin-based food product containing at least one-half of one percent (0.5%) alcohol by volume.

The bill would also include “alcohol consumable” in the definitions of fortified wine, malt beverage, spirituous liquor, and unfortified wine. In addition, the bill would allow the North Carolina Alcoholic Beverage Control (ABC) Commission to set standards and adopt rules for “alcoholic beverages” rather than specifically for malt beverages, unfortified wine, fortified wine, and spirituous liquor.

If enacted into law, the bill would make the sale and consumption of alcohol consumables subject to the same regulations as alcoholic beverages are under current State law. For example, it would be unlawful to sell alcohol consumables without the appropriate ABC permit and underage individuals would be prohibited from purchasing, possessing or consuming alcohol consumables. **Introduced by Representatives Boles, Moffitt, Hurley and Willingham, and assigned to the House Committee on Alcoholic Beverage Control.**

The bill was considered this week in the House ABC Committee. Rep. Boles (R-Moore) presented the bill and referred to products such as “SLRRP Alcohol-Infused Gelatin” and “Proof Alcohol Ice Cream”, stating that they have an alcoholic content that’s higher than a can of beer. But some stores are not carding customers to ensure that they’re at least 21. The bill was before the committee for discussion only and should receive further consideration later this session.

House Bill 25, Impaired Driving Law Revisions, would add to the list of offenses classified as “Offenses Involving Impaired Driving” the Class 1 misdemeanor offense of “Driving While Licensed Revoked for Impaired Driving.” If this bill is enacted into law, a conviction for Driving While Licensed Revoked for Impaired Driving could be used as an underlying conviction to prove Habitual Impaired Driving, Aggravated Felony Death by Vehicle and Aggravated Felony Serious Injury by Vehicle. Currently, offenses such as impaired driving, habitual impaired driving, impaired driving in a commercial motor vehicle, and impaired driving resulting in death are classified as “Offenses Involving Impaired Driving” that can be used as an underlying conviction to prove Habitual Impaired Driving, Aggravated Felony Death by Vehicle and Aggravated Felony Serious Injury by Vehicle. Finally, the bill would modify how certain grossly aggravating factors are determined by the court at sentencing. **Introduced by Representative Clampitt and referred to the House Judiciary 2 Committee.**

House Bill 26, Revise Use of Alcohol Concentration Result, would make the actual alcohol concentration result of an alcohol screening test administered prior to arrest admissible in court and would allow the actual result of the test to be used by an officer or an administrative agency (such as the North Carolina Division of Motor Vehicles) when making a determination as to whether “probable cause or reasonable grounds” exist for believing that the driver committed an implied consent offense and that the driver consumed alcohol. Currently, the positive or negative result of an alcohol screening test administered prior to arrest is admissible in court, but not the actual alcohol concentration, and may be used by an officer or an administrative agency in determining whether reasonable grounds exist to believe the driver committed an implied consent offense and that the driver consumed alcohol. The bill would also clarify that “low” alcohol test results can be used by an officer, a court or an administrative body to determine whether impairment was caused by an impairing substance other than alcohol. Currently, only negative results on an alcohol test can be used in determining impairment was caused by an impairing substance other than alcohol. **Introduced by Representative Clampitt and referred to the House Judiciary 2 Committee.**

For more information about legislation described in the legislative reports, feel free to contact me at dferrell@nexsenpruet.com or (919) 573-7421. Information is also available on the General Assembly’s website: www.ncleg.gov.

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