



North Carolina Spirits Association

Legislative Report
June 8, 2018

Lawmakers still appear to be on schedule to adjourn prior to the end of the State's fiscal year, June 30. Significant legislation began moving quickly this week in the wake of last week's budget approval. Many of these initiatives have been in the works since lawmakers adjourned last year, particularly legislation that crossed over from one chamber to the other in 2017, as well as recommendations from interim study committees. There were rumors last week that the legislature could adjourn by June 15. Although that is still a possibility, it seems unlikely at this point.

Governor Roy Cooper (D-Nash) vetoed the state budget bill (Senate Bill 99) earlier than many observers expected. Once Governor Cooper received the budget from the legislature on June 1, a 10-day countdown began for him to take action on the measure. He announced his veto on Wednesday June 6 in a press conference, and the Senate wasted little time overriding his veto the following day. The House has yet to take action on the Governor's veto but is expected to do so Tuesday morning June 12. The threshold required to override a veto is two thirds of the members present and voting, and the House, like the Senate, has a veto-proof Republican majority.

Both the House and Senate moved identical legislation this week that would authorize the Department of Transportation to issue a \$3 Billion bond for highway construction. The Senate was the first to have the measure pass either chamber. Senate Bill 758, Build NC Bond Act of 2018, passed the Senate unanimously on Wednesday, was sent to the House, and referred to the House Finance Committee. The House Transportation and Finance Committees have already considered and approved the House companion bill to Senate Bill 758.

In a rare bill filing, House Speaker Tim Moore filed House Bill 1092, Const. Amendment – Require Photo ID to Vote, a proposed constitutional amendment that would ask voters in November to approve requiring a photo ID to vote. Traditionally, the Speaker files little to no legislation, and this is the only substantive bill he has filed since this General Assembly convened in January 2017.

The legislature adjourned on Thursday and will reconvene on Monday June 11.

BILL STATUS

House Bill 500, ABC Omnibus Legislation The original contents of House Bill 500 were removed and replaced with a bill to make various clarifying changes to the state's ABC laws and procedures. The bill was considered in the Senate Commerce Committee on Thursday. The NC Spirits Association was actively involved in helping vet the some of the provisions in the bill, and we supported the bill in committee along with other interested parties.

The bill would:

-Would explicitly allow distillers, brokers and suppliers to sell branded merchandise such as glassware, cups, signs, t- shirts, hats, and other apparel at spirituous liquor tastings conducted under a spirituous liquor special event permit.

-Under current law, an ABC commercial permittee, or its agent or employee, may consume samples of alcoholic beverages it is licensed to sell on its premises for purposes of sensory analysis, quality control, or education. The bill would allow a commercial permittee, or its agent or employee, to sample alcoholic beverages it is licensed to sell for purposes of sensory analysis, quality control, or education on any of the following premises:

- The permittee's premises licensed for commercial activity.
- The permittee's premises licensed for retail activity, if the commercial permittee is authorized to hold a retail permit and the commercial permittee has obtained the appropriate retail permit.
- The premises of a special one-time permittee.
- The premises of a special event where a commercial permittee is participating under a winery special event permit or a malt beverage special event permit.

-Under current law, distressed liquor owned by a local board or the ABC Commission must be destroyed, given to a public or private hospital for medicinal use, or, in the case of the Commission, selling them to a military installation. Distressed liquor is defined in rule as "liquor which is not saleable due to adulteration or damage to the bottle, label or tax seal." ABC Commission rules require that a distillery representative be present when damaged or distressed liquor bottles are being destroyed by the Commission, a privately-owned bonded warehouse, or a local board. The bill would direct the ABC Commission to amend its rules to clarify that the presence of a distiller representative is not required for the Commission, a privately-owned bonded warehouse, or a local board to destroy distressed liquor.

-Would direct the ABC Commission to amend its rules so that the mixed beverage tax stamp may be affixed to any vertical portion of the container, and not only the original paper labeling of the container. A mixed beverages tax stamp must be affixed to any bottle of liquor sold to a mixed beverages permittee.

-Would add two new definitions for establishments that may receive ABC permits, and would amend the definition of premises for a restaurant located on an 18-hole golf course or a sports club substantially engaged in the business of providing an 18-hole golf course. Specifically, the bill would:

- Define a "motion picture theater" as a movie theater, screening room, or other venue that is being used primarily for the exhibition of a copyrighted motion picture, if such exhibition is open to the public. To qualify as a movie theater, the establishment's movie ticket sales revenue would have to exceed its alcoholic beverage sales, and the establishment's gross receipts from food and nonalcoholic beverages would have to be

at least 30% of the total gross receipts from food, nonalcoholic beverages, and alcoholic beverages. A motion picture theater would be eligible to obtain the following permits:

- o On-premises malt beverage permit.
 - o On-premises unfortified wine permit.
 - o On-premises fortified wine permit.
 - o Mixed beverages permit.
- Define a "sports and entertainment venue" as a stadium, ballpark, or other similar facility with a permanently constructed seating capacity of 3,000 or more, which is not located on the campus of a school, college, or university. A sports and entertainment venue would be eligible to obtain the following permits:
- o On-premises malt beverage permit.
 - o On-premises unfortified wine permit.
 - o Mixed beverages permit.
- Provide that for a restaurant located on an 18-hole golf course or a sports club substantially engaged in the business of providing an 18-hole golf course, the premises of the establishment includes the parking lot and the playing area of the golf course, including the teeing areas, greens, fairways, roughs, hazards, and cart paths.

-Would make the following changes related to nonprofit organizations holding raffles, to be effective December 1, 2018:

- Increase the number of raffles that a nonprofit organization could hold each year from two to four.
- Increase the annual amount of prizes that a nonprofit organization could award in raffles by a nonprofit from \$125,000 to \$250,000.
- Authorize the sale and consumption of alcoholic beverages in a room where a raffle is being conducted.
- Provide that a nonprofit organization that has received a limited special occasion ABC permit or special one-time ABC permit may renew the permit rather than applying for a new permit.
- Allow a nonprofit organization holding ticketed event with a special one-time ABC permit to offer alcoholic beverages as a prize in a raffle or sell alcoholic beverages at auction at the ticketed event.

-Would allow the sale of malt beverages, unfortified wine, and fortified wine on passenger-only ferries established by NCDOT upon compliance with alcoholic beverage license and excise taxes.

The provisions of this bill (except for the nonprofit – raffles issue) would become effective October 1, 2018. The bill received a favorable report from the Senate Commerce Committee and was re-referred to the Senate Finance Committee for further consideration.

House Bill 573, Business/Regulatory Changes. The original version of the bill was modified, and additional regulatory reform provisions were added to the bill. The bill would authorize a city to hold a malt beverage or unfortified wine election if the city has a population of 200 or

more, the county in which more than 50% of the city is located has held such an election and the vote was against, and that county contains three or more other cities that have previously voted to allow malt beverages OR (current law AND) unfortified wine.

The bill passed the Senate Commerce Committee and was re-referred to the Senate Rules 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.ncga.state.nc.us.

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