



North Carolina Spirits Association

Legislative Report
July 1, 2022

Leaders of the North Carolina House and Senate reached a deal on the state budget this week. North Carolina has two-year budget cycles. The main budget is approved in odd-numbered years, with only minor changes typically made in even-numbered years like 2022. The details of the 2022 state budget bill, which is House Bill 103, were released Tuesday, several legislative committees discussed the bill on Wednesday, the House approved the budget bill by a vote of 84 to 28 on Thursday, and the Senate approved it by a vote of 38 to 9 on Thursday. Both chambers gave final approval to the state budget bill on Friday.

With the passage of the 2022 state budget bill, the House and Senate announced the adjournment of the 2022 “short” session on July 1, 2022 – although it is expected the legislature will return to Raleigh several times through the end of the year. They adjourned until July 26, 2022, which gives the Governor 10 days to sign or veto the state budget bill. If he does not act within 10 days, the bill would become law without his signature. Also, the adjournment resolution has the legislature returning to Raleigh for one-day legislative sessions once a month for the remainder of the year. Whether the legislature takes up legislation at these sessions is to be determined. For instance, there has been talk that the legislature may convene a legislative session after the November elections to address Congressional redistricting and various other issues. But, for all practical purposes, it appears the 2022 legislative session has concluded until after the November elections.

The state budget bill approved by this week includes higher raises for state employees and teachers, money to build a new government complex in downtown Raleigh, coverage of co-pays for students who qualify for reduced-price lunches, and pay for new school safety measures in the wake of mass shootings.

Legislators made a point in this state budget to prepare for an economic recession. Much of the state’s recent surplus tax collections, due in part to an economy that has outperformed predictions throughout the pandemic, will go to the bottom line, including \$1 billion set aside for an “inflationary reserve”. The budget also transfers a portion of normal sales tax revenues to the NC Department of Transportation to bolster transportation spending by hundreds of millions of dollars, an acknowledgment that falling gasoline tax revenues cannot cover road construction costs. There are no new tax cuts in the state budget bill. Previously planned cuts in both business and personal income tax rates, which were agreed to last year, will continue.

Senate leader Phil Berger called the budget bill “the right budget for North Carolina at this time”. It focuses primarily on adjustments and limited additions to the second year of a two-year budget that lawmakers passed last year, he said, instead of a wholesale rewrite or an

endorsement of large new programs. The budget does not include a number of policy initiatives lawmakers discussed as this legislative session approached adjournment such as Medicaid expansion, medical marijuana, and online sports betting.

Although quite a few Democrat House and Senate members voted for the state budget, it is unclear whether Governor Cooper will sign the bill.

The House and Senate adjourned on Friday and will reconvene on July 26, 2022.

BILL STATUS

House Bill 103, 2022 Appropriations Act, is the state budget bill. Among other things, the bill contains a provision to expand the qualifications for the ABC permitting of recreational districts to include the North Wilkesboro Speedway, with the following language:

(1a) An area that is located in a county that has not approved the issuance of mixed beverages permits; has at least two cities that have approved the sale of malt beverages, wine, and the operation of an ABC store; and contains a facility of at least 90 acres where five or more motorsports-related events are held each year. The Commission shall issue a permit under the authority set forth in this subdivision only to a facility where five or more motorsports-related events are held, or a qualified business contracting with or located at a facility where five or more motorsports-related events are held, and the sale and consumption of alcoholic beverages shall only occur during a motorsports-related event held at the facility.

House Bill 211, Social District/Common Area Clarifications, was approved by the Senate Rules Committee on Monday, approved by the full Senate on Tuesday by a vote of 37-6, sent to the House to consider the Senate changes, and referred to the House Rules Committee. On Thursday, the House approved the bill and sent it to Governor Cooper for his consideration.

House Bill 661, AgeReq.Mod's/CapProj.Oversight/BEAD Crrrect. On Thursday, the original contents of House Bill 661 were replaced with a bill that would among other things:

- Reduce the age requirement for malt beverage wholesaler salesmen from 21 to 18.
- Temporarily allow 15-year-olds to work inside premises that serve alcohol – this provision would expire December 31, 2023.

The bill was approved by the Senate Commerce Committee, approved by the full Senate, the House approved the Senate changes, and sent the bill to Governor Cooper for his consideration.

House Bill 768, 2022 ABC Omnibus, was approved by the Senate Rules Committee on Monday, approved by the full Senate on Tuesday by a vote of 36-8, the House approved the revised bill on Wednesday, and sent it to the Governor for his consideration.

Senate Bill 470, ABC Technical and Other Changes. On Thursday, the conference report for this bill was approved by the House and Senate and sent to the Governor for his consideration. The bill contains various ABC technical corrections that were hold over provisions from the 2021 legislative session, and a few new provisions, including:

- Clarifies ABC rulemaking authority with respect to online orders at ABC stores and delays the effective date of the online order section in S.L. 2021-150 (H890) to October 1, 2022.
- Makes a technical change to the spirituous liquor vendor permit established in S.L. 2021-150 to reflect that a nonresident spirituous liquor vendor may only sell its products in this State through the State warehouse.
- Makes a definition of "brokerage" apply to all of Chapter 18B of the General Statutes.
- Makes a conforming change to clarify that a spirituous liquor special event permit does not allow the sale of spirituous liquor in closed containers.
- Makes a clarifying change to the locations in which alcoholic beverages sold at distilleries for consumption on the premises may be solid, possessed, or consumed on any part of the licensed premises that is open to the public.
- Makes a technical change to the election changes in S.L. 2021-150 and provide that approval of mixed beverages allow allows the sale of fortified wine in addition to malt beverages and unfortified wine.
- Exclude ice cream from the definition of "alcohol consumable" until December 1, 2022, to allow the ABC Commission an opportunity to determine how a frozen product will be received by the state warehouse, stored, shipped to ABC stores, and sold frozen in ABC stores. This section is effective retroactively to September 10, 2021, the date that S.L. 2021-150 was signed into law.
- Makes a clarifying change to the conditions under which a tour boat may obtain an ABC permit.
- Provides that the term "supplier," for purposes of a supplier's financial interest in a wholesaler, means a manufacturer, bottler, importer, or owner of one or more brands of malt beverages, unfortified wine, or fortified wine distributed by its wholesaler. The term would not include a wholesaler that (i) possesses a wine importer permit or a malt beverages importer permit or (ii) is an importer in another state, provided such malt beverages, unfortified wine, or fortified wine are transferred to it through an unaffiliated and independent third party.
- Exempt the ABC Commission from rulemaking under the Administrative Procedure Act (APA) with respect to approval of alcoholic beverages to be sold in ABC stores and setting prices of alcoholic beverages.
- Allows the ABC Commission to conduct training classes for individuals delivering under a delivery service permit. Under current law, the Commission approves courses conducted by the holder of a delivery service permit. This section becomes effective October 1, 2022.
- Allow empty spirituous liquor bottles to be used for display purposes. The permit holder shall notify the ABC Commission of any such containers to be used for display purposes, and each container used for display purposes shall be stamped with a mixed beverages stamp.

- Amend the definition of “restaurant” for ABC permitting purposes – to reduce the dining area seating requirement from 36 to 10, and provide that it is not necessary for an establishment to maintain a kitchen operation at all times it is open to the public to qualify as a restaurant.
- Exempt bar areas or other similar areas in an establishment where alcoholic beverages are prepared, poured, or mixed before service to customers and food is not prepared, except for the preparation of garnishes for alcoholic beverages
- Allow branded plug-in coolers in ABC stores – This provision provides that: “No rule or decision of the Commission may limit or restrict the giving, lending, or selling by industry members of branded plug-in coolers used to hold and display products, provided that coolers are under the dollar limits set forth by the Commission for product displays. A branded plug-in cooler shall have permanent and conspicuous branding that is permanently attached or securely affixed to the cooler.”
- Allow 50-milliliter containers of malt beverages

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

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