



# North Carolina Spirits Association

## Final Legislative Report 2024

---

The North Carolina General Assembly convened the 2024 legislative “short” session on April 24, 2024. As with most short sessions, the legislature’s goal was to make adjustments to the state’s two-year budget that was enacted in 2023. In addition to the budget, this year’s legislative agenda consisted of the introduction of constitutional amendments, the consideration of controversial legislation involving video lottery terminals and medical marijuana, and the passage of bills such as this year’s Farm Act and Regulatory Reform Act.

The House and Senate wrapped up the summer session at the end of June without agreeing on a state budget bill due to substantial disagreements between House and Senate leadership. The legislature started this year’s session with a projected \$1.4 billion budget surplus. The House and Senate attempted to produce a joint budget proposal, rather than each chamber adopting its own spending plan and working out differences through a conference process. A month after the release of the initial revenue forecast, the state’s economists decreased the estimated surplus down by \$400 million because of lower-than-expected tax collections.

As the weeks progressed in the short session, House and Senate leadership failed to agree on top-line spending levels for the fiscal year 2024-2025 budget and each chamber passed their own version of the state budget bill. Neither chamber considered the other’s spending plan. However, during the last week of the legislative session, the House advanced two appropriations bills to serve as stopgap measures for critical needs, including child care centers and funds for the 3% teacher pay raise approved in last year’s budget. These provisions were approved by the legislature and signed into law by Governor Cooper by the end of the fiscal year.

The legislature did leave open the possibility that further action could be taken on the budget this year in a post-election November session that will run from November 19-22. The adjournment resolution allows the legislature to consider budget bills in the November session. Since the House and Senate passed a two-year budget last year, state government continues to operate based on the budget adopted last session.

The legislature did pass a number of bills in the last week of session, with approximately 33 passing in the last two days of the legislative session. However, the legislative session produced one of the lowest numbers of bills passed both chambers in modern history. Over this session, 45 bills became law, with Governor Cooper signing 29 bills and vetoing eight bills. The legislature overrode Governor Cooper’s veto of three bills so far this session, and it has the opportunity to override the veto of the five additional vetoed bills.

Four Constitutional Amendments were proposed during the Short Session, but only one became law. Both chambers agreed to put a constitutional amendment on the November ballot that would

prevent non-citizens from being allowed to vote in North Carolina, a move that would reaffirm and strengthen current law. Amendments that were not enacted included a Voter ID proposal, a reduction of the State Income Tax cap from 7% to 5%, and a bipartisan proposal to end the Jim Crow era literacy test.

For the third year in a row, a medical cannabis bill was passed by the Senate but did not receive a vote in the House. This year the bill was combined with other legislation that would regulate and restrict the intoxicating hemp market, along with several different proposals that had passed the House but not the Senate, to try to sweeten the pot for House Republicans reluctant to support medical cannabis. These efforts were unsuccessful.

A gaming expansion bill to legalize and regulate video lottery terminals was expected to come from the House for most of the Session; however, final language was never publicly introduced, despite rumors that a preview was given to the House Republican caucus in the waning days of the legislative session. iGaming (app-based casino-style games) legislation was frequently discussed as another possible source of revenue, but it did not move forward in this session.

The legislature enacted the state's first-ever legal definition for antisemitism, and it includes examples as defined by the International Holocaust Remembrance Alliance. The House and Senate, with nearly unanimous approval, voted in favor of House Bill 942, SHALOM Act, and the bill was signed into law by Governor Cooper on July 1, 2024.

With frustrations mounting among House and Senate leadership over the budget stalemate, the legislature wrapped up their legislative business and adjourned the legislative session on June 28, 2024. However, the General Assembly will not adjourn *sine die* until December, and plans to reconvene monthly for the remainder of 2024 to address veto overrides and other urgent matters. Legislative session dates include July 10, July 29-August 1, September 9-11, October 9, November 19-22, and December 11-13. When the House and Senate reconvene each month, they will only be able to consider select matters such as the Governor's vetoes, bills related to election laws, or the adoption of conference reports.

On July 31, the House met and successfully overrode Governor Cooper's veto of three bills: House Bill 155, Titles for Off-road Vehicles/Low Speed Vehicles Inspection; House Bill 556, Tenancy in Common/E-notary/Small Claims Changes, and House Bill 690, No Central Bank Digital Currency Payments to State. The Senate is expected to meet later this year to consider the veto override matters.

The 2024 legislative session included the unexpected resignations of four legislators:

- Senate Jim Perry (R-Lenoir) - served as Senate Majority Whip, Co-Chair of the Senate Finance Committee, and a previous Co-Chair of the Senate Health Committee.
- Representative Jason Saine (R-Lincoln) (effective August 12) – was the Senior Chair of the House Appropriations Committee, previous House Finance Committee Chair, spearheading broadband expansion, and championed sports wagering legislation.
- Representative Jon Hardister (R-Guilford) - was the House Majority Whip and Chair of the House Appropriations-Education and Education-Universities Committees.

- Representative Ashton Clemmons (D-Guilford) –was the House Deputy Minority Leader and active in education policy and other similar issues.

Replacements for these members are expected to be nominated and confirmed by the local political parties, and sworn into the legislature prior to the November 2024 election.

### **ABC OMNIBUS BILL**

**Senate Bill 527, ABC Omnibus 2023-24**, in the legislature’s ABC omnibus bill for the 2023-2024 legislative session. The bill does the following:

#### NC Spirits Association Legislative Priorities

- Removes mixed beverage tax from “Ready to Drink” premixed cocktails. The bill creates a new definition of “premixed cocktails” in closed containers and excludes those cocktails from previously applicable mixed beverage tax charges. This was a legislative priority for the NC Spirits Association.
- Local ABC stores can decide to allow ABC stores to open on New Year’s Day, Fourth of July, and Labor Day, but cannot open on any Sunday. Previously, the law required ABC stores to be closed on those holidays. This was a legislative priority for the NC Spirits Association.
- Require the Commission to notify industry members and local boards at least 60 days in advance of the effective date of a retail price reduction for a spirituous liquor product, but the price reduction for local boards would only be effective for the 30 days that the retail price reduction is in effect. [Currently, when an industry member offers a discounted price for spirituous liquor and the retail price in the ABC store is reduced, local boards may purchase the spirituous liquor at a discounted price for the 30 days prior to the retail price reduction, plus the 30 days when the retail price reduction is in effect.] This was a legislative priority for the NC Spirits Association.

#### Provisions Affecting ABC Boards and Suppliers

- Increases the spending cap on advertising, product displays, and coolers. Industry members can provide retailers up to \$600 (was, \$300) worth of advertising specialty items and product displays per brand per year and can provide up to \$1,000 of these items to a local ABC board. These products cannot be customized for individual retailers or boards. Industry members can provide branded plug-in coolers, valued at up to \$1,500 per brand per year, to local boards, separate from the \$1,000 allowance for advertising specialty items.
- ABC stores may sell branded consumer specialty items such as can openers, bags, glasses, clothing, and key chains packaged with spirituous liquor. Under previous law, ABC stores were not allowed to sell any items except liquor at uniform set prices, so value-added items had to be given away. Value-added items cannot include tobacco, vapes, hemp products, or paraphernalia.

- ABC stores can sell physical or electronic gift cards. Electronic gift cards can be sold and delivered online to the purchaser. Gift cards are valid at ABC stores operated by the local board from which the gift card is purchased.
- ABC stores can sell empty barrels in which liquor was aged, provided they also purchased the liquor aged in the barrel.
- Local ABC Boards may get permission from the Commission to sell liquor below the distiller's price. The local board shall notify the distilleries affected. Distilleries would have a two-day right of first refusal to purchase back the products.
- Local ABC boards can contract with third parties to make an ATM available to customers inside an ABC store.
- ABC Commission members, local ABC Board members, general managers, and store managers can sample .25-ounce samples of alcoholic beverages being offered for sale.
- Providers of ABC training courses have 90 days (was, 30 days) to update course content.
- Local boards may contract with independent contractors to provide for delivery of liquor from the local board's warehouse to its ABC stores.

#### Provisions Affecting Retailers

- Mixed beverage permittees, on-premises wine permittees, and distilleries may sell single-serving mixed drinks and wine "to-go cocktails" to consumers (was temporarily allowed during COVID). Delivery service providers may deliver these items to consumers. The mixed drinks must be sold with food and must be single-serving and packaged in a container that does not exceed 24 fluid ounces, with a secure lid or cap. More than two of these drinks can be sold at a time if they are sold for delivery or off premises consumption.
- Retailers may purchase liquor from any ABC Board in the county in which they operate but must still go through an ABC store the Board designates. The bill also makes changes to statutes governing alcohol elections in small towns.
- Retailers may use clear adhesive tape to prevent mixed beverage tax stamps from falling off liquor bottles.
- The bill clarifies the definition of bar in the statutes and eliminates references to "private bars."
- The bill clarifies that on-premises permittees may mix beer with other beverages.
- The ABC Commission is authorized to treat multiple parcels of land with different addresses as a single premises if the parcels (1) share a single perimeter, (2) are under common ownership or control as evidenced by deed, lease, or management agreement, and (3) access between the buildings is available to customers without the customers having to enter a public street or sidewalk.
- Makes permanent a provision which authorizes 15-year-olds to work inside an ABC-permitted business that allows on-premises consumption. No youth under 18 can prepare, serve, dispense, or sell any alcoholic beverages except for point-of-sale locations for off-premises consumption. 14-year-olds can only work at an ABC-permitted establishment with the written consent of a parent or guardian and only on the outside grounds of the premises and for a purpose that does not involve the preparation, serving, dispensing, or sale of alcohol.

## Permitting and Miscellaneous Provisions

- Spirituous Liquor Special Event Permittees, including distilleries holding this permit, can now sell two mixed drinks (was, one) per person per calendar day at certain special events such as trade shows, conventions, and farmers markets.
- The bill authorizes a new home maker special event permit that a club devoted to the home production of beer or wine may obtain. The club may offer free tastings of homemade beer and wine on the premises of ABC retail establishments, at shopping malls, and at events such as trade shows, conventions, and street festivals. The home maker club must give the Commission advance notice, label the product, and limit the samples to six one-ounce samples per customer.
- The bill provides that after 90 days, a temporary ABC permit is deemed to be a full permit. The bill establishes a safe harbor and late fee period during which applicants can pay registrations and renewals with a late fee of 25%. The bill makes several changes to the transitional ownership permit statutes. The bill clarifies there is no need to obtain new ABC permits if a person transfers an ownership interest to a revocable or irrevocable trust and continues to operate the establishment following the transfer.
- Revocations or withdrawals of temporary permits by the Commission must be served on the permittee at their residence or business address or must be mailed with five business days' notice.
- The bill creates a cotenant permit, which can be issued to a restaurant that occupies the same building as another ABC permittee, provided the building has no other tenants or a common area open to the public that is not part of the premises of one of the two permittees. Customers can bring open containers from one of the businesses to the other.
- The bill creates a new BYOB permit available to adult live entertainment businesses, allowing persons to bring closed containers of beer and unfortified wine onto the premises and consume those on the premises.
- The bill creates a new mobile bar services permit can be issued to a business that provides bartending services for events; and authorizes the permittee to bring beer, wine and liquor onto the premises of a business that is not an ABC permittee and serve the alcohol to guests at the event. The beer can be purchased from either a retailer or a wholesaler, fortified wine from an ABC store or wholesaler, and liquor from a designated ABC store in the same county where the permittee's principal office is located. A limited special occasion permit is not required where the alcohol is exclusively provided by the holder of a mobile bar services permit. The permittee can bring alcohol onto the premises and serve at the event regardless of whether there is a charge or fee for guests to attend the event. The permit does not allow retail sales of alcohol to guests at an event.
- The definition of community theatres is expanded to include a broader number of performing arts events.
- The bill requires ALE or ABC officers who issue citations to employees for criminal or ABC violations occurring on the premises to also notify the permit holder by certified mail or e-mail within five business days.
- The bill defines a distillery estate district to be a tract of land where a distillery, winery, and at least three other establishments holding mixed beverage permits are located. Each of the establishments must be under common ownership and control. A mixed beverage permittee in the district can sell spirituous liquor produced at the distillery in the district,

the distillery may conduct consumer tastings anywhere in the district, and wine permittees in the district can sell bottles of liquor produced at the distillery.

- The Catawba Indian Tribe is authorized to operate a tribal ABC commission and regulate alcoholic beverage on its own property to the same extent as the Cherokee Tribe.
- The bill provides that franchisees of a franchisor that is a private club and that has been in operation for 12 months can receive an ABC permit without also having to have been in operation for 12 months.
- Clarifies that only one common area entertainment permit is needed at a multi-tenant establishment, and a single designated consumption area can include both indoor and outdoor common areas.
- Community colleges are now included in the definition of “public college or university,” which allows the sale of beer and wine at community college stadiums, athletic facilities, and arenas.
- The consumption of alcohol sold by an establishment at an airport that boards at least 150,000 passengers annually may be consumed and sold throughout the screened portion of the establishment’s airport terminal.
- An establishment can now qualify as a sports club permittee in North Carolina if it has at least four or more pickleball courts.
- Cigar bars that do not serve prepared food do not have to be in a freestanding structure provided smoke does not migrate into enclosed areas where smoking is prohibited.
- Beer and wine can be sold on a rail line that is at least 100 miles long and connects to the national rail network.

#### Beer and Wine Provisions

- Beer, wine, and liquor importers that import wine into North Carolina through North Carolina ports can now store those products and ship them to other states or to the state warehouse.
- A supplier cannot have an ownership interest in its North Carolina wholesaler, with certain exceptions. The new law provides a supplier’s wholesaler cannot directly or indirectly through an affiliated entity possess a nonresident vendor permit.
- It is unlawful for a manufacturer, bottler, or wholesaler of alcohol to provide draft line cleaning services to a retailer unless the retailer pays fair market value. This section is effective January 1, 2025.
- The bill creates a new malt beverage shop permit similar to the existing wine shop permit. Entities holding this permit can sell beer or wine for consumption on or off the premises, provided that to sell on-premises, the sale of malt beverage on-premises does not exceed 40% of the establishment’s total sales for any 30-day period.

#### Tax Provisions

- The bill provides for an effective cap on the amount of sales and use tax payable on the purchase of a single container of liquor for which the purchase price is at least \$50,000. This provision is intended to apply to a local North Carolina distillery’s product that will be aged in space and sold for over \$50,000.

- The bill clarifies excise tax reports must be filed regardless of whether alcoholic beverages were sold. The bill clarifies monthly due dates for the return of excise taxes.
- The bill authorizes the NC Department of Revenue to request copies of the agreements between breweries, wineries, and wholesalers to ensure tax remittance compliance.

Four (4) provisions were in the original bill, but were removed from the bill during the legislative process, as there was not enough support for them in the House and Senate to allow them to move forward this session. But bill sponsors say they will try again next year to move the Sunday Sales and Happy Hour provisions forward. The provisions in the original bill that were removed are:

- Sunday sales
  - But the legislation contains a provision that allows local ABC stores can decide to allow ABC stores to open on New Year’s Day, Fourth of July, and Labor Day – and must only be closed on Thanksgiving and Christmas.
- Happy Hour
- Allocated product (i.e., bourbon) transparency / reporting
- Minimum pricing

**Effective July 8, 2024. Session Law 2024-41.**

### **ABC WAREHOUSE**

Since budget negotiations have hit an impasse, the legislature adjourned without a state budget bill and without funding a new state ABC warehouse. There is a chance the legislature could adopt a budget later this year during the November 19-22 legislative session, but it seems unlikely at this point. We will continue to advocate for funding for a new ABC warehouse, including in the 2025 legislative session.

### **BILLS OF INTEREST ENACTED INTO LAW**

**House Bill 228, Rev. Laws Tech., Clarifying, & Admin. Chngs.**, among other things, the bill clarifies the due dates for returns and payment of alcohol excise tax. Currently, there is no explicit return requirement for local ABC boards and distilleries, only for payment of the tax. Moreover, the statute for a wine shipper permittee does not set a due date for the tax, and the statute is unclear whether a resident wholesaler or importer must submit a report if tax is not due. Under this section, the timing for when tax must be paid is now uniform for all taxpayers and is based on when the alcoholic beverage is first sold or otherwise disposed of in this State. Further, this section also allows the Department to request the agreement between breweries and wineries with their wholesalers to ensure that the breweries and wineries are meeting their statutory requirements of transferring the tax remittance obligation to the wholesaler. **Effective July 1, 2024. Session Law 2024-28.**

**House Bill 909, Various Local Provisions I**, changes the distribution of Concord ABC revenue so that after payment of all costs and operating expenses, the first 5% of remaining revenue would be paid for law enforcement, followed by the retention of any revenue for working capital. Of the remaining balance, 25% will still go to Cabarrus County and 75% will go to the City of Concord. G.S. 18B-805(c)(2) requires that at least 5% of revenues that remain after certain priority

distributions must be distributed for law enforcement. Any retention of revenue for working capital comes from revenue remaining after distributions required under G.S. 18B-805(b) and (c). Therefore, as the bill reduces the amount distributed for law enforcement to 5%, the distribution for law enforcement must come before the retention of revenue for working capital to comply with the statutory requirements. **Effective June 28, 2024. Session Law 2024-20.**

**House Bill 1064, Various Local Provisions III**, requires the Jones County Alcoholic Beverage Control Board to make certain ABC profit distributions annually, on September 30 of each year, instead of quarterly. **Effective June 27, 2024. Session Law 2024-14.**

---

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

**Prepared By: David P. Ferrell, Clark Riemer and Chase Horton – NC Spirits Association Lobbyists**  
**MAYNARD NEXSEN PC**  
**4141 Parklake Ave, Suite 200**  
**Raleigh, North Carolina 27612**  
**Telephone: (919) 573-7421**  
**[dferrell@maynardnexsen.com](mailto:dferrell@maynardnexsen.com)**  
**[www.maynardnexsen.com](http://www.maynardnexsen.com)**