



North Carolina Spirits Association

Legislative Report
April 5, 2019

Wednesday, April 3 was the deadline for new legislative bills to be filed in the Senate. As is typical in the few days before a bill filing deadline, many bills were filed in the Senate this week. As of the deadline, 672 bills were filed in the Senate. Including those legislative bills pre-filed that will be introduced in the House next Monday, there have been 626 bills introduced in the House so far. The House public bill filing deadline is April 16.

House and Senate leadership have announced that they will take a “spring break” from April 18 to April 24, to allow members the opportunities to be with their families around the Easter holiday. Legislative leaders mentioned that public schools are typically out during this time, and it will allow members with school-age children to spend time with them while they are out of school. Although it is likely the legislature will remain in session and may have sessions that appear on the formal legislative calendars, these will be “no vote” sessions.

With the “cross-over deadline” on May 9, some hectic weeks for General Assembly committees, members, staff, and lobbyists are on the horizon. The “cross-over deadline” is the date by which all bills, other than those affecting revenue or spending must pass from one chamber to the other, or they are no longer eligible for further consideration during the 2019-2020 legislative session.

The Senate has indicated that Certificate of Need (CON) reform will be pushed again this year, with multiple bills filed to repeal the law. The House advanced legislation this week to allow alcohol sales at college sporting events if approved by the school’s board of trustees. Longtime Labor Commissioner Cherie Berry announced this week that she will not run for reelection in 2020, leaving that Council of State seat open for newcomers.

The House and Senate adjourned on Thursday and will reconvene on Monday afternoon.

BILLS OF INTEREST

House Bill 536, ABC Omnibus Regulatory Reform, would make various changes to the state’s alcohol laws effecting beer, wine and spirits. The bill would, among other things,

- Amend GS 18B-1001(1), concerning on-premises malt beverage permit holders, to expand the authorization of on-premises malt beverage permit holders to allow permittees to transfer malt beverages to another on-premises malt beverage permittee that is under common ownership or control of the transferor. This bill would limit the permittee to no more than four such transfers per calendar year. This bill would clarify that other transfers by on-premises malt beverage permittees, the purchase of malt

beverages by a retail permittee from another retail permittee for the purpose of resale, and the sale of malt beverages by a retail permittee to another retail permittee for the purpose of resale is unlawful. This bill would restrict authorized transfers of a particular brand of malt beverages to transferors and transferees located within the territory designated between the brewery and the wholesaler on file with the ABC Commission (Commission). This bill would require the transferor to notify each wholesaler who distributes the product of the transfer prior to or contemporaneous with the transfer, in writing or verifiable electronic format, and identifying the transferor, the transferee, the transfer date, quantity, and items transferred. This bill would make identical additions to expand the authorizations for off- premises malt beverage permit holders set out in GS 18B-1001(2) to allow for the transfer of malt beverages from the permittee to another off-premises malt beverage permittee, subject to the same restrictions and requirements.

- Allow for alcohol sales to the general public at a stadium, athletic facility, or arena on the campus or property of a public college or university. The bill would require the Board of Trustees of the public college or university to authorize alcohol sales at these facilities before a permit can be obtained from the North Carolina Alcoholic Beverage Control Commission. Currently, alcohol sales to the general public at a stadium, athletic facility, or arena on the property of a public college or university is prohibited. The bill provides that mixed beverages would not be sold when the event taking place is sponsored by the public college or university.
- Allow beer and wine to be sold on certain state operated ferries, similar to what is allowed on state operated trains.
- Amend GS 18B-1001 to allow bars to obtain an on-premises malt beverage permit, on-premises unfortified wine permit, on- premises fortified wine permit, brown-bagging permit, special occasion permit, and mixed beverages permit. This bill would define bar under GS 18B-1000 as an establishment substantially engaged in the business of serving alcoholic beverages for consumption on the premises. This bill would require that in order to qualify as a bar that the establishment's gross receipts from alcoholic beverages for consumption on the premises be no less than 75% of the establishment's total gross receipts.
- Amend GS 18B-1105 regarding the authorization of distillery permit holders to allow them to sell, deliver and ship spirituous liquor in closed containers at wholesale or retail to consumers in other states or nations, subject to the laws of other jurisdictions.
- Amend GS 18B-1105 to allow distillery permit holders to sell spirituous liquor distilled at the distillery in closed containers to visitors for consumption off the premises, no longer requiring that the visitors tour the distillery.
- Add that a distillery is not subject the prohibitions concerning financial interests in, and lending or giving things of value to, a retailer with respect to the distillery's transactions with the retail business allowed on its premises.

- Require the ABC Commission to implement the Discount Rule (14B NCAC 15B .1004) by limiting a combinations of the use of a coupon, rebate, or a permittee's loyalty card, discount card, or membership card to no more than 35% of the advertised retail price for the purchase of a malt beverage or wine, and prohibiting a coupon or rebate, or a loyalty card, discount card, or membership card from providing a discount exceeding 35% of the advertised retail price for the purchase of a malt beverage or wine. This bill would require the ABC Commission to adopt temporary rules to comply with the provision, and adopt permanent rules consistent with the provisions no later than September 1, 2019.
- Amend GS 18B-101 to define premises to mean a fixed permanent establishment, including all areas inside or outside the licensed establishment, where the permittee has control through a lease, deed, or other legal process.
- Allow the sale and delivery by the holder of an on-premises malt beverage permit, on-premises wine permit, on-premises fortified wine permit, or mixed beverages permit of four (was, one) alcoholic beverage drink at a time to a single patron for consumption on the premises. The bill would exclude from the 4-drink authorization sales at a stadium, athletic facility, or arena on the campus or property of a public college or university; during a sports event sponsored by a public college or university; and a stadium, athletic facility, arena, or other establishment with a seating capacity of 3,000 or more.
- Repeal GS 18B-308, which made it unlawful to sell or consume alcoholic beverages at bingo games.
- Amend GS 130A-250 to exempt licensed breweries not engaged in the preparation of food on the premises from food and lodging facility public health regulations that prohibit dogs and other pets on the premises.
- Allow local governments the option of operating ABC stores on Sundays between the hours of 12 noon and 5pm.
- Authorize a county or city to adopt an ordinance authorizing its ABC stores to be open, and authorizing ABC store employees to sell alcoholic beverages, on any or all days otherwise prohibited under GS 18B-802(b) (which prohibits opening and sales on Sunday, New Year's Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day).
- Allow local ABC boards the option of allowing spirituous liquor tastings at ABC stores, and would require the ABC Commission to adopt rules to provide distillery permit holders the right of first refusal for a certain number of the dates and times made available in a month by the local board for holding tastings. The rules should set forth the date for each month by which a distillery permit holder can exercise the right before

the reserved dates and times are made available to all eligible spirituous special event permit holders.

- Amend GS 18B-404 to require local ABC boards to accept electronic payments for spirituous liquor purchased by a mixed beverage permittee. This bill would prohibit the board from charging an electronic payment fee.
- Enact GS 18B-907 to require the ABC Commission to make all permitting forms available on its website, and to allow for electronic submission of permit forms to the extent practicable. This bill would provide for submissions with electronic signatures. This bill would require the Commission to accept electronic payment for any permit fees under the Chapter. This bill would authorize the Commission to charge a fee not exceeding \$5 to cover costs incurred in accepting and processing electronic payments.
- Amend GS 18B-1001 by creating a common area entertainment permit to be issued to the owner of a multi-tenant establishment like a mall that has at least two tenants that holds an on-premises malt beverage permit, on-premises unfortified wine permit, on-premises fortified wine permit, or mixed beverages permit. The permit would allow the customer of the mall to exit the licensed premises with an open container of alcohol sold by the tenant and consume the beverage within the confines of any common area of the mall that is designated for such consumption.
- Enact GS 18B-1001.4 to create a delivery service permit, for third party delivery services or employees of retailers to perform delivery of beer and wine from a retailer. The delivery of beer and wine was studied by an informal group organized by the ABC Commission in 2018. This provision would authorize the holder of a delivery service permit or the holder's employee or independent contractor to deliver malt beverages, unfortified wine, or fortified wine to a location designed by the purchaser on behalf of the retailer holding an on-premises malt beverage permit, off-premises malt beverage permits, on-premises unfortified wine permit, off- premises unfortified wine permit, on-premises fortified wine permit, off-premises fortified wine permit, and a wine shop permit. This bill would further authorize a delivery service permittee to facilitate delivery through certain technology services. This bill would require the permittee to successfully complete a course approved by the ABC Commission prior to making any deliveries. The bill would prohibit a permittee from handling or possessing any funds used to purchase an alcoholic beverage, but allows the permittee to facilitate the sales transaction. This bill would prohibit delivery to a person under 21 years of age and requires packages to contain a statement, as specified, if the manufacturer's original packaging is obscured. This bill would prohibit deliveries from being made more than 50 miles from the retailer's licensed premises or the premises of another retailer. This bill would limit delivery to alcoholic beverages purchased for personal consumption and from a licensed retailer's existing inventory located on the retailer's premises. This bill would not require a delivery service permit for a common carrier to lawfully transport or ship alcoholic beverages. This bill would subject deliveries pursuant to a delivery service permit to the requirements of Article 4 (Transportation). This bill would set the delivery service permit fee at \$400.

- Amend GS 18B-104, increasing the cap for the penalty the ABC Commission can accept in compromise from \$5,000 to \$10,000 in cases in which the ABC Commission is entitled to suspend or revoke a permit.
- Direct the Joint Legislative Program Evaluation Oversight Committee to study the ABC Commissions authority, punishments and penalties for violation of the state's ABC laws. This bill would require PED to report its findings to the legislature by March 15, 2020.

Introduced by Representatives McGrady, Boles, Fisher, and Hardister and referred to the House ABC Committee.

Senate Bill 592, ABC Omnibus Regulatory Reform, is identical to House Bill 536 summarized above. **Introduced by Senator Gunn.**

BILL STATUS

House Bill 363, Craft Beer Distribution & AMP Modernization Act, was approved by the House ABC Committee this week. The bill was then re-referred to the House Rules Committee for further consideration.

House Bill 389, ABC/Univ. Athletic Facility, was approved by the House ABC Committee this week. The bill was then re-referred to the House Finance Committee for further consideration.

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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