

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL 470
Commerce and Insurance Committee Substitute Adopted 5/4/21
Finance Committee Substitute Adopted 6/9/21
House Committee Substitute Favorable 11/17/21
Fifth Edition Engrossed 11/18/21

Short Title: ABC Technical and Other Changes.

(Public)

Sponsors:

Referred to:

April 5, 2021

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CHANGES TO S.L. 2021-150, ABC OMNIBUS
LEGISLATION, AND TO MAKE OTHER CHANGES TO THE ALCOHOL LAWS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Section 1.3 of S.L. 2021-150 reads as rewritten:

"SECTION 1.3. The ABC Commission shall adopt rules to determine how long a product purchased by an online order pursuant to G.S. 18B-800(c3) may be set aside before being returned to inventory at an ABC ~~store-store,~~ and as necessary to implement this Part."

SECTION 1.(b) Section 1.4 of S.L. 2021-150 reads as rewritten:

"SECTION 1.4. This Part becomes effective ~~October 1, 2021,~~ January 1, 2022, and applies to sales on or after that date."

SECTION 2. G.S. 18B-1105(a)(4)a., as enacted by Section 2.2 of S.L. 2021-150, reads as rewritten:

"a. The name of the purchaser of the bottle or the name of any individual, business entity, ~~club, ABC Board, or ABC store~~ or club on whose behalf the bottle is purchased."

SECTION 3. G.S. 18B-1113.1(b), as enacted by Section 6.2(a) of S.L. 2021-150, reads as rewritten:

"(b) The holder of a nonresident spirituous liquor vendor permit may ~~sell, deliver,~~ deliver and ship spirituous liquor that has been approved for sale in this State to the permit holder's (i) employees in the State and (ii) brokerage if the brokerage also holds a nonresident spirituous liquor vendor permit for the purposes of conducting special events pursuant to G.S. 18B-1114.7. The permit holder may not ship or deliver more spirituous liquor to its employees or brokerage than is necessary for any consumer tasting event scheduled within one calendar month of the shipment or delivery. Nothing in this section shall be interpreted to require a business to possess or obtain a nonresident spirituous liquor vendor permit to do business in the State or to obtain a spirituous liquor special event permit pursuant to G.S. 18B-1114.7."

SECTION 4.(a) G.S. 18B-1113.1(c), as enacted by Section 6.2(a) of S.L. 2021-150, reads as rewritten:

"(c) For purposes of this section, ~~"brokerage" means a business that brokers the sale of spirituous liquor on behalf of a distillery or liquor importer/bottler,~~ and "distillery" means the holder of a distillery permit issued under G.S. 18B-1105 or a business located outside the State



1 that is licensed or permitted to manufacture spirituous liquor in the jurisdiction where the
2 business is located and whose products are lawfully sold in this State."

3 **SECTION 4.(b)** G.S. 18B-101 is amended by adding a new subdivision to read:

4 "(5d) "Brokerage" means a business that brokers the sale of spirituous liquor on
5 behalf of the holder of a distillery permit issued under G.S. 18B-1105, a
6 business located outside the State that is licensed or permitted to manufacture
7 spirituous liquor in the jurisdiction where the business is located and whose
8 products are lawfully sold in this State, or a liquor importer or bottler."

9 **SECTION 5.(a)** G.S. 18B-1114.7(a), as amended by Section 6.2(g) of S.L.
10 2021-150, reads as rewritten:

11 "(a) Authorization. – The holder of a supplier representative permit, brokerage
12 representative permit, nonresident spirituous liquor vendor permit, or distillery permit issued
13 under G.S. 18B-1105 may obtain a spirituous liquor special event permit allowing the permittee
14 to give free tastings of its spirituous liquors at ABC stores where the local board has approved
15 the tasting, at shopping ~~malls~~malls, or at trade shows, conventions, street festivals, holiday
16 festivals, agricultural festivals, balloon races, farmers markets, local fund-raisers, and other
17 similar events approved by the Commission. Additionally, the holder of a spirituous liquor
18 special event permit may sell mixed beverages or provide at no cost spirituous liquor distilled or
19 produced at the distillery in closed containers at trade shows, conventions, agricultural festivals,
20 farmers markets, local fund-raisers, and other similar events approved by the Commission. The
21 permit shall be issued in the name of the distillery or, if issued to a supplier representative,
22 brokerage representative, or nonresident spirituous liquor vendor, in the name of the nonresident
23 spirituous liquor vendor or the name of the business the supplier representative or brokerage
24 representative represents."

25 **SECTION 5.(b)** G.S. 18B-1114.7(c)(1a), as enacted by Section 6.2(g) of S.L.
26 2021-150, is repealed.

27 **SECTION 6.** G.S. 18B-1105(d), as enacted by Section 9.3(a) of S.L. 2021-150, reads
28 as rewritten:

29 "(d) Control of Location of Sale and Consumption on Premises. – Notwithstanding
30 G.S. 18B-301(e), except as otherwise prohibited by federal law or the holder of the distillery
31 permit, an alcoholic beverage authorized to be sold or consumed under this section may be sold,
32 possessed, or consumed on any part of the licensed premises of the ~~distillery~~distillery that is
33 open to the public. This section-subsection shall not be construed to allow spirituous liquor in
34 closed containers sold for off-premises consumption to be consumed at the distillery."

35 **SECTION 7.(a)** G.S. 18B-603(d)(2) is repealed.

36 **SECTION 7.(b)** G.S. 18B-603(d)(3a), as enacted by Section 13.1(b) of S.L.
37 2021-150, is amended by adding a new sub-subdivision to read:

38 "c. On-premises fortified wine permits to any establishment that meets the
39 requirements of G.S. 18B-1001(5)."

40 **SECTION 8.(a)** G.S. 153A-145.9, as enacted by Section 20.1 of S.L. 2021-150,
41 reads as rewritten:

42 "**§ 153A-145.9. Authorization of social ~~district~~districts.**

43 A county may adopt an ordinance designating a one or more social ~~district~~districts for use in
44 accordance with G.S. 18B-904.1."

45 **SECTION 8.(b)** G.S. 160A-205.4, as enacted by Section 20.2 of S.L. 2021-150,
46 reads as rewritten:

47 "**§ 160A-205.4. Authorization of social ~~district~~districts.**

48 A city may adopt an ordinance designating a one or more social ~~district~~districts for use in
49 accordance with G.S. 18B-904.1."

50 **SECTION 8.(c)** G.S. 18B-904.1(a), as enacted by Section 20.3 of S.L. 2021-150,
51 reads as rewritten:

"(a) Definitions. – The following definitions apply in this section:

- (1) Permittee. – An establishment holding any of the following permits issued by the Commission:
 - a. An on-premises malt beverage permit issued pursuant to G.S. 18B-1001(1).
 - b. An on-premises unfortified wine permit issued pursuant to G.S. 18B-1001(3).
 - c. An on-premises fortified wine permit issued pursuant to G.S. 18B-1001(5).
 - d. A mixed beverages permit issued pursuant to G.S. 18B-1001(10).
 - e. A distillery permit issued pursuant to G.S. 18B-1100(5).
 - f. A wine shop permit issued pursuant to G.S. 18B-1001(16).
- (2) Social district. – A defined ~~outdoor~~-area in which a person may consume any alcoholic beverages legally sold by a permittee. This term does not include the permittee's licensed premises or an extended area allowed under G.S. 18B-904(h). A social district may include both indoor and outdoor areas of businesses that are not ABC permittees if the businesses allow guests to consume alcoholic beverages on their premises during the days and hours set by the local government pursuant to subsection (c) of this section."

SECTION 8.(d) G.S. 18B-904.1(b), as enacted by Section 20.3 of S.L. 2021-150, reads as rewritten:

"(b) Authorization. – Pursuant to G.S. 153A-145.9, a county may adopt an ordinance designating ~~a one or more social district-districts~~ in the parts of the county outside any city. Pursuant to G.S. 160A-205.4, a city may adopt an ordinance designating ~~a one or more social district-districts.~~"

SECTION 8.(e) G.S. 18B-904.1(d), as enacted by Section 20.3 of S.L. 2021-150, is amended by adding a new subdivision to read:

"(4) Nothing in this subsection shall be construed to authorize the sale and delivery of alcoholic beverage drinks in excess of the limitation set forth in G.S. 18B-1010."

SECTION 8.(f) G.S. 18B-904.1(e)(3), as enacted by Section 20.3 of S.L. 2021-150, reads as rewritten:

"(3) Alcoholic beverages shall only be possessed and consumed during the days and hours set by the city or county in accordance with subsection ~~(b)~~(c) of this ~~section-section~~, not to exceed the hours for consumption authorized pursuant to G.S. 18B-1004."

SECTION 8.(g) G.S. 18B-904.1(e)(4), as enacted by Section 20.3 of S.L. 2021-150, reads as rewritten:

"(4) ~~Nothing in this subdivision shall be construed as authorizing the sale and delivery of alcoholic beverage drinks in excess of the limitation set forth in G.S. 18B-1010.~~A person shall not possess or consume at one time alcoholic beverages in excess of the number of alcoholic beverages that may be sold and delivered by a retail permittee as set forth in G.S. 18B-1010."

SECTION 9. G.S. 18B-904(h), as enacted by Section 21.3 of S.L. 2021-150, reads as rewritten:

"(h) Extension of Licensed Premises. – A permittee holding a permit issued under Article 10 or 11 of this Chapter that allows the on-premises consumption of alcoholic beverages may utilize an area that is not part of the permittee's licensed premises for the outdoor possession and consumption of alcoholic beverages sold by the permittee subject to all of the following requirements:

...

1 (3) The permittee has provided written notification, including the diagram
2 required under subdivision (5) of this subsection and, if applicable, a copy of
3 the written permission required under subdivision (2) of this subsection, to the
4 Commission, the district office of the ALE Division, and local law
5 enforcement ~~agency~~, agency with jurisdiction over the licensed premises.

6 ...

7 (6) The extended area shall not be used to increase the occupant load of the
8 licensed ~~premises~~. premises, exclusive of the extended area. For purposes of
9 this section, "occupant load" is as used in Section 1004 of the 2018 North
10 Carolina Building Code.

11"

12 **SECTION 10.(a)** G.S. 18B-101(4a), as enacted by Section 27.1 of S.L. 2021-150,
13 reads as rewritten:

14 "(4a) "Alcohol consumable" means any manufactured and packaged ~~ice cream~~, ice
15 pop, gum-based, or gelatin-based food product containing at least one-half of
16 one percent (0.5%) alcohol by volume."

17 **SECTION 10.(b)** This section is effective retroactively to September 10, 2021, and
18 expires on December 1, 2022.

19 **SECTION 11.** G.S. 18B-1006(i), as amended by Section 31.1 of S.L. 2021-150,
20 reads as rewritten:

21 "(i) Tour Boats. – The Commission may issue permits to boats that conduct regularly
22 scheduled tours upon the rivers or waterways of this State under the following conditions:

23 (1) A boat shall offer food and non-alcoholic beverages for sale on each ~~tour~~ tour
24 on which alcoholic beverages are served.

25 (2) ~~A boat's gross receipts from sales of alcoholic beverages shall be no more than~~
26 ~~twenty five percent (25%) of its total gross receipts.~~

27"

28 **SECTION 12.** Section 33.1 of S.L. 2021-150 reads as rewritten:

29 "**SECTION 33.1.** The Alcoholic Beverage Control Commission and the Department of
30 Public Safety shall adopt rules, or amend its rules, consistent with the provisions of this act. The
31 Commission and the Department may use the procedure set forth in G.S. 150B-21.1 to adopt or
32 amend any rules as required under this section."

33 **SECTION 13.** G.S. 18B-1119 reads as rewritten:

34 "**§ 18B-1119. Supplier's financial interest in wholesaler.**

35 (a) A supplier or an officer, director, employee or affiliate of a supplier may not acquire,
36 possess, or otherwise maintain an ownership interest in ~~a~~ its wholesaler except as expressly
37 authorized by this Chapter.

38 (b) Repealed by Session Laws 2018-100, s. 7(b), effective June 26, 2018.

39 (c) A supplier or an officer, director, employee or affiliate of a supplier may have a
40 security interest in the inventory or property of its wholesaler to secure payment for such
41 inventory or other loans for other purposes.

42 (d) For purposes of this section, "supplier" means a manufacturer, bottler, importer, or
43 owner of one or more brands of malt beverages, unfortified wine, or fortified wine distributed by
44 its wholesaler. The term "supplier" does not include a wholesaler that meets either of the
45 following criteria:

46 (1) The wholesaler also possesses a wine importer permit or a malt beverages
47 importer permit issued pursuant to this Chapter.

48 (2) The wholesaler is an importer in another state, provided such malt beverages,
49 unfortified wine, or fortified wine are transferred to it through an unaffiliated
50 and independent third party."

51 **SECTION 14.** G.S. 150B-1(d) is amended by adding a new subdivision to read:

1 "(31) The Alcoholic Beverage Control Commission with respect to approval of
2 alcoholic beverages to be sold in local ABC stores through the State
3 warehouse and by special order pursuant to Article 8 of Chapter 18B of the
4 General Statutes."

5 **SECTION 15.(a)** G.S. 18B-1001.4(b) reads as rewritten:

6 "(b) Training and Payment. – Prior to making any deliveries, each individual delivering
7 alcoholic beverages pursuant to a delivery service permit shall successfully complete a course
8 conducted or approved by the Commission related to the delivery of alcoholic beverages. Upon
9 receipt of a proposed training program from a holder of a delivery service permit, the
10 Commission shall have 15 business days to approve, deny, or request modifications to the
11 proposed training program. An individual delivering alcoholic beverages pursuant to a delivery
12 service permit shall not handle or possess funds used to purchase an alcoholic beverage that is to
13 be delivered, but may facilitate the sales transaction in a manner that does not involve taking
14 possession of funds."

15 **SECTION 15.(b)** This section becomes effective December 1, 2021, and applies to
16 individuals successfully completing a course conducted or approved by the Commission related
17 to the delivery of alcoholic beverages on or after that date.

18 **SECTION 15A.(a)** G.S. 18B-1006.1 reads as rewritten:

19 "**§ 18B-1006.1. Additional requirement for certain permittees to recycle beverage**
20 **containers.**

21 (a) Holders of on-premises malt beverage permits, on-premises unfortified wine permits,
22 on-premises fortified wine permits, and mixed beverages permits shall separate, store, and
23 provide for the collection for recycling of all recyclable beverage containers of all beverages sold
24 at retail on the premises. A permittee has satisfied the requirements of this section if it implements
25 a recycling program that meets the minimum standards of the model recycling program
26 developed by the Commission pursuant to G.S. 130A-309.14(m). Failure to comply with the
27 requirements of this section shall not be grounds for revocation of a permit. A conviction for
28 violation of this section shall not constitute an alcoholic beverage offense within the meaning of
29 G.S. 18B-900(a)(4).

30 (b) Notwithstanding subsection (a) of this section, recyclable spirituous liquor containers
31 may be used for display purposes as provided by the Commission. The permit holder shall notify
32 the Commission of any such containers to be used for display purposes, and each container used
33 for display purposes shall be stamped with a mixed beverages tax stamp. When a container is no
34 longer used for display purposes, the permit holder shall recycle the container as provided in
35 subsection (a) of this section."

36 **SECTION 15A.(b)** The Alcoholic Beverage Control Commission shall adopt rules,
37 or amend its rules, consistent with the provisions of this section. The Commission may use the
38 procedure set forth in G.S. 150B-21.1 to adopt or amend any rules as required under this section.

39 **SECTION 16.** Except as otherwise provided, this act is effective when it becomes
40 law.