



## North Carolina Passes Senate Bill 155 To Make Various Changes to Alcoholic Beverage Laws

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The North Carolina General Assembly passed Senate Bill 155, An Act to Make Various Changes to the Alcoholic Beverage Control Commission Laws, during the 2017 legislative session. Most of the bill's provisions were effective 30 June 2017. This bill modernized ABC laws for breweries and distilleries, most notably by (1) increasing the number of bottles distilleries can sell direct from the distillery (2) allowing distilleries to participate in special events, (3) authorizing municipalities to pass ordinances to allow on and off premise alcohol sales to begin at 10:00am on Sundays, and (4) requiring the North Carolina ABC Commission to confirm tax compliance for breweries and distilleries by 1 October each year. The bill did not include changes to the North Carolina Beer Franchise Law, or a change to the self-distribution cap for breweries, which changes were in an earlier version of the bill.

Senate Bill 155 makes various changes to the North Carolina alcohol laws as detailed below:

- **Direct Sales by Distilleries.** The bill authorizes distilleries to sell up to five bottles of liquor per calendar year for consumption off the premises to visitors who tour the distillery. Prior law only allowed distilleries to sell one bottle per person per calendar year. Distilleries are still required to maintain the same record-keeping requirements for sales.
- **Spirituos Liquor Special Event Permits.** The bill authorizes distilleries to obtain a spirituous liquor special event permit to give free tastings at ABC stores, trade shows, conventions, shopping malls, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission. Under the permit, the distillery is solely responsible for conducting the tasting, and its employees pouring samples must be at least 21. Samples are restricted to 0.25 ounces of "any product made available for sampling," and samples offered to and consumed by each consumer shall not exceed 1.5 ounces of liquor in a calendar day. A venue or festival hosting a distillery can only host three distilleries at any event, unless more are approved by the local ABC board. Distilleries must be in a designated area of the event. Events with distilleries cannot be held in dry cities or counties. Distilleries must provide written notice of tastings to the ABC Commission at least 48 hours before the tasting. Distilleries must

maintain records for one year of each consumer tasting conducted. While coming with more restrictions, the authorization of a distillery special event permit brings distilleries in line with breweries and wineries, which were already authorized by law to obtain special event permits. Expect to see distilleries coming soon to your favorite beer festivals and events.

- **Special Auction Permits.** The bill authorizes a new special auction permit to allow auction firms and licensed auctioneers to sell any quantity of malt beverages, unfortified wine, fortified wine, and spirituous liquors at auction. Special auctions may only be held in cities and counties that have authorized alcohol sales. Auctions may receive bids in person, or by telephone, fax, or online. The special auction permit is in the form of a special one-time permit, and there is no current statutory limit on the number of special auction permits that can be obtained. Individuals purchasing alcohol from auctioneers are limited to the quantities already set forth by statute for individual purchases.
- **Brunch Alcohol Sales.** The bill authorizes alcoholic beverage retail permittees to sell malt beverages, unfortified wine, fortified wine, and spirituous liquor for on-premise consumption starting at 10:00 a.m. on Sundays, if authorized by city or county ordinance. Interestingly, stadiums, ballparks, and other similar public places with a seating capacity of 3,000 or more during professional sporting events are already allowed to sell alcohol for on-premise consumption one hour earlier than permitted under the current Sunday alcohol law, pursuant to G.S. 18B-1006(q). If a local governing body in which a stadium or ballpark is located passes an ordinance to allow a 10:00 a.m. Sunday start for restaurants, then ballparks, stadiums, and other similar public places in that jurisdiction could potentially start alcohol sales one hour earlier, at 9:00 a.m., on gamedays.
- **Crowlers.** The bill authorizes the on and off-premise sale of crowlers by retail permittees. Crowlers are combinations of cans and growlers and are large 32 oz. aluminum cans that can be filled by a draft tap line and then sealed with a lid for one-time use. Prior North Carolina law authorized retailers to sell growlers, which were defined as cleaned, sanitized, and resealable containers. This bill eliminates the requirement that a growler be resealable, which expands the definition of growler to include a crowler, which is not resealable, but is a one and done container. Retailers want the opportunity to sell crowlers because canned beer is popular, often can be sold cheaper than growlers, and may keep beer fresher. Crowlers can also be taken to places like swimming pools where glass or growlers may not be allowed.
- **Noncontiguous Storage Locations for Breweries, Wineries, and Distilleries** The bill clarifies that breweries, wineries, and distilleries can store any alcohol they manufacture at a noncontiguous storage location approved by the federal agency that regulates alcohol, the Alcohol and Tobacco Tax and Trade Bureau (TTB). The off-site storage location becomes part of the permittee's defined premises. Prior North Carolina law did not provide a process for off-site storage.
- **Brewery Employee Sampling.** The bill clarifies that a brewery's employees or agents may sample alcohol on the premises for purposes of sensory analysis, quality control, or education.
- **Sale of Unfortified Wine by Retailers.** The bill provides that retail businesses may obtain ABC permits to sell unfortified wine on-premises. Current law provides that most retailers must sell food or qualify as an eating establishment to hold an on-premises unfortified wine permit. Under the bill, retailers that do not sell food, such as bottle shops, could obtain permits to sell unfortified wine on-premises, including cider, which is defined as unfortified wine in North Carolina.
- **Tastings During Brewery Tours.** The bill clarifies that a brewery may give products, including

samples or glasses, to customers and visitors who visit the brewery as part of a paid or complimentary tour.

- **Homebrewing.** The bill allows homebrewers and home winemakers to make, possess, and transport their beer and wine at ?organized affairs, exhibitions, or competitions? which includes homebrewers? contests, tastings, and judgments.
- **Brewery?s Transactions with its Own Taproom and Retail Locations.** The bill clarifies that breweries do not violate the tied house rules that prohibit breweries from giving things of value to retailers, when breweries interact and deal with their own on-site retail taproom or their additional retail locations. This provision was needed because law enforcement had sometimes cited or admonished breweries for providing beer trailers, equipment, glasses, and other things to their own on-site taproom and retail locations.
- **Brewery Taprooms and Sales of Other Alcoholic Beverages.** The bill clarifies that a brewery may sell not only its own beer at its on-site taproom, if it obtains the appropriate retail permit, but may also sell beer produced by other breweries and ?any other alcoholic beverages approved by the Commission? at the on-site taproom, upon obtaining appropriate retail permits. Many breweries already do this, but some claimed the wording of the existing statute was not clear. Breweries are already required under state law to sell a competitive selection of beer products at their three additional retail locations.
- **Breweries with Out-of-State Production Facilities.** The bill authorizes breweries with production facilities in other states to receive shipments from their out-of-state facilities to sell to wholesalers in North Carolina. Current law only allows breweries to receive beer from out-of-state facilities for shipments to wholesalers in other states.
- **Farm Breweries.** The bill allows a farm brewery, or a brewery that produces agricultural products, including barley grapes, hops, or fruit, used by the brewery to manufacture its beer, to sell its beer at retail at its taproom on-site for on or off-premise consumption, the local governing body approves the sale of malt beverages in the area.
- **Brewery?s Three Additional Retail Locations.** The bill provides that a brewery operating an additional retail location under a different business name shall sell a reasonable selection of competitive malt beverage products. Sales of beer in the additional retail locations would not be considered as wholesale sales.
- **Brewery Tax Compliance.** The North Carolina ABC Commission is required to confirm each brewery?s tax compliance by 1 October each year. The Commission may suspend a brewery?s permit until it determines that a brewery is in compliance. The Commission has the authority to request sales reports from breweries, which reports are kept confidential.
- **Distillery Tax Compliance.** The North Carolina ABC Commission is required to confirm each distillery?s tax compliance by 1 October each year.
- **Simplification of Local Licenses.** The bill makes the process of obtaining local city and county ABC licenses simpler by limiting the documentation a permittee has to provide to a local governing body.
- **Winery Special Event Locations.** The bill clarifies that farmers markets are approved venues for winery special events. The bill is silent and makes no changes to the corresponding statutes for breweries and distilleries.

- **North Carolina ABC Commission to Implement Rules.** The bill provides that the North Carolina ABC Commission shall adopt temporary rules to implement the provisions of the bill.

## Related People

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