



# North Carolina Considering ABC Bills During 2023 Legislative Session

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*Updated April 26, 2023 to add the new ABC Law Omnibus Bill, HB 870.*

The North Carolina General Assembly is considering several alcohol bills this session which, if enacted, would modernize North Carolina ABC laws. The bills would authorize mixed beverages sales to-go, authorize distilleries to sell bottles directly to restaurants, require transparency by local ABC boards in the liquor allocation process, and allow happy hour discounts. If enacted, the bills would take effect in late summer or early fall 2023. A summary of each of the pending alcohol bills as of April 24, 2023, is as follows:

## **ABC Omnibus ? SB 490**

- Eliminates mixed beverage tax and requirement for tax stamps on premixed cocktails
- Authorizes NC ABC Commission members and staff to sample alcohol products
- Authorizes cities and counties to enact ordinances to authorize local ABC Boards to open ABC stores for Sunday sales after 12:00pm and on New Years, July 4<sup>th</sup>, and Labor Day
- Authorizes Cherokee tribe to enact similar ordinance for Sunday sales
- Raises spending cap for industry members on product displays for a retail permittee from \$300 to \$1,000 per year per brand by an industry member (this includes product displays, such as racks and shelving, and retailer advertising items, such as glassware, cups, coasters; authorizes branded plug in coolers in ABC stores that are less than \$1,500 per brand)
- Authorizes to go and delivery sales of mixed beverages by retail permittees in sealed containers (reinstates the prior policy that was in place during the pandemic)
- Authorizes transport of these products in sealed containers by consumers
- Authorizes delivery service providers to deliver these mixed beverages along with food sold by restaurants
- Authorizes mixed beverage permittees to order liquor from any ABC store in the county, rather than one designated ABC store
- Authorizes mixed beverage permittees to use clear tape or adhesive to help prevent mixed

beverage tax stamps from falling off spirituous liquor bottles

- Requires local ABC boards to provide more transparency in how rare spirits are allocated to retailers by requiring boards to submit plans to the Commission for distribution; Commission has 15 days to approve or deny
- Requires local ABC boards to sell allocated products only to retail customers who are residents of the county where the local board is located
- Requires Commission to notify industry members and local boards at least 60 days in advance of the effective date of an approved retail price reduction for a spirituous liquor product
- Allows ABC stores to sell branded consumer specialty items, such as coolers, keychains, bottle openers, and physical and electronic gift cards, and empty barrels in which spirituous liquor was aged; gift cards can be purchased from ABC stores online and received electronically
- Authorizes local ABC boards to authorize sales of spirituous liquor below the distiller's price
- Authorizes sales of two mixed drinks per person per calendar day (up from one mixed drink per person per calendar day) by distilleries at special events
- Amends transitional ownership period to 120 days from 60 days and allows Commission to provide additional time in its discretion

#### **Technical Corrections ? SB 489**

- Clarifies successor transitional ownership permittee can purchase beer, wine, and spirituous liquor from wholesalers and local ABC boards during the transitional ownership period
- Clarifies predecessor permittee is not liable for violations committed by successor during transitional ownership period
- Provides bar permit can be obtained by a brewery, winery, or distillery, which was the law prior to 2022; this amendment applies retroactively to July 7, 2022

#### **Quantity Discounts and Split Case Fees ? SB 526**

- Authorizes beer and wine wholesalers to offer retail permittees a quantity discount on the purchase of beer and wine; discounts must be offered equally to all retail permittees
- Clarifies the law to specify that beer and wine wholesalers may charge a set fee for the purchase of less than a full case of product

#### **Happy Hours and Discounts ? HB 94**

- Authorizes cities and counties to enact ordinances to allow retail permittees to offer happy hour, upon the retail permittees obtaining a special happy hour permit from the Commission
- This permit would allow retail permittees to sell alcoholic beverages at different price points in a calendar day, sell more than one alcoholic beverage to a customer for a single price, offer two for

one or buy one get one deals on alcoholic beverages, and offer meals with alcohol at a single price, regardless of whether the total price reflects a reduced price on the alcohol

- None of these discounts are currently allowed in North Carolina
- Retail permittees could also advertise the price and type of alcoholic beverages on outside signage on their premises and via media

#### **Mobile Bar Services Permit ? HB 664**

- Creates a new Mobile Bar Services permit, which could be issued to a business that provides bartending services for events
- The permit authorizes the business to bring beer, wine, and liquor onto the premises of a business that does not hold ABC permits and serve the alcohol to guests
- The premises cannot be owned by the mobile bar services permittee
- The services can be provided at an event for which the guests are required to pay a cover charge
- The permittee cannot sell the alcohol to the guests
- The permittee must notify the Commission of an event at least 48 hours in advance and have written permission from the owner or possessor of the property

#### **Distilleries Selling Direct to Restaurants and Bars ? HB 692**

- Authorizes distilleries to sell bottles of spirituous liquor directly to restaurants and bars with mixed beverage permits and for those restaurants and bars to open and serve on premise as mixed beverages
- This represents a change in NC law, as restaurants and bars currently may only purchase bottles from their local ABC boards

#### **Temporary Event Spaces ? HB 603**

- Authorizes a process by which local governments can establish temporary event venues
- May impact ABC law by expanding the number and types of places available for special events and ABC permits

#### **Unfair and Deceptive Advertising by Food Delivery Platforms ? HB 599**

- Provides food delivery platforms must obtain express written permission from an establishment before advertising that the food delivery platform has partnered with the establishment
- Food delivery platform must also have express written permission to use trademarks and arrange for deliveries; failure to do so constitutes an unfair trade practice under North Carolina law, potentially subjecting the food delivery platform to treble damages that would include under this bill,

treble damages for the food delivery platform's profits arising from the violation

### **Incentivize Space Spirits and Luxury Alcohol ? HB 578**

- Provides a process for which persons purchasing qualifying spirituous liquor may apply to have taxes capped on certain purchases of spirituous liquor in a single container that is at least \$50,000
- Process was created to incentivize new technologies in the manufacturing of spirituous liquor by capping the tax on certain purchases, including spirituous liquor that has been aged for at least twelve months in orbit
- Creates a new definition of "luxury liquor," which is a single container of alcohol for which the purchase price is at least \$50,000; provides distillery is not required to remit excise taxes on luxury liquor

### **ABC Law Omnibus Bill ? HB 870**

- Require retail permittees obtain a new Bring your Own Beverage permit if the permittees allow customers to bring in their own beer and wine for consumption on the premises
- Allow retail permittees to purchase liquor from any ABC store designated by the local ABC Board
- Allow restaurants and bars to sell liquor bottles with personalized labeling from distilleries to customers for consumption off the premises
- Eliminate physical mixed beverage tax stamp requirement on bottles and require record-keeping
- Authorize happy hour and buy one get one free specials by on-premise retail permittees
- Require the NC ABC Commission implement and maintain by December 31, 2023, electronic systems for applicants and permittees for ABC permit submission, ABC permit status, payment of fines, placement of orders of liquor from ABC boards, and status of liquor inventory available for purchase from the warehouse and local ABC boards
- Require the NC ABC Commission submit a progress report on the electronic systems by October 1, 2023
- Require the NC ABC Commission amend the definition of "cooperative advertising" to exclude point of sale advertising, advertisements for off premise events, advertising for on premise events on the permittee's premises, and certain social media advertisements and events
- Require the NC ABC Commission implement by December 31, 2023, a centralized inventory management system that allows persons to view the availability of liquor for purchase from local ABC Boards and the State warehouse, and allows local ABC Boards and mixed beverage permittees to place electronic orders for product

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