



North Carolina Legislature Considering New Version of ABC Omnibus Bill

07.19.2023

The North Carolina General Assembly recently passed Senate Bill 91, which included a technical correction to again allow breweries, wineries, and distilleries in North Carolina to obtain and hold private bar permits to sell mixed beverages on premise, without having to qualify as a restaurant. The General Assembly is also considering a new, revised ABC Omnibus bill, Senate Bill 527, which combines language from several prior alcohol bills being considered earlier this legislative session. If Senate Bill 527 is enacted, most of its provisions will become effective late summer or early fall 2023. Major changes include authorization of mixed drinks to go and happy hour when authorized by local ordinance.

Senate Bill 527 would make the following changes to North Carolina alcohol laws:

- Eliminates mixed beverage tax stamp requirements for closed packages of ready to drink cocktails sold to mixed beverage permittees
- Authorizes NC ABC Commission members and staff to sample spirituous liquor products for product approval purposes
- Authorizes local ABC stores to open at 10:00am on Sundays and on New Year's Day, July 4, and Labor Day, upon enactment of local ordinance
- Raises cap on spending by industry members to \$600 per year per brand (up from previous cap of \$300); this includes product displays and items such as glassware and cups; items cannot be customized for retailer
- Raises cap on spending by industry members to \$1,000 per year per brand for local ABC boards; items cannot be customized for local ABC boards
- Authorizes industry members to spend up to \$1,500 per brand on branded plug-in coolers to display products in ABC stores
- Authorizes "to go" and delivery sales by certain retail permittees of mixed beverages in sealed containers; these must be sold with food and packaged in a secure container with lid not greater than 24 ounces
- Authorizes third party delivery service providers to deliver mixed drinks "to go" with food

- 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 to 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 business 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 and keep records of same
- 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 and barrels, allows ABC stores to physical and electronic gift cards; gift cards can be purchased from ABC stores online and received electronically
- Authorizes local ABC boards to authorize sales of certain spirituous liquor below the distiller's price
- Expands number of railroads that can apply to sell alcoholic beverages
- 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
- Provides temporary ABC permits shall become permanent permits after 90 days
- Creates safe harbor provision and late fee for permittees paying renewal or registration fees after April 30 each year
- Clarifies transitional ownership provisions to specify permittees can continue to purchase new alcohol for use in the business during transitional period; clarifies prior owner is not responsible for acts committed by new owner during transition; clarifies a new owner can submit affidavit in lieu of local government approvals for new permit if delays encountered during inspection process
- Provides temporary ABC permits shall not be revoked without notice from the Commission
- Re-defines "bar" for purposes of health laws to include establishment that does not prepare or serve food other than food that does not require time or temperature control and is in unopened commercial package, except for beverage garnishes
- Establishes new malt beverage shop permit, similar to existing wine shop permit, whose primary purpose is selling malt beverage for consumption off the premises, but who may also sell beer, unfortified wine, and fortified wine for consumption on the premises
- Establishes new cotenant permit, which may be issued to a restaurant in the same building as another ABC permittee, provided the building has no other tenants and no common area open to the public; authorizes customers to bring open containers from the premises of the other ABC permittee in the same building onto the premises of the permit holder
- Establishes new bring your own beverage permit, which may be issued to an adult live entertainment business to allow patrons to bring closed containers of beer and unfortified wine onto the premises and consume on the premises
- Establishes new mobile bar services permit, which allows a business that provides bartending

services for events to bring beer, wine, and liquor onto the premises of a business that does not hold ABC permits and serve the alcohol at the event; requires notification to Commission of events and recordkeeping

- Clarifies definition of community theatre to include performing arts events
- Adds two new members to the North Carolina ABC Commission, which members are to be appointed by legislative leadership
- Requires Alcohol Law Enforcement to provide written notice of criminal citations to employees of permittees
- Establishes Distillery Estate Districts, to allow a qualifying property with a distillery, winery, and at least three mixed beverage permits to sell bottles of liquor to establishments within the district and conduct tastings throughout the district
- Amends importer statutes to allow beer, wine, and liquor importers to receive alcohol into the state, and store the alcohol for shipment to private or public entities or establishments of other states or nations, subject to those laws
- Clarifies a wholesaler cannot directly or through an affiliated entity possess a nonresident vendor permit
- Establishes minimum prices for certain sizes of spirituous liquor containers
- Authorizes "price flexibility" to allow certain retail permittees to allow happy hour pricing and buy one get one deals, upon enactment of an applicable local ordinance authorizing this
- Authorizes the Catawba Indian Nation to self-govern its ABC permits, in the same manner as the Eastern Band of Cherokee Indians
- Provides a tax cap on certain luxury spirits and spirits aged in orbit
- Directs the North Carolina ABC Commission to treat as a single premises two or more contiguous parcels with different addresses, if the parcels share a single perimeter, are under common ownership or control, and access is available to customers without requiring customers to enter the public street or sidewalk
- Authorizes new homemaker special event permit to allow homemaker beer and wine clubs to provide free tastings to consumers at certain special events
- Authorizes certain private club franchises of franchisors in to receive ABC permits without 12-month operation requirement
- Authorizes limited sales of bottles by distilleries in recreation districts when those bottles commemorate motorsports events

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