

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

D

HOUSE BILL 902
Committee Substitute Favorable 4/30/19
PROPOSED SENATE COMMITTEE SUBSTITUTE H902-PCS10831-TU-33

Short Title: Temp Open Clubs & Similar Establishs/Outdoor.

(Public)

Sponsors:

Referred to:

April 22, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE CERTAIN EXISTING ESTABLISHMENTS TO OFFER AND
3 OPERATE OUTDOOR BEVERAGE SERVICE OPTIONS WHILE ALSO
4 SAFEGUARDING THE PUBLIC HEALTH TO PREVENT THE SPREAD OF THE
5 CORONAVIRUS DISEASE 2019 (COVID-19).

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Notwithstanding any declaration of emergency issued under Article
8 1A of Chapter 166A of the General Statutes or any municipal or county ordinance adopted under
9 that Article related to the public health emergency created by COVID-19, any (i) private club or
10 private bar as defined by G.S. 18B-1000, (ii) winery permitted pursuant to G.S. 18B-1101 or
11 G.S. 18B-1102, or (iii) distillery permitted pursuant to G.S. 18B-1105 may open and serve
12 alcohol for on-premises consumption provided all the following apply:

- 13 (1) The establishment was in existence on March 10, 2020, is properly licensed
14 and permitted, and holds all necessary State and local regulatory permits,
15 including any necessary ABC permits.
- 16 (2) The service is limited to an outdoor seating location and the owner or owners
17 of that outdoor seating location have granted the establishment permission to
18 use the location for its service.
- 19 (3) The outdoor seating location is on the same parcel or is contiguous to or in
20 close proximity to the underlying establishment and contains or has access to
21 lavatory and toilet facilities for employees and customers as required for such
22 establishments under rules established by the North Carolina Alcoholic
23 Beverage Control Commission.
- 24 (4) The outdoor seating location has delineated vertical boundaries that the
25 consumer would recognize as indicating the boundaries that physically
26 separate areas where consumption of alcohol is allowed from areas open to
27 the general public other than customers of the establishment.
- 28 (5) The outdoor service seating capacity is limited to fifty percent (50%) of the
29 current indoor seating capacity of the establishment, or 100 customers,
30 whichever is less.
- 31 (6) The establishment maintains and enforces the social distancing requirements
32 recommended by the federal Centers for Disease Control and Prevention and
33 the North Carolina Department of Health and Human Services.



* H 9 0 2 - P C S 1 0 8 3 1 - T U - 3 3 *

- 1 (7) The establishment complies with all rules and regulations promulgated by the
2 Division of Public Health of the North Carolina Department of Health and
3 Human Services applicable to outdoor food and drink service.
- 4 (8) The outdoor seating location may include a covered patio or areas covered by
5 tents, awnings, tarps, umbrellas, or other similar coverings. For purposes of
6 this subdivision, "tent" shall mean a temporary structure, with or without side
7 panels, constructed by draping or otherwise attaching sheets of fabric, plastic,
8 or other material to a framework of poles or supports.
- 9 (9) The outdoor seating location may include areas on a public sidewalk if the
10 local government allows through its ordinances or permitting process the use
11 of public sidewalks for the service of and consumption of food or drink and
12 the establishment obtains any necessary local government approval. Nothing
13 in this act is intended to require a local government to approve the use of
14 public sidewalks for the service of and consumption of food or drink.
- 15 (10) The outdoor seating location may include areas on a public street if the local
16 government allows through its ordinances or permitting process the use of
17 public streets during periods of temporary street closure for the service of and
18 consumption of food or drink and the establishment obtains any necessary
19 local government approval. Nothing in this act is intended to require a local
20 government to temporarily close public streets for the service of and
21 consumption of food or drink or to allow the service of and consumption of
22 food or drink on public streets during a period of temporary closure.

23 **SECTION 2.** The outdoor seating area authorized in Section 1 of this act shall not
24 be prohibited by a municipality or county because the outdoor seating area is not a permitted use
25 for operation of food and drink services under zoning ordinances.

26 **SECTION 3.** This act is effective when it becomes law and expires upon the later of
27 (i) 30 days after any declaration of emergency prohibitions and restrictions applicable expire or
28 are otherwise terminated to permit the establishment to open for full unrestricted service of food
29 and drink or (ii) October 31, 2020.