

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
Proposed Conference Committee Substitute S470-PCCS45598-TQ-4

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, TO MAKE OTHER CHANGES TO THE ALCOHOL LAWS, AND TO MAKE A CORRECTION TO THE NAME OF THE PROPANE TRADE ASSOCIATION.

The General Assembly of North Carolina enacts:

ABC TECHNICAL CORRECTIONS

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~~, 2022, and applies to sales on or after that date."

SECTION 2. G.S. 18B-1105(a)(4)a. 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 reads as rewritten:

"§ 18B-1113.1. **Authorization of optional nonresident spirituous liquor vendor permit.**

(a) The following businesses may apply for and obtain a nonresident spirituous liquor vendor permit:

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

(2) A brokerage.

(3) A liquor importer/bottler.

(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



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1 than is necessary for any consumer tasting event scheduled within one calendar month of the
2 shipment or delivery. Nothing in this section shall be interpreted to require a business to possess
3 or obtain a nonresident spirituous liquor vendor permit to do business in the State or to obtain a
4 spirituous liquor special event permit pursuant to G.S. 18B-1114.7.

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

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

11 "(5d) "Brokerage" means a business that brokers the sale of spirituous liquor on
12 behalf of the holder of a distillery permit issued under G.S. 18B-1105, a
13 business located outside the State that is licensed or permitted to manufacture
14 spirituous liquor in the jurisdiction where the business is located and whose
15 products are lawfully sold in this State, or a liquor importer or bottler."

16 **SECTION 5.(a)** G.S. 18B-1114.7(a) reads as rewritten:

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

31 **SECTION 5.(b)** G.S. 18B-1114.7(c)(1a) is repealed.

32 **SECTION 6.** G.S. 18B-1105(d) reads as rewritten:

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

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

40 **SECTION 7.(b)** G.S. 18B-603(d)(3a) is amended by adding a new sub-subdivision
41 to read:

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

44 **SECTION 8.** G.S. 18B-904(h) reads as rewritten:

45 "(h) Extension of Licensed Premises. – A permittee holding a permit issued under Article
46 10 or 11 of this Chapter that allows the on-premises consumption of alcoholic beverages may
47 utilize an area that is not part of the permittee's licensed premises for the outdoor possession and
48 consumption of alcoholic beverages sold by the permittee subject to all of the following
49 requirements:

50 ...

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

...

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

...."

SECTION 9.(a) G.S. 18B-101(4a), as enacted by Section 27.1 of S.L. 2021-150, reads as rewritten:

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

SECTION 9.(b) This section is effective retroactively to September 10, 2021, and expires on December 1, 2022.

ELIMINATE TOUR BOAT ALCOHOLIC BEVERAGE SALE GROSS RECEIPTS CAP

SECTION 10. G.S. 18B-1006(i) reads as rewritten:

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

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

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

...."

ADD DEFINITION OF "SUPPLIER"

SECTION 11. G.S. 18B-1119 reads as rewritten:

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

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

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

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

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

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

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

ABC COMMISSION RULEMAKING EXCEPTION WITH RESPECT TO APPROVAL OF ALCOHOLIC BEVERAGES

1 **SECTION 12.** G.S. 150B-1(d) is amended by adding a new subdivision to read:

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

6
7 **ALLOW ABC COMMISSION TO OFFER DELIVERY SERVICE COURSES**

8 **SECTION 13.(a)** G.S. 18B-1001.4(b) reads as rewritten:

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

18 **SECTION 13.(b)** This section becomes effective October 1, 2022.

19
20 **ALLOW EMPTY SPIRITUOUS LIQUOR BOTTLES TO BE USED FOR DISPLAY**
21 **PURPOSES**

22 **SECTION 14.(a)** G.S. 18B-1006.1 reads as rewritten:

23 "**§ 18B-1006.1. Additional requirement for certain permittees to recycle beverage**
24 **containers.**

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

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

40 **SECTION 14.(b)** The Alcoholic Beverage Control Commission shall adopt rules, or
41 amend its rules, consistent with the provisions of this section. The Commission may adopt
42 permanent rules as required under this section using the procedure set forth in G.S. 150B-21.1.

43
44 **AMEND "RESTAURANT" DEFINITION FOR ABC PERMITTING**

45 **SECTION 15.** G.S. 18B-1000(6) reads as rewritten:

46 "(6) Restaurant. – An establishment substantially engaged in the business of
47 preparing and serving meals. To qualify as a restaurant, an establishment's
48 gross receipts from food and nonalcoholic beverages shall be not less than
49 thirty percent (30%) of the total gross receipts from food, nonalcoholic
50 beverages, and alcoholic beverages sold for on-premises consumption. A
51 restaurant shall also have a kitchen and an inside dining area with seating for

1 at least ~~36-10~~ people. It is not necessary for an establishment to maintain
2 kitchen operations at all times it is open to the public to qualify as a restaurant.
3 If the restaurant is located on an 18-hole golf course, the premises shall include
4 the parking lot and the playing area of the golf course, including the teeing
5 areas, greens, fairways, roughs, hazards, and cart paths."

7 **EXEMPT BAR AREAS FROM HEALTH INSPECTION**

8 **SECTION 16.** G.S. 130A-250 is amended by adding a new subdivision to read:

9 "(20) The bar area or other similar area in an establishment where alcoholic
10 beverages are prepared, poured, or mixed before service to customers and food
11 is not prepared, except for the preparation of garnishes for alcoholic
12 beverages."

13 **ALLOW BRANDED PLUG-IN COOLERS IN ABC STORES**

14 **SECTION 17.** Article 8 of Chapter 18B of the General Statutes is amended by adding
15 a new section to read:

16 **"§ 18B-809. Use of branded plug-in coolers.**

17 No rule or decision of the Commission may limit or restrict the giving, lending, or selling by
18 industry members of branded plug-in coolers used to hold and display products, provided that
19 coolers are under the dollar limits set forth by the Commission for product displays. A branded
20 plug-in cooler shall have permanent and conspicuous branding that is permanently attached or
21 securely affixed to the cooler."

22 **AMEND BAR DEFINITION**

23 **SECTION 18.** If House Bill 768, 2021 Regular Session, becomes law,
24 G.S. 18B-1000(1), as amended by Section 6(a) of that act, reads as rewritten:

25 "(1) Bar. – An establishment that is primarily engaged in the business of selling
26 alcoholic beverages ~~and that does not serve prepared food as defined in~~
27 ~~G.S. 105-164.3(179).~~ for consumption on the premises. A bar shall not include
28 a brewery, winery, or distillery."
29
30
31

32 **ALLOW 50-MILLILITER CONTAINERS OF MALT BEVERAGES**

33 **SECTION 19.** Article 11 of Chapter 18B of the General Statutes is amended by
34 adding a new section to read:

35 **"§ 18B-1122. Minimum standard of fill for malt beverages.**

36 Malt beverages may be produced, bottled, imported, distributed, and sold in sealed containers
37 which are 50 milliliters or more in volume. The Commission shall not limit or restrict the size of
38 an individual malt beverage container allowed for sale in this State, provided that the container
39 is not less than 50 milliliters."

40 **UPDATE PROPANE TRADE ASSOCIATION NAME**

41 **SECTION 20.(a)** G.S. 119-63.3(1) reads as rewritten:

42 "(1) ~~Association.—The North Carolina Propane Gas Association, Inc., Alliance. —~~
43 ~~Southeast Propane Alliance, Inc., a North Carolina nonprofit corporation."~~

44 **SECTION 20.(b)** The Revisor of Statutes shall replace the phrase "Association" with
45 "Alliance" in Article 5A of Chapter 119 of the General Statutes.
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47

48 **EFFECTIVE DATE**

49 **SECTION 21.** Except as otherwise provided, this act is effective when it becomes
50 law.