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SENATE BILL DRS45237-TQ-10

Short Title: ABC Technical/Clarifying Changes. (Public)

Sponsors: Senators Moffitt and Johnson (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE ALCOHOLIC
3 BEVERAGE CONTROL STATUTES.

4 The General Assembly of North Carolina enacts:

5
6 **ABC PERMIT TRANSITION PERIOD CLARIFICATIONS**

7 **SECTION 1.** G.S. 18B-903(c) reads as rewritten:

8 "(c) Change in Ownership. –

9 (1) Except as provided in subdivision (2) of this subsection, all permits for an
10 establishment shall automatically expire and shall be surrendered to the
11 Commission if:

- 12 a. Ownership of the establishment changes; or
13 b. There is a change in the membership of the firm, association or
14 partnership owning the establishment, involving the acquisition of a
15 twenty-five percent (25%) or greater share in the firm, association or
16 partnership by someone who did not previously own a twenty-five
17 percent (25%) or greater share; or
18 c. Twenty-five percent (25%) or more of the stock of the corporate
19 permittee owning the establishment is acquired by someone who did
20 not previously own twenty-five percent (25%) or more of the stock.

21 (2) Notwithstanding subsection (e) of this section, any person who through
22 contract, lease, management agreement, or change of ownership or transfer of
23 business as provided in subdivision (1) of this subsection becomes lawfully
24 entitled to use and control of the premises of an establishment that holds
25 permits immediately prior to such change of ownership may continue to
26 operate the establishment, as successor to the prior permittee, to the same
27 extent as the predecessor permittee until the person receives a temporary or
28 new permit, including purchasing malt beverages, unfortified wine, or
29 fortified wine to be resold for on-premises or off-premises consumption, or
30 spirituous liquor for use in mixed beverages sold by the establishment, as
31 applicable under the permit, subject to the following limitations:

- 32 a. The person shall provide written or electronic notice to the
33 Commission of the name of the non-permitted person, the name and
34 address of the permitted establishment, and the date of the change in
35 ownership. The person may not operate the establishment as provided
36 in this subdivision until the person has provided notice to the



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1 Commission. The prior permittee shall not be liable for any acts or
 2 omissions of the non-permitted person operating the establishment.
 3 Any alcoholic beverage offenses committed by the person or any
 4 actions taken by the Commission to revoke or suspend the permit
 5 based on the acts or omissions of the person operating the
 6 establishment shall not preclude the prior permittee from receiving an
 7 ABC permit for a different establishment.

- 8 b. The person shall submit a new permit application to the Commission
 9 within 60 days after the change of ownership. If the person does not
 10 apply for a new permit within 60 days, all permits for the establishment
 11 shall automatically expire and shall be surrendered to the Commission.
- 12 c. The 60-day period to file a new permit application shall only be
 13 allowed once per 24 months for each establishment that holds an ABC
 14 permit, unless the establishment requests and the Commission grants
 15 a waiver of the 24 month requirement. The Commission shall grant a
 16 waiver of the 24 month requirement if it determines that the public
 17 health, safety, and welfare would not be harmed by granting the
 18 waiver.
- 19 d. This subdivision shall apply only to establishments that hold ABC
 20 permits that are in good standing and that have not been found
 21 responsible by the Commission or a court of competent jurisdiction of
 22 a gambling, assault, disorderly conduct, prostitution, or controlled
 23 substances violation within 12 months prior to the date the
 24 non-permitted person becomes entitled to use and control of the
 25 establishment."
 26

27 **BAR TECHNICAL CORRECTIONS**

28 **SECTION 2.(a)** G.S. 18B-1000(1) reads as rewritten:

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

32 **SECTION 2.(b)** G.S. 18B-1001 reads as rewritten:

33 **"§ 18B-1001. Kinds of ABC permits; places eligible.**

34 When the issuance of the permit is lawful in the jurisdiction in which the premises are located,
 35 the Commission may issue the following kinds of permits:

- 36 (1) On-Premises Malt Beverage Permit. – An on-premises malt beverage permit
 37 authorizes (i) the retail sale of malt beverages for consumption on the
 38 premises, (ii) the retail sale of malt beverages in the manufacturer's original
 39 container for consumption off the premises, and (iii) the retail sale of malt
 40 beverages in a cleaned and sanitized container that is filled or refilled and
 41 sealed for consumption off the premises and that identifies the permittee and
 42 the date the container was filled or refilled. The permit also authorizes the
 43 permittee to transfer malt beverages, not more than four times per calendar
 44 year, to another on-premises malt beverage permittee that is under common
 45 ownership or control as the transferor. Except as authorized by this
 46 subdivision, transfers of malt beverages by on-premises malt beverage
 47 permittees, purchases of malt beverages by a retail permittee from another
 48 retail permittee for the purpose of resale, and sales of malt beverages by a
 49 retail permittee to another retail permittee for the purpose of resale are
 50 unlawful. In addition, a particular brand of malt beverages may be transferred
 51 only if both the transferor and transferee are located within the territory

designated between the brewery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. It also authorizes the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:

- a. Restaurants.
- b. Hotels.
- c. Eating establishments.
- d. Food businesses.
- e. Retail businesses.
- f. Private clubs.
- g. Convention centers.
- h. Community theatres.
- i. Breweries as authorized by subdivisions (7) and (8) of G.S. 18B-1104(a).
- j. Sports and entertainment venues.
- k. ~~Private bars.~~ Bars.
- l. The holder of a distillery permit authorized under G.S. 18B-1105.

...
(3)

On-Premises Unfortified Wine Permit. – An on-premises unfortified wine permit authorizes (i) the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, (ii) the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another on-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The holder of the permit is authorized to ship unfortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

- 1 a. Restaurants.
- 2 b. Hotels.
- 3 c. Eating establishments.
- 4 d. Private clubs.
- 5 e. Convention centers.
- 6 f. Cooking schools.
- 7 g. Community theatres.
- 8 h. Wineries.
- 9 i. Wine producers.
- 10 j. Retail businesses.
- 11 k. Sports and entertainment venues.
- 12 l. ~~Private bars.~~Bars.
- 13 m. The holder of a distillery permit authorized under G.S. 18B-1105.
- 14 ...
- 15 (5) On-Premises Fortified Wine Permit. – An on-premises fortified wine permit
- 16 authorizes the retail sale of fortified wine for consumption on the premises,
- 17 either alone or mixed with other beverages, and the retail sale of fortified wine
- 18 in the manufacturer's original container for consumption off the premises. The
- 19 permit also authorizes the permittee to transfer fortified wine, not more than
- 20 four times per calendar year, to another on-premises fortified wine permittee
- 21 that is under common ownership or control as the transferor. Except as
- 22 authorized by this subdivision, transfers of wine by on-premises fortified wine
- 23 permittees, purchases of wine by a retail permittee from another retail
- 24 permittee for the purpose of resale, and sale of wine by a retail permittee to
- 25 another retail permittee for the purpose of resale are unlawful. In addition, a
- 26 particular brand of wine may be transferred only if both the transferor and
- 27 transferee are located within the territory designated between the winery and
- 28 the wholesaler on file with the Commission. Prior to or contemporaneous with
- 29 any such transfer, the transferor shall notify each wholesaler who distributes
- 30 the transferred product of the transfer. The notice shall be in writing or
- 31 verifiable electronic format and shall identify the transferor and transferee, the
- 32 date of the transfer, quantity, and items transferred. The holder of the permit
- 33 is authorized to ship fortified wine in closed containers to individual
- 34 purchasers inside and outside the State. Orders received by a winery by
- 35 telephone, Internet, mail, facsimile, or other off-premises means of
- 36 communication shall be shipped pursuant to a wine shipper permit and not
- 37 pursuant to this subdivision. The permit may be issued for any of the
- 38 following:
- 39 a. Restaurants.
- 40 b. Hotels.
- 41 c. Private clubs.
- 42 d. Community theatres.
- 43 e. Wineries.
- 44 f. Convention centers.
- 45 g. ~~Private bars.~~Bars.
- 46 h. The holder of a distillery permit authorized under G.S. 18B-1105.
- 47 i. Sports and entertainment venues.
- 48 ...
- 49 (7) Brown-Bagging Permit. – A brown-bagging permit authorizes each individual
- 50 patron of an establishment, with the permission of the permittee, to bring up
- 51 to eight liters of fortified wine or spirituous liquor, or eight liters of the two

- 1 combined, onto the premises and to consume those alcoholic beverages on the
 2 premises. The permit may be issued for any of the following:
 3 a. Restaurants.
 4 b. Hotels.
 5 c. Private clubs.
 6 d. Community theatres.
 7 e. Congressionally chartered veterans organizations.
 8 f. ~~Private bars.~~Bars.
 9 (8) Special Occasion Permit. – A special occasion permit authorizes the host of a
 10 reception, party or other special occasion, with the permission of the
 11 permittee, to bring fortified wine and spirituous liquor onto the premises of
 12 the business and to serve the same to his guests. The permit may be issued for
 13 any of the following:
 14 a. Restaurants.
 15 b. Hotels.
 16 c. Eating establishments.
 17 d. Private clubs.
 18 e. Convention centers.
 19 f. ~~Private bars.~~Bars.
 20 g. Sports and entertainment venues.
 21 ...
 22 (10) Mixed Beverages Permit. – A mixed beverages permit authorizes the retail
 23 sale of mixed beverages for consumption on the premises. The permit also
 24 authorizes a mixed beverages permittee (i) to obtain a purchase-transportation
 25 permit under G.S. 18B-403 and 18B-404, (ii) to obtain an antique spirituous
 26 liquor permit under subdivision (20) of this section, and (iii) to use for culinary
 27 purposes spirituous liquor lawfully purchased for use in mixed beverages. The
 28 permit may be issued for any of the following:
 29 a. Restaurants.
 30 b. Hotels.
 31 c. Private clubs.
 32 d. Convention centers.
 33 e. Community theatres.
 34 f. Nonprofit organizations.
 35 g. Political organizations.
 36 h. Sports and entertainment venues.
 37 i. ~~Private bars.~~Bars.
 38 j. The holder of a distillery permit authorized under G.S. 18B-1105.
 39"
 40 **SECTION 2.(c)** Any establishment that possessed permits from the ABC
 41 Commission as a private bar on the effective date of this section and that meets the definition of
 42 a bar in G.S. 18B-1000, as amended by subsection (a) of this section, may renew any permits it
 43 possessed on the effective date of this act for as long as the establishment remains in operation
 44 and, notwithstanding G.S. 130A-248 and G.S. 130A-250, shall be exempt from Part 6 of Article
 45 8 of Chapter 130A of the General Statutes.
 46 **SECTION 2.(d)** This section is retroactively effective July 7, 2022.
 47 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
 48 law.