

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 1082
Committee Substitute Favorable 6/4/20
PROPOSED COMMITTEE SUBSTITUTE H1082-CSSA-69 [v.2]

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Short Title: ABC Admin. Penalties/Alcohol Consumables.

(Public)

Sponsors:

Referred to:

May 14, 2020

A BILL TO BE ENTITLED
AN ACT DIRECTING THE ALCOHOLIC BEVERAGE CONTROL COMMISSION TO (I)
CREATE A POLICY THAT ESTABLISHES A RATIONALE FOR ADMINISTRATIVE
PENALTIES AND IMPROVES TRANSPARENCY FOR PERMITTEES AND (II)
INCLUDE EFFECTIVENESS CRITERIA ON ITS WEB SITE TO EVALUATE THE
EFFECTIVENESS OF ADMINISTRATIVE PENALTIES AT REDUCING THE
NUMBER OF REPEAT OFFENDERS, AS RECOMMENDED BY THE JOINT
LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE, AND TO
REGULATE ALCOHOL IN MANUFACTURED FOOD PRODUCTS SUCH AS ICE
CREAM, ICE POPS, AND GELATIN.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 18B-104 reads as rewritten:

"§ 18B-104. Administrative penalties.

(a) Penalties. – For any violation of the ABC laws, the Commission may take any of the following actions against a permittee:

...

(4) Suspend the permittee's permit under subdivision (1) of this subsection and impose a fine under subdivision (3) or ~~(3a)-(3a)~~ of this subsection.

...

(f) Policy. – The Commission shall develop a written policy detailing (i) the guidelines followed by the Commission in determining which action authorized under this section the Commission will take against a permittee for a first or repeat violation of the ABC laws, (ii) when it is appropriate for the Commission to deviate from the guidelines described in this subsection, (iii) the justification for any differences between the severity of the action taken by the Commission for similar violations of the ABC laws, and (iv) the justification for the Commission dismissing a case in which a violation of the ABC laws was alleged to have occurred. The policy required under this subsection shall be posted by the Commission on the Commission's Web site. At least 30 days prior to revising the policy required under this subsection, the Commission shall post on the Commission's Web site notice of the revision and justification for making the revision.

(g) Report. – By July 1 of each year, the Commission shall post the following information on its Web site:

(1) The total percentage of active or pending permittees for which the Commission received a report of alleged violation of the ABC laws during the prior fiscal year.



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- (2) The total percentage of active or pending permittees for which the Commission received a report of a second or subsequent alleged violation of the ABC laws during the prior fiscal year.
- (3) The total percentage of reported ABC law violations during the fiscal year that are considered consumption-related by the Commission.
- (4) The total number of reported ABC violations during the prior fiscal year that were dismissed by the Commission, including the justification for each dismissal."

SECTION 1.(b) This section is effective when it becomes law. The Commission shall post the policy required under G.S. 18B-104(f), as enacted in this section, no later than October 1, 2020. Notwithstanding the date provided in G.S. 18B-104(g), for the 2019-2020 fiscal year the Commission shall post the information required under G.S. 18B-104(g), as enacted in this section, no later than 30 days after this act becomes law.

SECTION 2.(a) G.S. 18B-101 reads as rewritten:

"§ 18B-101. Definitions.

As used in this Chapter, unless the context requires otherwise:

...

- (4) "Alcoholic beverage" means any beverage containing at least one-half of one percent (0.5%) alcohol by volume, including malt beverages, unfortified wine, fortified wine, spirituous liquor, ~~and mixed beverages.~~ mixed beverages, and any alcohol consumable.

- (4a) "Alcohol consumable" means any manufactured and packaged food product made available for commercial sale (including candy, cake, cookie, ice cream, gelatin, and popsicle) containing at least one-half of one percent (0.5%) alcohol by volume.

...

- (7) "Fortified wine" means any ~~wine, or~~ wine or alcohol consumable containing more than sixteen percent (16%) and no more than twenty-four percent (24%) alcohol by volume, made by fermentation from grapes, fruits, berries, rice, or honey; or by the addition of pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine and produced in accordance with the regulations of the United States.

...

- (9) "Malt beverage" means beer, lager, malt liquor, ale, porter, and any other brewed or fermented beverage or alcohol consumable except unfortified or fortified wine as defined by this Chapter, containing at least one-half of one percent (0.5%), and not more than fifteen percent (15%), alcohol by volume. Any malt beverage containing more than six percent (6%) alcohol by volume shall bear a label clearly indicating the alcohol content of the malt beverage.

...

- (14) "Spirituous liquor" or "liquor" means distilled spirits or ethyl alcohol, ~~and any alcohol consumable containing distilled spirits or ethyl alcohol,~~ including spirits of wine, whiskey, rum, brandy, gin and all other distilled spirits and mixtures of cordials, liqueur, and premixed cocktails, in closed containers ~~for beverage use~~ regardless of their dilution.

...

- (15) "Unfortified wine" means any wine ~~of~~ or alcohol consumable containing sixteen percent (16%) or less alcohol by volume made by fermentation from grapes, fruits, berries, rice, or honey; or by the addition of pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the same type of grape,

fruit, berry, rice, or honey that is contained in the base wine and produced in accordance with the regulations of the United States."

SECTION 2.(b) G.S. 18B-206(a) reads as rewritten:

"(a) Authority to Set Standards. – The Commission may set standards and adopt rules for ~~malt beverages, unfortified wine, fortified wine, and spirituous liquor~~ alcoholic beverages to protect the public against alcoholic beverages containing harmful or impure substances, alcoholic beverages containing an improper balance of substances as determined by the Commission, spurious or imitation alcoholic beverages, and alcoholic beverages unfit for human consumption. In setting standards and in issuing rules relating to them, the Commission may follow federal guidelines for standards of identity, labeling and advertising contained in Title 27 of the Code of Federal Regulations, or may adopt more restrictive standards."

SECTION 2.(c) G.S. 18B-804(b) reads as rewritten:

"(b) Sale Price of Spirituous Liquor. – The sale of spirituous liquor, including antique spirituous liquor, sold at the uniform State price shall consist of the following components:

...

(6) A ~~bottle~~-charge of one cent (1¢) on each bottle containing 50 milliliters or less and five cents (5¢) on each bottle containing more than 50 milliliters. For any non-bottled product, a charge of one cent (1¢) on each stock keeping unit containing not more than 50 milliliters and five cents (5¢) on each stock keeping unit containing more than 50 milliliters.

...

(6b) An additional ~~bottle~~-charge for local boards of one cent (1¢) on each bottle containing 50 milliliters or less and five cents (5¢) on each bottle containing more than 50 milliliters. For any non-bottled product, a charge of one cent (1¢) on each stock keeping unit containing not more than 50 milliliters and five cents (5¢) on each stock keeping unit containing more than 50 milliliters.

...."

SECTION 2.(d) G.S. 18B-805 reads as rewritten:

"§ 18B-805. Distribution of revenue.

...

(b) Primary Distribution. – Before making any other distribution, a local board shall first pay the following from its gross receipts:

...

(4) Each month the local board shall pay to the county commissioners of the county where the charge is collected the proceeds from the ~~bottle~~-charge required by G.S. 18B-804(b)(6), to be spent by the county commissioners for the purposes stated in subsection (h) of this section.

(c) Other Statutory Distributions. – After making the distributions required by subsection (b), a local board shall make the following quarterly distributions from the remaining gross receipts:

(1) Before making any other distribution under this subsection, the local board shall set aside the clear proceeds of the three and one-half percent (3 1/2%) markup provided for in G.S. 18B-804(b)(5) and the ~~bottle~~-charge provided for in G.S. 18B-804(b)(6b), to be distributed as part of the remaining gross receipts under subsection (e) of this section.

...."

SECTION 2.(e) Subsection (a) of this section becomes effective December 1, 2020, and applies to offenses committed on or after that date. Subsections (c) and (d) of this section become effective December 1, 2020, and apply to spiritous liquor sold on or after that date. The remainder of this section becomes effective December 1, 2020.

1 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
2 law.