



HOUSE BILL 1082: ABC Admin. Penalties/Alcohol Consumables.

2019-2020 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	June 9, 2020
Introduced by:	Reps. Hurley, Lucas	Prepared by:	Susan Sitze
Analysis of:	PCS to Second Edition H1082-CSSA-69		Staff Attorney

OVERVIEW: *The Proposed Committee Substitute (PCS) for House Bill 1082 would direct the Alcoholic Beverage Control Commission (ABC Commission) to do (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. These are recommendations of the Joint Legislative Program Evaluation Oversight Committee.*

The PCS would also define "alcohol consumable" and regulate alcohol consumables in the same manner as the type of alcohol they contain.

CURRENT LAW: G.S. 18B-104 authorizes the ABC Commission to take the following actions against ABC permittees for violation of the ABC laws:

- Suspend the permit for a definite period, not to exceed three years.
- Revoke the permit.
- Fine the permittee in an amount determined by the type of violation and whether the permittee has had a previous violation within three years.
- Suspend the permit and impose a fine.

BILL ANALYSIS:

Section 1 of the PCS for House Bill 1082 would require the ABC Commission to do the following:

- Develop a written policy detailing guidelines for determining what action the Commission should take in response to a violation of the ABC laws, including when it is appropriate for the Commission to deviate from those guidelines or differ in severity of action for similar violations, and providing justification for dismissal of cases alleging violations. The policy must be posted on the Commission's web site, and notice must be given at least 30 days before any revision of the policy.
- Provide a report on the Commission's website by July 1 of each year of the following information for the previous fiscal year:
 - The total percentage of permittees for which a violation has been alleged.
 - The total percentage of permittees for which a second or subsequent violation has been alleged.

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- The total percentage of violations alleged that are consumption related.
- The total number of reported violations that were dismissed by the Commission, and the justification for each dismissal.

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

Section 2 of the PCS for House Bill 1082 would regulate alcohol in manufactured food products in the same manner as the type of alcohol contained in the product. The PCS would define "alcohol consumable" as *"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."*

The PCS would modify the definitions of malt beverage, unfortified wine, fortified wine, and spirituous liquor to also include any alcohol consumable with at least 0.5% of that type of alcohol. The PCS also would make conforming changes statutes related to the ABC Commission's authority to set standards and adopt rules and to the pricing and distribution of revenue for spirituous liquor products.

Section 2 would become effective December 1, 2020. The definitional changes would apply to offenses committed on or after that date. The pricing and revenue distribution changes would apply to spirituous liquor sold on or after that date.

EFFECTIVE DATE: Except as otherwise provided, this act would be effective when it becomes law.

BACKGROUND: The Program Evaluation Division report presented to the Joint Legislative Program Evaluation Oversight Committee can be found at the following link - https://www.ncleg.gov/PED/Reports/2020/ABC_Violations.html