

**North Carolina Retail Merchants Association (NCRMA)**  
**Historical view of Regulatory Reform Efforts over the last decade**  
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**About NCRMA:**

- 2500 members representing approximately 25,000 individual store locations across the state.
- all facets of retail from grocery, pharmacy, clothing, hardware, bookstores and beyond
- runs the spectrum of one-store family businesses to the largest of chain retailers.

We've been fortunate to be involved in the various regulatory reform efforts over the last decade and hope to share a bit of those experiences today.

Regulations that are unnecessary and burdensome are harmful to the economy. They increase the time and cost of doing business, and therefore increase prices and kill jobs.

In my mind, regulatory reform often falls into two buckets – General Statutes and administrative rules from administrative agencies and licensing boards. These two buckets can also be subdivided into state and local government enforcement.

From a business organization prospective, certainty and consistency are two of the most important factors as to how rules and regulations are implemented and enforced.

Over the last ten years, here are just a few regulatory reforms that NCRMA has had the opportunity to work to pass in North Carolina.

- **Prohibiting the use of Contingency Auditors**
- **Repealed pervious pavement requirements.**
- **Egg labeling**
- **Nursery Stock sales in parking lots**

- **Veteran hiring**
- **Putting the Industrial Commission under the Administrative Procedures Act**
- **Requiring Legislative Confirmation of appointees to the Industrial Commission and Board of Review**

I wanted to emphasize a couple of other areas where regulatory reform is important to our membership.

### **Rule-Making BUCKET:**

One of the most important pieces of our regulatory climate in North Carolina is the North Carolina Rules Review Commission.

- The RRC was created as an important check-and-balance for administrative agencies and licensing boards that were often overzealous in creating rules that really had the effect of law and often had a negative effect on job creation.
- Legislators serving, hear from constituents when NCGA wasn't in session, new law, really rule – no real oversight.

The RRC does not look at the underlying policy of the proposed rules but instead reviews each rule utilizing a four-part test:

1. Compliance – did the administrative agency follow the required process set out in the Administrative Procedures Act – did they conduct public hearings, did they accept public comments, did they conduct a fiscal analysis.
2. Authority: Does the agency has statutory authority to adopt the rule
3. Clarity - Is the rules is clear and understandable.
4. Is the rule necessary?

- There have been constitutional challenges to the Rules Review Commission by Governors of both parties, by administrative agencies and by advocacy groups.
- It is an important backstop and drives dialogue between government and the regulated community that may not otherwise happen.
- So, we would advise that is **critically** important that the Rules Review Commission remain intact and robust.

### **Emergency Management BUCKET:**

- A primary role in which we serve our members is through our strong partnership with the Division of Emergency Management.
- NCRMA applauds North Carolina for having a Business Emergency Operations Center and being a national model for their partnership with the private sector.
- We have a seat in the BEOC and are working with all of the EOC partners to get power to stores, trucks on the road and communities served.
- That also meant spending an inordinate amount of time trying to track local states of emergency that may include curfews or sales restrictions.

### **Re-Entry**

- We are fortunate to have a re-entry system in NC that allows businesses to register with the EOC to be able to transport essential goods from distribution centers to stores.
- Rep. Riddell and Bradford led the effort.
  - to allow those certifications to be renewed ever 3 years like our neighboring states instead of every year.
  - remove an unnecessary churn and provide more certainty for both the private sector and the Division.

## **Fast-forward to 2020 – COVID hit.**

In 2020 and 2021, we found ourselves trying to track 50-60 varying local states of emergency on top of our retailers working to follow the statewide COVID protocols (managing new occupancy limits, social distancing measures).

Many of these local orders included unique variations on occupancy calculations, store department closures, quarantine requirements, etc. sending our members into a tailspin in trying to keep up with the various orders and requirements. Some of these local orders gave 24 hours or less notice to comply with the order.

Despite a system being in place through WebEOC, many localities did not post complete information into the system – leaving us scouring social media sites for clues.

In 2021, we worked with the General Assembly, Division of Emergency Management, County Commissioners, League of Municipalities, Metro Mayors to pass legislation requiring localities post any emergency declaration to their website and into WebEOC before it can become effective. In 2022, legislation was enacted that required notification that the order had expired.

The more streamlined this process becomes, the better our members and others will be able to comply which is everyone's end goal.

## **Looking Ahead – Here is what we are hearing from our members**

- Requiring agencies to go through rule-making rather than issuing “policies”
- The world sped up during COVID and time is even now more of the essence. It is important for administrative agencies to understand the need to process permit applications whether that be for DOT or the ABC Commission.

- Maybe it was due to COVID and all of the local orders that came with COVID, but we have witnessed more local governments seeking to regulate commerce in a manner that they have never done.
- Inconsistency at the local level on things like food safety inspections.
- How is DOT implementing a new Super Street or reconstructing an interchange? Does it impact ingress and egress into an existing business?
- I mentioned ABC permits and I would say that this is the area where we receive the most calls from our members and these issues concern both a permit for a brand-new business or trying to get a permit for a business where ownership has changed hands. Anytime there is a change in ownership of more than 25% a new ABC permit is required. This could involve someone buying a business and trying to get a new permit, a new owner as part of an ownership group or a death of an owner. Delays of weeks to get an ABC permit make it very tough to hire employees in a difficult labor market and a wine or beer wholesaler cannot deliver product until there is an ABC permit on the wall. Generally, once you get all of your required paperwork done and ready for submission to the Commission you arrange an appointment with the Commission – the Commission schedules 6 appointments a day. The first appointment available is March 6<sup>th</sup>. In 2022, then Representative Moffitt worked to create a “transitional permit” to allow a new owner of a business to utilize the previous owner's ABC permit for up to 60 days while they waited for their new permit. Unfortunately, the ABC Commission has taken a very strict view of this permit and whether the new owner can order new product for their shelves during the 60 days.

## **Conclusion**

On behalf of our retailers and NCRMA, I just want to emphasize how much we appreciate the regulatory reform efforts that have been made over the years and the continued focus as new issues come to light.

Just as retailers are continually evaluating how to best serve their customers, it is important that the state do the same so that employers are not impeded in being able to hire and serve our citizens.