



HOUSE BILL 890: ABC Omnibus Legislation.

2021-2022 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	May 11, 2021
Introduced by:	Reps. Moffitt, Boles, Willingham, Saine	Prepared by:	Chris Saunders
Analysis of:	PCS to Second Edition H890-CSTQ-27		Staff Attorney

OVERVIEW: *The Proposed Committee Substitute (PCS) to House Bill 890 would make several changes to the laws concerning ABC stores, distilleries, and other alcohol-related statutes.*

The PCS would make the following changes:

- In Part I, require that the person who places an online order be the same person who picks up the order at the ABC store. The PCS would also direct the ABC Commission to adopt rules to determine how long the product will be set aside without being picked up before the product is returned to inventory and the customer refunded.*
- In Part V, require that the North Carolina Spirituous Liquor Advisory Council have at least one representative from the North Carolina Association of ABC Boards.*
- In Section 6.1, clarify that the sale of spirituous liquor in closed containers at distilleries may occur between the hours of 9:00 A.M. and 9:00 P.M. on Monday through Saturday of each week, from 12:00 Noon to 9:00 P.M. on Sundays, and from 9:00 A.M. to 9:00 P.M. on each of the following holidays that do not fall on a Sunday: New Year's Day, Fourth of July, Labor Day, and Thanksgiving Day.*
- In Section 6.2, provide that spirituous liquor special event permits may not be used to give free tastings and sell mixed beverages and closed containers of spirituous liquor at shopping malls, street festivals, holiday festivals, or balloon races. The PCS would also limit the sale of spirituous liquor in closed containers under a spirituous liquor special event permit to one 50 milliliter mini-bottle per customer.*

CURRENT LAW AND BILL ANALYSIS:

PART I. ALLOW ONLINE ORDERS FROM ABC STORES

Part 1 of the PCS would allow ABC stores to accept online orders, including payment, for alcoholic beverages sold in the store. These orders must be picked up in person at the ABC store by the person who placed the order, who must be a person who is lawfully entitled to purchase alcoholic beverages. A person would not be liable for selling an alcoholic beverage to a person under 21 years old via an online order unless the person knew the purchaser was less than 21 years old at the time the online order was placed.

Jeffrey Hudson
Director



Legislative Analysis
Division
919-733-2578

House PCS 890

Page 2

This Part would also direct the ABC Commission to adopt rules to determine how long the product will be set aside without being picked up before the product is returned to inventory and the customer refunded.

This Part would become effective July 1, 2021, and would apply to sales on or after that date.

PART II. ALLOW PERSONALIZED LABEL ON SPIRITUOUS LIQUOR PURCHASE

Part 2 would allow bottles of spirituous liquor on the special item list approved by the ABC Commission (Commission) sold at an ABC store, or bottles of spirituous liquor sold at a distillery, to be affixed with personalized labeling that includes any other labeling requirements set by law. "Personalized labeling" would mean the inclusion of the name of the purchaser on the label.

Cooperative advertising, meaning a joint effort between a retailer and an industry member to advertise alcoholic beverages, the retailer's business, or any promotion or event, is prohibited by 14B NCAC 15B .1005. Other prohibited statements on spirituous liquor labeling are provided at 14B NCAC 15B .1003.

This Part would become effective July 1, 2021, and would apply to spirituous liquor sold on or after that date.

PART III. PERMIT FOR ABC STORE TASTINGS/CLARIFICATION

Part 3 would provide that a spirituous liquor special event permit, which allows free tastings at ABC stores and at various events, must be issued in the name of the business listed on the application for the permit, rather than an individual.

This Part would become effective July 1, 2021, and would apply to permits issued on or after that date.

PART IV. ELIMINATE THE REQUIREMENT ON THE TOWN OF CARY TO ISSUE ALCOHOLIC BEVERAGE LICENSES

Article 2C of Chapter 105 requires all ABC permittees to obtain the corresponding local license for the type of permit held in the location where the establishment is located. Unless specifically provided otherwise, both cities and counties must issue local licenses to ABC permittees.

Part 4 would allow the Town of Cary to choose to not require ABC permittees to obtain a local license from the Town of Cary.

This Part would become effective July 1, 2021.

PART V. ESTABLISH NORTH CAROLINA SPIRITUOUS LIQUOR COUNCIL

Part 5 would direct the Commissioner of Agriculture to appoint a North Carolina Spirituous Liquor Advisory Council (Council), comprised of individuals who have education or experience in the spirituous liquor industry or in the field of tourism. The Council would be appointed by September 1, 2021, and would be directed to, among other duties: identify and implement methods for improving North Carolina's rank as a spirituous liquor producing State, assure orderly growth and development of North Carolina's spirituous liquor industry, and increase public awareness of the quality of North Carolina spirituous liquor. The Council would also advise the Commissioner of Agriculture and provide recommendations regarding its powers and duties.

House PCS 890

Page 3

Section 5.1 of this Part would become effective September 1, 2021. The remainder of this Part would be effective when it becomes law.

PART VI. WINERY AND DISTILLERY LAW REVISIONS

Section 6.1 would clarify that the sale of spirituous liquor in closed containers at distilleries may occur between the hours of 9:00 A.M. and 9:00 P.M. on Monday through Saturday of each week, from 12:00 Noon to 9:00 P.M. on Sundays, and from 9:00 A.M. to 9:00 P.M. on each of the following holidays that do not fall on a Sunday: New Year's Day, Fourth of July, Labor Day, and Thanksgiving Day.

This section would become effective July 1, 2021, and would apply to sales on or after that date.

Section 6.2 would allow the holder of a spirituous liquor special event permit to sell mixed beverages containing its spirituous liquor and sell its liquor in closed containers at the event, in addition to giving free tastings. The PCS would limit the sale of spirituous liquor in closed containers under a spirituous liquor special event permit to one 50 milliliter mini-bottle per customer.

This Section would also provide that spirituous liquor special event permits may not be used to give free tastings and sell mixed beverages and closed containers of spirituous liquor at shopping malls, street festivals, holiday festivals, or balloon races.

This section would become effective July 1, 2021, and would apply to events held on or after that date.

Under current law, breweries, private bars, and private clubs are exempt from the sanitation rules applicable to establishments that prepare or serve food or drink to the public.

Section 6.3 would add distilleries and wineries to the list of establishments exempt from the sanitation rules applicable to establishments that prepare or serve food or drink to the public.

This section would become effective September 1, 2021.

Section 6.4 would make a technical change.

This section would become effective May 1, 2022, and would apply to permits issued or renewed on or after that date.

PART VII. EXPAND ALLOWABLE GROWLER SIZE

Part 7 would direct the ABC Commission to adopt a rule changing the maximum allowable size of a growler from two liters to four liters. The Commission would also be directed to implement the rule in this way until the new rule becomes effective.

This Part would be effective when it becomes law. Section 7.1.(c) of this Part would expire on the date that the rule adopted pursuant to Section 7.1.(d) of this Part becomes effective.

PART VIII. REVISE TERMINOLOGY

House PCS 890

Page 4

Part 8 would add "or produced" to several sections concerning spirituous liquor to cover situations where a distillery makes a product under its own label from a spirituous liquor distilled elsewhere, such as by adding flavoring.

This Part would become effective July 1, 2021.

PART IX. DISTILLERIES/REMOVE TOUR REQUIREMENT FOR SALE OF BOTTLE OF SPIRITUOUS LIQUOR FOR OFF-PREMISES CONSUMPTION

Part 9 would provide that with respect to a distillery tour preceding the sale of spirituous liquor distilled or produced at the distillery, the length, content, and other parameters of the tour are the discretion of the distillery. The distillery would not be required to maintain records related to tours.

This Part would become effective July 1, 2021, and would apply to sales made on or after that date.

PART X. ALLOW DISTILLERIES TO SELL SPIRITUOUS LIQUOR PRODUCED BY THE DISTILLER DIRECTLY TO CONSUMERS IN OTHER STATES

Part 10 would allow the holder of a distillery permit to sell spirituous liquor in closed containers directly to consumers in other jurisdictions, subject to the laws of those jurisdictions. However, the holder of a distillery permit would not be allowed to sell, deliver, or ship spirituous liquor at retail to consumers in jurisdictions that require reciprocity in order to allow such sales, deliveries, or shipments.

This Part would become effective July 1, 2021, and would apply to sales made on or after that date.

PART XI. CLARIFY LAW ON THE SALE, POSSESSION, AND CONSUMPTION OF SPIRITUOUS LIQUOR AT A DISTILLERY

Section 11.1 would allow distillery permittees to possess spirituous liquor not distilled or produced at the distillery to be used for the production of spirituous liquor, and make a conforming change.

This section would become effective July 1, 2021, and would apply to spirituous liquor possessed on or after that date.

Section 11.2 would clarify that consumer tastings authorized under a spirituous liquor special event permit may be conducted on any part of the licensed premises of the distillery.

This section would become effective July 1, 2021, and would apply to consumer tastings held on or after that date.

Section 11.3 would provide that except as otherwise prohibited by federal law or the distillery permittee, an alcoholic beverage authorized to be sold or consumed by a distillery permit may be sold or consumed on any part of the licensed premises of the distillery.

This section would become effective July 1, 2021, and would apply to the sale and consumption of alcoholic beverages on or after that date.

House PCS 890

Page 5

PART XII. ALLOW ABC AGE VERIFICATION WITH SPECIAL IDENTIFICATION CARDS FROM OTHER STATES.

Under current law, ABC Commission rule 14B NCAC 15B .0224 (Consumption by Underage Persons) lists the following forms of identification as acceptable for purposes of determining the age of a person consuming or possessing alcoholic beverages on a licensed premises:

- Driver's license.
- Special identification card *issued by the North Carolina Division of Motor Vehicles.*
- Military identification card.
- Passport.

Part 12 would direct the ABC Commission to allow special identification cards issued by the Division of Motor Vehicles of any state for purposes of age verification.

This Part would be effective when it becomes law. Section 12.1.(c) of this Part would expire on the date that the rule adopted pursuant to Section 12.1.(d) of this Part becomes effective.

PART XIII. ALLOW SALE AND DELIVERY OF MORE THAN ONE ALCOHOLIC BEVERAGE DRINK AT COLLEGE OR UNIVERSITY STADIUM, ATHLETIC FACILITY, ARENA, OR SPORTING EVENT

Under current law, an ABC permittee may deliver two alcoholic beverage drinks to a single patron at one time if the drinks are malt beverages, unfortified wine, or fortified wine. However, this is not allowed at a stadium, athletic facility, or arena on the campus or property of a public college or university or during a sports event sponsored by a public college or university.

Part 13 would repeal the prohibition on delivering two drinks at a time to a patron at a stadium, athletic facility, or arena on the campus or property of a public college or university or during a sports event sponsored by a public college or university.

This Part would become effective July 1, 2021, and would apply to the sale and delivery of alcoholic beverages on or after that date.

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