HOUSE BILL 4:
Extend ABC Permit Renewal Fee Deferral.

2021-2022 General Assembly

Committee:	House Alcoholic Beverage Control. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	February 3, 2021
Introduced by:	Reps. Moffitt, Boles, Bell, Paré	**Prepared by:**	Chris Saunders Committee Co-Counsel
Analysis of:	PCS to First Edition H4-CSTQ-1 [v.3]		

OVERVIEW: The Proposed Committee Substitute (PCS) to House Bill 4 would retroactively extend the deferral of ABC permit fees for businesses prohibited from operating under the Governor's Executive Order 141 until 90 days after all executive orders limiting those permittees' full operation are rescinded or expire. The PCS would also allow certain ABC permittees whose operation is limited by executive orders responding to the COVID-19 pandemic to request a refund of any permit fees paid for the 2020-2021 permit year, and direct the ABC Commission ("Commission") to reinstate or reactivate any permits that the Commission cancelled or moved to inactive status as a result of its interpretation of S.L. 2020-94.

CURRENT LAW AND BACKGROUND: S.L. 2020-94 delayed the due date for renewal or registration of an ABC permit fee for ABC permittees that were prohibited from operating by the Governor's Executive Order 141, Easing Restrictions on Travel, Business Operations, and Mass Gatherings ("E.O. 141"), until 90 days after the Governor signed an executive order rescinding the prohibition on those permittees' operation. Section 3.2 of Executive Order 169, effective October 2, 2020, required indoor areas at bars to remain closed, but allowed outdoor seating areas at bars to be open, limited to the lesser of 100 people for the total seating area or 30% of the facility's stated outdoor occupancy – or for spaces without a stated occupancy, no more than 7 guests for every 1,000 square feet of the outdoor area's square footage. The Commission started the 90 day period at this time. On January 4, 2021, about 124 permittees' permits were cancelled due to nonpayment. The Commission has posted a letter to the North Carolina Bar Owners Association indicating that the permits listed as "cancelled" have been moved to an inactive status and will have their permits returned to an active status under a streamlined process when the permittees are ready to reopen.

BILL ANALYSIS: Section 1 of the PCS would amend S.L. 2020-94 by retroactively extending the deferral of ABC permit fees for businesses prohibited from operating under the Governor's Executive Order 141 until 90 days after all executive orders limiting those permittees' full operation are rescinded or expire. Permittees affected by the change would be required to notify the Commission in writing, including by e-mail or other electronic means, that they are intending to delay payment under this act.

Sections 2 and 3 of the PCS would repeal Section 2 of S.L. 2020-94, which allows refunds of ABC permit fees for permittees who had paid before July 13, 2020, and instead allow any permittee that is (i) is

prohibited from operating pursuant to E.O. 141, (ii) is subject to any executive order responding to the COVID-19 pandemic and limiting the full operation of the permittee, and (iii) has paid a fee for renewal or registration of an ABC permit for the 2020-2021 permit year, to request a refund of the fee. The Commission shall grant the refund regardless of whether the permittee is operating at limited capacity pursuant to an executive order responding to the COVID-19 pandemic. Any permittee who receives a refund would be required to repay it before 90 days after all executive orders limiting those permittees' full operation are rescinded or expire.

Section 4 of the PCS would direct the Commission to reinstate or reactivate any ABC permits it cancelled or moved to inactive status based on its interpretation of Section 1 of S.L. 2020-94 as it existed prior to being amended by Section 1 of this act. In reinstating or reactivating the permits, the Commission must not require affected permittees to submit an application or pay any permit fees. Any permittee whose permit was cancelled or moved to inactive status in this manner and who paid the permit fee to have the permit reinstated or reactivated would be allowed to request a refund of the fee.

EFFECTIVE DATE: Section 1 of this act would be retroactively effective June 30, 2020. The remainder of this act would be effective when it becomes law.