



HOUSE BILL 971: Modern Licensure Model for Alcohol Control.

2019-2020 General Assembly

Committee:	House Alcoholic Beverage Control. If favorable, re-refer to Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	July 23, 2019
Introduced by:	Reps. McGrady, Saine, Hardister, Harrison	Prepared by:	Chris Saunders
Analysis of:	PCS to First Edition H971-CSTQf-19		Committee Counsel

OVERVIEW: *The Proposed Committee Substitute (PCS) to House Bill 971 would phase out the existing ABC system for the sale of spirituous liquor in the State, and would allow the ABC Commission to issue licenses for private retailers to sell spirituous liquor for off-premises consumption.*

CURRENT LAW: Under current law, the ABC Commission (Commission) determines which spirituous liquor products may be sold in North Carolina and establishes Statewide prices. The Commission contracts with a private vendor to operate the ABC warehouse system, which stores products approved by the Commission and delivers the products to local ABC stores. ABC stores are owned and operated by local ABC boards, which are formed by local elections. In North Carolina, spirituous liquor may only be sold for off-premises consumption by ABC stores, except at licensed distilleries.

BILL ANALYSIS:

PART I. AMEND ABC ELECTIONS TO ALLOW OFF-PREMISES SPIRITUOUS LIQUOR ELECTIONS AND PHASE OUT ABC STORE ELECTIONS

Section 1 of the PCS would, effective July 1, 2020, eliminate local elections for ABC stores and allow local elections for off-premises spirituous liquor sales. Any city or county that has authorized the establishment and operation of an ABC store by local election as of July 1, 2020 would be deemed to have authorized off-premises spirituous liquor sales, unless the city or county votes against authorizing off-premises spirituous liquor sales before July 1, 2021. A city or county that operates an ABC store that votes against off-premises spirituous liquor sales may continue to operate ABC stores until January 1, 2022.

PART II. PHASE-IN OF OFF-PREMISES SPIRITUOUS LIQUOR AND SPIRITUOUS LIQUOR WHOLESALE PERMITS

Section 2 would authorize the ABC Commission to issue an off-premises spirituous liquor permit, with a fee of \$1,000; a spirituous liquor wholesaler permit, with a fee of \$1,000; and a nonresident spirituous liquor vendor permit, with a fee of \$5,000. This section would also make several conforming changes.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

House PCS 971

Page 2

Section 3 would:

- Define a "package store" as a new type of establishment that may receive certain ABC permits. A package store would be defined as "an establishment that derives fifty percent (50%) or more of the establishment's total gross receipts from the sale of alcoholic beverages for consumption off the premises." A package store would be eligible to obtain any of the following permits:
 - Off-premises malt beverage permit.
 - On-premises unfortified wine permit.
 - Off-premises unfortified wine permit.
 - Off-premises fortified wine permit.
 - Off-premises spirituous liquor permit.

No package store may be located within 500 yards of another package store, except that a business that holds an off-premises malt beverage permit or an off-premises fortified wine permit on July 1, 2020, and that derives fifty percent (50%) or more of its total gross receipts from the sale of alcoholic beverages for consumption off the premises, may obtain an off-premises spirituous liquor permit regardless of its proximity to another package store.

- Allow food businesses and retail businesses to obtain an off-premises spirituous liquor permit.
- Require off-premises spirituous liquor permittees to display warning signs, to be developed and distributed by the Commission, on the store's premises to inform the public of the effects of alcohol consumption during pregnancy.

Section 4 would:

- Allow distillery permittees to (i) sell, deliver, and ship spirituous liquor to licensed wholesalers, (ii) receive and sell spirituous liquor produced under contract with a contract distillery, and (iii) for distillers that sell fewer than 100,000 proof gallons of spirituous liquor per year, self-distribute up to 50,000 proof gallons of spirituous liquor per year to unaffiliated retailers and operate up to three affiliated retail locations. Distillers would be required to provide a sales report to the Commission upon request.
- Allow liquor importer/bottler permittees to import spirituous liquor and sell it to wholesalers for resale.
- Allow the holder of a spirituous liquor wholesaler permit to:
 - Receive, possess, and transport shipments of spirituous liquor.
 - Sell, deliver, and ship spirituous liquor of any brand it offers in its territory.
 - Furnish and sell spirituous liquor of any brand it offers in its territory to its employees.
 - Furnish spirituous liquor of any brand it offers in its territory to guests and any other person who does not hold an ABC permit for promotional purposes.
- Allow a nonresident spirituous liquor vendor permittee to sell, deliver, and ship spirituous liquor to wholesalers, imports, and bottlers. The liquor must be held at a spirituous liquor wholesaler's licensed premises before being resold to a retailer.
- Make conforming changes.

Section 5 would establish spirituous liquor franchise laws to govern the relationship between spirituous liquor wholesalers and distilleries. This would require a three-tiered system of distribution of spirituous liquor involving distillers, wholesalers, and retailers. This regime would largely mirror the statutes governing wine distribution agreements in Article 12 of Chapter 18B.

House PCS 971

Page 3

Section 6 would direct the ABC Commission to cease operation of the State warehouse on January 1, 2022, and direct local ABC boards to cease operations and liquidate all assets by public auction to the highest qualified bidder between July 1, 2021 and January 1, 2022. After ceasing operations, the local ABC boards may only sell the spirituous liquor in their possession to a permitted spirituous liquor wholesaler. Funds received would be paid to the general fund of the local government for which the local ABC board is established for any public purpose.

Sections 7 would provide that Sections 2 through 5 become effective January 1, 2021. The Commission would be allowed to issue spirituous liquor wholesaler and off-premises spirituous liquor permits beginning January 1, 2021. However, the licenses would be limited such that a spirituous liquor wholesaler may not sell spirituous liquor to any retailer until March 1, 2021, and an off-premises spirituous liquor permittee may not sell spirituous liquor until July 1, 2021.

PART III. REVISIONS TO CHAPTER 18B OF THE GENERAL STATUTES BEFORE PHASE-OUT OF ABC STORES

Sections 8, 9, and 10 would make conforming changes to the statutes governing general provisions applicable to alcoholic beverages, administration of the ABC Commission, and sale and consumption of alcohol to reflect the elimination of ABC stores and allowance of off-premises spirituous liquor sales.

These sections would become effective July 1, 2021, and would expire December 31, 2021.

Section 11 would allow the holder of a retail permit, or the permittee's designated employee, to issue a purchase-transportation permit and make conforming changes to the statutes governing purchase-transportation permits.

This section would become effective July 1, 2021, and would expire December 31, 2021.

Section 12 would allow seized beverages to be sold by public auction to spirituous liquor retail permittees.

This section would become effective July 1, 2021, and would expire December 31, 2021.

Section 13 would repeal the antique spirituous liquor permit and make conforming changes to the statutes governing issuance of permits to reflect the elimination of ABC stores and allowance of off-premises spirituous liquor sales.

This section would become effective July 1, 2021.

Section 14 would make conforming changes to the statutes governing retail permits.

This section would become effective July 1, 2021.

PART IV. REVISIONS TO CHAPTER 18B OF THE GENERAL STATUTES AFTER PHASE-OUT OF ABC STORES

House PCS 971

Page 4

Section 16 would repeal numerous definitions related to the ABC system and local boards, and make conforming changes to the statutes governing general provisions applicable to alcoholic beverages to reflect the repeal of the ABC system.

This section would become effective January 1, 2022.

Section 17 would repeal references to local boards in the statutes governing claims for relief for sales to underage persons to reflect the repeal of the ABC system.

This section would become effective January 1, 2022.

Section 18 would repeal the powers of the ABC Commission related to local boards and the administration of the ABC system, repeal the statutes related to the State warehouse, and make other conforming changes to the statutes governing State administration of the ABC system to reflect the repeal of the ABC system.

This section would become effective January 1, 2022.

Section 19 would make conforming changes to the statutes governing sale, possession, and consumption of alcoholic beverages to reflect the creation of the off-premises spirituous liquor permit and the repeal of the ABC system.

This section would become effective January 1, 2022.

Section 20 would make conforming changes to the statutes governing transportation of alcoholic beverages to reflect the repeal of the ABC system.

This section would become effective January 1, 2022.

Section 21 would repeal the statutes related to local ABC officers. Under current law, local boards are required to hire one or more ABC enforcement officers. Some boards hire local ABC officers directly, while others contract with local law enforcement agencies to provide ABC enforcement. These officers have primary subject matter jurisdiction over the ABC laws and the Controlled Substances Act, but may arrest and take other investigatory and enforcement actions for any criminal offense. This section would also make other conforming changes.

This section would become effective January 1, 2022.

Section 22 would repeal the statutes governing local ABC boards.

This section would become effective January 1, 2022.

Section 23 would repeal the statutes governing operation of ABC boards.

This section would become effective January 1, 2022.

House PCS 971

Page 5

Section 24 would amend the statute governing ABC permit applications by deleting a reference to local ABC officers.

This section would become effective January 1, 2022.

PART V. REVISIONS TO CHAPTER 105 OF THE GENERAL STATUTES

Section 26 would make the following changes to the tax laws concerning spirituous liquor:

- Classify resident distilleries that produce fewer than 100,000 proof gallons of spirituous liquor per year as wholesalers for tax purposes.
- Impose an annual \$15.00 tax for city off-premises spirituous liquor licenses and \$25.00 for county off-premises spirituous liquor licenses.
- Impose an excise tax of \$28.00 per gallon on the sale of spirituous liquor. Under current law, the excise tax on spirituous liquor is 30%.
- Provide that 30% of the net amount of excise taxes on spirituous liquor must be distributed to the counties and cities that authorize the retail sale of spirituous liquor. For malt beverages the amount is 20.47%, for unfortified wine the amount is 49.44%, and for fortified wine, the amount is 18%.
- Provide that of the funds distributed to a county or city for taxes levied on spirituous liquor, the funds must be distributed as follows:
 - 4% for treatment of alcoholism and substance abuse.
 - 15% for research or education on alcohol or substance abuse.
 - 11% for costs incurred by local law enforcement agencies from enforcing the alcohol laws.
 - Any remaining funds may be used for any public purpose.
- In addition to the funds distributed to a city or county for taxes levied on spirituous liquor, the Secretary of Revenue would also be required to distribute \$3,000,000 per year to the Department of Health and Human Services for treatment of alcoholism or substance abuse, or research or education on alcohol or substance abuse, and \$8,500,000 per year to the ABC Commission to be used for the operating and administrative costs of the Commission.
- Provide that the excise tax on spirituous liquor must be paid monthly by the resident wholesaler or importer who first handles the liquor in the State.
- Make various conforming changes to reflect the repeal of the ABC system.

This section would be effective for taxable years beginning on or after July 1, 2021.

PART VI. OTHER CONFORMING REVISIONS

Section 27 would make conforming changes to statutes in various chapters of the General Statutes to reflect the repeal of the ABC system.

This section would become effective January 1, 2022.

House PCS 971

Page 6

Sections 28.(a) and 28.(b) would make conforming changes to other tax laws to reflect that certain distilleries may be considered wholesalers.

Section 28.(a) would become effective July 1, 2021, and would expire on January 1, 2022. Section 28.(b) would become effective January 1, 2022.

Section 29 would make conforming changes to allow local governments to adopt an ordinance allowing for the sale of spirituous liquor beginning at 10:00AM on Sundays.

This section would become effective July 1, 2021.

EFFECTIVE DATE: Except as otherwise provided, this act would become effective July 1, 2021.