

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

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**HOUSE BILL 902
Committee Substitute Favorable 4/30/19
PROPOSED SENATE COMMITTEE SUBSTITUTE H902-PCS10798-ST-72**

Short Title: Temp Open Clubs & Similar Establishs/Outdoor.

(Public)

Sponsors:

Referred to:

April 22, 2019

A BILL TO BE ENTITLED
AN ACT TO AUTHORIZE CERTAIN EXISTING ESTABLISHMENTS TO OFFER AND
OPERATE OUTDOOR BEVERAGE SERVICE OPTIONS WHILE ALSO
SAFEGUARDING THE PUBLIC HEALTH TO PREVENT THE SPREAD OF
CORONAVIRUS DISEASE 2019 (COVID-19).

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any declaration of emergency issued under Article 1A of Chapter 166A of the General Statutes or any municipal or county ordinance adopted under that Article related to the public health emergency created by COVID-19, any (i) private club or private bar as defined by G.S. 18B-1000, (ii) winery permitted pursuant to G.S. 18B-1101 or G.S. 18B-1102, (iii) brewery permitted pursuant to G.S. 18B-1104, or (iv) distillery permitted pursuant to G.S. 18B-1105 may open and serve alcohol for on-premises consumption provided all the following apply:

- (1) The establishment was in existence on March 10, 2020, is properly licensed and permitted, and holds all necessary State and local regulatory permits, including any necessary ABC permits.
- (2) The service is limited to an outdoor seating location and the owner or owners of that outdoor seating location have granted the establishment permission to use the location for its service.
- (3) The outdoor seating location is on the same parcel or is contiguous to or in close proximity to the underlying establishment and contains or has access to lavatory and toilet facilities for employees and customers as required for such establishments under rules established by the North Carolina Alcoholic Beverage Control Commission.
- (4) The outdoor seating location has delineated vertical boundaries that the consumer would recognize as indicating the boundaries that physically separate areas where consumption of alcohol is allowed from areas open to the general public other than customers of the establishment.
- (5) The outdoor service seating capacity is limited to fifty percent (50%) of the current indoor seating capacity of the establishment, or 100 customers, whichever is less.
- (6) The establishment maintains and enforces the social distancing requirements recommended by the federal Centers for Disease Control and Prevention and the North Carolina Department of Health and Human Services.



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- 1 (7) The establishment complies with all rules and regulations promulgated by the
2 Division of Public Health of the North Carolina Department of Health and
3 Human Services applicable to outdoor food and drink service.
4 (8) The outdoor seating location may include a covered patio or areas covered by
5 tents, awnings, tarps, umbrellas, or other similar coverings.
6 (9) The outdoor seating location may include areas on a public sidewalk if the
7 local government allows through its ordinances or permitting process the use
8 of public sidewalks for the service of and consumption of food or drink and
9 the establishment obtains any necessary local government approval. Nothing
10 in this act is intended to require a local government to approve the use of
11 public sidewalks for the service of and consumption of food or drink.
12 (10) The outdoor seating location may include areas on a public street if the local
13 government allows through its ordinances or permitting process the use of
14 public streets during periods of temporary street closure for the service of and
15 consumption of food or drink and the establishment obtains any necessary
16 local government approval. Nothing in this act is intended to require a local
17 government to temporarily close public streets for the service of and
18 consumption of food or drink or to allow the service of and consumption of
19 food or drink on public streets during a period of temporary closure.

20 **SECTION 2.** The outdoor seating area authorized in Section 1 of this act shall not
21 be prohibited by a municipality or county because the outdoor seating area is not a permitted use
22 for operation of food and drink services under zoning ordinances.

23 **SECTION 3.** This act is effective when it becomes law and expires when the
24 applicable declaration of emergency prohibitions and restrictions are lifted to allow full opening
25 of the establishment for service of food and drink.