



This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 290: Prohibit Powdered Alcohol

2015-2016 General Assembly

Committee:	House Health	Date:	April 25, 2015
Introduced by:	Reps. Willingham, L. Hall	Prepared by:	Theresa Matula
Analysis of:	PCS to Second Edition H290-CSSH-35		Committee Staff

SUMMARY: House Bill 290 does the following: (i) defines powdered alcohol and prohibits the manufacture, sale, transport, import, delivery, furnishing, purchase, consumption, or possession of powdered alcohol, (ii) clarifies that suspension of an Alcoholic Beverage Control Commission (ABC Commission) permit due to charging five or more people with criminal violations of gambling, disorderly conduct, prostitution, controlled substance, or felony criminal counterfeit trademark laws is not a contested case under the North Carolina Administrative Procedures Act (APA), and (iii) provides that contested cases heard by the ABC Commission are covered by the Article of the APA that governs other administrative hearings. The PCS corrects an omission in the effective date.

BILL ANALYSIS: Section 1 of the bill amends G.S. 18B-101 to define "powdered alcohol" as any powder or crystalline substance capable of being converted into a liquid alcoholic beverage fit for human consumption. Section 2 amends G.S. 18B-102 to make it unlawful for any person to manufacture, sell, transport, import, deliver, furnish, purchase, consume, or possess powdered alcohol.

Section 3 amends G.S. 18B-906 providing for the applicability of the Administrative Procedure Act. The section provides that an ABC permit is a "license" within the meaning of G.S. 150B-2, and except for suspension pursuant to G.S. 18B-904(e)4 is a contested case¹ subject to the provisions of Chapter 150B. This means that the suspension of an ABC Commission permit is not a contested case covered by the APA when the suspension is the result of Alcohol Law Enforcement agents or local ABC Board officers providing advance notice of an ongoing undercover operation and upon the execution of a search warrant, five or more persons are criminally charged with violations of the gambling, disorderly conduct, prostitution, controlled substance, or felony criminal counterfeit trademark laws as provided in G.S. 18B-904(e)(4).

Section 4 of the bill provides that the ABC Commission is covered by Article 3A of the APA, which governs "other administrative hearings."

EFFECTIVE DATE: Sections 1 and 2 of the bill become effective when it becomes law. Section 3 of the bill becomes effective May 1, 2015, and applies to suspensions issued on or after that date. Section 4 of the bill becomes effective May 1, 2015, and applies to contested cases brought on or after that date. The PCS adds that the remainder of the act is effective when it becomes law, which primarily impacts the effective date section of the bill.

¹ A contested case is defined in the APA as "an administrative proceeding ... to resolve a dispute between an agency and another person that involves the person's rights, duties, or privileges, including licensing or the levy of a monetary penalty." Article 3A of the APA, governing "other administrative hearings," sets forth a process for hearing contested cases by the board or agency that made the initial ruling at issue in the contested case.

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