



HOUSE BILL 290: Prohibit Powdered Alcohol

2015-2016 General Assembly

Committee:	House Alcoholic Beverage Control, if favorable, Health	Date:	April 15, 2015
Introduced by:	Reps. Willingham, L. Hall	Prepared by:	Chris Saunders Committee Counsel
Analysis of:	PCS to First Edition H290-CSTQ-9		

SUMMARY: *The Proposed Committee Substitute (PCS) for House Bill 290 would (i) prohibit the sale, possession, or consumption of powdered alcohol, (ii) provide 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 Procedure Act (APA), and (iii) provide that contested cases heard by the ABC Commission are covered by the Article of the APA that governs other administrative hearings.*

The PCS makes a technical change to the effective date.

CURRENT LAW: Powdered alcohol currently is not regulated in this State. Except for revocation of an ABC Commission permit in specific circumstances, for a confirmation that a permit applicant is current in filing and paying all applicable taxes, or when regarding a temporary permit, any ABC Commission action on issuance, suspension, or revocation of an ABC Commission permit is a contested case subject to the APA.

BACKGROUND: 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.

BILL ANALYSIS: Sections 1 and 2 of the PCS would define "powdered alcohol" to mean "any powder or crystalline substance capable of being converted into a liquid alcoholic beverage fit for human consumption" and prohibit the manufacture, sale, transportation, delivery, furnishing, purchase, consumption, and possession of powdered alcohol.

Section 3 of the PCS would provide that suspension of an 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 covered by the APA.

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

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EFFECTIVE DATE: Sections 1 and 2 of this act would be effective when the act becomes law. Section 3 of this act would become effective May 1, 2015, and would apply to suspensions issued on or after that date. Section 4 of this act would become effective May 1, 2015, and would apply to contested cases brought on or after that date.