



SENATE BILL 155: ABC Omnibus Legislation.

2017-2018 General Assembly

Committee:		Date:	June 27, 2017
Introduced by:	Sens. Gunn, Blue, Harrington	Prepared by:	Susan Sitze Staff Attorney
Analysis of:	Fourth Edition		

OVERVIEW: *Senate Bill 155 would make various changes to the alcoholic beverage control commission laws as detailed further in the Bill Analysis portion of this summary.*

Finance Impact

The bill contains the following provisions with financial impact:

- *Section 2 creates a spirituous liquor special event permit with a one-time fee of \$200.*
- *Section 3 creates a special auction permit with a per event fee of \$750.*
- *Section 7 would allow retail businesses to obtain an on-premises unfortified wine permit, which has a \$400 annual fee.*
- *Section 12 would allow brewery taprooms to sell alcoholic beverages other than their own products upon obtaining the appropriate permits. The fees would vary depending on the type of permits they choose to obtain. On and off-premises malt beverage and unfortified wine permits are \$400 per year. Mixed beverage permits are \$1,000 per year.*

CURRENT LAW AND BILL ANALYSIS:

Distillery Permit Amendments

Section 1 would allow the holder of a distillery permit to sell spirituous liquor in closed containers at wholesale or retail, subject to the laws of other jurisdictions, for delivery outside the State. The price for sale for delivery outside the State would be the distiller's price. This section would also allow the holder of a distillery permit to sell up to five bottles of spirituous liquor per year at the distillery to each consumer who takes a tour of the distillery. Under current law, the holder of a distillery permit may sell one bottle of spirituous liquor per year per consumer at the distillery. This section would also make two conforming changes and direct the ABC Commission to amend its rules consistent with this section.

This section would become effective July 1, 2017.

Create Spirituous Liquor Special Event Permit to Allow Distilleries to Give Free Tastings

Section 2 would establish a spirituous liquor special event permit with a fee of \$200. The holder of a supplier representative permit, a broker representative permit, or a distillery permit would be eligible to obtain a spirituous liquor special event permit. The permit would allow the permittee or the permittee's agent to give free tastings of spirituous liquors at trade shows, festivals, and other events. Several limitations would apply to any consumer tasting conducted under the permit, including:

Karen Cochrane-Brown
Director



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919-733-2578

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- The spirituous liquor may be poured only by the permit holder or an employee or authorized agent of the permit holder who is at least 21 years old.
- Each consumer is limited to one 0.25 ounce tasting sample of any product available for sampling, and the total amount of samples consumed by each consumer may not exceed 1.0 ounces.
- Tastings must take place within a designated tasting area at the venue.
- Tastings may be conducted only in a jurisdiction that has approved the sale of mixed beverages.

Allow Sale of Specified Alcoholic Beverages at Auction by Licensed Auctioneers

Section 3 would establish a new special auction permit with a fee of \$750. Only an auction firm or auctioneer licensed by the North Carolina Auctioneers Commission would be eligible to obtain the permit. The permit would allow the permittee to sell at auction wine, decorative decanters of spirituous liquor, or antique spirituous liquor. The permit would be valid only for the specific auction named in the permit.

This section would become effective October 1, 2017.

Allow Restaurants to Sell Alcoholic Beverages Before Noon on Sunday, Subject to Local Government Approval

Section 4 would allow counties, cities, and the Eastern Band of Cherokee Indians to adopt an ordinance allowing permittees to sell alcoholic beverages beginning at 10:00 A.M. on Sunday morning, pursuant to any permit held by the permittee. Under current law, alcoholic beverages may not be sold or consumed on any licensed premises before noon on Sunday.

Authorize Sale of Crowlers by Retail Permittees

Section 5 would remove the requirement that non-original manufacture's containers authorized for retail sale for consumption off premises be "resealable." This change would allow the sale of "crowlers," which are generally 32 ounce cans sealed on the premises of the permittee.

Authorize Off-site Storage Location for Breweries, Wineries, and Distilleries

Section 6 would allow a brewery, winery, or distillery to store alcoholic beverages it produces at an off-site storage location approved by the Alcohol and Tobacco Tax and Trade Bureau. The permittee must notify the Commission of the location and the off-site storage location would be considered part of the brewery, winery, or distillery's premises for purposes of permitting and inspections, etc.

Authorize Sale of Unfortified Wine on Premises by Retail Businesses

Section 7 would authorize retail businesses to obtain an on-premises unfortified wine permit.

Authorize Tastings During Brewery Tours

Section 8 would amend the statute allowing breweries to give its products to its employees and guests for consumption on premises, to authorize giving their product to customers, visitors, and employees. This would clearly allow tastings of products to occur on premises as a part of any brewery tour.

Authorize Certain Persons to Sample Alcoholic Beverages for Purposes of Sensory Analysis, Quality Control, or Education

Section 9 would allow a commercial permittee, its agent or employee, to sample alcoholic beverages on premises for purposes of sensory analysis, quality control, or education.

Amend Homebrewing Laws

Section 10 would remove the requirement that home brewed wine be a "native" wine and that the only alcohol content be produced by natural fermentation. This section would also allow home brewers of

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both malt beverages and wine to share their product at organized affairs, exhibitions, or competitions and specify that wines and malt beverages made pursuant to this section may not be sold or offered for sale.

Clarify Law Governing Relationship Between Breweries and Affiliated Retailers

Section 11 would exempt breweries from limitations on lending or giving things of value to wholesalers or retailers with respect to premises operated by the brewery either on their own premises or one of the additional retail locations certain breweries are authorized to operate.

Authorize Brewery Taprooms to Sell Other Alcoholic Beverages upon Receiving the Appropriate Permit

Section 12 would allow breweries to sell at the brewery, any alcoholic beverage approved for sale in North Carolina, in addition to their own products, after obtaining the appropriate permit, if the type of alcoholic beverage is approved for sale in that area.

Authorize Breweries with Production Facilities in Other States to Distribute to Wholesalers

Section 13 would allow breweries to receive their products manufactured in other states and distribute them to in state wholesalers.

Authorize Farm Breweries

Section 14 would allow breweries that produce agricultural products for use in the manufacture of malt beverages to sell their products at the brewery, after obtaining the appropriate permit, even in jurisdictions that do not allow the sale of malt beverages upon approval of the governing body of the city where the brewery is located or, if the brewery is not located in a city, the governing body of the county where the brewery is located. Approval must be done by resolution of the governing body at a public meeting, after a public hearing has been held.

Amend Law Governing Brewery Sales at Additional Retail Locations

Section 15 would make the following changes:

- Allow additional retail locations operated by a brewery to sell products made by a contract brewery.
- Only require additional retail locations operated under a different trade name to offer competitive malt beverage products.
- Clarify that sales at the brewery's additional retail locations are not considered a wholesale sale for purposes of the franchise agreement statutes.

Tax Compliance and Reports

Section 16 would require the Commission to confirm the tax compliance of brewery, and distillery permit holders by October 1 of each year and authorize the Commission to suspend a brewery, or distillery permit until the Department of Revenue confirms the permit holder's tax compliance. This section would also require brewery permit holders who obtain a malt beverage wholesaler permit to make submit a 12-month sales report to the Commission within 60 days of the Commission's request. Any information contained the sales report would be confidential and not public record.

Simplify Local Licensing Applications

Section 17 would clarify that an ABC permittee applying for a local license shall not be required to submit additional documentation and the license shall be issued upon providing a copy of the completed application for an ABC permit, the ABC permit for visual inspection, and payment of the prescribed tax.

Clarify Winery Special Event Locations

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Section 18 would add farmers markets to the list of locations at which a winery may provide free tastings of its wine and sell its wine by the glass or in closed containers pursuant to a winery special event permit.

Section 19 of the bill would direct the ABC Commission to adopt rules to implement this act and make ineffective any current rules or policies that do not comply.

Section 20 of the bill would provide that the headings in the bill have no effect.

EFFECTIVE DATE: Except as otherwise provided, this act is effective when it becomes law.