



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

HOUSE BILL 1082: ABC Administrative Penalties/PED Study.

2019-2020 General Assembly

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| Committee: | House Judiciary. If favorable, re-refer to Rules, Calendar, and Operations of the House | Date: | June 4, 2020 |
| Introduced by: | Reps. Hurley, Lucas | Prepared by: | Susan Sitze |
| Analysis of: | First Edition | | Staff Attorney |

OVERVIEW: House Bill 1082 would direct the Alcoholic Beverage Control Commission (ABC Commission) to do the following:

- Create a policy that establishes a rationale for administrative penalties and improves transparency for permittees.
- Study and report on the feasibility of implementing a throughput-based or sales-based penalty structure for determining monetary penalties for administrative violations.
- Include effectiveness criteria on its web site to evaluate the effectiveness of administrative penalties at reducing the number of repeat offenders.

These are recommendations of the Joint Legislative Program Evaluation Oversight Committee.

CURRENT LAW: G.S. 18B-104 authorizes the ABC Commission to take the following actions against ABC permittees for violation of the ABC laws:

- Suspend the permit for a definite period, not to exceed three years.
- Revoke the permit.
- Fine the permittee in an amount determined by the type of violation and whether the permittee has had a previous violation within three years.
- Suspend the permit and impose a fine.

BILL ANALYSIS:

Section 1 of House Bill 1082 would require the ABC Commission to do the following:

- Develop a written policy detailing guidelines for determining what action the Commission should take in response to a violation of the ABC laws, including when it is appropriate for the Commission to deviate from those guidelines or differ in severity of action for similar violations, and providing justification for dismissal of cases alleging violations. The policy must be posted on the Commission's web site, and notice must be given at least 30 days before any revision of the policy.
- Provide a report on the Commission's website by July 1 of each year of the following information for the previous fiscal year:
 - The total percentage of permittees for which a violation has been alleged.

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- The total percentage of permittees for which a second or subsequent violation has been alleged.
- The total percentage of violations alleged that are consumption related.
- The total number of reported violations that were dismissed by the Commission, and the justification for each dismissal.

Section 2 of House Bill 1082 would require the ABC Commission to study the feasibility of setting the amount of fines assessed by the Commission for violation of the ABC laws based on either the value of alcohol sales made by the permittee or the volume of alcohol sold by the offending permittee. The Commission shall report its findings, including any recommended legislative changes to the House of Representatives Committee on Alcoholic Beverage Control by December 1, 2020.

EFFECTIVE DATE: This act is effective when it becomes law. The Commission shall post the policy required under G.S. 18B-104(f), as enacted in Section 1 of this act, no later than October 1, 2020.

BACKGROUND: The Program Evaluation Division report presented to the Joint Legislative Program Evaluation Oversight Committee can be found at the following link - https://www.ncleg.gov/PED/Reports/2020/ABC_Violations.html