



HOUSE BILL 211: Social District/Common Area Clarifications.

2021-2022 General Assembly

Committee: Senate Rules and Operations of the Senate	Date: June 27, 2022
Introduced by: Reps. Moffitt, Setzer, Mills, Zenger	Prepared by: Chris Saunders
Analysis of: Fifth Edition	Staff Attorney

OVERVIEW: *The Proposed Committee Substitute (PCS) to House Bill 211 would recodify and revise the statutes related to common area entertainment permits and social districts to make them more uniform and clarify the areas that can be included under a common area entertainment permit or a social district.*

CURRENT LAW:

In 2019, the General Assembly created a "common area entertainment permit" that may be issued to the owner of a multi-tenant establishment with at least two tenants who are ABC permittees. Under current law, a "common area" includes "portions of a building or structure and outdoor areas that are used jointly by multiple businesses on a property or within a planned development project, whether such areas are under common ownership or are subject to cross access easements for use by multiple businesses." A shopping mall is deemed not to be a multi-tenant establishment if more than 50% of the shopping mall's common areas, measured in acreage or square footage, are enclosed and air conditioned. The permit allows customers of tenants holding ABC permits to take alcoholic beverages sold in a specific container off the tenants' premises into a common area in the multi-tenant establishment that is designated for consumption of alcoholic beverages during specific days and hours set by the owner of the multi-tenant establishment.

In 2021, the General Assembly authorized local governments to adopt ordinances to create "social districts," which are defined under current law as "a defined outdoor area in which a person may consume alcoholic beverages sold by a permittee. This term does not include the permittee's licensed premises or an extended area allowed under G.S. 18B-904(h)." A social district is active during days and hours specified in the ordinance adopted by the local government. Like the common area entertainment permit, the designation of a social district allows customers of ABC permittees contiguous to the social district to take alcoholic beverages sold in a specific container off the permittees' premises into the social district.

BILL ANALYSIS:

Section 1 of the PCS would make a technical change to clarify that a person may possess an open container of fortified wine or spirituous liquor in a social district or in a designated consumption area under a common area entertainment permit.

Section 2 would repeal the existing common area entertainment permit statutes and recodify the permit to clarify what the permit authorizes. This permit would not limit the possession or consumption of alcoholic beverages otherwise authorized by law.

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The permit would continue to be issued to the owner or property owners' association of a multi-tenant establishment, but a common area would be defined as "an indoor or outdoor portion of a multi-tenant establishment that is open to the public" and the permit holder could designate common areas to be "designated consumption areas" where consumption of alcoholic beverages is allowed. The designated consumption area could include (i) any indoor or outdoor area of a permittee business that is contiguous to a designated common area or (ii) any indoor or outdoor area of a non-permittee business that is contiguous to the designated common area and that chooses to allow customers to bring open containers of alcoholic beverages onto its premises. A permittee could be included in the designated consumption area even if it chooses to exclude open containers of alcoholic beverages purchased from other permittees. Non-permittee businesses would not be responsible for enforcing the alcohol laws but would have to allow law enforcement officers access to the areas of the premises accessible by customers.

The designated consumption areas would have to be submitted to and approved by the ABC Commission and would have to be marked in a way that clearly indicates to customers where the boundaries of the designated consumption area are located. Open containers sold by a permittee for consumption in a designated consumption area must be in a container meeting several criteria, and the possession of closed containers would be allowed to the extent otherwise allowed by law.

Section 3 would repeal the existing social district statute in Chapter 18B and recodify it to clarify what is authorized in a social district. The designation of a social district would not limit the possession or consumption of alcoholic beverages otherwise authorized by law.

A local government would be authorized to adopt an ordinance to designate one or more defined areas to be social districts, which could include both indoor and outdoor areas of permittee and non-permittee businesses within or contiguous to the defined area during the days and hours set by the local government. A permittee could be included in the social district even if it chooses to exclude open containers of alcoholic beverages purchased from other permittees in the social district. Non-permittee businesses would not be required to allow customers to bring open containers of alcoholic beverages onto their premises, but would not be responsible for enforcing the alcohol laws if they chose to do so. However, they have to allow law enforcement officers access to the areas of the premises accessible by customers.

The local government would have to submit maps of the social districts to the ABC Commission and would have to be mark the social districts in a way that clearly indicates to customers where the boundaries of the social district are located. Open containers sold by a permittee for consumption in a social district would have to be in a container meeting several criteria, and the possession of closed containers would be allowed to the extent otherwise allowed by law. Tenants of a multi-tenant establishment located within or contiguous to a social district could participate in the social district regardless of whether the multi-tenant establishment has a common area entertainment permit.

This section would also clarify that the ABC Commission may issue special one-time permits for qualifying applicants for events taking place fully or partially inside a social district. The permittee would be required to notify the Commission that the event is to occur in a social district during times when the social district is active. This section would also allow the holder of a winery special event permit, malt beverage special event permit, or spirituous liquor special event permit to sell and serve products at special events taking place inside a social district, and allow the holder of a mixed beverages catering permit to serve spirituous liquor to guests at events taking place inside a social district.

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Section 4 would provide that if a social district directly borders a designated consumption area established by the holder of a common area entertainment permit, the multi-tenant establishment and the local government that established the social district may enter into a memorandum of understanding that allows open containers approved for consumption in either the social district or designated consumption area to be possessed and consumed in both the social district and the designated consumption area during times when both the social district and designated consumption area are active.

EFFECTIVE DATE: This act would be effective when it becomes law.