



HOUSE BILL 768: 2022 ABC Omnibus.

2021-2022 General Assembly

Committee:		Date:	July 14, 2022
Introduced by:		Prepared by:	Chris Saunders Staff Attorney
Analysis of:	S.L. 2022-44		

OVERVIEW: *S.L. 2022-44 does all of the following:*

- *Repeals the limited winery permit.*
- *Establishes a new packaging and logistics permit for packagers who label and package alcoholic beverages from suppliers.*
- *Repeals the purchase-transportation permit and the commercial transportation permit.*
- *Allows a transition period for ABC permits after a change in ownership of a permitted establishment.*
- *Allows alcohol sales at professional sporting events occurring at a stadium on the campus of certain community colleges.*
- *Repeals the term "private bar" and creates a new definition for "bar" to eliminate the membership requirement.*
- *Allows a distillery to obtain mixed beverages catering permits and provide spirituous liquor for an event being catered by a hotel or restaurant.*
- *Allows a distillery to obtain a mixed beverages permit and sell mixed beverages containing the spirituous liquor owned by the distillery, regardless of the results of any local mixed beverages election.*

Section 2 of this act became effective August 1, 2022. The remainder of this act became effective July 7, 2022.

CURRENT LAW AND BILL ANALYSIS:

REPEAL LIMITED WINERY PERMIT

Section 1 of S.L. 2022-44 repeals the limited winery permit. The limited winery permit was enacted in 1981 to allow wineries to give free tastings. Subsequently, the ABC Commission rules have been updated to allow retail wine or malt beverage permittees to offer tastings, so the limited winery permit has become obsolete.

CREATE PACKAGING AND LOGISTICS PERMIT

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Section 2 creates a new packaging and logistics permit for packagers who label, package, or combine a producer's products in closed containers, such as in a variety pack. This permit costs \$300 and authorizes the permittee to:

- Receive, in closed containers, malt beverages, unfortified wine, fortified wine, and spirituous liquor from a supplier, for the purpose of packaging, repackaging, labeling, relabeling, storage, and shipping.
- Package, repackage, label, and relabel malt beverages, unfortified wine, fortified wine, and spirituous liquor received from a supplier.
- Subject to the record-keeping requirements of G.S. 18B-1115, transport into or out of the State in closed containers the maximum amounts of malt beverages, unfortified wine, fortified wine, and spirituous liquor allowed under federal law, if the transportation is related to the packaging, labeling, sale, or storage permitted by this section.
- Sell, deliver, and ship malt beverages, unfortified wine, and fortified wine as provided in this section in closed containers to suppliers and wholesalers licensed under this Chapter.
- Sell, deliver, and ship spirituous liquor as provided in this section in closed containers at wholesale to exporters and local boards within the State.
- Subject to the laws of other jurisdictions, sell, deliver, and ship malt beverages, unfortified wine, fortified wine, and spirituous liquor as provided in this section to out-of-State suppliers, or at wholesale or retail to private or public agencies or establishments of other states or nations.

A packaging and logistics permit does not authorize the manufacture of alcoholic beverages, and the permittee is not allowed to sell, deliver, or ship alcoholic beverages directly to consumers or to retail establishments in this State.

This section became effective August 1, 2022.

REPEAL PURCHASE-TRANSPORTATION PERMIT

Under prior law, it was unlawful to purchase and transport more than 80 liters of malt beverages or malt beverages in kegs, 50 liters of unfortified wine, or more than 8 combined liters of fortified wine or spirituous liquor without a purchase-transportation permit issued by an ABC store or a distillery. The purchase-transportation permit allowed the purchase and transportation of up to 100 liters of unfortified wine, 40 combined liters of fortified wine or spirituous liquor, and malt beverages in kegs. There is also a commercial transportation permit with similar quantity limitations.

Section 3 repeals the purchase-transportation permit, the limits on the amount of alcoholic beverages that can be purchased and transported, and make conforming changes throughout Chapter 18B of the General Statutes.

TRANSITION PERIOD FOR ABC PERMITTEE OWNERSHIP CHANGES

Under prior law, all ABC permits for an establishment automatically expired if there is a change in ownership of the establishment; a change in the membership of the firm owning the establishment involving the acquisition of a 25% or greater share in the firm by someone who did not previously own a 25% or greater share; or 25% or more of the stock of the corporate permittee owning the establishment is

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acquired by someone who did not previously own 25% or more of the stock. Additionally, an ABC permit cannot be transferred from one person to another or from one location to another.

Section 4 provides that any person who becomes lawfully entitled to the use and control of the premises of a permitted establishment through contract, lease, management agreement, or change of ownership or transfer of business would be allowed to continue to operate the establishment to the same extent as the prior permittee until the person receives a new permit, subject to these limitations:

- The person must provide written or electronic notice to the Commission of the change in ownership, and cannot operate the establishment in the same manner as the previous permittee until the person has provided notice.
- The person must submit a new permit application to the Commission within 60 days of the change of ownership. If the person does not apply for a new permit within 60 days, the permits will expire automatically.
- The 60-day period to file a new permit application can only be allowed once per 24-month period unless the establishment requests and the Commission grants a waiver of the 24-month requirement. The Commission must grant a waiver of the 24-month requirement if it determines that the public health, safety, and welfare would not be harmed by granting the waiver.
- This provision applies only to establishments that hold ABC permits that are in good standing and that have not been found responsible by the Commission or a court of competent jurisdiction of a gambling, assault, disorderly conduct, prostitution, or controlled substances violation within 12 months prior to the date the non-permitted person becomes entitled to use and control of the establishment.

ALLOW ALCOHOL SALES AT PROFESSIONAL SPORTING EVENTS OCCURRING ON CERTAIN COMMUNITY COLLEGE CAMPUSES

Under current law, businesses on the campus or property of a public school, college, or university cannot receive an ABC permit without a specific exception. There is an exception for a stadium, athletic facility, or arena on the campus or property of a public college or university, if the Board of Trustees of the public college or university has voted to allow the issuance of permits for use at that stadium, athletic facility, or arena. However, community colleges are specifically excluded from this exception.

Section 5 allows the sale of malt beverages, unfortified wine, fortified wine, or mixed beverages for consumption on the premises at a professional sporting event held at a stadium owned by a community college that is located in a township that has previously voted to allow the operation of ABC stores, if the Board of Trustees of the community college has voted to allow the issuance of permits for use at the stadium. A business operating at the stadium must obtain the proper permits, and the boundary of the permitted area of the stadium must be included in the permit application.

AMEND PRIVATE BAR DEFINITION

Section 6, as amended by S.L. 2022-51, repeals the term "private bar", and creates a new definition for bar, defining it as "An establishment that is primarily engaged in the business of selling alcoholic beverages for consumption on the premises."

ALLOW DISTILLERIES TO OBTAIN MIXED BEVERAGES CATERING PERMITS

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Section 7 authorizes a distillery to obtain a mixed beverages catering permit and bring spirituous liquor onto the premises where a hotel or restaurant is catering food for an event and serve the liquor to guests at the event, regardless of whether the hotel or restaurant also holds a mixed beverages catering permit.

CREATE PARITY WITH BREWERIES AND WINERIES BY ALLOWING DISTILLERIES TO SELL MIXED BEVERAGES REGARDLESS OF THE RESULTS OF A LOCAL MIXED BEVERAGE ELECTION

Under current law, the holder of a brewery permit can obtain an on-premises malt beverages permit and sell the malt beverages owned by the brewery at the brewery for on- or off-premises consumption regardless of the results of any local malt beverage election. Similarly, the holder of an unfortified winery permit or fortified winery permit can obtain an on-premises permit and sell the wine owned by the winery at the winery for on- or off-premises consumption regardless of the results of any local wine election.

Section 8 allows a distillery located in an area where the sale of mixed beverages has not been approved by a local election to obtain a mixed beverages permit and sell mixed beverages containing only spirituous liquor produced at the distillery for consumption on the premises.

EFFECTIVE DATE: Except as otherwise provided, this act became effective July 7, 2022.