



# HOUSE BILL 781: Bring Business Back to Downtown.

2021-2022 General Assembly

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<b>Committee:</b>	House Rules, Calendar, and Operations of the House	<b>Date:</b>	May 5, 2021
<b>Introduced by:</b>	Reps. Moffitt, Reives, Tyson, Moss	<b>Prepared by:</b>	Chris Saunders
<b>Analysis of:</b>	First Edition		Staff Attorney

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**OVERVIEW:** *House Bill 781 would allow local governments to adopt an ordinance designating a social district in which alcoholic beverages may be sold, possessed, and consumed, subject to certain restrictions. The bill would also allow local governments to adopt an ordinance to allow ABC permittees to utilize an area that is not part of the permittee's licensed premises for the outdoor possession and consumption of alcoholic beverages sold by the permittee.*

**CURRENT LAW:** G.S. 18B-102 generally prohibits the sale, possession, and consumption of alcoholic beverages except as authorized by the ABC law. Under current law, local governments may, by ordinance, regulate or prohibit the consumption and possession of open containers of malt beverages and unfortified wine on public streets and on property owned or controlled by the local government.

G.S. 18B-101(12a) generally defines "premises" for purposes of the ABC statutes as "a fixed permanent establishment, including all areas inside or outside the licensed establishment, where the permittee has control through a lease, deed, or other legal process." Executive Order 169 temporarily allows an on-premises ABC permit holder to include additional outdoor seating as part of their licensed premises if that space is approved by the appropriate local government entity. If the extension is not covered by a deed or lease, the permittee must obtain the written permission of the owner of that property.

## **BILL ANALYSIS:**

**Section 1** of House Bill 781 would allow local governments to adopt an ordinance designating a "social district," which would be a defined outdoor area in which a person may consume alcoholic beverages sold by a permittee. This term would not include the permittee's licensed premises or an extended area allowed by Section 2 of the bill. For purposes of this section, a "permittee" includes the holder of an on-premises malt beverage, on-premises unfortified wine, on-premises fortified wine, mixed beverages, or distillery permit.

A social district must be clearly defined with conspicuously posted signs indicating:

- Which area is included in the social district, the days and hours during which alcoholic beverages may be consumed in the social district.
- The telephone number for the Alcohol Law Enforcement Division (ALE Division) of the Department of Public Safety and the law enforcement agency with jurisdiction over the area comprising the social district.

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- A clear statement that an alcoholic beverage purchased for consumption in a social district must be consumed in the social district and must be disposed of before the person in possession of the alcoholic beverage exits the social district, unless the person is reentering the licensed premises where the alcoholic beverage was purchased.

The local government must establish and post management and maintenance plans for the social district, along with a rendering of the boundaries of the social district and times during which alcoholic beverages may be consumed in the social district, on the local government's website. The social district must be maintained in a way that protects public health and safety.

The local government must submit to the ABC Commission a detailed map of the social district with the boundaries of the social district clearly marked, and the times during which alcoholic beverages may be consumed in the social district.

A permittee located in or contiguous to a social district may sell alcoholic beverages for consumption within the social district. The alcoholic beverages must be sold and served on the permittee's licensed premises and must be served in a non-glass container smaller than 16 ounces that clearly identifies the permittee, a logo identifying the social district, and displaying the statement "Drink Responsibly – Be 21." A permittee may not allow a person to enter or reenter its licensed premises with an alcoholic beverage not sold by the permittee.

The following requirements would apply for possession and consumption of alcoholic beverages in a social district:

- The alcoholic beverage must be purchased from a permittee located in or contiguous to the social district.
- The alcoholic beverage must be in a container meeting the requirements described above.
- The alcoholic beverage may be possessed and consumed only during the times allowed by ordinance.
- A person may consume only one alcoholic beverage at a time, but a permittee may sell and deliver not more than two drinks of malt beverage, unfortified wine, or fortified wine to a single patron in accordance with G.S. 18B-1010.
- An alcoholic beverage in a person's possession must be disposed of prior to exiting the social district unless the person is reentering the licensed premises where the alcoholic beverage was purchased.

The ABC may adopt rules to impose additional requirements beyond those described in this section.

**Section 2** would permanently allow local governments to adopt an ordinance authorizing ABC permittees to utilize an area that is not part of the permittee's licensed premises for the outdoor possession and consumption of alcoholic beverages sold by the permittee. A permittee who uses the expanded premises would be subject to all of the following requirements:

- The local government must have adopted an ordinance allowing permittees to expand their licensed premises.
- If the property to which the premises will be extended is not owned by the permittee, the permittee must have written permission from the property owner.

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- The permittee must provide written notification, including a diagram of the extended premises and, if applicable, a copy of the written permission of the property owner, to the district office of the ALE Division and the local law enforcement agency with jurisdiction over the premises.
- The permittee must visibly and vertically mark off the extended area so that a reasonable person can distinguish between the extended area and a sidewalk or walkway.
- The permittee must maintain a diagram on the licensed premises detailing the size and location of the extended area, which must have the boundaries of the extended area clearly marked, specify the types of barriers used to mark the boundaries of the extended area, and specify the numbers of tables and seats placed in the extended area.
- The extended area may only be used to increase the ability of the permittee's customers to maintain social distancing, and may not be used to increase the occupant load for the licensed premises.
- The extended area must comply with all applicable laws governing accessibility.
- A person may not exit an extended area with an alcoholic beverage purchased from the permittee, except to enter a social district or to reenter the licensed premises.
- Any additional requirements imposed by the ABC Commission through the adoption of rules.

**Section 3** would explicitly provide that the ALE Division has jurisdiction to enforce the alcohol laws in social districts and extended premises authorized by this bill.

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