



SENATE BILL 470: ABC Technical and Other Changes.

2021-2022 General Assembly

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| Committee: | | Date: | July 14, 2022 |
| Introduced by: | | Prepared by: | Chris Saunders Staff Attorney |
| Analysis of: | S.L. 2022-51 | | |

OVERVIEW: *S.L. 2022-51 does all of the following:*

- *Makes several technical and conforming changes to laws amended in the 2021 Regular Session by S.L. 2021-150 (House Bill 890).*
- *Removes the 25% cap on gross receipts from sales of alcoholic beverages on tour boats.*
- *Defines the term "supplier," for purposes of a supplier's financial interest in a wholesaler.*
- *Exempts the ABC Commission from rulemaking under the Administrative Procedure Act with respect to approval of alcoholic beverages to be sold in ABC stores and setting prices of alcoholic beverages.*
- *Allows the ABC Commission to conduct training classes for individuals delivering under a delivery service permit.*
- *Allows recyclable spirituous liquor containers to be used for display purposes.*
- *Reduces the indoor seating requirement for a restaurant from at least 36 people to at least 10 people for purposes of ABC permitting and clarifies that a restaurant is not required to have kitchen operations open at all times it is open to the public in order to qualify as a restaurant.*
- *Exempts bar areas and similar areas in establishments from health inspections.*
- *Allows industry members to give, lend or sell branded plug-in coolers to hold and display products in ABC stores, provided that the coolers are under the dollar limits set forth by the Commission for product displays.*
- *Amends the definition of a "bar", as enacted in House Bill 768, to be an establishment that is primarily engaged in the business of selling alcoholic beverages for consumption on the premises.*
- *Allows for the sale of malt beverages in containers as small as 50 milliliters.*
- *Updates the name of the North Carolina Propane Gas Association, Inc. to "Southeast Propane Alliance" and directs the Revisor of Statutes to make conforming changes.*

This act has various effective dates, please see the full summary for more information.

Jeffrey Hudson
Director



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Legislative Analysis
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CURRENT LAW AND BILL ANALYSIS:

Section 1 of S.L. 2022-51 clarifies ABC rulemaking authority with respect to online orders at ABC stores and delays the effective date of the online order section in S.L. 2021-150 (House Bill 890) to October 1, 2022.

Section 2 clarifies personalized labeling allowed on bottles of spirituous liquor sold at a distillery.

Section 3 makes a technical change to the spirituous liquor vendor permit established in S.L. 2021-150 to reflect that a nonresident spirituous liquor vendor may only sell its products in this State through the State warehouse.

Section 4 makes a definition of "brokerage" apply to all of Chapter 18B of the General Statutes.

Section 5 makes a conforming change to clarify that a spirituous liquor special event permit does not allow the sale of spirituous liquor in closed containers.

Section 6 clarifies that alcoholic beverages sold at distilleries for consumption on the premises may be sold, possessed, or consumed on any part of the licensed premises that is open to the public.

Section 7 makes a technical change to the election changes in S.L. 2021-150 and provides that approval of mixed beverages allows the sale of fortified wine in addition to malt beverages and unfortified wine.

Section 8 directs a business that opts to expand its licensed premises for the outdoor possession and consumption of alcoholic beverages to submit a diagram of the expanded premises to the ABC Commission, in addition to the ALE Division and local law enforcement, and makes a conforming change.

Section 9 excludes ice cream from the definition of "alcohol consumable" until December 1, 2022. This section is effective retroactively to September 10, 2021, the date that S.L. 2021-150 was signed into law.

Section 10 removes the 25% cap on gross receipts from sales of alcoholic beverages on tour boats.

Section 11 provides that the term "supplier," for purposes of a supplier's financial interest in a wholesaler, means a manufacturer, bottler, importer, or owner of one or more brands of malt beverages, unfortified wine, or fortified wine distributed by its wholesaler. The term does not include a wholesaler that (i) possesses a wine importer permit or a malt beverages importer permit or (ii) is an importer in another state, provided such malt beverages, unfortified wine, or fortified wine are transferred to it through an unaffiliated and independent third party.

Section 12 exempts the ABC Commission from rulemaking under the Administrative Procedure Act with respect to approval of alcoholic beverages to be sold in ABC stores and setting prices of alcoholic beverages.

Section 13 allows the ABC Commission to conduct training classes for individuals delivering under a delivery service permit. Under prior law, the Commission only approved courses conducted by the holder of a delivery service permit. This section becomes effective October 1, 2022, and applies to individuals successfully completing a course conducted or approved by the Commission related to the delivery of alcoholic beverages on or after that date.

Section 14 makes an exception to the alcoholic beverage container recycling program to allow recyclable spirituous liquor containers to be used for display purposes.

Section 15 reduces the indoor seating requirement for a restaurant from at least 36 people to at least 10 people for purposes of ABC permitting. It also clarifies that a restaurant is not required to have kitchen operations open at all times it is open to the public in order to qualify as a restaurant.

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Section 16 exempts bar areas and similar areas in establishments from health inspections. Bar areas are those where alcoholic beverages are prepared, poured, or mixed before service to customers, and food is not prepared, except for the preparation of garnishes for alcoholic beverages.

Section 17 allows industry members to give, lend or sell branded plug-in coolers to hold and display products in ABC stores, provided that the coolers are under the dollar limits set forth by the Commission for product displays

Section 18 amends the definition of a "bar", as enacted in House Bill 768, to be an establishment that is primarily engaged in the business of selling alcoholic beverages for consumption on the premises.

Section 19 allows for the sale of malt beverages in containers as small as 50 milliliters.

Section 20 updates the name of the North Carolina Propane Gas Association, Inc. to "Southeast Propane Alliance" and direct the Revisor of Statutes to make conforming changes.

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