



Economic and Job Growth for NC Distilleries - House Bill 460 / Senate Bill 155

04.06.2017

One of the significant alcohol bills being considered by the North Carolina General Assembly during the 2017 legislative session is the Economic and Job Growth for NC Distilleries bill. Also known as the “brunch bill” in the media, the bill should perhaps be better known for the favorable provisions it contains for the growth of North Carolina’s distilleries. If passed, the bill would authorize distilleries to increase direct sales from one to five bottles per person per year, allow distilleries to obtain special event permits, and authorize restaurants to sell alcohol at 10:00 am on Sundays, if authorized by city or county ordinance.

The bill was filed on 23 March 2017, passed its first reading, and was referred to the House Committee on Alcoholic Beverage Control on 27 March, where, if favorable, it will be referred to the House Finance Committee. If ultimately passed by the legislature and signed by the Governor, the bill would become law effective immediately.

This bill would make various changes to the North Carolina alcohol laws as detailed below:

Direct Sales by Distilleries. Section 1 of the bill authorizes distilleries to sell up to five bottles of liquor per calendar year for consumption off the premises to visitors who tour the distillery. Current law only allows distilleries to sell one bottle per person. Distilleries would still be required to maintain the same record-keeping requirements for sales. The North Carolina ABC Commission shall adopt temporary rules to implement this section, and the section becomes effective 1 July 2017.

Sales Out of State by Distilleries. Section 1 of the bill clarifies that North Carolina distilleries can sell liquor at wholesale or retail for delivery outside of North Carolina, subject to the laws of other states. Liquor sold for delivery outside the state shall be at the distiller’s price. The North Carolina ABC Commission shall adopt temporary rules to implement this section, and the section becomes effective 1 July 2017.

Consumer Tastings at ABC Stores. Sections 1 and 2 authorize distilleries to hold free

consumer tastings at ABC stores. Local ABC boards can impose written conditions on tastings. The North Carolina ABC Commission shall adopt temporary rules to implement this section, and the section becomes effective 1 July 2017.

Spirituos Liquor Special Event Permits. Section 2 of the bill authorizes distilleries to obtain a spirituous liquor special event permit to give free tastings at ABC stores, trade shows, conventions, shopping malls, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission. Under the permit, the distillery is solely responsible for conducting the tasting, and its employees pouring samples must be at least 21. Samples are restricted to 0.25 ounces of “any product made available for sampling,” and samples offered to and consumed by each consumer shall not exceed 1.5 ounces of liquor in a calendar day. A venue or festival hosting a distillery can only host three distilleries at any event, unless more are approved by the local ABC board. Distilleries must be in a designated area of the event. Events with distilleries cannot be held in dry cities or counties. Distilleries must provide written notice of tastings to the ABC Commission at least 48 hours before the tasting. Distilleries must maintain records for one year of each consumer tasting conducted. While coming with more restrictions, the authorization of a distillery special event permit brings distilleries in line with breweries and wineries, which were already authorized by law to obtain special event permits. Expect to see distilleries coming soon to your favorite beer festivals and events. Section 1 of the bill provides that the North Carolina ABC Commission shall adopt temporary rules, and the section becomes effective 1 July 2017.

Special Auction Permits. Section 3 of the bill authorizes a new special auction permit to allow auction firms and licensed auctioneers to sell “any quantity” of malt beverages, unfortified wine, fortified wine, and spirituous liquors at auction. Special auctions may only be held in cities and counties that have authorized alcohol sales. Auctions may receive bids in person, or by telephone, fax, or online. The special auction permit is in the form of a “special one-time permit,” and there is no current statutory limit on the number of special auction permits that can be obtained. Individuals purchasing alcohol from auctioneers are limited to the quantities already set forth by statute for individual purchases. If passed, this portion of the bill would become effective 1 October 2017.

Restaurant “Brunch” Alcohol Sales. Section 4 authorizes “restaurants” to sell malt beverages, unfortified wine, fortified wine, and spirituous liquor for on-premise consumption starting at 10:00 a.m. on Sundays, if authorized by city or county ordinance. Current state law prohibits all alcohol sales before noon on Sundays, with certain exceptions for stadiums. This section of the bill only applies to “restaurants,” which are defined under North Carolina ABC law as “[a]n establishment substantially engaged in the business of preparing and serving meals....and whose “gross receipts from food and nonalcoholic beverages shall be not less than thirty (30%) of the total gross receipts from food, nonalcoholic beverages, and alcoholic beverages.” Restaurants “shall also have a kitchen and an inside dining area with seating for at least 36 people.” While this Section of the bill becomes effective immediately if signed by the Governor, restaurants must wait until the applicable local government body passes an

ordinance allowing the Sunday brunch alcohol sales in its jurisdiction. Interestingly, stadiums, ballparks, and “other similar public places” with a seating capacity of 3,000 or more during professional sporting events are already allowed to sell alcohol for on-premise consumption “one hour earlier” than permitted under the current Sunday alcohol law, pursuant to G.S. 18B-1006(q). If a local governing body in which a stadium or ballpark is located passes an ordinance to allow a 10:00 a.m. Sunday start for restaurants, then ballparks, stadiums, and other similar public places in that jurisdiction could potentially start alcohol sales one hour earlier, at 9:00 a.m., on gamedays.

Related People

- M. Keith Kapp – 919.981.4024 – kkapp@williamsmullen.com
- Jennifer A. Morgan – 919.981.4051 – jmorgan@williamsmullen.com