

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 65

Short Title: ABC Administrative Penalties/PED Study. (Public)

Sponsors: Representatives Hurley and Lucas (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Alcoholic Beverage Control, if favorable, Rules, Calendar, and Operations of the House

February 11, 2021

A BILL TO BE ENTITLED

AN ACT DIRECTING THE ALCOHOLIC BEVERAGE CONTROL COMMISSION TO (I) CREATE A POLICY THAT ESTABLISHES A RATIONALE FOR ADMINISTRATIVE PENALTIES AND IMPROVES TRANSPARENCY FOR PERMITTEES, (II) STUDY AND REPORT ON THE FEASIBILITY OF IMPLEMENTING A THROUGHPUT-BASED OR SALES-BASED PENALTY STRUCTURE FOR DETERMINING MONETARY PENALTIES FOR ADMINISTRATIVE VIOLATIONS, AND (III) INCLUDE EFFECTIVENESS CRITERIA ON ITS WEBSITE TO EVALUATE THE EFFECTIVENESS OF ADMINISTRATIVE PENALTIES AT REDUCING THE NUMBER OF REPEAT OFFENDERS, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-104 reads as rewritten:

"§ 18B-104. Administrative penalties.

(a) Penalties. – For any violation of the ABC laws, the Commission may take any of the following actions against a permittee:

...

(4) Suspend the permittee's permit under subdivision (1) of this subsection and impose a fine under subdivision (3) or ~~(3a)~~ (3a) of this subsection.

...

(f) Policy. – The Commission shall develop a written policy detailing (i) the guidelines followed by the Commission in determining which action authorized under this section the Commission will take against a permittee for a first or repeat violation of the ABC laws, (ii) when it is appropriate for the Commission to deviate from the guidelines described in this subsection, (iii) the justification for any differences between the severity of the action taken by the Commission for similar violations of the ABC laws, and (iv) the justification for the Commission dismissing a case in which a violation of the ABC laws was alleged to have occurred. The policy required under this subsection shall be posted by the Commission on the Commission's website. At least 30 days prior to revising the policy required under this subsection, the Commission shall post on the Commission's website notice of the revision and justification for making the revision.

(g) Report. – By July 1 of each year, the Commission shall post the following information on its website:



- 1 (1) The total percentage of active or pending permittees for which the
2 Commission received a report of alleged violation of the ABC laws during the
3 prior fiscal year.
- 4 (2) The total percentage of active or pending permittees for which the
5 Commission received a report of a second or subsequent alleged violation of
6 the ABC laws during the prior fiscal year.
- 7 (3) The total percentage of reported ABC law violations during the fiscal year that
8 are considered consumption-related by the Commission.
- 9 (4) The total number of reported ABC violations during the prior fiscal year that
10 were dismissed by the Commission, including the justification for each
11 dismissal."

12 **SECTION 2.** The Alcoholic Beverage Control Commission (Commission) shall
13 study the feasibility of setting the amount of fines assessed by the Commission for violations of
14 the ABC laws, as defined in G.S. 18B-101, based either on the value of alcohol sales made by
15 the offending permittee or on the volume of alcohol sold by the offending permittee. The study
16 shall include an examination of the opportunities and challenges arising from the implementation
17 of either approach, the resources needed for implementing either approach, any ramifications
18 either approach would have on the proportionality of penalties assessed on offending permittees,
19 and any legislative changes necessary to implement either approach. By December 1, 2021, the
20 Commission shall submit a report of its findings, including any recommended legislative
21 changes, to the House of Representatives Committee on Alcoholic Beverage Control.

22 **SECTION 3.** This act is effective when it becomes law. The Commission shall post
23 the policy required under G.S. 18B-104(f), as enacted in Section 1 of this act, no later than
24 October 1, 2021.