

# COVID-19 Impact on Alcohol Sales in North Carolina

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## Related Professionals

Erin Cowan Mosley  
336.387.5146  
emosley@nexsenpruet.com

## Practices

Legislative & Regulatory

## Industries

Alcohol Permitting and Licensing

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## Update - May 7, 2020

Governor Cooper issued Executive Order 138 on May 5, 2020 to implement Phase 1 of the easing of restrictions on travel, business operations and mass gatherings in NC.

Bars are permitted to reopen, but for off-premise sales only.

The order specifically permits opening of retail beverage venues that provide sale of beer, wine and liquor for off-site consumption only. This includes production and sale of alcohol from breweries, wineries or distilleries.

Entertainment facilities must remain closed. Among various facilities, this list includes bowling alleys and movie theaters.

Restaurants remain restricted to curbside, take-out, and delivery services only. Restaurants are encouraged to comply with Recommendations to Promote Social Distancing and Reduce Transmission, which would include requiring employees to wear face coverings when providing carry-out, drive-through and delivery services.

This order remains in effect until May 22, 2020. Ideally, on that date Phase 2 recommendations and guidance will be released, but the implementation of Phase 2 is subject to the then current COVID-19 conditions in NC.

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## COVID-19 3.31.2020 Update regarding Alcohol Sales in NC:

→ Executive Order 121: Governor Cooper issued a statewide Stay at Home Order requiring all residents to stay at home, at their place of residence or current place of abode beginning March 30, 2020 at 5:00 p.m. and remaining effective for thirty days. Certain businesses and other activities were deemed essential and are permitted activities during this time.

- Beer, wine and liquor stores are deemed essential functions and will remain open.
  - Commissioner Guy established a grace period for registration/renewal process allowing renewals to be submitted until June 30, 2020 (rather than April 30, 2020).
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Delivery of alcohol is an important topic in NC in light of the recent mandate against in-service dining and restrictions on gatherings of more than 100 people. We have had numerous calls from our clients about selling alcohol to-go and selling and delivering alcohol. The ABC rules have not been finalized, but a delivery permit statute, NCGS 18B-1001.4, was passed last year to regulate delivery of alcohol.

By virtue of a permittee holding on-premise malt beverage and unfortified wine permits, that establishment may sell alcohol for off-premise consumption and, therefore, provide unopened beer and wine to-go or for delivery. TO-GO SPIRITS OR DELIVERY OF SPIRITS IS CURRENTLY PROHIBITED.

If your establishment is using its employees to deliver alcohol, an additional delivery service permit is not required. However, the permit holder must ensure its delivery driver(s) have successfully completed the North Carolina ABC training and received a certificate. A link for that training can be found [here](#).

While the rules have not been finalized, based on the NCGS 18B-1001.4 and other related statutes, we make the following recommendations to our clients:

1. All drivers must complete the training and receive a certificate. The certificate should be printed or available electronically at all times.
2. The alcohol should not be left unattended (on a porch, at a front door, etc). The driver must hand the alcohol to a person and they must verify the age of that person as being 21 or older. They should request identification from the individual purchase. Proper forms of identification include: a North Carolina driver's license, a NC special identification card (issued by DMV) or a military ID. If the driver has any question regarding the person's age, proper identification or if the person is intoxicated, the driver should not leave the alcohol.
3. Alcohol can only be delivered during legal hours - 7:00am-2:00am, Monday-Saturday and 12:00pm-2:00am on Sunday (unless the local municipality has approved early sales).
4. Alcohol cannot be delivered to dry counties.
5. Alcohol cannot be delivered to a customer that is located more than 50 miles from the permittee's licensed premise.
6. The alcohol order and payment must be received by the permitted store prior to the driver picking up and delivering the alcohol. No money should exchange hands for the alcohol between the delivery driver and customer; tips are permitted.
7. Any package containing alcohol (and concealing the alcohol) must have a label on the packaging stating "CONTAINS ALCOHOLIC BEVERAGES; AGE VERIFICATION REQUIRED" and the text must be in 26 point font.
8. Maximum quantities in any one car for delivery at any one time: no more than 80 liters in cans or bottles; 50 liters unfortified wine; 8 liters fortified wine. NO DELIVERY OF SPIRITUOUS LIQUOR.

If your establishment is using a third party that has its own delivery service permit, the logistics will be a bit different. The third party delivery company should provide you a copy of its delivery service permit. Additionally, any driver should provide a copy of his/her certificate, issued by the Commission, prior to making any deliveries on behalf of your establishment. Please note that a driver's failure to comply with any ABC statutes or regulations could result in a violation under your North Carolina ABC permits.

For further guidance see ABC's Compliance Guidance for Executive Order 118 [here](#).

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