

North Carolina's New Law on Social Districts

House Bill 890 – ABC Omnibus Legislation – was passed by the NC House and Senate on Wednesday, September 8, 2021 and signed by the Governor on September 10. Included in House Bill 890 is a provision that allows the creation of social districts in North Carolina. The North Carolina Retail Merchants Association was the major interest group pushing for the passage of this important legislation to drive foot traffic to downtown businesses and level the playing field for brick-and-mortar businesses with ABC permits.

Questions? If you need further clarification or more information on this new law, do not hesitate to contact Elizabeth Robinson at elizabethr@ncrma.org or Andy Ellen at andy@ncrma.org who are happy to assist you.

What is a Social District?

A defined outdoor area in which a person may consume alcoholic beverages sold by an ABC permittee. This term does not include the ABC permittee's licensed premises, or an extended area allowed under G.S. 18B-904(h).

Who Can Designate a Social District?

House Bill 890 did not create a statewide social district but instead allows cities and counties to “opt-in” to social districts via an ordinance.

A city may adopt an ordinance designating an area within the municipal limits as a social district under G.S. 160A-205.4. A county may adopt an ordinance designating a social district for an area located outside a municipal boundary under G.S. 153A-145.9.

What are the Requirements for a City or County to Create a Social District?

- 1) Social districts must be clearly defined and post signage in conspicuous locations indicating:
 - a) The area included in the social district.
 - b) The days and hours during which alcoholic beverages can be consumed in the social district.
 - c) The telephone number for the ALE Division and Local Law Enforcement with jurisdiction over the social district.
 - d) A clear statement that an alcoholic beverage purchased for consumption in a social district shall:
 - only be consumed within the social district and
 - be disposed of before the person possessing the alcoholic beverage exits the social district unless the person is reentering the licensed ABC premises where the alcoholic beverage was purchased. (G.S. 18B-904.1(c)(1)).
- 2) Social districts are only allowed to operate during hours defined under G.S. 18B-1004: from 7:00 am until 2:00 am Monday – Saturday and noon until 2:00 am on Sunday. If the local government has allowed for earlier Sunday Sales, a social district may operate beginning at 10:00 am on Sunday. (G.S. 18B-904.1(c)(1)).
- 3) A city or county designating a social district is required to establish management and maintenance plans for the social district and post these plans, along with a drawing of the boundaries and the applicable

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days and hours of the social district, on the city's or county's website. A social district must be maintained in a manner that protects the health and safety of the general public. (G.S. 18B-904.1(c)(2)).

- 4) Before a social district can become operational, a city or county must submit to the North Carolina Alcoholic Beverage Control Commission a detailed map of the social district with the boundaries clearly marked and the days and hours during which alcoholic beverages can be consumed. (G.S. 18B-904.1(c)(3)).

Who Can Sell Alcohol in a Social District?

Under G.S. 18B-904.1(a)(1) a business holding any of the following ABC Permits may sell alcohol to be consumed in a social district:

- 1) An on-premises malt beverage permit issued pursuant to G.S. 18B-1001(1).
- 2) An on-premises unfortified wine permit issued pursuant to G.S. 18B-1001(3).
- 3) An on-premises fortified wine permit issued pursuant to G.S. 18B-1001(5).
- 4) A mixed beverages permit issued pursuant to G.S. 18B-1001(10).
- 5) A distillery permit issued pursuant to G.S. 18B-1100(5).

What Additional Rules Do ABC Permittees Have to Follow to Sell Alcohol Within a Social District? (G.S. 18B-904.1(d))

First, an ABC Permittee must be located in or contiguous to the social district in which it is selling alcohol to be consumed.

Secondly, the ABC Permittee is only allowed to sell and serve alcoholic beverages on its licensed premises. In other words, the ABC Permittee cannot sell alcoholic beverages in the street or down the street from its licensed premises just because the ABC Permittee is located in, or contiguous to a Social District.

Third, alcoholic beverages that are being sold to be consumed in a social district can only be sold in a container that meets all the following requirements.

- 1) The container clearly identifies the ABC permittee from which the alcoholic beverage was purchased.
- 2) The container clearly displays a logo or some other mark that is unique to the social district in which it will be consumed.
- 3) The container is not made of glass.
- 4) The container displays, in no less than 12-point font, the statement, "Drink Responsibly – Be 21."
- 5) The container cannot hold more than 16 fluid ounces.

Finally, the ABC permittee must prohibit a person from entering or reentering its licensed premises with an alcoholic beverage not sold by the ABC permittee. As an example, XYZ Restaurant sells John Smith a cup of wine. John Smith cannot reenter XYZ Restaurant with a cup of beer John Smith bought at Acme Brewing located within the same social district. John Smith also cannot enter XYZ Restaurant for the first time with the cup of beer John Smith bought at Acme Brewing.

If I am a business in the social district but I do not want customers coming into my store with alcoholic beverages, do I have to participate?

Any business without an ABC permit located in or contiguous to the designated social district has the option to participate, or not, in allowing customers with beverages to enter their premises. For example, Printer's Books may remain open during designated social district hours but decide to post a sign that alcohol beverages (or any beverages) are not allowed in their store even if they are located inside of the social district.

Likewise, a business with an ABC permit located in or contiguous to the social district may also decide to participate or not participate in allowing customers to leave their premises with an open container. However, a business with an ABC permit is prohibited from allowing a customer to enter their premises with an alcoholic beverage purchased from another ABC permittee located in the social district.

What Requirements do Customers Have to Follow Within a Social District? (G.S. 18B-904.1(e))

First, a person can only possess and consume alcoholic beverages purchased from an ABC permittee located in or contiguous to the social district. A person cannot bring their own personal beer or wine into the social district for consumption.

Second, any alcoholic beverages consumed in the social district must be consumed from the required container described above. In other words, a person cannot pour their wine or beer into a solo cup or any type of container other than the one meeting all the requirements for social districts.

Third, alcoholic beverages shall only be possessed and consumed in the social district during the days and hours set by the city or county. If a city designates an area as a social district from 9:00 pm until Midnight on Friday and Saturdays, a person cannot consume alcohol in the social district at 9:00 pm on Wednesday.

The sale and delivery of alcohol in a social district is subject to the same limitations for sales and deliveries of alcohol in North Carolina:

- No more than two malt beverage or wine drinks at one time to a single patron
- No more than one mixed beverage or spiritous liquor drink at one time to a single patron

Finally, a person is required to dispose of any alcoholic beverage in the person's possession prior to exiting the social district unless the person is reentering the licensed ABC premises where the alcoholic beverage was purchased. In other words, if a person is leaving the social district area, they must pour out or throw away their alcohol. They also cannot take it with them into any other business that sells alcohol. They may **only** take their alcoholic drink into the establishment where they bought it or a participating business that does not sell alcohol.