

## Frequently Asked Questions (“FAQ”) for Executive Order No. 182

December 21, 2020

This FAQ provides guidance for the implementation of Executive Order No. 182 (“Order”). The Order is intended to encourage additional delivery and carry-out services as a means of reducing COVID-19 transmission in North Carolina. Specifically, it authorizes and instructs the Chair of the North Carolina Alcoholic Beverage and Control Commission (“ABC Commission”) to temporarily allow certain mixed beverage permittees (“Permitted Sellers”) to sell and deliver mixed beverages for off-site consumption (“to go”), with limitations. The Order is effective December 21, 2020 at 5:00 p.m. through January 31, 2021 at 5:00 p.m., unless otherwise modified or extended. Below are frequently asked questions (“FAQs”) and their answers.

**Unless otherwise specified in the Order, the Order and this FAQ should be interpreted as consistent with ABC laws and any guidance promulgated by the ABC Commission on mixed beverages to-go. Under the Order, the ABC Commission may, consistent with the intent of the Order, modify certain terms contained in the Order governing the sale of mixed beverages to-go, by posting a public document to its website. Please check the ABC Commission website regularly for supplemental information concerning the Order.**

**For avoidance of doubt, the terms of the Order and the delegation of authority given to the ABC Chair does not permit unsealed containers of alcoholic beverages in vehicles, and does not permit the sale of mixed beverages to anyone under the age of twenty-one (21) or who is visibly intoxicated.**

**This FAQ is intended to be a general summary of Executive Order No. XXX. In the event of a conflict between this FAQ and the Order, the Order shall control.**

In addition, the information in this FAQ is subject to change in light of new Centers for Disease Control & Prevention guidance and future Executive Orders, further agency guidance, or local government declarations. Individuals should also check with local governments to determine whether additional restrictions have been imposed in their local jurisdictions to limit the spread of COVID-19.

### **FAQs related to the Order**

#### **When does this Order take effect?**

This Order takes effect on December 21, 2020 at 5:00 p.m. It is effective until January 31, 2021 at 5:00 p.m.

#### **What does this Order do?**

Under this Order, the Governor authorizes and instructs the Chair of the ABC Commission to allow certain Permitted Sellers, including restaurants, hotels, private clubs, private bars, and holders of distillery permits to sell mixed beverages to-go, with limitations.

The Order sets out terms and conditions for Permitted Sellers who sell mixed beverages to-go, individuals and businesses that deliver mixed-beverages to-go (“Deliverers”) and consumers who purchase mixed beverages to-go (“Purchasers”).

Permitted Sellers, Deliverers, and Purchasers must follow the applicable restrictions in the Order and any additional guidance established by the ABC Commission pertaining to the sale, delivery, and transport of mixed beverages to-go.

### **Why is this Order necessary?**

As of the date of the Order and this FAQ, North Carolina is experiencing a severe and critical spike in COVID-19 cases, and it is crucial that the state continue its efforts to minimize transmission of the virus. To supplement the protective health measures currently in place under Executive Order No. 181 (the Modified Stay at Home Order), this Order will take additional actions to help limit the number of people in one place at the same time, and to minimize the time spent and maximize the distance between people in such situations. Allowing delivery of mixed beverages decreases customer-to-customer interactions between people who are not members of the same household and significantly reduces customer-to-employee interactions, thereby significantly reducing the likelihood of viral spread.

In addition, this Order may provide economic relief to bars, restaurants, and other businesses, by enabling an additional revenue opportunity through the sale of mixed beverages to-go.

### **How does this Order ensure individuals under the age of 21 do not have increased access to alcoholic beverages?**

The Purchaser shall provide proof of identification at the point of delivery. Proof of identification permissible at a Permitted Seller’s physical location shall be accepted at the point of delivery. In addition, delivery may only be made to the individual who purchased the mixed beverage and whose name appears on or with the mixed beverage container and must match the identification of the person who takes actual possession of the alcohol. In the event of delivery of multiple alcoholic beverages to one location, the deliverer must verify the identification of each individual and only that individual may take actual possession.

### **FAQ for Purchasers of Mixed Beverages To-Go**

#### **What are mixed beverages to-go?**

A mixed beverage has the meaning assigned to it under N.C. Gen. Stat. § 18B-101(10). Many mixed beverages are commonly referred to as “cocktails.”

For the duration of this Order, mixed beverages may be purchased on the premises of a Permitted Establishment for consumption off-premises, or via delivery to one's home or other location, subject to the terms of the Order and other applicable laws and regulations; this is referred to throughout this FAQ as mixed beverages to-go.

This Order does not modify existing laws and regulations governing the sale of beer and wine.

**How many to-go mixed beverages may a customer order at a single time?**

Consistent with applicable law, individuals over the age of twenty-one (21) may order one (1) mixed beverage drink per person to-go. This does not mean that only one drink may be delivered per house, because multiple people at the same address may each be a separate Purchaser. Each Purchaser of a mixed beverage must be present to receive the mixed beverage.

**Does the sale of mixed beverages to-go have to be accompanied with the sale of food?**

No. This Order does not require that the sale of mixed beverages be accompanied by the sale of food.

**May individuals enter into the premises of a bar, restaurant, or other Permitted Seller to pick up mixed beverages to-go?**

Yes. However, guests picking up mixed-beverages for off-premises consumption must be 21 years of age, not visibly intoxicated, and must show valid identification before taking possession of mixed beverages. In addition, individuals entering the premises must abide by the mask mandate and other social distancing requirements.

**Where must the mixed beverage be kept while in transport?**

The transportation of a mixed beverage pursuant to this Order must be in a sealed container and must be kept at all times during transport in the passenger area of a motor vehicle.

**Does this Order permit individuals to consume the alcoholic beverages in their vehicle?**

No.

**Can individuals travel during the Stay at Home Period established by Executive Order No. 181 to pick up an alcoholic beverage?**

Yes. Travel for the purpose of obtaining a mixed beverage between 10:00 p.m. and 5:00 a.m. is permitted.

**If my husband is picking up dinner and drinks, can he receive a mixed beverage on my behalf if I am not in the vehicle or otherwise present with him?**

No. Each person must be present at pickup so that the Permitted Seller may verify the individual's age and that they are not visibly intoxicated.

**If a patron does not finish a mixed beverage served to them at a bar, restaurant, or other Permitted Seller by 10:00 p.m., may they take that mixed beverage to go?**

Yes. However, the mixed beverage must be sealed and packaged in accordance with the requirements of the Order and other guidance established by the ABC Commission.

### FAQ for Permitted Sellers of Mixed Beverages To-Go

#### **May Permitted Sellers remain open past the 10:00 p.m. for the sale of mixed beverages to-go?**

Yes. These establishments may remain open for the provision of take-out and delivery services. They shall otherwise remain closed to the public after 10:00 p.m.

#### **Does this Order extend the time when Permitted Sellers may sell and serve alcoholic beverages?**

No. Other Executive Orders establish the time at which establishments must cease customers' on-premises consumption of alcoholic beverages. Permitted Sellers may continue sales of alcoholic beverages to-go past that time, until the time set by otherwise applicable laws. For example, if laws establish that alcoholic beverage sales end at 2:00 am, a Permitted Seller could sell a mixed beverage to-go until the establishment closes, and no later than 2:00 am.

#### **Does this Order restrict the amount or size of the mixed beverage that a Permitted Seller is allowed to sell?**

Yes. Mixed beverages shall not be larger than the Permitted Seller's standard size of a mixed beverage drink for on-premises consumption. The intent of this Order is to allow Permitted Sellers to sell the same size drink sold on premises and not to expand their mixed beverage menu to sell multiple drinks in one container.

In addition, no sealed container can be larger than 750 milliliters. If the Permitted Seller, before December 21, served combined drinks to be shared among multiple people at a table, it can continue to sell those combined drinks if multiple Purchasers join together in an order. Each Purchaser must have his or her identity verified, and these combined drinks cannot be ordered to a single person. These combined drinks may be split between multiple sealed containers if necessary.

### FAQ for Deliverers

#### **Who can deliver mixed beverages to-go?**

An employee or agent of the Permitted Seller or a third-party delivery service authorized by state law may deliver mixed beverages to-go. However, the Deliverer must have successfully completed the course for delivery service offered by the ABC Commission, be at least twenty-one (21) years old, and meet the other requirements in the Order.

**What additional requirements must Deliverers comply with in order to deliver mixed beverages to-go?**

An individual delivering a mixed beverage on behalf of a Permitted Seller, including an employee, agent, or third-party delivery service, must have proof of their authorization to deliver the mixed beverage on the Permitted Seller's behalf. In addition, Deliverers must maintain a contract with the Permitted Seller, in writing, during the duration of the delivery arrangement.

**When is the cut-off time for delivering alcoholic beverages?**

Mixed beverages sold for off-site consumption must be delivered before the Permitted Seller closes and no later than 2:00 a.m., in accordance with state law. Permitted Sellers and Deliverers shall check with their local jurisdictions for other applicable restrictions.

**Must orders for mixed beverages to-go be prepaid directly to the Permitted Seller or can the Deliverer receive payment when the order is delivered?**

Delivery orders must be prepaid and the Deliverer may not receive payment for the mixed beverage directly at the time of delivery. This does not prevent a Deliverer from receiving a tip from the Purchaser.

**Can a Deliverer deliver mixed beverages to-go to a public school, college, or university?**

No. Under this Order delivery may not be made to a public school, college, or university, or any other place where such delivery is restricted by state law.

**I work for a third-party delivery service, but I am not 21 years old. May I deliver mixed beverages to-go under this Order?**

No. Any person delivering mixed beverages on behalf of a Permitted Seller must be at least 21 years of age.

**If I deliver more than one mixed beverage to a residence, do I have to physically verify each Purchaser's identity?**

Yes. The Deliverer must verify the identity of each Purchaser.

**Under the terms of this Order, is contactless delivery possible for mixed beverage to-go orders?**

Contactless delivery is permissible, but only where the Deliverer can verify the age and sobriety of each individual receiving a mixed beverage.

**Can I refuse delivery to someone who is intoxicated, not at least 21 years of age, or for whom I am unable to verify their identity?**

Yes. Nothing in this Order prevents a Deliverer or Permitted Seller from refusing the sale or service of mixed beverages to a customer.