



## H1050 - Omnibus Tax Law Changes

10.24.2014

Effective 1 May 2015, the ABC Commission will require compliance with tax laws by ABC permittees and will have new enforcement mechanisms to review and confirm state tax compliance.

### **Compliance with Tax Laws by ABC Permittees**

In order to be eligible to receive and continue to hold an ABC permit, an applicant or permittee must be current in filing all applicable tax returns to the State and must be current in payment of all taxes, interest, and penalties. The legislation does not apply to special occasion permits, special one-time permits, and salesman permits.

The undue hardship provision, which allows the ABC Commission to decline to take action against a permittee in violation of certain ABC laws, does not apply to these tax provisions.

### **New Procedure to Confirm State Tax Compliance**

The new legislation provides that upon request of the ABC Commission, the North Carolina Department of Revenue must provide information to the ABC Commission to confirm a person's compliance with applicable tax laws. If the Department of Revenue notifies the ABC Commission that a person is not in compliance, the ABC Commission may not issue or renew the person's permit until the ABC Commission receives notice from the Department of Revenue that the person is in compliance.

While statutes provide that state employees having access to tax information may not disclose the information to others, the legislation carves out an exception for state employees to provide the information to the ABC Commission for purposes of compliance with state tax laws.

### **Denials of ABC Permits for Failure to Comply with Tax Laws are Not Contested Cases**

The legislation provides that a person affected by an ABC Commission action on issuance, suspension, or revocation of an ABC permit for failure to satisfy tax laws is not eligible to file a petition for a contested case hearing for review of the issue by an administrative law judge, as the matter is not a "contested case" under the North Carolina Administrative Procedure Act.

Therefore, there is likely no remedy for a person denied the issuance or renewal of an ABC permit by the ABC Commission, other than becoming compliant with applicable tax laws or possibly pursuing expensive litigation in the court system.

## **Related People**

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