



2017 Legislative Summary

North Carolina Restaurant and Lodging Association

Your guide to new laws and legislation affecting the North Carolina hospitality industry

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North Carolina Restaurant & Lodging Association (NCRLA) advocates and monitors legislation each year at the North Carolina General Assembly (NCGA), with one goal in mind: to protect and promote the hospitality industry. The 2017 Long Legislative Session began Jan. 11, spanning six months, with a total of 93 legislative days. A total of 1,618 bills were introduced, while only 204 became law. Among these successful pieces of legislation were many important NCRLA priorities including the repeal of HB 2, the Brunch Bill, the Grill Bill and others. The NCRLA team also worked hard defeating new meals and occupancy taxes, minimum wage bills and more. Throughout the 2017 legislative session more than 100 bills were tracked and followed to ensure the hospitality industry's interests were well protected.

Throughout this lengthy process, the NCRLA Board of Directors and Government Affairs Committee (GAC) have been critical in identifying harmful and helpful legislation; guiding our advocacy team along the way as they met with lawmakers, staff and other stakeholder groups to make our industry's voice heard.

NCRLA members' continued engagement in the political process helped make the 2017 Long Session one for the record books. By answering Calls to Action, testifying in committee meetings and attending our legislative day "Rally in Raleigh," our industry's voice is louder than ever; and will only continue to grow, as you stay involved.

In this document you will not only find summaries of industry priority bills, but also that of legislation we opposed and monitored that could have an impact on the hospitality industry. The title of each bill links directly to the most up-to-date language available at the time of publishing. When reviewing this document, please keep in mind that not all bills summarized here have passed; some may still be under consideration during the special sessions scheduled this fall.

For more information on the North Carolina General Assembly or to research other bills filed during the 2017 legislative session, please visit <http://www.ncleg.net/>.

2017 NCRLA Quick Facts

- *\$23 billion in projected sales*
- *565,000 jobs*
- *Employs 11% of NC's workforce*

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2017 KEY LEGISLATION

Legislation proposed or supported by the North Carolina Restaurant & Lodging Association.

[HB 142](#) (*Stevens*)

NCRLA Position: Support

In 2016, HB 2 was passed by the NCGA. This required multiple occupancy bathrooms and changing facilities in public buildings to offer only single sex occupancy. HB 142, repealed this requirement, going further to preempt any state or local government from regulating access to multiple occupancy restrooms, showers or changing facilities, unless it is in accordance with an act of the General Assembly.

The bill also prohibits local governments from enacting or amending an ordinance regulating private employment practices or public accommodations until Dec.1, 2020.

Outcome: Signed by the governor.

Effective Date: Upon becoming law.

Why it matters: HB 2 cast a negative shadow on the state of North Carolina on a national level; having particularly harmful unforeseen consequences on the hospitality industry. Major sports and entertainment acts and organizations canceled multi-million dollar activities in the state, while cities around the country put boycotts on the state, because of HB 2. While the repeal has only been in effect a short while, businesses are already beginning to return to the state.

[SB 155](#) (*Gunn*)

NCRLA Position: Sponsored

SB 155 was originally a small bill offering earlier Sunday alcohol sales at 10 a.m., while making certain changes to distillery laws. The bill grew to include several pieces from HB 500 and HB 480, becoming the alcohol policy omnibus for Session 2017. The bill now makes various changes to the North Carolina Alcoholic Beverage Control Commission laws. Of particular importance to the hospitality industry is the provision allowing earlier Sunday alcohol sales. The bill allows counties, cities and the Eastern Band of Cherokee Indians to adopt an ordinance allowing permittees to sell alcoholic beverages beginning at 10 a.m. on Sunday mornings instead of beginning after noon as current law states.

The bill also makes various other changes including:

- Authorizes the sale of crowlers by retail permittees
- Allows breweries with production facilities in other states to distribute to in-state wholesalers
- Allows wineries to offer free tastings and sell wine by the glass or in closed containers pursuant to a winery special event permit at farmers' markets

- Allows breweries, wineries and distilleries to store alcoholic beverages they produce at an off-site storage location approved by the Alcohol and Tobacco Tax and Trade Bureau
- Creates a spirituous liquor special event permit (One-time \$200 fee)
- Creates special auction permit (\$750 fee per event)
- Allows retail businesses to obtain an on premise unfortified wine permit (\$400 annual fee)
- Allows brewery taprooms to sell alcoholic beverages other than their own products upon obtaining the appropriate permits (fee varies)
- Allows breweries to give its products to its employees and guests for consumption on premises, allowing breweries to offer tastings during brewery tours
- Allows distilleries to sell up to five bottles of spirituous liquor per year at the distillery to each consumer who takes the tour and allows distilleries to conduct consumer tastings when certain circumstances are met
- Allows additional retail locations operated by a brewery to sell products made by a contract brewery and clarifies that such sales are not considered wholesale for purposes of franchise agreements; only additional retail locations operated under a different trade name are required to offer competitive malt beverage products
- Removes the requirement that home-brewed wine be a “native” wine and that only alcohol content be produced by natural fermentation; also allows home breweries of malt beverages and wine to share their products at organized affairs, exhibitions or competitions so long as they are not sold or offered for sale
- Exempts breweries from the limitations on lending or giving things of value to wholesalers or retailers with respect to premises operated by the brewery either on their own premises or one of the additional retail locations certain breweries are authorized to operate
- Allows breweries that produce agriculture products to be used in the manufacture of malt beverages to sell their products at the brewery, even in jurisdictions that do not allow the sale of malt beverages, provided that they obtain a permit and have received the approval of the governing body of the city or county where the brewery is located
- Clarifies that an ABC permittee applying for a local license shall not be required to submit additional documentation and the license shall be issued upon providing a copy of the completed application for an ABC permit, the ABC permit for visual inspection and payment of the prescribed tax
- Requires the commission to confirm the tax compliance of brewery and distillery permit holders by Oct. 1 of each year and authorizes the commission to suspend a brewery or distillery until the North Carolina Department of Revenue confirms compliance; brewery permit holders that obtain a malt beverage wholesaler permit must also submit a 12-month report to the commission within 60 days of the commission’s request. Any information contained in the report is confidential and not public record

Outcome: Signed by the governor.

Effective Date: Distillery changes became effective July 1, 2017. Special auction permit changes become effective Oct. 1, 2017. All other sections are effective upon becoming law.

Why it matters: Before the passage of SB 155, North Carolina was one of only three states that did not allow early morning alcohol sales in some form. North Carolina hosts more than 55 million visitors each year, many of which come from states and countries where archaic blue laws do not exist. Because these laws have disappeared in most other states, many guests at North Carolina restaurants are often confused when attempting to order a drink during brunch while visiting the state. This provision allows the hospitality industry to better serve its guests while bringing in additional revenue, which allows businesses to grow jobs and expand.

Because this piece of the bill was an “opt-in” provision, local municipalities must adopt an ordinance for area permittee holders to be able to begin sales at 10 a.m. Since passage, more than 100 municipalities have adopted the Brunch Bill locally. To view a complete list of those cities and counties that have adopted earlier Sunday sales please visit <http://bit.ly/2iB1J6>.

HB 511 (Boles)

NCRLA Position: Sponsored

HB 511 makes various changes to nonprofit fundraising laws. The bill would allow tax-exempt organizations to operate “Game Nights” where games of chance are played and prizes are awarded by raffle at facilities serving alcoholic beverage. This is illegal under current law. The bill also increases the number of raffles a nonprofit can host in a year and streamlines the permitting process for serving alcoholic beverages at ticketed fundraising events.

Game Nights: To be able to host a game night, the following conditions must be met:

- The organization must have operated continuously in the county for five years and be tax exempt under section 501(c)(3), 501(c)(4), 501(c)(5) or 501(c)(6) of the federal Internal Revenue Code
- The event must be hosted at a qualified facility that has either an on-premises malt beverage, on-premises unfortified wine, on-premises fortified wine or mixed beverage permit
- The organization must obtain a permit from Alcohol License Enforcement (ALE) for each game night held
- The organization can host no more than four game night events per year and no more than one per quarter, and the facility may not host more than two game nights per week and same week events must be held by different organizations on different nights
- No cash prizes may be awarded. All prizes must be awarded through raffle
- The cost of the prizes and expenses (excluding food, beverages and entertainment) must not exceed the proceeds from the event; vendors must receive a fixed fee and all proceeds from the night must be used to further the organization’s tax-exempt purpose

Games permitted under the bill include: roulette, blackjack, poker, craps, simulated horse race, merchandise wheel of fortune and any other game specified in the permit application that is approved by ALE.

This portion of the bill would only apply to areas in North Carolina located east of I-26, which matches the geographic limits put forth in the Tribal-State Compact.

Raffles: The bill also increases the number of raffles a nonprofit organization can hold each year from two to four and permits the sale and consumption of alcoholic beverages in the same room in which the raffle is being conducted. Furthermore, the bill would allow nonprofits that receive a special permit to serve alcohol at the event to raffle or auction off an alcoholic beverage in the manufacturer's original closed container. The bill also increases the total annual prizes a nonprofit can award from \$125,000 to \$250,000 and clarifies that a regional or county chapter of a nonprofit organization is eligible to conduct raffles independently of its parent organization.

Permitting Process: The bill provides that the ABC Commission can reissue a special occasional ABC permit instead of issuing a brand new permit when the nonprofit has already obtained the same permit within the previous 18 months so long as the same individual is applying for the permit for the same location. The commission would be directed to investigate the applicant and the premises seeking the permit no more than once every three years. Providing false information on a permit reissuance would be grounds for denying, suspending or revoking the permit, and would be a Class 1 misdemeanor.

Outcome: Vetoed by the governor.

Effective Date: The provisions streamlining the permit process would become effective Dec. 1, 2017, and apply to offenses committed on or after that date. The remainder of the act would become effective Oct. 1, 2017.

Why it matters: HB 511 would level the playing field for nonprofits across the state, allowing these organizations to host Game Nights at restaurants and hotels as a way to raise funds for the causes they represent. NCRLA is working to secure legislative support to override Gov. Roy Cooper's veto during the special sessions scheduled this fall. To read Gov. Cooper's veto message, please visit here <http://www.ncleg.net/Sessions/2017/h511Veto/letter.pdf>.

SB 24 (McInnis)

NCRLA Position: Support

SB 24 allows food establishments to use outdoor grills to prepare food provided the following qualifications are met:

- The grill is located on the premises of the establishment and is continually supervised
- The grill is placed on a concrete or asphalt foundation and its cooking surface is made of stainless steel or cast iron and meets the sanitation guidelines for other equipment in a food establishment

- The grill cannot be operated within 10 feet of combustible construction
- All open food and utensils have overhead protection or have individual covers like a dome, chafing lid or are in cookers with hinged lids
- The grill is located in an enclosed area and is protected from environmental contamination when it is not in use
- Raw meats, poultry and fish are prepared in pre-portioned or ready to cook format inside before being brought out and may only be handled with utensils when using the grill. All food prepared on the outdoor grill should be processed inside

For more information and helpful guidance put forth by DHHS to aid in setting up an outdoor grilling station please visit: <http://bit.ly/2gqEpCY>.

Outcome: Signed by the governor.

Effective Date: Upon becoming law.

Why it matters: Allowing restaurants to use outdoor grills gives the thousands of small businesses that make up North Carolina's hospitality industry the freedom and flexibility to expand the services they offer guests and customers.

MEALS TAX LEGISLATION

This section contains bills that propose new meals taxes in various areas of the state.

Why it matters: NCRLA opposes all new meals tax bills, as they unfairly impact patrons of local restaurants and deli counters to fund projects that benefit all members of the community. When investment in these local projects is necessary, all members of the community should pay their fair share through more broad-based funding options. NCRLA has fought against new meals taxes every session for many years. There has not been a new meals tax in more than 20 years. The past two attempts were both defeated by NCRLA's work to garner opposition during the referendum process.

[HB 398](#) (Iler)

NCRLA Position: Oppose

HB 398 authorizes the Brunswick County Board of Commissioners to levy a .5 percent prepared food and beverage tax on prepared food and drink sold within Brunswick County. This new meals tax would be subject to referendum.

Outcome: Defeated.

[SB 238](#) (Woodard)

NCRLA Position: Oppose

SB 238 proposes that the Board of Commissioners of Caswell County be able to levy a prepared food and beverage tax of up to 1 percent of the sales price of prepared food and beverages sold within the county by resolution after no less than 10 days' public notice and a public hearing.

Outcome: Defeated.

[HB 900](#) (Ross)

NCRLA Position: Oppose

HB 900 was drafted as a means to keep North Carolina's property taxes low by offering municipalities with locally controlled options to generate more revenue to be invested in local infrastructure and economic development projects. As originally written, the bill presented local governments with the following three local tax options:

- Levy a prepared food and beverage tax of up to 1.5 percent of the sales price of food and drink sold within the municipality (subject to referendum)
- Levy a local occupancy tax (subject to NCRLA approved guidelines and subject to referendum)
- Levy a local option .25 percent sales tax (subject to referendum)

Outcome: Defeated.

Why it matters: NCRLA opposes all new meals taxes and any proposed occupancy tax that does not meet the NCRLA adopted guidelines (see Occupancy Tax section in this document for more details). This bill offered two funding sources that unfairly targeted the hospitality industry to help fund local projects that would benefit all members of the community. NCRLA worked closely with the bill sponsors to demonstrate this fact, and both the provisions offering a new meals tax and a new occupancy tax were removed from the bill.

North Carolina municipalities currently collecting a 1 percent meals tax:

- Dare County
- Cumberland County
- Wake County
- Mecklenburg County
- City of Hillsborough

In 2016, \$23 billion dollars was spent on domestic travel in North Carolina. Of that, \$8 billion was spent in the foodservice sector and \$4.6 billion on lodging.

OCCUPANCY TAX LEGISLATION

This section contains bills that propose new occupancy taxes or alter the allocation of revenue collected from occupancy taxes currently being administered.

Why it matters: NCRLA adopted occupancy tax guidelines in 1997. These guidelines require that a county occupancy tax may not exceed 6 percent and a city occupancy tax rate may not exceed 6 percent when combined with the county rate. They also require that two-thirds of occupancy tax proceeds must be used to promote tourism, while the remaining one-third must be used for tourism-related expenditures. Furthermore, occupancy tax revenues must be administered by a local tourism promotion agency whose members include representatives of the hospitality industry. These guidelines help ensure not only that the lodging industry is not unfairly targeted as a sole funding source for local projects, but that the revenues collected from the tax are used to help grow and encourage further lodging business in the area.

Guideline Compliant Occupancy Tax Bills

NCRLA Position: Monitored

[HB 143](#) (Sauls), [SB 186/HB 211](#) (B. Jackson/Brisson), [HB 282](#) (Zachary), [HB 444](#) (Ford) and [HB 429](#) (Henson)

These five bills all comply with the NCRLA Occupancy Tax Guidelines. Each bill offers a new occupancy tax for a different area of the state. Specifically these bills:

- [HB 143](#) - Would allow the City of Sanford to levy a 3 percent occupancy tax and would allow Harnett County to adopt a 6 percent occupancy tax
- [SB 186/HB 211](#) - Would allow Sampson County to levy an additional 3 percent occupancy tax
- [HB 282](#) - Creates the Yadkin County District Y as a taxing district. This district would consist of the parts of Yadkin County located outside the Town of Jonesville and the Town of Yadkinville
- [HB 444](#) - Authorizes Rowan County to levy an additional 3 percent occupancy tax while removing Salisbury's authority to levy
- [HB 429](#) - Creates a special taxing district made up of the piece of Saluda that lies in Polk County and authorizes a 3 percent occupancy tax for that specific area

Outcome: Passed as part of the Occupancy Tax Omnibus Bill - SB 552 - please see below.

Guideline Noncompliant Occupancy Tax Bills

NCRLA Position: Oppose in part

[SB 13](#) (Rabin), [SB 283](#) (Brown), [HB 531](#) (Boswell), [HB 420](#) (B. Jones)

These four bills contain provisions that do not comply with NCRLA Occupancy Tax Guidelines. Specifically these bills:

- [SB 13](#) - Would allow Sanford to use the remaining one-third of funds collected for the operation, maintenance, promotion and renovation of the Dennis A. Wicker Civic Center
- [SB 283](#) - Flips the one-third/two-third allocation of funds ratio for the City of Jacksonville, requiring that two-thirds of remitted funds be used for tourism-related expenditures and that the remaining one-third be used for tourism promotion
- [HB 531](#) - Would reallocate 25 percent of remitted funds to be used for services or programs deemed necessary due to the impact of tourism in Dare County; funds would be used for things such as traffic control, police, lifeguards and sanitation crews
- [HB 420](#) - Strikes the language requiring one-third of the members of the Rockingham Tourism Development Authority be affiliated with businesses that collect the tax and the requirement that one-half of the board be in the business of promoting travel and tourism

Outcome: All Passed. All but HB 420 were incorporated into the Occupancy Tax Omnibus Bill - SB 552 - please see below.

[SB 552](#) (Tilman)

NCRLA Position: Opposed in part

SB 552 became the Occupancy Tax Omnibus Bill. The bill includes several of the bills above, including provisions for the cities of Sanford, Saluda, Jacksonville, Hickory and Conover, as well as for the counties of Harnett, Sampson, Yadkin and Rowan.

Outcome: Signed by the governor.

Effective Date: Upon becoming law.

For more information on current occupancy tax rates please see here: <http://bit.ly/2xMTWA8>.

Please note this report does not yet include the changes made during the 2017 Legislative Session.

For an overview of NCRLA supported occupancy tax guidelines please see here: <http://bit.ly/2grpUhV>.

MINIMUM WAGE LEGISLATION

This section contains bills that propose increases in the state minimum wage.

Why it matters: NCRLA opposes minimum wage bills because they allow government to set and control wages and benefits rather than allowing the free market to take its natural course.

HB 238 (Harrison)

NCRLA Position: Oppose

HB 238 would gradually increase minimum wage to \$15. Beginning Sept. 1, 2017, minimum wage would increase to \$8, followed by \$9.50 in 2018, \$11 in 2019, moving incrementally to \$15 by 2021.

The bill also moves to establish the “Equal Pay Act,” which states that no employer can pay an employee less than what is paid to an employee of the opposite sex with the same position doing the same quality and quantity of work. That said, variations between men and women in the same classification would be acceptable if based upon seniority, a difference in service, ability, skill, duties or services performed, difference in the time of shifts, hours worked, prohibitions on lifting or moving objects, or other reasonable differentiations or factors, as long as it was done in good faith. If an employer is found to be in violation of this provision, he or she may not reduce the pay of the other individual to establish compliance. This provision would also bar employers from retaliating against employees who use this bill to seek redress.

The bill would also establish the “Healthy Families and Healthy Workplaces Act,” which would protect employees from losing their jobs and pay while they seek medical care for themselves or members of their family. Individuals would begin accruing paid sick leave at the beginning of employment, receiving one hour of pay for every 30 hours worked. Employers would also be allowed to loan employees paid sick leave in advance. This provision would cap small businesses at 32 hours of accrued paid time in a calendar year, while the limit would be 56 hours for other employers.

The bill would also increase tipped minimum wage; stating that tips earned by a tipped employee may be counted as wages only up to \$5 per hour, makes changes to the definitions relating to wage theft, the notice and posting requirements for employers, “bans the box,” alters provisions relating to recovery of unpaid wages and more.

Outcome: Defeated.

SB 210 (Bryant)

NCRLA Position: Oppose

SB 210 is an act to increase the state’s minimum wage in phases until 2022, after which the wage would be adjusted automatically each year by increases in the cost of living. The phase-in period would begin on Jan. 1, 2018, increasing minimum wage to \$8.80 per hour. The wage would then increase incrementally to \$15 by Jan. 1, 2022.

Outcome: Defeated.

There are 18,169 eating and drinking establishments and 1,810 lodging properties in North Carolina.

EMPLOYMENT LEGISLATION

This section contains bills that propose various changes to employment law and the employment process.

SB 131 (Wells)

NCRLA Position: Support

SB 131 is one of several regulatory relief packages put forth by the General Assembly during the Long Session 2017. The bill covers a broad arrangement of topics from streamlining mortgage requirements to studying nonprofit contracting. Included in this bill (See Section 1) is a NCRLA supported provision protecting North Carolina's franchise model.

The bill clarifies that neither a franchisee nor a franchisee's employee shall be considered the employee of a franchisor for any purpose, including for those outlined by North Carolina General Statutes relating to the Department of Labor, Employment Security Law, Workers' Compensation or for taxation purposes.

Outcome: Signed by the governor.

Effective Date: Upon becoming law.

Why it matters: NCRLA has worked to clarify the franchisor/franchisee relationship in North Carolina for the past few years. In 2015, the National Labor Relations Board decided that two companies could be considered joint employers through indirect and potential control over employees. This holding reversed nearly 30 years of more stringent national standards requiring actual or direct control to be considered a joint employer. While NCRLA continues to work in conjunction with our federal counterparts to see the issue addressed on the national level, it was important to protect the North Carolina franchisee model by codifying this standard into law.

In the final days of session, an amendment was made to [SB 82](#) (Brock) that would have watered down the clear delineation between franchisee and franchisor codified in SB 131, offering vague and open exceptions where the franchisee or the franchisee's employees could be considered the employees of the franchisor. NCRLA lobbied hard to have this amendment successfully removed from the bill.

Preserving the traditional franchise model is important to not only limit potential liability for employees a franchisor has no control over but also to maintain a franchise business climate that promotes business growth and investment.

HB 26 (Watford)

NCRLA Position: Support

HB 26 aims to address the recent *Wilkes v. City of Greenville* decision by clarifying that a workers compensation injury not identified in an award arising out of G.S. 97-18(B) or G.S. 97-18(D) is not presumed to be causally related.

In *Wilkes v. City of Greenville*, the North Carolina Supreme Court held that once an employer issues direct payment to an employee according to a commission-approved agreement where the

employer agrees to pay compensation, that employee is now entitled to a presumption that additional medical treatment is causally related to the compensable injury unless the employer rebuts the presumption with evidence otherwise.

HB 26 remedies this reversal of the burden of proof by stating that if an employer has begun paying workers' compensation benefits pursuant to a commission approved agreement, the employee is not entitled to compensation for additional treatment for an injury or condition that is not described in the initial agreement, unless the employee demonstrates that the new injury or condition is causally related to the compensable injury. The bill also requires the commission to give notice of the amount of approved attorneys' fees in a workers' compensation case to all attorneys who represented the injured individual.

Outcome: Signed by the governor.

Effective Date: July 20, 2017. The law applies to claims accrued or pending on or after this date.

Why it matters: NCRLA joined a coalition of business industry advocates to put forth a legislative solution to the *Wilkes* case. This decision turned on its head much of the progress the business industry has made in the last several years in relation to workers' compensation, flipping the burden of proof to rest heavily on employers. HB 26 was developed in the last few days of session, requiring tremendous effort to get the issue addressed before adjournment. While the bill fixes most of the harmful consequences of the *Wilkes* decision, NCRLA will continue to work with other industry groups to fully address the situation during future sessions of the General Assembly.

HB 35 (Cleveland)

NCRLA Position: Oppose

HB 35 aims to increase the number of employers who are required to participate in the federal E-Verify program. The bill would also repeal the E-Verify exemption for temporary employees and would exclude farm workers from the definition of employee under N.C.G.S. 64-25.

Originally the bill would have dropped the threshold for required participation in E-Verify from 25 to five. NCRLA and other business industry groups worked to see the participation threshold increased, and the bill was amended to put the threshold for participation at 15 employees.

Outcome: Defeated.

Why it matters: In past legislative sessions, NCRLA and other members of the business community agreed with legislative leaders to gradually reduce the employee threshold required for participating in E-Verify from 100, down to 50, then to 25, and stop, as not to harm small businesses. This bill would go against that agreement.

HB 366 would establish the “Workers’ Bill of Rights.” This bill would redefine full-time employment as 35 hours. It would also require employers to give new employees a written estimate of expected shifts per month, including the days and hours of those shifts. The bill goes further, requiring two weeks notice of shifts by posting the shifts somewhere visible in the establishment or sending them out via email. The bill would require employers to compensate employees for short notice changes, cancelations or for moving shifts. The bill would also require employees to be paid for situations where they were on call but were not actually called in to work.

Employers would be required to keep shift records for up to three years and shall give the Department of Labor access to such records, after appropriate notice is given, in order to monitor compliance. The bill would prohibit an employer from retaliating against an employee who was exercising his or her rights under the bill and authorizes the Commissioner of Labor to take steps necessary to ensure enforcement of the bill.

Outcome: Defeated.

Why it matters: NCRLA opposed this measure because it allowed government to mandate important employment decisions that should be determined individually by business owners and the free market.

GENERAL OPERATIONS LEGISLATION

This section contains bills that would make various legislative changes with the potential to affect the general operations of restaurateurs and hoteliers.

[SB 11](#) (Dunn)

NCRLA Position: Oppose

SB 11 would require the Commission for Public Health to amend the rules governing food protection and sanitation of food establishments to require that food establishments close to the public while applying pesticides.

Outcome: Defeated.

Why it matters: Requiring that food establishments close while applying pesticides would have been a serious burden on the hospitality industry, particularly 24-hour establishments. The requirement to close is unnecessary, as those applying pesticides in food establishments are typically trained to do so in such a fashion that would not interfere with business or contaminate food. Additionally, putting up notices that a food establishment will close for pesticide treatment might deter customers from coming inside that day.

[HB 598](#) (Setzer)

NCRLA Position: Monitoring

HB 598 was drafted to address the recent death of Rachel Rossoff, a 17-year-old girl attending Enloe High School who died after being electrocuted and drowned when the swimming pool pump motor failed and a corroded wire prevented the circuit breakers from tripping.

The bill would require all public swimming pools to ensure that the electrical circuit or receptacle providing power to the pool pump motor include ground-fault circuit-interrupter protection for personnel within 90 days of the bill becoming law.

Outcome: Defeated.

Why it matters: NCRLA and its members worked closely with staff to draft amendments to the bill that would allow more time for hotels and other establishments to put these changes into place. While new pools likely already have these safety precautions in place, older pools would require retrofitting that could be costly for larger pools.

After researching the issue further, the General Assembly came to the conclusion that certain provisions might not be feasible and agreed to study the issue further (See [SB 16](#) in the Bed & Breakfast Section) stating that the Building Code Council shall review electrical safety requirements for swimming pools to determine if changes are needed to better protect public safety. The council is to report back no later than Dec. 1, 2017.

HB 736 (Hall)

NCRLA Position: Oppose

As originally drafted, HB 736 would increase the punishment for certain offenses related to providing an underage person access to alcoholic beverages from a misdemeanor to a Class I felony, when the commission of the offense is the proximate cause of the death of a person without requiring intent or knowledge.

Under current law it is a Class I misdemeanor to:

- Sell or give alcoholic beverages to anyone under the age of 21
- Person over the age of 21 to aid or abet another to sell or give alcohol to someone under the age of 21, or to aid or abet someone under the age of 21 in purchasing, consuming or obtaining alcoholic beverages

Outcome: Defeated.

Why it matters: NCRLA and other business industry groups worked closely with the bill sponsor to register concerns with the lack of an intent component. While cracking down on underage drinking is critical, it is important to consider the unintended consequences a bill may have. Increasing the charge to a Class I felony without an intent requirement could have potentially put a restaurant server, young cashier or even parents out of town in serious legal trouble for simply making a mistake in checking an ID or not being home when a child throws a secret party. After expressing these concerns, the bill was soon amended to require that the individual “knew or should have known” the individual was 21, in order for the charge to jump from a misdemeanor to a Class I felony.

HB 56 (McElraft)

NCRLA Position: Monitoring

HB 56 contains several regulatory reform measures focusing predominantly on changes to environmental law. Included in the bill is a provision to amend current pool lighting requirements. (See Section 11) Under current law, artificial lighting must be provided at all pools that are used at night, or when natural light is insufficient, to provide visibility in the pool area. As part of these requirements, 10-foot candles of light are mandatory where night swimming is permitted, but underwater lighting is not used.

The bill maintains the requirement that pool illumination be sufficient to illuminate the deck area in a way that it is visible at all times the pool is in use, but removes requirements for specific foot candles for illumination in the deck area.

For members on the coast, the bill also contains a repeal of the “Plastic Bag Ban,” which prohibits retailers in certain areas of the state from providing customers with plastic bags unless the bag is either reusable or is used solely to hold sales of otherwise unpacked portions of fresh

fish, meat, poultry or produce. This prohibition only exists in areas that meet certain requirements. As of now, the ban only applies in Dare, Currituck and Hyde counties.

Outcome: Still under consideration. Conference Committees appointed.

Effective Date: Upon becoming law.

Why it matters: The provision relating to pool deck illumination is an important reform because the previous requirements were so bright, guests were almost blinded, making it dangerous and difficult to see around the pool area at night.

*49 million visitors
traveled to North
Carolina last year.
89% of visitors
traveled for leisure
purposes.*

TOURISM FUNDING LEGISLATION

This section details provisions of the state budget offering funding to projects important to the hospitality industry.

Why it matters: Travel and tourism promotion has a direct positive impact on NCRLA members. The Film and Entertainment Grant Fund provides taxpayer subsidies to film production companies filming in North Carolina. These grants are important as they keep North Carolina an attractive and competitive venue for the film and entertainment industry. These projects have positive impacts on the hospitality industry, as those employed as part of the project visit local restaurants for daily meals and stay in our hotels for extended periods of time.

[SB 257](#) (*Brown*)

NCRLA Position: Support

SB 257, also known as the Appropriations Act of 2017, details the appropriations for the biennium. Overall the House and Senate agreed to \$23.03 billion in spending. Provisions of particular importance to the hospitality industry include:

NCRLA PRIORITY	2017-18	2018-19
• Funding for tourism promotion	2,000,000	500,000
• NC Welcome Center Funding	2,128,587	2,128,587
• Film and entertainment grants	15,000,000	31,000,000

Outcome: Governor's veto overridden.

Effective Date: Upon becoming law.

To view the entire Joint Conference Committee Report on the Base, Capital and Enhancement Budget, please visit: <http://bit.ly/2wSkbch>.

TAX REFORM LEGISLATION

This section details the final tax cuts set forth by the North Carolina General Assembly during the 2017 Long Session.

Over the next two years, it is estimated there will be more than \$530 million in tax cuts. While a number of proposals discussed were not adopted, the General Assembly did pass key reductions in both the corporate and personal income tax rates while increasing the standard deduction. These changes will go into effect in 2019.

Personal Income Tax Changes

The personal income tax rate will be reduced from 5.499 percent to 5.25 percent beginning in 2019.

Increase in Standard Deduction

- Married Couples (Joint Filers): Increased from \$17,500 to \$20,000
- Heads of Household: Increased from \$14,000 to \$15,000.
- Single Filers: Increased from \$8,750 to \$10,000.

Corporate Tax Rate

The corporate tax rate will be reduced from 3 percent to 2.5 percent beginning in 2019. In 2015, the General Assembly moved to reduce the corporate income tax rate from 5 percent to 4 percent, offering a further reduction to 3 percent, if the North Carolina General Fund reached a certain revenue target. That target has been met and thus the rate reduced to 3 percent in 2017. The legislature moved to further reduce the corporate rate to 2.5 percent in 2015.

State Franchise Tax

The General Assembly worked to reduce the state franchise tax by replacing the current tax with a flat \$200 assessment on the first \$1 million of a franchise's tax base to go into effect in 2019.

For more information on tax reductions passed this session, please visit [SB 257](#), the Appropriations Act of 2017, or the following other tax related bills:

- [HB 59](#) (*Brawley*): Revenue Laws Technical Changes
- [SB 131](#) (*Wells*): Regulatory Reform Act of 2017
- [SB 628](#) (*Tillman*): Tax Omnibus

BED & BREAKFAST LEGISLATION

This section summarizes bills proposing changes to current bed & breakfast laws.

SB 16 (Wells)

NCRLA Position: Support

SB 16 is one of the many regulatory relief packages offered this session. Of particular interest to the hospitality industry is section 4, allowing optional meals for bed & breakfast guests. The bill would allow both bed & breakfast homes and inns to offer guests breakfast, lunch and/or dinner. Only the breakfast meal would be required to be included in the initial room rate. The bill also removes the arbitrary cap of 23 guests placed on bed & breakfast inns.

Almost identical language to that found in SB 16 was originally featured in [HB 754](#) (Belk). The bill passed the House 117-3. Unfortunately, the bill was stalled in the Senate and the bed & breakfast reform language was added to SB 16.

Outcome: Vetoed by the governor.

Effective Date: Jan. 1, 2018.

Why it matters: These bed & breakfast law reforms would not only allow inns and homes to better meet guests needs, but also offer guests the ability to explore outside meal options without having to also pay for meals not being consumed at the inn or home. Guests often stay several days and wish to experience local cuisine instead of eating all meals at the bed & breakfast. Because all meals served were previously required to be in the room rate, guests felt penalized for paying for meals offered, but not necessarily consumed. Removing the arbitrary cap also allows bed & breakfast inns to utilize all 12 rooms. By allowing only 23 guests, current law would keep an inn from being able to house 12 couples and still be in compliance with the law.

NCRLA is working with the legislature to override the governor's veto during the special sessions scheduled this fall. To read the governor's veto message please visit here: <http://www.ncleg.net/Sessions/2017/s16Veto/letter.pdf>.

SCHOOL CALENDAR LEGISLATION

This section summarizes bills proposing changes to the current school calendar law.

During the 2017 legislative session roughly 50 local bills were filed to strike the current school calendar law requiring that school begin no earlier than the Monday closest to Aug. 26, and finish no later than the Friday closest to June 11, for various counties throughout the state.

These bills include: *HB 20, HB 41, HB 47, HB 50, HB 51, SB 56, HB 60, HB 77, HB 79, HB 93, SB 101, HB 106, HB 108, SB 110, HB 112, HB121, HB 166, HB 167, HB 188, SB 194, HB 195, SB 201, HB 202, HB 203, HB 209, HB 210, HB 213, SB 215, SB 221, SB 226, SB 227, HB 231, SB 233, HB 234, SB 237, HB 253, SB 262, HB 269, HB 281, HB 286, HB 291, HB 296, HB 301, HB 313, HB 314, HB 318, HB 346, HB 372 and HB 521.*

For more information on these bills, please visit www.ncleg.net or see NCRLA's 2017 Bill Tracking Overview here: <http://bit.ly/2wldr5P>.

Why it matters: Protecting the current school calendar law is important to the hospitality industry because the law not only allows children and their families to spend quality time together, while taking a break from the rigors of school, but also helps to protect and preserve one of North Carolina's busiest travel seasons. Many members of the hospitality industry take on college interns or high school students to run summer activities. If school starts earlier, the hospitality industry will not only be without the proper summer staffing, but those students who use the summer to help pay for school, will also be forced to reduce the amount of income they receive by limiting their internship or job.

The following are other bills that also attempt to limit the current school calendar laws in some way. Only two bills, HB 375 and HB 398 passed the House. NCRLA and other industry groups worked together to make sure these bills were successfully defeated in the Senate.

HB 375 (McGrady)

NCRLA Position: Oppose

HB 375 allows a local school board to schedule opening dates to coincide with a local community college, provided that the opening date is not earlier than Aug. 15.

Outcome: Defeated.

HB 389 (Warren)

NCRLA Position: Oppose

HB 398 would create a pilot program for a host of different counties to test out the possibility of starting a “school flexibility” program. The bill aims to study school calendar flexibility in several areas to determine if or what the impact of starting earlier would be on student achievement, graduation rates, school grade improvement and other education evaluation metrics versus the impact it has on local economies.

Outcome: Defeated.

SB 233 (Bryant)

NCRLA Position: Oppose

SB 233 would allow local boards of education to align their school start date with the community college serving the city or county in which the unit is located.

The bill would only apply to schools in Bertie County, Hertford County, Martin County, Nash-Rocky Mount, Northampton County, Roanoke Rapids Graded School District, Tyrrell County, Vance County, Warren County, Washington County, Wilson County and the town of Weldon.

Outcome: Defeated.

SB 321 (Foushee)

NCRLA Position: Oppose

Would allow a modified school calendar for low-performing entities. If any school in a local school administrative unit was identified as low performing in the previous year, the local board of education can determine the opening and closing dates of the school. They can continue to determine the opening and closing dates, regardless of whether the school is identified as low performing in subsequent school years, if the school receives a performance grade of a D or a F. However, if the school is not identified as a low performing school for three subsequent consecutive years and receives a performance grade of C or higher, the school is to go back to opening under current law start dates.

If the entire local administrative unit was identified as low performing in the previous school year, the local board can determine the start and end dates for all public schools in the administrative unit. If for three subsequent, consecutive years the local school administrative unit is not identified as low performing, the school goes back to opening and ending under current law start dates.

The bill also instructs the North Carolina Department of Public Instruction to study whether the modified calendar has an effect on student performance and states that if a local board adopts a modified calendar, the school improvement team must provide certain information in the school improvement plan.

Outcome: Defeated.

Sen. Foushee also sponsored [SB 318](#), which was very similar to the provisions above. This bill was also defeated.

HB 53 (Henson)

NCRLA Position: Oppose

Modifies current school calendar law to allow schools to start on or after Aug. 10, rather than the Monday closest Aug. 26.

Outcome: Defeated.

Summer is the most popular season for travel to North Carolina, with 38% of all travel occurring in the summer season.

OTHER LEGISLATION

This section summarizes other legislation covering a broad array of topics that could potentially impact the hospitality industry.

HB 867 Coastal Fisheries Conservation (*Yarborough*) *NCRLA Position: Monitoring*

HB 867 aims at ensuring the economic development of coastal North Carolina through the restoration and long-term conservation of the state's public, coastal fisheries resources. In adding conservation to the duties of the North Carolina Department of Environmental Quality, the bill tasks the department to conserve and protect these marine and estuarine resources for the benefit and enjoyment of future generations. The bill also grants the Marine Fisheries Commission the power to enact rules for commercial or recreational fisheries to help eliminate bycatch mortality of non-targeted species. Where it cannot be eliminated, the commission should adopt rules to minimize bycatch mortality as much as possible.

The bill goes on to specify long-term fishery management plans and standards to help further the goal of eliminating bycatch mortality.

Outcome: Defeated.

Why it matters: NCRLA monitored this bill without taking a formal position. In developing restrictions on commercial fishing, the bill could have the unintended consequence of raising the price of local seafood products that are typically featured in North Carolina restaurants. However, as a state highly regarded as a competitive travel destination, it is important to maintain our fishing resources so they can be enjoyed by citizens and visitors for generations to come.

HB 63 Sanctuary Cities (*Warren*)

NCRLA Position: Monitoring

HB 63 would increase the penalties for the manufacture or sale of false identification documents from a Class I misdemeanor to a Class G felony and would also create a rebuttable presumption against the pretrial release of certain undocumented aliens and more.

The bill was most known for creating additional incentives for local governments to comply with state laws relating to immigration. If the Attorney General determines that a local government has not complied with state laws relating to immigration, the municipality would be ineligible to receive tax revenues generated from the sale of beer, telecommunications taxes, sales tax on video programming services, taxes on piped natural gas, the sale of tires and more.

Outcome: Defeated.

Why it matters: While enforcing federal immigration laws is an important national policy, the bill could have unintended consequences on workforce availability here in the state.

S 548 Strengthening Human Trafficking Laws (*Randleman*)
Monitoring

NCRLA Position:

SB 548 would crack down on human trafficking within the state by strengthening current law, making it a Class C felony instead of a Class F where a victim is an adult and increasing the penalty from a Class C to a Class B2 felony if the victim is a minor. The bill also establishes licensing requirements for massage and bodywork therapy establishments.

The bill would allow the Board of Massage and Body Work Therapy to create and require that a massage and bodywork therapy establishment prominently display on premise a sign created to build public awareness of human trafficking, with the National Human Trafficking Resource hotline information on it.

Outcome: Signed by the governor.

Effective Date: Different sections have different effective dates. The earliest being Dec. 1, 2017.

Why it matters: Cracking down on human trafficking within the state is of the upmost importance. NCRLA was monitoring the bill because of the unintended consequences this legislation could have on the normal operations and atmosphere of high-end hotel spas operating in the state.