

Guidance on Section 8(A) of Executive Order No. 141

May 22, 2020

Section 8(A) of Executive Order No. 141 orders that entertainment and fitness facilities, including but not limited to Bars, must remain closed. “Bars” is defined in Section 1 of the Executive Order as follows:

[E]stablishments that are not eating establishments or restaurants as defined in N.C. Gen. Stat. §§ 18B-1000(2) and 18B-1000(6) ... and that are principally engaged in the business of selling alcoholic beverages for onsite consumption.

Some restaurants call themselves “breweries” or “bars;” some breweries call themselves “restaurants” or “bars;” and some bars call themselves “restaurants” or “breweries.” As a result, we have received questions about how to interpret whether an establishment is within the Executive Order’s definition of “bar” and must remain closed.

An establishment shall not be considered to be “principally engaged in the business of selling alcoholic beverages for onsite consumption” — and it may be open under Executive Order No. 141 — if it meets the following test:

- It produces alcoholic beverages for commercial sale and is, therefore, permitted by the ABC Commission under N.C. Gen. Stat. §§ 18B-1101 to 18B-1105 and is authorized to sell at retail for on-premise consumption.

The import of this Guidance is that eating establishments and restaurants as defined in N.C. Gen. Stat. §§ 18B-1000(2) & (6) and breweries, wineries, and distilleries permitted under N.C. Gen. Stat. § 18B-1100 et. seq. are allowed to open under Section 8(A) of Executive Order 141.

NOTE: If any customers consume food and/or beverages on-premises at the commercial winery, brewery, or distillery, the Emergency Maximum Occupancy requirements, Core Screening, Signage, and Sanitation requirements, and other regulations for restaurants under Section 6(C)(2) of Executive Order No. 141 apply. Therefore, any customers consuming food or beverages on-premises must be in seated groups that are spaced at least six feet apart, and customers or guests will be limited to 50% fire capacity.

Those seeking further guidance regarding Section 8(A) of Executive Order should contact the NC ABC Commission.