

§ 18B-801. Location, opening, and closing of stores.

(a) Number of Stores. – Each local board shall have the authority and duty to operate one ABC store. Additional stores may be operated with the approval of the Commission.

(b) Location of Stores. – A local board may choose the location of the ABC stores within its jurisdiction, subject to the approval of the Commission. In making its decision on a location, the Commission may consider:

- (1) Whether the health, safety, or general welfare of the community will be adversely affected.
- (2) Whether the citizens of the community or city in which the proposed store is to be located voted for or against ABC stores in the last election on the question.
- (3) The proximity of the new location to existing ABC stores operated by the local board or any other board.

(b1) Notwithstanding subsection (b) of this section, no local board may establish an ABC store at any location within the corporate limits of a municipality if the governing body of the municipality has passed a resolution objecting to the location of the proposed ABC store and the resolution is based upon information and evidence presented to the governing body of the municipality at a public hearing. If a municipality objects to the location of a proposed ABC store, the local board may request the Commission to approve the proposed ABC store location notwithstanding the objection of the municipality. The Commission shall have final authority to determine if the operation of an ABC store at the contested proposed location is suitable.

Upon notice given to the Commission by an affected municipality, any statutory and administrative time limits allowed for objections to, or public hearings concerning the location of, an ABC store shall be extended by 45 days to allow a municipality sufficient time to conduct a public hearing and submit its objection and resolution to the Commission.

(c) Closing of Stores. – Subject to the provisions of subsection (a) of this section, a local board may close a store, or the Commission may order a local board to close any store when the local board or the Commission determines that:

- (1) Repealed by Session Laws 2010-122, s. 23, effective October 1, 2010.
- (2) The store is not operated in accordance with the ABC law; or
- (3) The continued operation of that store will adversely affect the health, safety, or general welfare of the community in which the store operates.

(d) Insolvent ABC System. – If an ABC system is insolvent, the local board may apply to the Commission for an order to close the system. Upon receipt of an application, or upon its own motion, the Commission shall investigate the system, and if it finds that further operation of the ABC stores will not be profitable, it may order the system closed. If the Commission orders a local system to close, the Commission may:

- (1) After consultation with the local board, its creditors, and other interested parties, schedule a phase out of the system's business activities;
- (2) Represent the local board in negotiations with creditors and other interested parties;
- (3) Require an accounting or auditing of the local system;
- (4) Take possession or arrange for the disposition of any liquor for which the local board has not paid;
- (5) Apply to the Superior Court to be appointed as receiver for the local board with all powers and duties of a receiver for a corporation under Article 38 of Chapter 1 of the General Statutes, except that the Commission shall not be required to post the bond required by G.S. 1-504; or

- (6) Take any other reasonable steps to promote an orderly closing of the system. (1981, c. 412, s. 2; 1987, c. 135; 1989, c. 770, s. 6; 2009-36, s. 1; 2010-122, ss. 22, 23.)