

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1539

Short Title: Urban Redevelopment Zoning.

(Public)

Sponsors: Senators Reeves and Miller.

Referred to: State Government, Local Government and Personnel.

June 1, 1998

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW CITIES TO REQUIRE THAT A FOOD OR RETAIL BUSINESS
2 THAT HOLDS AN ABC PERMIT AND IS LOCATED IN AN URBAN
3 REDEVELOPMENT AREA OR WITHIN ONE THOUSAND FIVE HUNDRED
4 FEET OF A SCHOOL OR CHILD CARE CENTER MAY ONLY BE OPERATED
5 WITH A SPECIAL USE PERMIT OR CONDITIONAL USE PERMIT.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 160A-381 reads as rewritten:

9 **"§ 160A-381. Grant of power.**

10 (a) For the purpose of promoting health, safety, morals, or the general welfare of
11 the community, any city may regulate and restrict the height, number of stories and size
12 of buildings and other structures, the percentage of lots that may be occupied, the size of
13 yards, courts and other open spaces, the density of population, and the location and use of
14 buildings, structures and land for trade, industry, residence or other purposes and to
15 provide density credits or severable development rights for dedicated rights-of-way
16 pursuant to G.S. 136-66.10 or G.S. 136-66.11. These regulations may provide that a
17 board of adjustment may determine and vary their application in harmony with their
18 general purpose and intent and in accordance with general or specific rules therein
19 contained. The regulations may also provide that the board of adjustment or the city
20 council may issue special use permits or conditional use permits in the classes of cases or

1 situations and in accordance with the principles, conditions, safeguards, and procedures
2 specified therein and may impose reasonable and appropriate conditions and safeguards
3 upon these permits.

4 (b) **(Expires June 30, 2001)** Specifically, the city may require that a pawnshop as
5 defined in Chapter 91A of the General Statutes may only be operated with a special use
6 permit or a conditional use permit, or may have an overlay district wherein a pawnshop
7 as defined in Chapter 91A of the General Statutes may only be operated with a special
8 use permit or a conditional use permit, and the ordinance may provide that the permit
9 may be issued only upon a finding that the pawnshop would not be deleterious to the
10 neighborhood in which it is to be located. Conditions and safeguards on permits for
11 pawnshops may be imposed notwithstanding G.S. 91A-12. This subsection applies only
12 to cities with a population of 200,000 or over, which have a median family income of
13 forty thousand dollars (\$40,000) or over, according to the most recent decennial federal
14 census.

15 (b1) A city may require, by ordinance, that a food business as defined in G.S. 18B-
16 1000(3) or a retail business as defined in G.S. 18B-1000(7) that (i) holds an ABC permit
17 under Chapter 18B of the General Statutes, (ii) is located in a part of the city that has
18 been designated as an Urban Redevelopment Area under Article 22 of Chapter 160A of
19 the General Statutes or within 1,500 feet of a school or child care center, and (iii) has
20 gross receipts from the sale of alcoholic beverages that exceeds fifty percent (50%) of
21 gross receipts from all sales may only be operated with a special use permit or a
22 conditional use permit. The ordinance may provide that the permit will be issued only
23 upon a finding that the sale of alcoholic beverages by the food store or retail business will
24 not be deleterious to the neighborhood in which it is located. Conditions and safeguards
25 on permits for food businesses and retail businesses may be imposed notwithstanding
26 Chapter 18B of the General Statutes.

27 (b2) Instead of requiring a special use permit or a conditional use permit under
28 subsection (b1) of this section, a city may require in its zoning ordinance that a food
29 business as defined in G.S. 18B-1000(3) or a retail business as defined in G.S. 18B-
30 1000(7) that holds an ABC permit under Chapter 18B of the General Statutes and is
31 located in a part of the city that has been designated an Urban Redevelopment Area under
32 Article 22 of Chapter 160A of the General Statutes or within 1,500 feet of a school or
33 child care center must have alcoholic beverage sales that equal no more than fifty percent
34 (50%) of the business' total annual sales. A report of the business' annual alcohol sales
35 and total sales shall be provided to the city manager.

36 (c) Where appropriate, such conditions may include requirements that street and
37 utility rights-of-way be dedicated to the public and that provision be made of recreational
38 space and facilities. When issuing or denying special use permits or conditional use
39 permits, the city council shall follow the procedures for boards of adjustment except that
40 no vote greater than a majority vote shall be required for the city council to issue such
41 permits, and every such decision of the city council shall be subject to review by the
42 superior court by proceedings in the nature of certiorari. Any petition for review by the
43 superior court shall be filed with the clerk of superior court within 30 days after the

1 decision of the city council is filed in such office as the ordinance specifies, or after a
2 written copy thereof is delivered to every aggrieved party who has filed a written request
3 for such copy with the clerk at the time of the hearing of the case, whichever is later. The
4 decision of the city council may be delivered to the aggrieved party either by personal
5 service or by registered mail or certified mail return receipt requested."

6 Section 2. G.S. 18B-903(a)(1) reads as rewritten:

7 "(a) Duration. – Once issued, ABC permits shall be valid for the
8 following periods, unless earlier surrendered, suspended or revoked:

- 9 (1) On-premises and off-premises malt beverage, unfortified wine, and
10 fortified wine permits; culinary permits; and all permits listed in G.S.
11 18B-1100 shall remain valid ~~indefinitely;~~ indefinitely. The Commission
12 shall revoke any permit for off-premises sale of beer or wine if the
13 permittee is in violation of an ordinance adopted pursuant to G.S. 160A-
14 381(b1) or (b2);
- 15 (2) Limited special occasion permits shall be valid for 48 hours before and
16 after the occasion for which the permit was issued;
- 17 (3) Special one-time permits issued under G.S. 18B-1002 shall be valid for
18 the period stated on the permit;
- 19 (4) Temporary permits issued under G.S. 18B-905 shall be valid for 90
20 days; and
- 21 (5) All other ABC permits shall be valid for one year, from May 1 to April
22 30."

23 Section 3. G.S. 18B-904(e) reads as rewritten:

24 "(e) Business or Location No Longer Suitable. – The Commission may suspend or
25 revoke a permit issued by it ~~if, after compliance with the provisions of Chapter 150B of the~~
26 ~~General Statutes, if it finds at least one of the following:~~

- 27 (1) ~~that~~ That the location occupied by the permittee is no longer a suitable
28 place to hold ABC ~~permits or permits.~~
- 29 (2) ~~that~~ That the operation of the business with an ABC permit at that
30 location is detrimental to the neighborhood.
- 31 (3) That the Department of Revenue has determined and provided
32 information to the Commission that the business no longer holds the
33 necessary business tax licenses required by Chapter 105 of the General
34 Statutes.
- 35 (4) That a city has determined and provided information to the Commission
36 that the business is in violation of G.S. 160A-381(b1) or (b2).

37 No order revoking or suspending an ABC permit pursuant to subdivisions (1) or (2)
38 of ~~this section-subsection~~ may be made except upon compliance with the provisions of
39 Chapter 150B of the General Statutes and based upon substantial evidence admissible
40 under G.S. 150B-29(a).

41 The Commission shall issue an order revoking or suspending an ABC permit pursuant
42 to subdivisions (3) and (4) of this subsection after receiving information from the

1 Department of Revenue or the municipality in which the permittee is located that the
2 business is no longer in compliance with applicable statutes or ordinances."

3 Section 4. There is appropriated from the General Fund to the Department of
4 Crime Control and Public Safety the sum of one hundred forty-nine thousand two
5 hundred sixteen dollars (\$149,216) for the 1998-99 fiscal year to fund two additional
6 Alcohol Law Enforcement officers to accomplish the purposes of this act.

7 Section 5. This act is effective when it becomes law.