

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

H

4

HOUSE BILL 948  
Committee Substitute Favorable 4/23/01  
Third Edition Engrossed 4/26/01  
Senate Commerce Committee Substitute Adopted 10/2/01

Short Title: Redefine "Special ABC Area".

(Public)

Sponsors:

Referred to:

April 3, 2001

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES IN THE LAW REGARDING THE DEFINITION OF "SPECIAL ABC AREA", TO CLARIFY HOW DISTANCES BETWEEN ABC ESTABLISHMENTS AND CHURCHES AND SCHOOLS ARE MEASURED, TO AUTHORIZE THE SUMMARY REVOCATION OR SUSPENSION OF AN ABC PERMIT FOR VIOLATIONS RELATING TO ALCOHOLIC BEVERAGE SALES IN URBAN REDEVELOPMENT AREAS, AND TO MODIFY THE LAW CONCERNING MIXED BEVERAGE ELECTIONS ON BARRIER ISLANDS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 18B-101(13a) reads as rewritten:

**"§ 18B-101. Definitions.**

As used in this Chapter, unless the context requires otherwise:

...

(13a) "Special ABC area" means an area that meets the following requirements:

Either:

a. ~~1.~~ Has The area has fewer than 500 permanent ~~residents;~~ residents, and the area:

~~2.1.~~ Is located in a county that borders another state, that has at least one city that has approved the operation of an ABC store, and in which the sale of unfortified wine and malt beverages is permitted countywide or in at least two cities; and

~~3.2.~~ Contains more than 500 contiguous acres made up of privately-owned land and land owned by an association or a club that is exempt from income tax on its membership income under Article 4 of Chapter 105 of

- 1 the General Statutes, has more than 200 members, was  
2 created for municipal and recreational purposes, and, for  
3 three or more years, has levied assessments or dues and  
4 provided municipal services; or
- 5 b. ~~1. Has~~ The area has more than 500 permanent  
6 ~~residents;~~ residents, and the area:
- 7 ~~2.1.~~ Is located in a county:
- 8 I. Where ABC stores have heretofore been  
9 established but in which the sale of mixed  
10 beverages has not been approved;
- 11 II. That borders on a county that has approved the  
12 sale of alcoholic beverages countywide and  
13 contains an international airport; and
- 14 III. Borders on a county where ABC stores have  
15 heretofore been established by petition pursuant  
16 to law; and
- 17 ~~3.2.~~ Contains more than 500 contiguous acres made up of  
18 privately-owned land and land owned by an association  
19 or a club that is exempt from income tax on its  
20 membership income under Article 4 of Chapter 105 of  
21 the General Statutes, has more than 200 members, was  
22 created for municipal and recreational purposes, and, for  
23 three or more years, has levied assessments or dues and  
24 provided municipal services; ~~services; or~~
- 25 c. The area is an area of a county where the following  
26 requirements are met:
- 27 1. The county borders on the Atlantic Ocean and has a  
28 seaport supporting oceangoing vessels;
- 29 2. ABC stores have been established in the county and the  
30 sale of mixed beverages is allowed in six or more  
31 municipalities;
- 32 3. The population of the county, according to the 2000  
33 census, exceeds 52,000;
- 34 4. The tourism economy of the county is made up of more  
35 than 3,000 tourism-related jobs; and
- 36 5. Tourism expenditures within the county exceed two  
37 hundred million dollars (\$200,000,000) annually."

38 **SECTION 2.** G.S. 18B-901(c) reads as rewritten:

39 "(c) Factors in Issuing Permit. – Before issuing a permit, the Commission shall be  
40 satisfied that the applicant is a suitable person to hold an ABC permit and that the  
41 location is a suitable place to hold the permit for which he has applied. To be a suitable  
42 place, the establishment shall comply with all applicable building and fire codes. Other

1 factors the Commission shall consider in determining whether the applicant and the  
2 business location are suitable are:

- 3 (1) The reputation, character, and criminal record of the applicant;
- 4 (2) The number of places already holding ABC permits within the  
5 neighborhood;
- 6 (3) Parking facilities and traffic conditions in the neighborhood;
- 7 (4) Kinds of businesses already in the neighborhood;
- 8 (5) Whether any principal entrance of the establishment is located within  
9 50 feet as measured from any principal entrance of a ~~church or church,~~  
10 public school or church school;
- 11 (6) Zoning laws;
- 12 (7) The recommendations of the local governing body; and
- 13 (8) Any other evidence that would tend to show whether the applicant  
14 would comply with the ABC laws and whether operation of his  
15 business at that location would be detrimental to the neighborhood."

16 **SECTION 3.(a)** G.S. 18B-309 reads as rewritten:

17 "**§ 18B-309. Alcoholic beverage sales in Urban Redevelopment Areas.**

18 (a) A food business as defined in G.S. 18B-1000(3), a retail business as defined  
19 in G.S. 18B-1000(7), or an eating establishment as defined in G.S. 18B-1000(2) that  
20 holds an ABC permit under this Chapter and is located in a part of a city that has been  
21 designated as an Urban Redevelopment Area under Article 22 of Chapter 160A of the  
22 General Statutes shall not have alcoholic beverage sales in excess of fifty percent (50%)  
23 of the business's total annual sales. The city council, or its designee, shall file a certified  
24 copy of the official action and original documents, including a map or similar  
25 information, designating the area as an Urban Redevelopment Area. The Commission  
26 shall make this information available to any permittee who makes a request for this  
27 information to the Commission.

28 (b) Upon request of a city, the Commission shall investigate the total annual  
29 alcohol sales and total sales of a business as defined in this section. The Commission  
30 shall report the results of such an investigation to the city council, and the report shall  
31 contain only the percentage of annual alcohol sales in proportion to the business's total  
32 annual sales. A city may request an investigation of a particular business by the  
33 Commission only once in each calendar year. These audits may be conducted by the  
34 Commission only upon the request of the city council.

35 (c) Businesses covered by this section shall maintain full and accurate monthly  
36 records of their finances, separately indicating each of the following:

- 37 (1) Amounts expended by the business for the purchase of alcoholic  
38 beverages and the quantity of alcoholic beverages purchased;
- 39 (2) Amounts collected from the sale of alcoholic beverages sold; and
- 40 (3) Amounts collected from the sale of food, nonalcoholic beverages, and  
41 all other items sold by the business.

1 Records of purchases of alcoholic beverages and sales of alcoholic beverages shall  
2 be filed separate and apart from all other records maintained on the premises, and all  
3 records related to alcoholic beverages, including original invoices, shall be maintained  
4 on the premises for three years and shall be open for inspection and audit pursuant to  
5 G.S. 18B-502."

6 **SECTION 3.(b)** G.S. 18B-904(e) reads as rewritten:

7 "(e) Business or Location No Longer Suitable. –

8 (1) The Commission may suspend or revoke a permit issued by it if, after  
9 compliance with the provisions of Chapter 150B of the General  
10 Statutes, it finds that the location occupied by the permittee is no  
11 longer a suitable place to hold ABC permits or that the operation of the  
12 business with an ABC permit at that location is detrimental to the  
13 neighborhood. No order revoking or suspending an ABC permit  
14 pursuant to this section may be made except upon substantial evidence  
15 admissible under G.S. 150B-29(a).

16 (2) The Commission shall suspend or revoke a permit issued by it if a  
17 permittee is in violation of G.S. 18B-309. Notwithstanding subdivision  
18 (e)(1) of this section, the Commission shall, by order and without prior  
19 hearing, summarily suspend or revoke a permit issued by it if a  
20 permittee is in violation of G.S. 18B-309(c) when, prior to the period  
21 of time for which the audit is to be conducted, the city council has filed  
22 information designating the location of the Urban Redevelopment  
23 Area as required under G.S. 14-309(a) and has provided actual notice  
24 to permittees located in the Urban Redevelopment Area that they are  
25 located in such an area and must abide by G.S. 18B-309(c). Upon  
26 entry of a summary order under this subdivision, the Commission shall  
27 promptly notify all interested parties that the order has been entered  
28 and of the reasons therefore. The order will remain in effect until it is  
29 modified or vacated by the Commission. The permittee may, within 30  
30 days after receipt of notice of the order, make written request to the  
31 Commission for a hearing on the matter. If a hearing is requested, after  
32 compliance with the provisions of Chapter 150B of the General  
33 Statutes, the Commission shall issue an order to affirm, reverse, or  
34 modify its previous action."

35 **SECTION 4.** G.S. 18B-600(f) reads as rewritten:

36 "(f) Township Elections. —~~In a~~An election may be called on any of the  
37 propositions listed in G.S. 18B-602 in any township located within:

38 (1) A county where ABC stores have heretofore been established by  
39 petition pursuant to law, ~~an election may be called in any township on~~  
40 any of the propositions listed in G.S. 18B-602 law.

41 (2) A county where ABC stores have been established pursuant to law, in  
42 which county according to data from the North Carolina Department

1 of Commerce: (i) one-third or more of the employment is travel  
2 related, (ii) spending on travel exceeds four hundred million dollars  
3 (\$400,000,000) per year, and where the entirety of two townships  
4 consists of one island (and several smaller islands not making up more  
5 than one percent (1%) of the total land area of the two townships)  
6 where that island:

7 a. Has a population of 4,000 or over according to the most recent  
8 decennial federal census;

9 b. Is located with one side facing the ocean and another side  
10 facing a coastal sound.

11 In the case of subdivision (2) of this section, an election may be called in the two  
12 townships voting together on the proposition contained in G.S. 18B-602(h).

13 The election shall be held by the county board of elections upon request of the  
14 county board of commissioners or upon petition of twenty-five percent (25%) of the  
15 registered voters of the ~~township~~-township, or in the case of subdivision (2) of this  
16 section, of the two townships taken together. The election shall be conducted and the  
17 results determined in the same manner as county elections held under this Article. For  
18 purposes of this Article, townships holding any election under this subsection shall be  
19 treated on the same basis as counties, and municipalities located within those townships  
20 shall be treated on the same basis as cities. In the case of an election under subdivision  
21 (2) of this subsection, the votes of the two townships counted together shall determine  
22 the result of the election.

23 In order for an establishment to qualify for a permit under this subsection, the  
24 establishment's gross receipts from food and nonalcoholic beverages shall be greater  
25 than its gross receipts from alcoholic beverages."

26 **SECTION 5.** G.S. 95-25.5(j) reads as rewritten:

27 "(j) No person who holds any ABC permit issued pursuant to the provisions of  
28 Chapter 18B of the General Statutes for the on-premises sale or consumption of  
29 alcoholic beverages, including any mixed beverages, shall employ a youth:

30 (1) Under 16 years of age on the premises for any ~~purpose~~;purpose, unless  
31 the youth is at least 14 years of age and each of the following  
32 conditions is met:

33 a. The person obtains the written consent of a parent or guardian  
34 of the youth.

35 b. The youth is employed to work on the outside grounds of the  
36 premises for a purpose that does not involve the preparation,  
37 selling, dispensing, or sale of alcoholic beverages.

38 (2) Under 18 years of age to prepare, serve, dispense or sell any alcoholic  
39 beverages, including mixed beverages."

40 **SECTION 6.** In the event that a court of competent jurisdiction holds that  
41 any provision of this act is unconstitutional or otherwise invalid, the invalidity does not  
42 affect other provisions or applications of this act that can be given effect without the

- 1 invalid provisions or application, and to this end the provisions of each section of this  
2 act are severable one from the other and from the remainder of this act.
- 3           **SECTION 7.** This act is effective when it becomes law. Subsection 3(b) of  
4 this act applies to violations occurring on or after the effective date of this act.