

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-515
HOUSE BILL 948**

AN ACT TO MAKE CHANGES IN THE LAW REGARDING THE DEFINITION OF "SPECIAL ABC AREA", 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;~~ ~~one city;~~ 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 the General Statutes, has more than 200 members, was created for municipal and recreational purposes, and, for three or more years, has levied assessments or dues and provided municipal services; or

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

~~2.1.~~ Is located in a county:

I. Where ABC stores have heretofore been established but in which the sale of mixed beverages has not been approved;

II. That borders on a county that has approved the sale of alcoholic beverages countywide and contains an international airport; and

III. Borders on a county where ABC stores have heretofore been established by petition pursuant to law; 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 the General Statutes, has more than 200 members, was created for municipal and recreational purposes, and, for three or more years, has levied assessments or dues and provided municipal ~~services, services; or~~

- c. The area is an area of a county where the following requirements are met:
1. The county borders on the Atlantic Ocean and has a seaport supporting oceangoing vessels;
 2. ABC stores have been established in the county and the sale of mixed beverages is allowed in six or more municipalities;
 3. The population of the county, according to the 2000 census, exceeds 52,000;
 4. The tourism economy of the county is made up of more than 3,000 tourism-related jobs; and
 5. Tourism expenditures within the county exceed two hundred million dollars (\$200,000,000) annually."

SECTION 2. Section 1 of this act does not apply in Graham and Swain Counties.

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

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

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

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

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

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

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

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

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

- (1) The Commission may suspend or revoke a permit issued by it if, after compliance with the provisions of Chapter 150B of the General

Statutes, it finds that the location occupied by the permittee is no longer a suitable place to hold ABC permits or that the operation of the business with an ABC permit at that location is detrimental to the neighborhood. No order revoking or suspending an ABC permit pursuant to this section may be made except upon substantial evidence admissible under G.S. 150B-29(a).

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

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

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

- (1) A county where ABC stores have heretofore been established by petition pursuant to law, an election may be called in any township on any of the propositions listed in G.S. 18B-602.
- (2) A county where ABC stores have been established pursuant to law, in which county according to data from the North Carolina Department of Commerce: (i) one-third or more of the employment is travel related, (ii) spending on travel exceeds four hundred million dollars (\$400,000,000) per year, and where the entirety of two townships consists of one island (and several smaller islands not making up more than one percent (1%) of the total land area of the two townships) where that island:
- a. Has a population of 4,000 or over according to the most recent decennial federal census;
- b. Is located with one side facing the ocean and another side facing a coastal sound.

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

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

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

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

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

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

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

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

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

SECTION 6. In the event that a court of competent jurisdiction holds that any provision of this act is unconstitutional or otherwise invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of each section of this act are severable one from the other and from the remainder of this act.

SECTION 7. This act is effective when it becomes law. Subsection 3(b) of this act applies to violations occurring on or after the effective date of this act.

In the General Assembly read three times and ratified this the 5th day of December, 2001.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 4:38 p.m. this 4th day of January, 2002