

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE BILL 1174  
Committee Substitute Favorable 4/27/05

Short Title: ABC Permit Issuance and Compliance.

(Public)

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Sponsors:

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Referred to:

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April 12, 2005

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE ALCOHOLIC BEVERAGE CONTROL LAWS  
2 REGARDING THE ISSUANCE AND REVOCATION OF PERMITS AT  
3 LOCATIONS THAT ARE OR BECOME UNSUITABLE TO HOLD ABC  
4 PERMITS.  
5

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 18B-101 is amended by adding a new subdivision to read:  
8 "(12a) 'Premises' means all areas, whether inside or outside the licensed  
9 premises, where the permittee has control of the property through a  
10 lease, deed, or other legal process."

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

12 "(c) Factors in Issuing Permit. – Before issuing a permit, the Commission shall be  
13 satisfied that the applicant is a suitable person to hold an ABC permit and that the  
14 location is a suitable place to hold the permit for which ~~he~~ the applicant has applied. To  
15 be a suitable place, the local governing body shall return a Zoning and Compliance  
16 Form to the Commission on a form provided by the Commission to show the  
17 establishment ~~shall comply~~ is in compliance with all applicable building and fire  
18 codes and, if applicable, has been notified that it is located in an Urban  
19 Redevelopment Area as defined by Article 22 of Chapter 160A and as required by  
20 G.S. 18B-904(e)(2). Other factors the Commission shall consider in determining  
21 whether the applicant and the business location are suitable are:

- 22 (1) The reputation, character, and criminal record of the applicant;
- 23 (2) The number of places already holding ABC permits within the  
24 neighborhood;
- 25 (3) Parking facilities and traffic conditions in the neighborhood;
- 26 (4) Kinds of businesses already in the neighborhood;
- 27 (5) Whether the establishment is located within 50 feet of a church ~~or~~  
28 public school or church school, public school, or any nonpublic

1 school as defined by Part 1 or Part 2 in Article 39 of Chapter 115C of  
 2 the General Statutes;

3 (6) Zoning laws;

4 (7) The recommendations of the local governing ~~body;~~ and body;

5 (8) Any other evidence that would tend to show whether the applicant  
 6 would comply with the ABC laws ~~and whether operation of his~~  
 7 ~~business at that location would be detrimental to the~~  
 8 ~~neighborhood.~~ laws; and

9 (9) Whether the operation of the applicant's business at that location  
 10 would be detrimental to the neighborhood including evidence  
 11 admissible under G.S. 150B-29(a) of the following:

12 a. Past revocations, suspensions, and violations of ABC laws by  
 13 prior permittees at this location; or

14 b. Evidence of illegal drug activity on or about the licensed  
 15 premises; or

16 c. Evidence of fighting, disorderly conduct, and other dangerous  
 17 activities on or about the licensed premises."

18 **SECTION 3.** G.S. 18B-901(d) reads as rewritten:

19 "(d) Commission's Authority. – The Commission shall have the sole power, in its  
 20 discretion, to determine the suitability and qualifications of an applicant for a permit and  
 21 the location to which the permit may be issued."

22 **SECTION 4.** G.S. 18B-904(e) reads as rewritten:

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

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

32 (2) The Commission shall suspend or revoke a permit issued by it if a  
 33 permittee is in violation of G.S. 18B-309. Notwithstanding subdivision  
 34 (e)(1) of this section, the Commission shall, by order and without prior  
 35 hearing, summarily suspend or revoke a permit issued by it if a  
 36 permittee is in violation of G.S. 18B-309(c) when, prior to the period  
 37 of time for which the audit is to be conducted, the city council has filed  
 38 information designating the location of the Urban Redevelopment  
 39 Area as required under G.S. ~~14-309(a)~~ 18B-309(a) and has provided  
 40 actual notice to permittees located in the Urban Redevelopment Area  
 41 that they are located in such an area and must abide by  
 42 G.S. 18B-309(c). Upon entry of a summary order under this  
 43 subdivision, the Commission shall promptly notify all interested  
 44 parties that the order has been entered and of the reasons therefore.

1 The order will remain in effect until it is modified or vacated by the  
2 Commission. The permittee may, within 30 days after receipt of notice  
3 of the order, make written request to the Commission for a hearing on  
4 the matter. If a hearing is requested, after compliance with the  
5 provisions of Chapter 150B of the General Statutes, the Commission  
6 shall issue an order to affirm, reverse, or modify its previous action.

7 (3) Notwithstanding G.S. 18B-906, the Commission shall revoke a permit  
8 issued by it if, after complying with the provisions of Chapter 150B of  
9 the General Statutes and, without a finding of mitigating evidence or  
10 circumstances, it finds evidence that the permittee or his employee has  
11 been found responsible by a court of competent jurisdiction or the  
12 Commission for two or more violations of knowingly allowing a  
13 violation of the gambling, disorderly conduct, prostitution, or  
14 controlled substance laws at a single ABC-licensed premises pursuant  
15 to G.S. 18B-1005(a)(2), (a)(3), or (b), or G.S. 18B-1005.1 within a  
16 12-month period. The permittee and the owner of the property have the  
17 sole responsibility to monitor the conduct on the licensed premises  
18 pursuant to G.S. 18B-1005(b) and G.S. 19-1. Revocation of permits  
19 pursuant to this subdivision shall only apply to the permits issued to  
20 the location where the violations occurred."

21 **SECTION 5.** G.S. 18B-906(a) reads as rewritten:

22 "(a) Act Applies. – An ABC permit is a "license" within the meaning of  
23 G.S. 150B-2, ~~and~~ and, except for revocation pursuant to G.S. 18B-904(e)(3), a  
24 Commission action on issuance, suspension, or revocation of an ABC permit, other than  
25 a temporary permit issued under G.S. 18B-905, is a "contested case" subject to the  
26 provisions of Chapter 150B except as provided in this section."

27 **SECTION 6.** This act becomes effective December 1, 2005, and applies to  
28 offenses committed on or after that date.