

§ 18B-904. Miscellaneous provisions concerning permits.

(a) **Who Receives Permit.** – An ABC permit shall authorize the permitted activity only on the premises of the establishment named in the permit. An ABC permit shall be issued to the owner of the business conducted on the premises, or to the management company employed to independently manage and operate the business. The ABC Commission may determine if a management agreement delegates sufficient managerial control and independence to a manager or management company to require an ABC permit to be issued to the manager.

(b) **Posting Permit.** – Each ABC permit that is held by an establishment shall be posted in a prominent place on the premises.

(c) **Business Not Operating.** – An ABC permit shall automatically expire and shall be surrendered to the Commission if the person to whom it is issued does not commence the activity authorized by the permit within six months of the date the permit is effective. Before the expiration of the six-month period, the Commission may waive this provision in individual cases for good cause.

(d) **Notice of Issuance.** – Upon issuing a permit the Commission shall send notice of the issuance, with the name and address of the permittee and the establishment, to:

- (1) The Department of Revenue;
- (2) The local board, if one exists, for the city or county in which the establishment is located;
- (3) The governing body, sheriff, and tax collector of the county in which the establishment is located;
- (4) If the establishment is located inside a city, the governing body, chief of police, and tax collector for the city; and
- (5) The ALE Division.

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

- (1) If the Commission 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, the Commission may commence a contested case under Chapter 150B of the General Statutes for the suspension or revocation of a permit issued by it.
- (2) The Commission shall suspend or revoke a permit issued by it if a permittee is in violation of G.S. 18B-309. Notwithstanding G.S. 18B-906, 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. 18B-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, commence a contested case under Chapter 150B of the General Statutes for the reversal or modification of the Commission's order.
- (3) If the Commission finds evidence that the permittee or the permittee's employee has been found responsible by a court of competent jurisdiction or the Commission for two or more violations on separate dates of knowingly allowing a violation of the gambling, disorderly conduct, prostitution,

controlled substance, or felony criminal counterfeit trademark laws as those offenses are prohibited pursuant to G.S. 18B-1005(a)(2), (a)(3), or (b), G.S. 18B-1005.1, or G.S. 80-11.1(b)(2) or (3), at a single ABC-licensed premises within a 12-month period, the Commission may commence a contested case under Chapter 150B of the General Statutes for the revocation of a permit issued by it. The permittee and the owner of the property have the responsibility to monitor the conduct on the licensed premises pursuant to G.S. 18B-1005(b) and G.S. 19-1. Revocation of permits pursuant to this subdivision shall only apply to the permits issued to the location where the violations occurred.

- (4) Notwithstanding G.S. 18B-906, the Commission shall, by order and without prior hearing, summarily suspend or revoke permits issued by it if both of the following apply:
- a. Alcohol Law Enforcement agents or local ABC Board officers have consulted with the Commission Legal Division staff regarding the ongoing undercover operation and the sufficiency of the evidence gathered at the time of the consultation.
 - b. Upon execution of the search warrant resulting from the undercover operation, five or more persons are criminally charged with violations of the gambling, assault, disorderly conduct, prostitution, controlled substance, or felony criminal counterfeit trademark laws.

Upon entry of a summary order under this subdivision, the Commission shall promptly notify the permittee that the order has been entered and of the reasons therefore. The order shall 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, commence a contested case under Chapter 150B of the General Statutes for reversal or modification of the Commission's order.

(f) Local Government Objections. – The governing body of a city or county may designate an official of the city or county, by name or by position, to make recommendations concerning the suitability of a person or of a location for an ABC permit. The governing body of a city or county shall notify the Commission of an official designated under this subsection. An official designated under this subsection shall be allowed to testify at a contested case hearing in which the suitability of a person or of a location for an ABC permit is an issue without further qualification or authorization.

(g) Nothing in this Chapter shall be deemed to preempt local governments from regulating the location or operation of adult establishments or other sexually oriented businesses to the extent consistent with the constitutional protection afforded free speech, or from requiring any additional fee for licensing as permitted under G.S. 160D-902(c).

(h) Extension of Licensed Premises. – A permittee holding a permit issued under Article 10 or 11 of this Chapter that allows the on-premises consumption of alcoholic beverages may utilize an area that is not part of the permittee's licensed premises for the outdoor possession and consumption of alcoholic beverages sold by the permittee subject to all of the following requirements:

- (1) If the licensed premises is located in a city, an ordinance has been adopted by the city authorizing permittees to expand their licensed premises. If the licensed premises is located outside of a city, an ordinance has been adopted by the county authorizing permittees to expand their licensed premises.
- (2) If the property to which the premises will be extended is not owned by the permittee, the owner of the property has provided written permission to the

permittee allowing the use of the property for the purpose set forth in this subsection.

- (3) The permittee has provided written notification, including the diagram required under subdivision (5) of this subsection and, if applicable, a copy of the written permission required under subdivision (2) of this subsection, to the Commission, the district office of the ALE Division, and local law enforcement agency with jurisdiction over the licensed premises.
- (4) The permittee shall visibly and vertically mark off the extended area so a reasonable person could distinguish between the extended area and any sidewalk or walkway.
- (5) The permittee shall maintain a diagram on the licensed premises detailing the size and location of the extended area. The diagram required under this subdivision shall have the boundaries of the extended area clearly marked, specify the types of barriers used to mark the boundaries of the extended area, and specify the number of tables and seats placed in the extended area.
- (6) The extended area shall not be used to increase the occupant load of the licensed premises, exclusive of the extended area. For purposes of this section, "occupant load" is as used in Section 1004 of the 2018 North Carolina Building Code.
- (7) The extended area shall comply with all applicable laws governing accessibility.
- (8) Except as allowed under G.S. 18B-300.1 or to reenter the licensed premises, a person shall not exit an extended area with an alcoholic beverage purchased from the permittee.
- (9) Any additional requirements imposed by the Commission through the adoption of rules. (1939, c. 158, s. 514; 1943, c. 400, s. 6; 1949, c. 974, s. 14; 1953, c. 1207, ss. 2-4; 1957, c. 1440; 1963, c. 426, ss. 4, 5; 1971, c. 872, s. 1; 1981, c. 412, s. 2; c. 747, s. 58; 1989, c. 800, ss. 9, 10; 1991, c. 459, s. 4; 1993, c. 415, s. 12; 1998-46, s. 6; 1999-322, s. 2; 2001-515, s. 3(b); 2005-392, s. 4; 2011-145, s. 19.1(q); 2014-100, ss. 15.2A1(a), 17.1(xxx); 2019-49, s. 4; 2019-203, s. 9(a); 2021-150, s. 21.3; 2022-49, s. 3(b); 2022-51, s. 8; 2022-62, s. 1.)