

Article 9.

Issuance of Permits.

§ 18B-900. Qualifications for permit.

(a) Requirements. – To be eligible to receive and to hold an ABC permit, a person must satisfy all of the following requirements:

- (1) Be at least 21 years old.
- (2) Be a resident of North Carolina, unless any of the following apply:
 - a. The person is an officer, director, or stockholder of a corporate applicant or permittee and is not a manager or otherwise responsible for the day-to-day operation of the business.
 - b. The person has executed a power of attorney designating a qualified resident of this State to serve as attorney in fact for the purposes of receiving service of process and managing the business for which permits are sought.
 - c. The person is applying for a nonresident malt beverage vendor permit, a nonresident wine vendor permit, a nonresident spirituous liquor vendor permit, or a vendor representative permit.
- (3) Not have been convicted of a felony within three years, and, if convicted of a felony before then, have had his or her citizenship restored.
- (4) Not have been convicted of an alcoholic beverage offense within two years.
- (5) Not have been convicted of a misdemeanor controlled substance offense within two years.
- (6) Not have had an alcoholic beverage permit revoked within three years, except where the revocation was based solely on a permittee's failure to pay the annual registration and inspection fee required in G.S. 18B-903(b1).
- (7) Not have, whether as an individual or as an officer, director, shareholder or manager of a corporate permittee, an unsatisfied outstanding final judgment that was entered against him or her in an action under Article 1A of this Chapter.
- (8) Be current in filing all applicable tax returns to the State and in payment of all taxes, interest, and penalties that are collectible under G.S. 105-241.22. This subdivision does not apply to the following ABC permits:
 - a. Special occasion permit under G.S. 18B-1001(8).
 - b. Limited special occasion permit under G.S. 18B-1001(9).
 - c. Special one-time permit under G.S. 18B-1002.
 - d. Salesman permit under G.S. 18B-1111.

To avoid undue hardship, however, the Commission may decline to take action under G.S. 18B-104 against a permittee who is in violation of subdivisions (3), (4), or (5) of this subsection.

(b) Definition of Conviction. – A person has been "convicted" for the purposes of subsection (a) of this section when the person has been found guilty, or has entered a plea of guilty or nolo contendere, and judgment has been entered. A felony conviction in another jurisdiction disqualifies a person from being eligible to receive or hold an ABC permit if the conduct would also constitute a felony in North Carolina. A conviction of an alcoholic beverage offense or misdemeanor drug offense in another jurisdiction disqualifies a person from being eligible to receive or hold an ABC permit if the conduct would constitute an offense in North Carolina, unless the Commission determines that under North Carolina procedure judgment would not have been

entered under the same circumstances. Revocation of a permit in another jurisdiction disqualifies a person if the conduct would be grounds for revocation in North Carolina.

(c) Who Must Qualify; Exceptions. – For an ABC permit to be issued to and held for a business, each of the following persons associated with that business must qualify under subsection (a) of this section:

- (1) The owner of a sole proprietorship.
- (2) Each member of a firm, association, or general partnership.
- (2a) Each general partner in a limited partnership.
- (2b) Each manager and any member with a twenty-five percent (25%) or greater interest in a limited liability company.
- (3) Each officer, director, and owner of twenty-five percent (25%) or more of the stock of a corporation except that the requirement of subdivision (a)(1) does not apply to the officer, director, or stockholder unless he or she is a manager or is otherwise responsible for the day-to-day operation of the business.
- (4) The manager of an establishment operated by a corporation.
- (5) Any manager who has been empowered as attorney-in-fact for a nonresident individual or partnership.
- (6) Any manager or person otherwise responsible for the day-to-day operation of the business, if none of the persons listed in subdivisions (1) through (5) of this subsection is a manager or person otherwise responsible for the day-to-day operation of the business.

(d) Manager of Off-Premises Establishment. – Although the manager of an establishment operated by a corporation and holding off-premises permits for malt beverages, unfortified wine, or fortified wine is not otherwise required to meet the requirements of this section, the manager must be at least 19 years old and must meet the requirements of subdivisions (3), (4), (5) and (6) of subsection (a) of this section.

(e) Convention Centers. – With the approval of the Commission, the manager of a convention center may contract with another person to provide food and beverages at conventions and banquets at the convention center, and that person may engage in the activities authorized by the convention center's permit, under conditions set by the Commission. The person with whom the convention center contracts must meet the qualifications of this section.

(f) Procedure to Confirm State Tax Compliance. – Upon request of the Commission, the Department of Revenue must provide information to the Commission to confirm a person's compliance with subdivision (a)(8) of this section. If the Department of Revenue notifies the Commission that a person is not in compliance, then the Commission shall not issue or renew the person's permit until the Commission receives notice from the Department of Revenue that the person is in compliance. The requirement to pay all taxes, interest, and penalties may be satisfied by an operative agreement under G.S. 105-237 covering any amounts that are collectible under G.S. 105-241.22. Chapter 150B of the General Statutes does not apply to a Commission action on issuance, suspension, or revocation of an ABC permit under subdivision (a)(8) of this section. (1949, c. 974, ss. 1, 2; 1963, c. 119; c. 426, s. 12; 1965, c. 326; 1971, c. 872, s. 1; 1973, c. 758, s. 2; c. 1012; 1975, c. 19, s. 5; 1977, c. 70, s. 19.1; c. 668, s. 3; c. 977, ss. 1, 2; 1979, c. 286, s. 4; 1981, c. 412, s. 2; c. 747, ss. 53, 54; 1981 (Reg. Sess., 1982), c. 1262, ss. 13, 14; 1983, c. 435, ss. 32, 39; 1987, c. 136, ss. 7, 8; 1993, c. 415, s. 10; 1995, c. 466, s. 6; 2004-203, s. 25(a); 2014-3, s. 10.1(a); 2019-49, s. 2; 2021-88, s. 4(b); 2021-150, s. 6.2(c).)

§ 18B-901. Issuance of permits.

- (a) Who Issues. – All ABC permits shall be issued by the Commission.
- (b) Notice to Local Government. – Before issuing a retail ABC permit, other than a:
 - (1) Special occasion permit under G.S. 18B-1001(8);
 - (2) Limited special occasion permit under G.S. 18B-1001(9);
 - (3) Temporary permit under G.S. 18B-905; or
 - (4) Special one-time permit under G.S. 18B-1002

for an establishment, the Commission shall give notice of the permit application to the governing body of the city in which the establishment is located. If the establishment is not inside a city, the Commission shall give notice to the governing body of the county. The Commission shall allow the local governing body 15 days from the time the notice was mailed or delivered to file written objection to the issuance of the permit. To be considered by the Commission, the objection shall state the facts upon which it is based.

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

- (1) The reputation, character, and criminal record of the applicant.
- (2) through (5) Repealed by Session Laws 2019-49, s. 3, effective June 26, 2019.
- (6) Zoning laws, the number of places already holding ABC permits within the neighborhood, parking facilities and traffic conditions in the neighborhood, types of businesses already in the neighborhood, and whether the establishment is located within 50 feet of a church, public school, or any nonpublic school as defined in Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes.
- (7) The recommendations of the local governing body.
- (8) Any other evidence that would tend to show whether the applicant would comply with the ABC laws.
- (9) Whether the operation of the applicant's business at that location would be detrimental to the neighborhood, including evidence admissible under G.S. 150B-29(a) of any of the following:
 - a. Past revocations, suspensions, and violations of ABC laws by prior permittees related to or associated with the applicant, or a business with which the applicant is associated, within the immediate preceding 12-month period at this location.
 - b. Evidence of illegal drug activity on or about the licensed premises.
 - c. Evidence of fighting, disorderly conduct, and other dangerous activities on or about the licensed premises.

(d) Commission's Authority. – The Commission shall have the sole power, in its discretion, to determine the suitability and qualifications of an applicant for a permit. The Commission shall also have the authority to determine the suitability of the location to which the permit may be issued. (1945, c. 903, s. 1; 1947, c. 1098, ss. 2, 3; 1949, c. 974, s. 1; 1957, cc. 1048, 1448; 1963, c.

426, ss. 10, 12; c. 460, s. 1; 1971, c. 872, s. 1; 1973, c. 476, s. 128; 1975, c. 586, s. 1; c. 654, ss. 1, 2; c. 722, s. 1; 1977, c. 70, s. 19; c. 182, s. 1; c. 669, ss. 1, 2; c. 676, ss. 1, 2; c. 911; 1979, c. 348, ss. 2, 3; c. 683, ss. 5, 6, 11, 12; 1981, c. 412, s. 2; 1993 (Reg. Sess., 1994), c. 749, ss. 1, 2; 2005-392, ss. 2, 3; 2019-49, s. 3; 2019-182, s. 5(b); 2022-44, s. 3(n.)

§ 18B-902. Application for permit; fees.

(a) Form. – An application for an ABC permit shall be on a form prescribed by the Commission and shall be notarized. Each person required to qualify under G.S. 18B-900(c) shall sign and swear to the application and shall submit a full set of fingerprints with the application.

(b) Investigation. – Before issuing a new permit, the Commission, with the assistance of the ALE Division, shall investigate the applicant and the premises for which the permit is requested. The Commission may request the assistance of local ABC officers in investigating applications. An applicant shall cooperate fully with the investigation.

The Department of Public Safety may provide a criminal record check to the ALE Division for a person who has applied for a permit through the Commission. The ALE Division shall provide to the Department of Public Safety, along with the request, the fingerprints of the applicant, any additional information required by the Department of Public Safety, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The ALE Division and the Commission shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Public Safety may charge each applicant a fee for conducting the checks of criminal history records authorized by this subsection.

(c) False Information. – Knowingly making a false statement in an application for an ABC permit shall be grounds for denying, suspending, revoking or taking other action against the permit as provided in G.S. 18B-104 and shall also be unlawful.

(d) Fees. – An application for an ABC permit shall be accompanied by payment of the following application fee:

- (1) On-premises malt beverage permit – \$400.00.
- (2) Off-premises malt beverage permit – \$400.00.
- (3) On-premises unfortified wine permit – \$400.00.
- (4) Off-premises unfortified wine permit – \$400.00.
- (5) On-premises fortified wine permit – \$400.00.
- (6) Off-premises fortified wine permit – \$400.00.
- (7) Brown-bagging permit – \$400.00, unless the application is for a restaurant seating less than 50, in which case the fee shall be \$200.00.
- (8) Special occasion permit – \$400.00.
- (9) Limited special occasion permit – \$50.00.
- (10) Mixed beverages permit – \$1,000.
- (11) Culinary permit – \$200.00.
- (12) Unfortified winery permit – \$300.00.
- (13) Fortified winery permit – \$300.00.

- (14) Limited winery permit – \$300.00.
 - (15) Brewery permit – \$300.00.
 - (16) Distillery permit – \$300.00.
 - (17) Fuel alcohol permit – \$100.00.
 - (18) Wine importer permit – \$300.00.
 - (19) Wine wholesaler permit – \$300.00.
 - (20) Malt beverage importer permit – \$300.00.
 - (21) Malt beverage wholesaler permit – \$300.00.
 - (22) Bottler permit – \$300.00.
 - (23) Salesman permit – \$100.00.
 - (24) Vendor representative permit – \$50.00.
 - (25) Nonresident malt beverage vendor permit – \$100.00.
 - (26) Nonresident wine vendor permit – \$100.00.
 - (27) Any special one-time permit under G.S. 18B-1002 – \$50.00.
 - (28) Winery special event permit – \$200.00.
 - (29) Mixed beverages catering permit – \$200.00.
 - (30) Guest room cabinet permit – \$1,000.
 - (31) Liquor importer/bottler permit – \$500.00.
 - (32) Cider and vinegar manufacturer permit – \$200.00.
 - (33) Brew on premises permit – \$400.00.
 - (34) Wine producer permit – \$300.00.
 - (35) Wine tasting permit – \$100.00.
 - (36) Repealed by Session Laws 2005-380, s. 1, effective September 8, 2005, and applicable to wine shipper permit applications submitted on or after that date.
 - (37) Wine shop permit – \$100.00.
 - (38) Winemaking on premises permit – \$400.00.
 - (39) Wine shipper packager permit – \$100.00.
 - (40) Malt beverage special event permit – \$200.00.
 - (41) Malt beverage tasting permit – \$100.00.
 - (42) Spirituous liquor tasting permit – \$100.00.
 - (43) Antique spirituous liquor permit – \$100.00.
 - (44) Spirituous liquor special event permit – \$200.00.
 - (45) Special auction permit – \$750.00.
 - (46) Common area entertainment permit – \$750.00.
 - (47) Delivery service permit – \$400.00.
 - (48) Nonresident spirituous liquor vendor permit – \$100.00.
 - (49) Airport central storage permit – \$400.00.
 - (50) Common carrier vehicle permit – \$1,000.
 - (51) Packaging and logistics permit – \$300.00.
- (e) Repealed by Session Laws 1998-95, s. 29, effective May 1, 1999.
 - (f) Fee Not Refundable. – The fee required by subsection (d) shall not be refunded.
 - (g) Fees to Treasurer. – All fees collected by the Commission under this or any other section of this Chapter shall be remitted to the State Treasurer for the General Fund.
 - (h) Recycling Plan Required. – Each applicant for an on-premises malt beverage permit, on-premises unfortified wine permit, on-premises fortified wine permit, or a mixed beverages permit shall prepare and submit with the application a plan for the collection and recycling of all

recyclable beverage containers of all beverages to be sold at retail on the premises. A permittee who is not able to find a recycler for its beverage containers may apply to the Alcoholic Beverage Control Commission for a one-year stay of the requirement to implement a recycling program in compliance with G.S. 18B-1006.1. The application shall be made in a form specified by the Commission, shall detail the efforts made by the permittee to provide for the collection and recycling of beverage containers, and shall specify the impediments to implementation of a recycling plan. The Commission shall submit all such applications to the Division of Environmental Assistance and Outreach of the Department of Environmental Quality for review and certification. The Division of Environmental Assistance and Outreach shall investigate each application and prepare a summary of its investigation and shall submit the summary to the Commission along with a notation indicating certification or denial of the application. A permittee whose application for a stay is certified by the Division of Environmental Assistance and Outreach shall not be required to comply with the recycling requirement of the alcoholic beverage laws and regulations during the one-year stay period so certified. (1949, c. 974, ss. 1, 2; 1963, c. 119; c. 426, s. 12; 1965, c. 326; 1971, c. 872, s. 1; 1973, c. 758, s. 2; c. 1012; 1975, c. 19, s. 5; 1977, c. 70, s. 19.1; c. 668, s. 3; c. 977, ss. 1, 2; 1979, c. 286, s. 4; 1981, c. 412, s. 2; c. 747, ss. 55, 56; 1983, c. 713, s. 105; 1989, c. 737, s. 3; c. 800, s. 7; 1991, c. 267, s. 2; c. 565, ss. 2, 7; c. 669, s. 2; c. 689, ss. 307, 308; 1991 (Reg. Sess., 1992), c. 920, s. 5; 1993, c. 415, s. 11; 1993 (Reg. Sess., 1994), c. 745, s. 28; 1995, c. 404, s. 2; c. 466, s. 7; 1997-134, s. 3; 1997-467, s. 2; 1998-95, s. 29; 2001-262, s. 6; 2001-487, s. 49(f); 2002-147, s. 1; 2003-402, s. 1; 2005-350, s. 2(b); 2005-380, s. 1; 2006-222, s. 2.3; 2006-227, s. 3; 2007-402, s. 2(b); 2008-187, s. 6; 2009-105, s. 1; 2009-377, s. 1; 2010-31, ss. 13.1(b), 14.12(b); 2011-145, s. 19.1(q); 2014-100, s. 17.1(o), (xxx); 2015-98, s. 1(c); 2015-241, s. 14.30(u); 2017-87, s. 2(b); 2019-182, ss. 19(c), 20(b); 2019-203, s. 9(a); 2021-150, ss. 6.2(b), 19.2, 28.2; 2022-44, s. 2(a).)

§ 18B-903. Duration of permit; renewal and transfer.

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

- (1) On-premises and off-premises malt beverage, unfortified wine, and fortified wine permits; culinary permits; and all permits listed in G.S. 18B-1100 shall remain valid indefinitely;
- (2) Limited special occasion permits shall be valid for 48 hours before and after the occasion for which the permit was issued;
- (3) Special one-time permits issued under G.S. 18B-1002 shall be valid for the period stated on the permit;
- (4) Temporary permits issued under G.S. 18B-905 shall be valid for 90 days; and
- (5) All other ABC permits shall be valid for one year, from May 1 to April 30.

(b) Renewal. – Application for renewal of an ABC permit shall be on a form provided by the Commission. An application for renewal shall be accompanied by an application fee. The application fee shall be the same amount as the initial fee set in G.S. 18B-902, except that the renewal application fee for each wine shop permit shall be five hundred dollars (\$500.00), and the renewal application fee for each mixed beverages permit and each guest room cabinet permit shall be one thousand dollars (\$1,000). A renewal fee shall not be refundable.

(b1) Registration. – Each person holding a malt beverage, fortified wine, or unfortified wine permit issued pursuant to G.S. 18B-902(d)(1) through G.S. 18B-902(d)(6) shall register by May 1 of each year on a form provided by the Commission, in order to provide information needed by the

State in enforcing this Chapter and to support the costs of that enforcement. The registration required by this subsection shall be accompanied by an annual registration and inspection fee of four hundred dollars (\$400.00) for each permit held. The fee shall be paid by May 1 of each year. A registration fee shall not be refundable. Failure to pay the annual registration and inspection fee shall result in revocation of the permit.

(b2) Recycling Plan Required. – Each person holding an on-premises malt beverage permit, on-premises unfortified wine permit, on-premises fortified wine permit, or a mixed beverages permit shall submit, along with the annual registration or renewal application, either a current plan for the collection and recycling of all recyclable beverage containers of all beverages sold at retail on the premises, or an application for a waiver pursuant to G.S. 18B-902(h).

(c) Change in Ownership. –

- (1) Except as provided in subdivision (2) of this subsection, all permits for an establishment shall automatically expire and shall be surrendered to the Commission if:
 - a. Ownership of the establishment changes; or
 - b. There is a change in the membership of the firm, association or partnership owning the establishment, involving the acquisition of a twenty-five percent (25%) or greater share in the firm, association or partnership by someone who did not previously own a twenty-five percent (25%) or greater share; or
 - c. Twenty-five percent (25%) or more of the stock of the corporate permittee owning the establishment is acquired by someone who did not previously own twenty-five percent (25%) or more of the stock.
- (2) Notwithstanding subsection (e) of this section, any person who through contract, lease, management agreement, or change of ownership or transfer of business as provided in subdivision (1) of this subsection becomes lawfully entitled to use and control of the premises of an establishment that holds permits immediately prior to such change of ownership may continue to operate the establishment, as successor to the prior permittee, to the same extent as the predecessor permittee until the person receives a temporary or new permit, subject to the following limitations:
 - a. The person shall provide written or electronic notice to the Commission of the name of the non-permitted person, the name and address of the permitted establishment, and the date of the change in ownership. The person may not operate the establishment as provided in this subdivision until the person has provided notice to the Commission.
 - b. The person shall submit a new permit application to the Commission within 60 days after the change of ownership. If the person does not apply for a new permit within 60 days, all permits for the establishment shall automatically expire and shall be surrendered to the Commission.
 - c. The 60-day period to file a new permit application shall only be allowed once per 24 months for each establishment that holds an ABC permit, unless the establishment requests and the Commission grants a waiver of the 24 month requirement. The Commission shall grant a waiver of the 24 month requirement if it determines that the public health, safety, and welfare would not be harmed by granting the waiver.

- d. This subdivision shall apply only to establishments that hold ABC permits that are in good standing and that have not been found responsible by the Commission or a court of competent jurisdiction of a gambling, assault, disorderly conduct, prostitution, or controlled substances violation within 12 months prior to the date the non-permitted person becomes entitled to use and control of the establishment.

(c1) Construction of Change in Ownership. – Nothing in subsection (c) of this section shall be construed to limit alternating brewery proprietorships in which the holder of a brewery permit leases or otherwise makes available its facility to another holder of a brewery permit. For purposes of this section, if authorized by federal law, the host brewery may also hold, at the same facility, unfortified winery, fortified winery, and distillery permits pursuant to G.S. 18B-1101, 18B-1102, and 18B-1105. In this arrangement, the tenant brewery shall maintain title to the malt beverages at all states of the brewing process and shall be responsible for all aspects associated with manufacturing the product, including maintaining appropriate records, obtaining label approval in its own name, and remitting the appropriate taxes. Alternating brewery proprietorships are authorized between affiliated breweries, but shall not be used as a means to allocate production quantities between affiliated breweries to obtain a malt beverage wholesaler permit pursuant to G.S. 18B-1104(a)(8) where either brewery would not otherwise qualify for a permit, and the Commission shall have no authority to grant an exemption to this requirement pursuant to G.S. 18B-1116(b).

(d) Change in Management. – A corporation holding a permit for an establishment for which the manager is required to qualify as an applicant under G.S. 18B-900(c) shall, within 30 days after employing a new manager, submit to the Commission an application for substitution of a manager. The application shall be signed by the new manager, shall be on a form provided by the Commission, and shall be accompanied by a fee of ten dollars (\$10.00). The fee shall not be refundable.

(e) Transfer. – An ABC permit may not be transferred from one person to another or from one location to another.

(f) Lost Permits. – The Commission may issue duplicate ABC permits for an establishment when the existing valid permits have been lost or damaged. The request for duplicate permits shall be on a form provided by the Commission, certified by the permittee and the Alcohol Law Enforcement Division, and accompanied by a fee of ten dollars (\$10.00).

(g) Name Change. – The Commission may issue new permits to a permittee upon application and payment of a fee of ten dollars (\$10.00) for each location when the permittee's name or name of the business is changed. (1971, c. 872, s. 1; 1975, c. 330, s. 1; c. 411, s. 4; 1981, c. 412, s. 2; c. 747, s. 57; 1983, c. 713, s. 106; 1989, c. 800, s. 8; 1991, c. 565, ss. 3, 7; 1991 (Reg. Sess., 1992), c. 920, s. 6; 1998-95, s. 30; 2002-126, s. 29A.13; 2004-203, s. 25(b); 2005-350, s. 2(c); 2007-402, s. 2(c); 2008-187, s. 7; 2009-105, s. 2; 2011-145, s. 19.1(n); 2014-100, ss. 16B.2(a), 17.1(xxx); 2015-98, s. 6; 2017-87, s. 16(c); 2019-203, s. 9(a); 2021-150, s. 16.1; 2022-44, s. 4.)

§ 18B-903.1. Reissuance of certain permits.

(a) Reissuance. – Notwithstanding G.S. 18B-902(b) or G.S. 18B-903, if a nonprofit organization has received a limited special occasion permit pursuant to G.S. 18B-1001(9) or a special one-time permit pursuant to G.S. 18B-1002(a)(2) or (a)(5) within the previous 18 months,

the Commission shall reissue the permit to the nonprofit organization if the same individual representing the organization requests reissuance of the permit for the same location. The Commission shall require only the following information in order to reissue the permit:

- (1) The street address of the location where the event will take place.
- (2) The county in which the event will take place.
- (3) The date of the event.
- (4) A description of the event.
- (5) The name, address, date of birth, and contact information of the individual representing the nonprofit organization.

(b) Duration. – Once issued, a reissued limited special occasion permit shall be valid for 48 hours before and after the occasion for which the permit was issued and a reissued special one-time permit shall be valid only for the period stated on the permit.

(c) Reissuance Fee. – Application for reissuance of a limited special occasion permit or a special one-time permit shall be on a form provided by the Commission. The application fee shall be the same as the initial fee set in G.S. 18B-902. A reissuance fee shall not be refundable.

(d) Investigation. – The Commission, with the assistance of the ALE Division, shall not investigate the applicant and the premises for which the reissuance is requested more than once every three years. The Commission may request the assistance of local ABC officers in investigating applications. An applicant shall cooperate fully with the investigation.

(e) False Information. – Knowingly making a false statement in an application for a permit reissuance pursuant to this section shall be grounds for denying, suspending, revoking, or taking other action against the permit as provided in G.S. 18B-104 and shall also be a Class 1 misdemeanor. (2018-100, s. 5(d); 2019-203, s. 9(a).)

§ 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.)

§ 18B-904.1. (Repealed) Authorization and regulation of social districts. (2021-150, s. 20.3; repealed by 2022-49, s. 3(c), effective July 7, 2022.)

§ 18B-905. Temporary permits.

When an application has been received in proper form, with the required application fee, the Commission may issue a temporary permit for any of the activities for which permits are authorized under G.S. 18B-1001 and 18B-1100. A temporary permit may be revoked summarily by the Commission without complying with the provisions of Chapter 150B. Revocation of a temporary permit shall be effective upon service of the notice of revocation upon the permittee or upon the expiration of three working days after the notice of the revocation has been mailed to the permittee at either his residence or the address given for the business in the permit application. No further notice shall be required. (1945, c. 903, s. 1; 1947, c. 1098, ss. 2, 3; 1949, c. 974, s. 1; 1957, cc. 1048, 1448; 1963, c. 426, ss. 10, 12; c. 460, s. 1; 1971, c. 872, s. 1; 1973, c. 476, s. 128; 1975, c. 586, s. 1; c. 654, ss. 1, 2; c. 722, s. 1; 1977, c. 70, s. 19; c. 182, s. 1; c. 669, ss. 1, 2; c. 676, ss. 1, 2; c. 911; 1979, c. 348, ss. 2, 3; c. 683, ss. 5, 6, 11, 12; 1981, c. 412, s. 2; 1987, c. 827, s. 1.)

§ 18B-906. Applicability of Administrative Procedure Act.

(a) Act Applies. – An ABC permit is a "license" within the meaning of G.S. 150B-2, and, except for revocation pursuant to G.S. 18B-904(e)(3) or for a confirmation pursuant to G.S. 18B-900(a)(8), a Commission action on issuance, suspension, or revocation of an ABC permit, other than a temporary permit issued under G.S. 18B-905, is a "contested case" subject to the provisions of Chapter 150B except as provided in this section.

(b) Exception on Hearing Location. – Hearings on ABC permits shall be held in Ahoskie, Asheville, Bryson City, Charlotte, Elizabeth City, Fayetteville, Franklin, Goldsboro, Greensboro, Greenville, Hickory, Jacksonville, Kinston, New Bern, Raleigh, Statesville, Wilmington, and Winston-Salem. Hearings shall be held within 100 miles, as best can be determined by the Commission, of the county seat of the county in which the licensed business or proposed business

is located. The hearing may be held, however, at any place upon agreement of the Commission and all other parties.

(c) Exception on New Evidence. – In making a final decision in a contested case in which an issue is whether to deny an application for an ABC permit because either the applicant or the location for the proposed ABC permit is unsuitable, the Commission may hear evidence of acts that occurred after the date the contested case hearing was held if the evidence is admissible under G.S. 150B-29(a). New evidence heard under this subsection is not grounds for reversal or remand under G.S. 150B-51(a). (1939, c. 158, s. 514; 1943, c. 400, s. 6; 1945, c. 903, s. 1; 1947, c. 1098, ss. 2, 3; 1949, c. 974, ss. 8, 14; 1953, c. 1207, ss. 2-4; 1957, cc. 1048, 1440; 1963, c. 426, ss. 4, 5, 10-12; c. 460, s. 1; 1971, c. 872, s. 1; 1975, c. 825, s. 1; 1977, c. 176, s. 9; 1981, c. 412, s. 2; 1987, c. 827, s. 1; 1993, c. 415, s. 13; 2005-392, s. 5; 2014-3, s. 10.1(b).)

§ 18B-907. Allow electronic submission of payments and forms.

(a) Forms. – The Commission shall make all forms required by the Commission to apply for and receive a permit available on the Commission's Web site, and the Commission shall, to the extent practicable, allow for the electronic submission of these forms. Any form required by the Commission to apply for and receive a permit that requires a signature may be submitted with an electronic signature in accordance with Article 40 of Chapter 66 of the General Statutes.

(b) Payments. – The Commission shall accept electronic payments for any fee required under this Chapter to receive a permit. For purposes of this subsection, the term "electronic payment" means payment by charge card, credit card, debit card, or by electronic funds transfer as defined in G.S. 105-228.90.

(c) Fee. – The Commission may charge a fee to be used to cover costs incurred by the Commission in processing forms electronically and accepting payments electronically. The fee authorized under this subsection may not exceed five dollars (\$5.00). (2019-182, s. 18(a).)