

CHAPTER 15 – ALCOHOLIC BEVERAGE CONTROL COMMISSION

SUBCHAPTER 15A - ORGANIZATIONAL RULES: POLICIES AND PROCEDURES

SECTION .0100 - GENERAL PROVISIONS

14B NCAC 15A .0101 PURPOSE

The Alcoholic Beverage Control System shall provide regulation and control of the manufacture, distribution, advertisement, sale, possession and consumption of alcoholic beverages to serve the public health, safety and welfare in accordance with this Chapter.

*History Note: Authority G.S. 18B-100; 18B-105; 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0101 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. September 1, 2019.*

14B NCAC 15A .0102 LOCATION, ADDRESSES AND BUSINESS HOURS

The principal office of the North Carolina Alcoholic Beverage Control Commission is located at 400 East Tryon Road, Raleigh, North Carolina 27610. The mailing address is 4307 Mail Service Center, Raleigh, North Carolina 27699-4307. The telephone number is (919) 779-0700. The Commission's email address is contact@abc.nc.gov. The Commission's website address is https://abc.nc.gov. The principal office is open to the public during regular business hours, from 8:00 a.m. to 5:00 p.m., Monday through Friday. Permit applications received after 3:00 p.m. shall not be processed until the following business day.

*History Note: Authority G.S. 18B-100; 18B-207;
Eff. January 1, 1982;
Amended Eff. December 1, 2012; January 1, 2011; August 1, 2010; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0102 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. September 1, 2019; February 1, 2019; April 1, 2018.*

14B NCAC 15A .0103 DEFINITIONS

(a) The following definitions apply in this Chapter:

- (1) "Administrator" means the principal administrative officer of the Commission.
- (2) "Alcohol law enforcement agent" or "ALE agent" means an enforcement agent of the Alcohol Law Enforcement Branch, North Carolina Department of Public Safety.
- (3) "Applicant" means any person who requests the issuance of a permit from the Commission, unless the context clearly means otherwise.
- (4) "Brand," in relation to wines, means the name under which a wine is produced. A brand shall not be construed to mean a class or type of wine, but all classes and types of wines sold under the same brand label shall be considered a single brand. Differences in packaging such as a different style, type, or size of container shall not be considered different brands.
- (5) "Branded merchandise" means items, including glassware, cups, signs, t-shirts, hats, and other apparel, which bear the brand of the alcoholic beverage being served, or the brand of the brewery, winery, or distiller whose alcoholic beverages is being served, at a tasting conducted pursuant to G.S. 18B-1114.1, 18B-1114.5 or 18B-1114.7.
- (6) "Brokerage" means a business that brokers in the State the sale of spirituous liquor on behalf of a spirituous liquor supplier.
- (7) "Brokerage representative" means an individual who promotes spirituous liquor on behalf of a brokerage.
- (8) "Chairman" means the chairman of the Commission.

- (9) "Contractor" means the person or persons responsible for carrying out the storage and distribution of spirituous liquors at the State ABC warehouse.
 - (10) "Distiller representative" means an individual who promotes spirituous liquor on behalf of a distiller, or otherwise represents a distiller.
 - (11) "Distressed liquor" means liquor which is not saleable due to adulteration or damage to the bottle, label, or tax seal.
 - (12) "Industry Member" means any wholesaler, salesman, brewery, winery, bottler, importer, liquor importer/bottler, distiller, distiller representative, brokerage, brokerage representative, supplier representative, rectifier, nonresident vendor, vendor representative, or affiliate thereof, that sells or solicits orders for alcoholic beverages, whether or not licensed in this State.
 - (13) "Permittee" means a person to whom a permit has been issued by the Commission.
 - (14) "Rectifier" means a permittee that processes spirituous liquor by cutting, blending, mixing, or infusing the spirituous liquor with any ingredient that reacts with the constituents of the distilled spirits and changes the character and nature, or standards of identity, of the distilled spirits. "Rectifier" does not include a person who extracts spirituous liquor by original or continuous distillation, or who mixes spirituous liquor with other ingredients for immediate consumption.
 - (15) "Retail permittee" or "retailer" means any permittee holding a retail alcoholic beverage permit issued pursuant to the authority of G.S. 18B-1001 but does not include a non-profit or political organization that has been issued a special one-time permit pursuant to the provisions of G.S. 18B-1002(a)(2) or (5).
 - (16) "State ABC warehouse" means the contractor-operated facility or facilities storing spirituous liquors on behalf of the Commission pursuant to G.S. 18B-204, or, in cases of emergency, the facility or facilities operated by the State for the purpose of storing spirituous liquors.
 - (17) "Spirituous liquor supplier" means a distiller, liquor importer/bottler, or rectifier.
 - (18) "Supplier representative" means, as the term is used in G.S. 18B-1114.7, an individual who promotes on behalf of a spirituous liquor supplier, or otherwise represents a spirituous liquor supplier.
 - (19) "Vendor" means any brewery, winery, bottler, malt beverage or wine importer, or nonresident malt beverage vendor or nonresident wine vendor as those terms are used in G.S. 18B-1113 and 18B-1114.
 - (20) "Vendor representative" means any person who holds a permit issued pursuant to G.S. 18B-1112.
 - (21) "Wine" means both fortified wine and unfortified wine.
- (b) The definitions in Chapter 18B apply to the rules in this Chapter.

History Note: Authority G.S. 18B-100; 18B-207;
 Eff. January 1, 1982;
 Amended Eff. November 1, 2010; May 1, 1984;
 Transferred and Recodified from 04 NCAC 02R .0103 Eff. August 1, 2015;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
 Amended Eff. September 1, 2019.

14B NCAC 15A .0104 PAYMENT OF FEES AND FINES

- (a) Payment of fees and fines owed to the Commission may be paid by certified check, cashier's check, money order, electronic payment, or Discover, Mastercard, or Visa credit cards. However, payments for permit renewals for more than nine locations shall not be made by credit card.
- (b) Credit card and electronic payments may be made online through the Commission's website.
- (c) All payments shall be made payable to the North Carolina ABC Commission.

History Note: Authority G.S. 18B-100; 18B-104; 18B-206; 18B-207; 18B-902; 18B-903;
 Eff. July 1, 2018.

SECTION .0200 - STRUCTURE

14B NCAC 15A .0201 COMMISSION

The North Carolina Alcoholic Beverage Control Commission shall be composed of a chairman and two associate members.

The chairman shall have the powers and perform the duties prescribed by the Commission including the authority to appoint, promote, demote, and discharge all subordinate officers and employees of the Commission.

The Commission shall have all the authority and duties given it by the provisions of the North Carolina General Statutes.

History Note: Authority G.S. 18B-100; 18B-200; 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0201 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .0202 COMMISSION MEETINGS

The Commission shall meet in monthly sessions open to the public in order to make final decisions on hearing cases, to adopt, amend or repeal alcoholic beverage control rules, and to consider and act upon any other business pending before the Commission. The Commission may call special meetings in addition to the monthly meetings to consider and act upon any unfinished business pending before the Commission.

The press shall be notified of the time and place of both monthly and special meetings.

The Commission may hold executive sessions with regard to personnel matters. These sessions are not open to the public nor is the press notified of these sessions.

Minutes of all Commission meetings shall be kept on file.

History Note: Authority G.S. 18B-100; 18B-200; 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0202 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .0203 ADMINISTRATIVE FUNCTIONS

The principal administrative officer shall be the administrator who executes rules, policies and procedures governing the sale of alcoholic beverages and coordinates the functions of the Commission with local boards and industry.

History Note: Authority G.S. 18B-100; 18B-200(d); 18B-207;
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0204 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .0204 LEGAL FUNCTIONS

The Legal Division processes cases involving permittees charged with violations of the ABC laws, and represents the Commission in contested cases before the Office of Administrative Hearings. Legal staff may also serve as hearing officers in cases filed under Article 12 of Chapter 18B.

History Note: Authority G.S. 18B-100; 18B-200(d); 18B-207;
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0205 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

SECTION .0300 - PUBLICATIONS: RECORDS: COPIES

14B NCAC 15A .0301 DISTRIBUTION, INSPECTION AND COPIES OF ABC LAWS

(a) Distribution of Rules and Statutes. The Commission shall distribute at no charge one copy of Chapter 18B of the General Statutes and the Commission's Rules to each local ABC board, each ALE agent, ABC officer and local law enforcement officer employed by a contracting agency pursuant to G.S. 18B-501(f).

(b) Purchasing Copies of Documents. Copies of the following documents are available from the Commission:

- (1) Chapter 18B of the General Statutes and the Commission's Rules;
- (2) ABC Retail Guide; and
- (3) Public records retained by the Commission.

Copies of the above documents are available at the "actual cost" as defined in G.S. 132-6.2(b) for making the copies and the mailing cost, if applicable. The Commission shall provide its "actual cost" of documents specified under Subparagraphs (b)(1) and (2) of this Rule on the Commission's website. Persons requesting copies of the above documents shall make payment by certified check, cashier's check, money order, or credit card to the Commission prior to receiving any copies of the above documents.

(c) Online Documents. Copies of Chapter 18B of the General Statutes and Commission rules, forms, minutes and reports shall be made accessible online on the Commission's website without charge at <https://abc.nc.gov/>.

History Note: Authority G.S. 12-3.1; 18B-100; 18B-207;
Eff. July 1, 1992;
Amended Eff. November 1, 2010;
Transferred and Recodified from 04 NCAC 02R .0303 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. September 1, 2019.

14B NCAC 15A .0302 FEE FOR COMPUTER SERVICES

Fees for data processing services shall be determined by the Commission in accordance with G.S. 132-6.2(b) and shall be paid in advance by certified check, cashier's check, money order, or credit card. The requester shall request and receive a quote from the Commission prior to payment of requested services.

History Note: Authority 18B-100; 18B-207; 132.6.2; 150B-19(5)(e);
Eff. July 1, 1992;
Amended Eff. November 1, 2010;
Transferred and Recodified from 04 NCAC 02R .0304 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. September 1, 2019.

SECTION .0400 - RULE-MAKING

14B NCAC 15A .0401 PETITION FOR ADOPTION OF RULES

(a) Any person wishing to submit a petition requesting the adoption, amendment, or repeal of a rule by the Commission shall address the petition to the North Carolina Alcoholic Beverage Control Commission, Chief Counsel, 4307 Mail Service Center, Raleigh, North Carolina 27699-4307.

(b) Contents. In addition to the proposed text of the requested rule change, a statement of the effect of the change, and the name and address of each petitioner, the petition may also contain the following information:

- (1) summary of the proposed rule's contents;
- (2) reasons for the adoption, amendment or repeal of the proposed rule;
- (3) citation of authorities showing the legality of the proposed adoption, amendment or repeal of the rule;
- (4) effect of existing rules or orders;
- (5) any data supporting the proposal; and
- (6) effect of existing rules on existing practices in the area involved.

History Note: Authority G.S. 18B-100; 18B-207; 150B-20(a);
Filed November 24, 1981;
Legislative Delay Eff. December 31, 1981;

Eff. January 12, 1982;
Amended Eff. August 1, 2010; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0402 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. September 1, 2019.

14B NCAC 15A .0402 ADMINISTRATIVE ACTION

Based on a study of the petition and other supporting material submitted in accordance with Rule .0401(b) of this Section, the Commission shall deny the petition or initiate rule-making proceedings within a reasonable time following submission of the petition.

History Note: Authority G.S. 18B-100; 18B-207; 150B-20;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0403 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. September 1, 2019.

14B NCAC 15A .0403 NOTICE OF RULE-MAKING HEARINGS; MAILING LIST

Mailing List. Any person desiring to be placed on the mailing list in accordance with G.S. 150B-21.2(d) for the rule-making notices may file a request in writing, furnishing the person's name, email and mailing address to the Commission.

History Note: Authority G.S. 18B-100; 18B-207; 150B-21.2;
Eff. January 1, 1982;
Amended Eff. July 1, 1992; August 1, 1988; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0404 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. September 1, 2019.

14B NCAC 15A .0404 RULE-MAKING HEARING

- (a) Location. Unless otherwise stated in a particular rule-making notice, rule-making hearings shall be held in the administrative hearing room of the Commission's principal office.
- (b) Oral Presentations. Any person desiring to present oral data, views or arguments on the proposed rule shall file a written notice of that desire with the Legal Division of the Commission. The notice of the oral presentation may contain a brief summary of the individual's or organization's views with respect to the proposed adoption, amendment or repeal of a rule, and a statement of the length of time the speaker would like to speak.
- (c) The Chairman shall preside at the rule-making hearing and shall ensure that each person participating is given an opportunity to present oral arguments, comments and data supporting the person's position. The Chairman in open session may set the time limits on oral presentations during the hearing based on the number of people wishing to speak and the amount of time allocated to the public hearing.

History Note: Authority G.S. 18B-100; 18B-207; 150B-21.2(e);
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0405 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. September 1, 2019.

SECTION .0500 – DECLARED EMERGENCY

14B NCAC 15A .0501 REVOCATION OR SUSPENSION OF PERMIT

The Commission may revoke or suspend the permit of any person who violates any order of the Governor issued pursuant to G.S. 18B-110 when the sale of alcoholic beverages is suspended in any area of the State pursuant to a state of emergency as declared by the Governor in accordance with Article 1A of Chapter 166A of the General Statutes.

History Note: Authority G.S. 18B-110; 18B-104; 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0502 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. September 1, 2019.

SECTION .0600 - DECLARATORY RULINGS

14B NCAC 15A .0601 ISSUANCE: GROUNDS

Upon request of an aggrieved party, except where the Commission for good cause finds issuance of a ruling undesirable, the Commission shall issue a declaratory ruling if the request for such a ruling will:

- (1) determine the validity of a rule previously adopted by the Commission; or
- (2) determine the applicability of a particular statute or rule administered or adopted by the Commission to a given specific fact situation.

History Note: Authority G.S. 18B-100; 18B-207; 150B-4;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0602 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .0602 REQUEST FOR DECLARATORY RULING

(a) All requests for a declaratory ruling to contest the validity of a rule adopted by the Commission shall supply the following information:

- (1) name and address of person aggrieved;
- (2) statute or rule to which the request relates;
- (3) a brief statement of the manner in which the person aggrieved is affected or may be affected by the statute or rule;
- (4) names and addresses of additional third persons known to the person aggrieved who may possibly be affected by the requested ruling;
- (5) statement of all material facts;
- (6) statement whether or not the person aggrieved is aware of any pending Commission action or court action that may bear on the applicability of the statute or rule to the person's particular situation;
- (7) statement of the arguments and legal authority supporting the person's position on the applicability of this statute or rule; and
- (8) statement of whether or not a conference is desired and reasons for requesting conference.

The person aggrieved shall sign and verify the request before an officer qualified to administer oaths that the information supplied in the request form is true and accurate.

(b) The request and any supporting materials relevant to the request shall be sent to the North Carolina Alcoholic Beverage Control Commission, 4307 Mail Service Center, Raleigh, North Carolina 27699-4307.

(c) The Commission shall either deny the request, stating the reasons therefore, or issue a declaratory ruling. The Commission shall deny a request for a declaratory ruling when the Commission determines that:

- (1) the request does not comply with the procedural guidelines within Paragraphs (a) and (b) of this Rule;
- (2) the Commission has previously issued a declaratory ruling on substantially similar facts;
- (3) the Commission has previously issued a final agency decision in a contested case on substantially similar facts;

- (4) the facts underlying the request for a declaratory ruling were considered at the time of the adoption of the rule in question;
 - (5) the subject matter is one concerning which the Commission is without authority to make a decision binding the Commission or the petitioner;
 - (6) the petitioner is not aggrieved by the rule or statute in question or otherwise has no interest in the subject matter of the request;
 - (7) there is reason to believe that the petitioner or some other person or entity materially connected to the subject matter of the request is acting in violation of the G.S. 18B or the rules adopted by the Commission; or
 - (8) the subject matter of the request is involved in pending litigation, legislation, or rulemaking.
- (d) The Commission shall not issue a declaratory ruling when the petitioner or his or her request is the subject of, or materially related to, an investigation by the Commission or contested case before the Commission.

History Note: Authority G.S. 18B-100; 18B-207; 150B-4;
Eff. January 1, 1982;
Amended Eff. November 1, 2010; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0603 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .0603 GROUNDS FOR DENIAL OF RULING ON VALIDITY

A request for a declaratory ruling to determine the validity of a rule may be denied unless:

- (1) It is shown that since the adoption of the rule by the Commission, circumstances have so changed that a declaratory ruling is warranted; or
- (2) It is shown that in the records of the rule-making hearing that was held upon the rule in question, the Commission failed to consider specified relevant matters.

History Note: Authority G.S. 18B-100; 18B-207; 150B-4;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0604 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .0604 GROUNDS FOR DENIAL: PENDING CONTROVERSY

History Note: Authority G.S. 18B-207; 150B-11; 150B-17;
Eff. January 1, 1982;
Transferred and Recodified from 04 NCAC 02R .0606 Eff. August 1, 2015;
Expired Eff. September 1, 2015 pursuant to G.S. 150B-21.3A.

14B NCAC 15A .0605 WITHDRAWAL OF REQUEST FOR DECLARATORY RULING

A petitioner may ask for a withdrawal of that person's request for a declaratory ruling by filing a written request with the Commission at any time prior to the issuance of a ruling. Upon this request, the Commission shall permit an aggrieved party to withdraw the request for a declaratory except when the Commission determines that other persons regulated by this Rule would benefit from the ruling.

History Note: Authority G.S. 18B-100; 18B-207; 150B-4;
Eff. January 1, 1982;
Transferred and Recodified from 04 NCAC 02R .0607 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. September 1, 2019.

14B NCAC 15A .0606 EFFECT OF DECLARATORY RULING

A declaratory ruling shall be binding upon the Commission in its dealings with the party requesting the ruling unless the Commission finds a misstatement of material fact or the failure to state a material fact, the omission of which makes the request misleading. The Commission, however, shall not be bound by that declaratory ruling in dealing with third parties where the Commission, for good cause, believes that a different course of action is justified and that a ruling should be changed with respect to different persons or fact situations.

History Note: Authority G.S. 18B-100; 18B-207; 150B-4;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0610 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .0607 ALTERATION OF DECLARATORY RULING

The Commission, on its own motion, or upon the motion of any interested person, may change or modify a declaratory ruling previously issued by the adoption of a new or different ruling. Such a subsequent ruling shall apply prospectively only.

History Note: Authority G.S. 18B-100; 18B-207; 150B-4;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0611 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .0608 JUDICIAL REVIEW OF DECLARATORY RULINGS

For purposes of judicial review, the Commission shall preserve any and all requests for rulings, written comments by interested parties, any manuscripts or summaries of oral proceedings, any matter considered by the Commission in making the decision, and the decision, together with the reasons therefor.

History Note: Authority G.S. 18B-100; 18B-207; 150B-4;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0612 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

SECTION .0700 - PERSONNEL POLICIES: COMMISSION

14B NCAC 15A .0701 DISCIPLINARY ACTION OF EMPLOYEE

History Note: Authority G.S. 18B-100; 18B-202; 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
RRC Objection due to lack of authority and lack of necessity Eff. May 21, 1992;
Amended Eff. July 6, 1992;
Transferred and Recodified from 04 NCAC 02R .0702 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Repealed Eff. September 1, 2019.

SECTION .0800 - ADJUDICATION: CONTESTED CASES

14B NCAC 15A .0801 NOTICE OF ALLEGED VIOLATION

If facts reported by a law enforcement officer indicate a violation of the ABC laws, the Commission shall send a notice of alleged violation to the permittee. Service of the notice of alleged violation shall be deemed complete in

accordance with G.S. 1A-1, Rule 5(b). The permittee's address as stated on the permit shall be considered the permittee's last known address.

History Note: Authority G.S. 18B-100; 18B-203(a)(12); 18B-207;
Eff. January 1, 1982;
Amended Eff. February 1, 2012; July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0802 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. September 1, 2019.

14B NCAC 15A .0802 FINAL ADMINISTRATIVE DECISION: HEARING

History Note: Authority G.S. 18B-207; 150B-36;
Eff. January 1, 1982;
Amended Eff. July 1, 1992; September 1, 1988; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0820 Eff. August 1, 2015;
Expired Eff. September 1, 2015 pursuant to G.S. 150B-21.3A.

14B NCAC 15A .0803 ARTICLE 12 HEARINGS; PETITION AND NOTICE

(a) Initiation of Hearing. A hearing under Article 12 of Chapter 18B of the General Statutes (Wine Distribution Agreements Act) shall be commenced by the filing of a petition with the Commission. The petition shall state the party's contentions in detail, and set forth chronologically the events surrounding the winery's termination of the agreement.

(b) Requests for Relief. In any case in which a wholesaler requests that the Commission provide relief in a dispute with a winery under Article 12, the Commission may deem that request to be in the nature of a request for a hearing, and may conduct a hearing to determine if the winery has good cause to terminate an agreement with the wholesaler, or to determine if the wholesaler has rectified the reasons given by the winery for the termination.

(c) Notice of Hearing. A Notice of Hearing shall be mailed to the parties in a dispute under Article 12 at least 15 days prior to the hearing. The notice will be served by certified mail or in accordance with G.S. 1A-1, Rule 4 (j1). In the event service is made by certified mail, the delivery date on the return receipt shall be the date of notice. The notice will contain a short and plain statement of the issues to be resolved by the Commission, the date, time, and place of the hearing, and the name of the hearing officer who will conduct the hearing, if the Commission determines that it will not preside at the initial hearing.

(d) Rules of Procedure. Hearings conducted under Article 12 of Chapter 18B of the General Statutes will be conducted in accordance with the Rules of Civil Procedure as contained in G.S. 1A-1, and the General Rules of Practice for the Superior and District Courts as authorized by G.S. 7A-34 and found in the Rules Volume of the North Carolina General Statutes.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1205;
Eff. July 1, 1992;
Transferred and Recodified from 04 NCAC 02R .0821 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .0804 ARTICLE 12 HEARINGS; EVIDENCE

The provisions of G.S. 150B-29 relating to evidence shall apply to hearings conducted under Article 12 of Chapter 18B of the General Statutes.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1205;
Eff. July 1, 1992;
Transferred and Recodified from 04 NCAC 02R .0822 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .0805 ARTICLE 12 HEARINGS; FINAL ADMINISTRATIVE DECISION; ORDER

- (a) Right to Submit Proposed Findings. The parties in a hearing conducted under Article 12 of Chapter 18B of the General Statutes shall have an opportunity to file proposed findings of fact and conclusions of law within 30 days of the conclusion of the initial hearing.
- (b) Recommended Decision. If a hearing conducted under Article 12 is presided over by a hearing officer, the hearing officer shall issue a recommended decision that contains proposed findings of fact and conclusions of law. The hearing officer shall serve a copy of the recommended decision upon all parties and the members of the Commission who will make the final administrative decision. Service shall be in the manner prescribed in Rule .0803(c) of this Section.
- (c) Exceptions. The parties to a case heard under Article 12 shall have the right to file written exceptions to a recommended decision by the hearing officer. Exceptions shall be filed with the Commission within 30 days of receipt of the recommended decision.
- (d) Hearing Conducted by Commission. In lieu of assigning a hearing officer to preside over the initial hearing, the Commission may conduct the initial hearing. After the time for the filing of proposed findings of fact and conclusions of law by the parties has expired, the Commission will issue a final administrative decision and order that determines the issues set forth in any pre-hearing order.
- (e) Petition to Office of Administrative Hearings. In any case heard by the Commission under Article 12 of Chapter 18B of the General Statutes, if the Commission finds evidence of violations of Article 12 of Chapter 18B, or any other ABC law, it may commence proceedings in accordance with the provisions of Rule .0801 of this Section.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1205; 18B-1207(c);
Eff. July 1, 1992;
Transferred and Recodified from 04 NCAC 02R .0823 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. September 1, 2019.*

SECTION .0900 - FISCAL RULES FOR LOCAL BOARDS

14B NCAC 15A .0901 BORROWING MONEY

Before a local board borrows money, it shall consider the following factors:

- (1) the number of stores in a service area;
- (2) the estimated population in a service area;
- (3) the location of stores in a service area;
- (4) the nature and amount of the outstanding debt of the local board;
- (5) whether the borrowing is for the purchase of fixed assets, inventory or both;
- (6) the adequacy of the accounting system used or proposed to be used by the local board;
- (7) its compliance with rules of the Commission;
- (8) history of operating profits; and
- (9) projected profits and ability to retire the debt.

*History Note: Authority G.S. 18B-100; 18B-203(a)(20); 18B-207; 18B-702(r),(u);
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0901 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.*

14B NCAC 15A .0902 MAINTENANCE OF WORKING CAPITAL

- (a) As used in this Rule, "working capital" means the total of cash, investments and inventory less all unsecured liabilities.
- (b) A local board shall set its working capital requirements at not less than two weeks' average gross sales of the latest fiscal year nor greater than:
- (1) four months of the latest fiscal year for boards with gross sales less than one million five hundred thousand dollars (\$1,500,000);

- (2) three months of the latest fiscal year for boards with gross sales greater than or equal to one million five hundred thousand dollars (\$1,500,000) and less than fifty million dollars (\$50,000,000); and
- (3) two months of the latest fiscal year for boards with gross sales equal to or greater than fifty million dollars (\$50,000,000).

Gross sales means gross receipts from the sale of alcoholic beverages less distributions as defined in G.S. 18B-805(b)(2),(3), and (4).

(c) A local board is considered insolvent if all of the following conditions apply:

- (1) the local board does not adhere to the working capital requirements as stated in Paragraph (b) of this Rule;
- (2) the local board's current assets are less than the local board's current liabilities and the current portion of long term debt;
- (3) the local board is unable to pay its debts as they fall due; and
- (4) the Commission believes that continued operation of the local board will not lead to profits in the next fiscal year.

(d) As used in this Rule, "long term debt" means the loans and financial obligations lasting over one year.

History Note: Authority G.S. 18B-100; 18B-203(a)(20); 18B-207; 18B-702(u); 18B-805(a),(d); Eff. January 1, 1982; Amended Eff. November 1, 2011; July 1, 1992; June 1, 1988; May 1, 1984; Transferred and Recodified from 04 NCAC 02R .0902 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .0903 DEPOSITS

(a) Each local board shall designate as its official depositories one or more banks, savings and loan associations or trust companies in this State.

(b) The amount of funds on deposit in an official depository or deposited at interest shall be secured as provided in the Rules of the Local Government Commission at 20 NCAC 7.

History Note: Authority G.S. 18B-100; 18B-207; 18B-702(t),(u); Eff. May 1, 1984; Transferred and Recodified from 04 NCAC 02R .0903 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .0904 INVESTMENTS

(a) Each local board shall adopt an investment program suitable to its own needs and situation. The investment program shall be designed so that investments and deposits at interest can be converted into cash when needed.

(b) The finance officer shall manage the investment program subject to the directives and restrictions imposed by the local board and within the restrictions of applicable statutes.

History Note: Authority G.S. 18B-100; 18B-207; 18B-702(t),(u); Eff. May 1, 1984; Transferred and Recodified from 04 NCAC 02R .0904 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .0905 DAILY DEPOSITS

(a) Each officer whose duty it is to collect or receive moneys of the local board shall deposit into an official depository the collections and receipts daily. If the local board gives its approval, deposits shall be required only when the moneys on hand are equal to or are greater than two hundred fifty dollars (\$250.00), but in any event a deposit shall be made on the last business day of the month. All deposits shall be made in an official depository. Deposits in an official depository shall be reported to the finance officer by means of a duplicate deposit ticket.

(b) A change fund necessary for daily operation of an ABC store shall be established by each local board and maintained in a secure place on the store's premises and shall not be subject to the daily deposit rule. Each change fund shall be maintained in the amount and place established by the local board.

(c) The finance officer may at any time audit the records maintained by any employee collecting sales revenue and may prescribe the form and detail of these records.

(d) The Commission shall waive or alter the daily deposit requirement for any local board where adequate security for the funds involved is demonstrated.

History Note: Authority G.S. 18B-100; 18B-207; 18B-702(t),(u);
Eff. May 1, 1984;
Amended Eff. November 1, 2010;
Transferred and Recodified from 04 NCAC 02R .0905 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .0906 FINANCE OFFICER: DUTIES

History Note: Authority G.S. 18B-702(e);
Eff. May 1, 1984;
Amended Eff. July 1, 1992;
Transferred and Recodified from 04 NCAC 02R .0906 Eff. August 1, 2015;
Expired Eff. September 1, 2015 pursuant to G.S. 150B-21.3A.

14B NCAC 15A .0907 ANNUAL INDEPENDENT FINANCIAL AUDIT

(a) Each local board shall have its accounts audited after the close of each fiscal year by an independent certified public accountant. The auditor shall be selected by and report to the local board. The audit contract shall be on a form provided by the Commission. The audit report is due to the Commission ninety days after the end of the fiscal year. The financial officer shall file one unbound copy of the audit report and management letter with the Commission.

(b) Each officer and employee of the local board having custody of public money or responsibility for keeping records of financial or fiscal affairs shall produce books and records requested by the auditor or the Commission and shall divulge any information relating to fiscal affairs that they request. If any member of the local board or any employee conceals, falsifies or refuses to deliver or divulge any books, records, or information with intent to mislead the auditor or impede or interfere with the audit, he is subject to removal for cause pursuant to G.S. 18B-203(a)(8).

(c) Disclosure of the distribution of profits shall include every element that is applicable under G.S. 18B-805 in a schedule prepared for inclusion with the annual audited financial statements. In addition the schedule shall be supported by a listing of each person who receives moneys from the local board, the date of payment and, if applicable, the purpose for which the payment was made and restrictions on use of the payment. The listing shall be so designated to provide the same totals as were used in the schedule for each type of distribution.

History Note: Authority G.S. 18B-100; 18B-203(a)(8); 18B-207; 18B-702(s),(u);
Eff. May 1, 1984;
Amended Eff. November 1, 2010;
Transferred and Recodified from 04 NCAC 02R .0907 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .0908 ACCOUNTING SYSTEM

History Note: Authority G.S. 18B-702(e);
Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0908 Eff. August 1, 2015;
Expired Eff. September 1, 2015 pursuant to G.S. 150B-21.3A.

14B NCAC 15A .0909 TRAVEL POLICIES

History Note: Authority G.S. 18B-702(e);
Eff. July 1, 1992;
Transferred and Recodified from 04 NCAC 02R .0909 Eff. August 1, 2015;
Expired Eff. September 1, 2015 pursuant to G.S. 150B-21.3A.

SECTION .1000 - LOCAL ABC BOARD: PERSONNEL POLICIES

14B NCAC 15A .1001 USE OF ABC PROPERTY

Local board members and employees shall not engage in or allow the conduct of any business other than official business on property controlled by the ABC system, including stores, board facilities and warehouses.

History Note: Authority G.S. 18B-100; 18B-207; 18B-807;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1002 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .1002 CONSUMPTION OF ALCOHOLIC BEVERAGES

- (a) No employee of any local board, while on duty during the hours prescribed by the supervisor, shall consume any alcoholic beverages except when that employee is engaged in undercover activities.
- (b) No employee of a local board shall consume or permit the consumption of any alcoholic beverages on the premises of an ABC store or warehouse.
- (c) No employee of a local board shall be or become intoxicated while on duty or on the premises of an ABC store or warehouse.

History Note: Authority G.S. 18B-100; 18B-207; 18B-301(f); 18B-807;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1003 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .1003 EMPLOYMENT AGE REQUIREMENT

A person employed by a local board shall be at least 18 years of age unless waived by the commission.

History Note: Authority G.S. 18B-100; 18B-207; 18B-302(h); 18B-807;
Eff. January 1, 1982;
Amended Eff. February 1, 1986;
Transferred and Recodified from 04 NCAC 02R .1004 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .1004 WAREHOUSE: PRESENCE OF UNAUTHORIZED PERSON PROHIBITED

Only personnel employed by a local board may enter a local board's warehouse, except for:

- (1) truck drivers who need to enter in order to verify the amount of merchandise delivered;
- (2) members of the Commission and its representatives;
- (3) local board members; and
- (4) persons with approval from the local board or general manager; provided, they are accompanied by a board member or employee of the local board.

History Note: Authority G.S. 18B-100; 18B-207; 18B-807;
Eff. January 1, 1982;
Amended Eff. November 1, 2010;
Transferred and Recodified from 04 NCAC 02R .1005 Eff. August 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .1005 EMPLOYMENT: REMOVAL: OF LOCAL BOARD MEMBER OR EMPLOYEE

*History Note: Authority G.S. 18B-203(a)(8); 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1006 Eff. August 1, 2015;
Expired Eff. September 1, 2015 pursuant to G.S. 150B-21.3A.*

14B NCAC 15A .1006 PERSONNEL MANUAL

- (a) Each local board shall establish policies and rules governing each of the following:
- (1) Initial employment of employees, including qualifications and requirements for new employees;
 - (2) Compensation and benefits;
 - (3) Hours and days of work, holidays, vacation, sick leave and other matters pertaining to the conditions of employment;
 - (4) Promotion, transfer, demotion and suspension of employees;
 - (5) Separation or termination of employees;
 - (6) Granting of salary increases;
 - (7) Employee grievance procedures; and
 - (8) Any other programs or procedures as may be necessary to promote efficiency and to provide for a fair and reasonable system of personnel administration.
- (b) A local board is encouraged to model its personnel policies and procedures after those adopted by the county or municipality in which it operates.
- (c) A local board shall not adopt a rule or policy that conflicts with the provisions of Chapter 18B or these Rules.

*History Note: Authority G.S. 18B-100; 18B-203(a)(10); 18B-207; 18B-700(g1); 18B-701(a); 18B-807;
Eff. July 1, 1992;
Transferred and Recodified from 04 NCAC 02R .1009 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.*

SECTION .1100 - LOCAL ABC BOARDS: RELATIONSHIP WITH STATE COMMISSION

14B NCAC 15A .1101 COMMON INTEREST

It shall be the policy of the Commission to advise and consult with the local boards regarding matters of common interest to the alcoholic beverage control system.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-807;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1101 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.*

14B NCAC 15A .1102 LOCAL RULES

- (a) Submitted to Commission. A copy of all rules or amendments thereto that may be adopted by a local board to govern the operation of ABC stores or the enforcement of the ABC laws shall be submitted to the Commission at least 15 days prior to the date on which it is proposed that those rules or amendments are to become effective.
- (b) Power to Approve. In the absence of notice from the Commission to the contrary, those rules or amendments thereto shall stand approved.

*History Note: Authority G.S. 18B-100; 18B-203(a)(10); 18B-207; 18B-807;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;*

*Transferred and Recodified from 04 NCAC 02R .1102 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,
2015.*

14B NCAC 15A .1103 COST OF AUDIT

The cost of any audit or examination of records conducted under authority of G.S. 18B-203(4) may be assessed to local boards being audited or examined, at the discretion of the Commission.

*History Note: Authority G.S. 18B-100; 18B-205; 18B-207; 18B-702(u); 18B-807;
Eff. January 1, 1982;
Transferred and Recodified from 04 NCAC 02R .1104 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,
2015.*

SECTION .1200 - OPENING AND DISCONTINUANCE OF STORES

14B NCAC 15A .1201 COMMISSION PROHIBITED FROM ENTERTAINING COMPLAINT

The Commission shall not entertain any complaint or petition protesting the action of any local board in discontinuing the operation of any existing ABC store or in refusing to establish an additional store or stores at any particular location.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-801;
Eff. January 1, 1982;
Transferred and Recodified from 04 NCAC 02R .1201 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,
2015.*

14B NCAC 15A .1202 COMMISSION TO CONSIDER OBJECTIONS

The Commission will consider objections to the opening of new ABC stores or the continuance of existing stores, but only upon showing that the local board concerned has either considered and overruled or ignored such objections.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-801;
Eff. January 1, 1982;
Transferred and Recodified from 04 NCAC 02R .1202 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,
2015.*

14B NCAC 15A .1203 APPROVAL OF NEW STORES

(a) Notice to Commission. The opening of any new ABC stores shall not be approved by the Commission unless at least a 30 day notice is given to the Chairman as to the intended location of the store and until a public notice of the intention to open such ABC store has been posted for 30 days at such location.

(b) Sign Requirements. In order to meet the public notice requirements of Paragraph (a) of this Rule, the local board shall post at least one sign at the proposed new store site in accordance with all the following requirements:

- (1) Dimensions of the sign shall total at least nine square feet;
- (2) The board shall state on the sign its intention to open an ABC store on the site and shall state the entity and its phone number to provide public comments;
- (3) Lettering shall be at least four inches in height and background colors shall be of sufficient contrast so that the notice shall be legible to passersby; and
- (4) The sign shall be posted within 10 feet of the property line that is parallel to the public road or sidewalk that will be in front of the proposed store, or if the proposed store will be in an existing shopping center, the sign shall be posted on the front exterior of the existing storefront or building. Lettering on the sign shall face the public road or sidewalk, or if within an existing shopping center, the lettering shall face the exterior of the existing storefront or building.

History Note: Authority G.S. 18B-100; 18B-207; 18B-801;

Eff. January 1, 1982;
Amended Eff. November 1, 2010; July 1, 1992;
Transferred and Recodified from 04 NCAC 02R .1203 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .1204 NEW STORES PROHIBITED IN CERTAIN AREAS

New stores should not be opened in any area which is principally residential, in unreasonable proximity to any church, school or similar institution, in any slum district or other similarly undesirable area or at any location where sufficient parking facilities cannot be made available to avoid traffic congestion.

History Note: Authority G.S. 18B-100; 18B-207; 18B-801;
Eff. January 1, 1982;
Transferred and Recodified from 04 NCAC 02R .1204 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

SECTION .1300 - STORAGE AND DISTRIBUTION OF SPIRITUOUS LIQUORS: COMMERCIAL TRANSPORTATION

14B NCAC 15A .1301 STORAGE: DELIVERIES: SECURITY

- (a) Storage. Private warehouse contractors performing the receipt, storage and distribution functions shall:
- (1) Allocate space in the Commission's warehouse for each item listed on the price list adopted by the Commission. Space allocated shall be based on sales volume;
 - (2) Develop and publish a delivery schedule of spirituous liquors to all local boards, which are subject to approval of the Commission which are based on sales volume. Orders and shipments over the quantity on the approved schedule may be made as agreed between the local boards and the contractor. All orders over the quantity on the schedule shall be accepted when deemed economically feasible by the contractor.
 - (3) Develop and publish standard operating procedures not covered by these Rules for use by the contractor and local boards. All procedures published shall be submitted to the Commission.
- (b) Deliveries and Shipments. The processing of shipments upon receipt by the local boards shall be as follows:
- (1) The driver shall provide the local board representative an Off-Loading Check Sheet, an Invoice Bill(s) of Lading and a Transmittal Sheet with the shipment. The Off-Loading Check Sheet shall reflect the items and quantities being delivered in numerical order, and the quantities shall agree with those on the Invoice Bill(s) of Lading and the Transmittal Sheet;
 - (2) The system used for off-loading shall be such that an accurate count of the merchandise is made and all overages or shortages can be verified by the driver before any exceptions entries are made on the Transmittal Sheet;
 - (3) If there are no overages, shortages or breakage, remittance shall be made as referenced in Subparagraph (10) of this Paragraph;
 - (4) If there is an overage which is accepted by the local board representative, the local board representative shall line through the number of cases invoiced and shall write the correct number of cases on the Transmittal Sheet. The local board representative shall enter the quantity over, the stock code number and an explanation in the "comments" block on the Transmittal Sheet. Upon return of the Transmittal Sheet to the Commission's warehouse, the contractor shall issue a debit adjustment. The debit adjustment shall have the original invoice number in the purchase order reference box as a cross reference. Remittance shall be made as referenced in Subparagraph (10) of this Paragraph;
 - (5) If there is an overage that is not accepted by a local board representative, the local board representative shall enter the quantity, the stock code number and an explanation in the "comments" box on the Transmittal Sheet. The driver shall return the merchandise to the Commission's warehouse;
 - (6) If there is a shortage, the local board representative shall line through the number of cases invoiced and shall write the correct number of cases on the Transmittal Sheet. The local board representative shall enter the quantity under, the stock code number and an explanation in the

"comments" box on the Transmittal Sheet. Upon return of the Transmittal Sheet to the Commission's warehouse, the contractor shall issue a credit adjustment. Remittance shall be made as referenced in Subparagraph (10) of this Paragraph;

- (7) The local board representative shall handle breakage discovered during the unloading process as a shortage in shipment [see Subparagraph (6) of this Paragraph] with the note in the "comments" block of the Transmittal Sheet indicating that the case was returned due to breakage. If the breakage involves a case that is an overage not accepted by the local board representative, the procedures in Subparagraph (5) of this Paragraph shall be followed. Remittance shall be made as referenced in Subparagraph (10) of this Paragraph;
 - (8) If a local board's shipment includes a shrink-wrapped pallet(s), the local board shall break down the pallet(s) and any overage, shortage, or breakage shall be reported to the warehouse as follows:
 - (A) The procedures for marking the Transmittal Sheet in Subparagraphs (4), (5), (6) and (7) of this Paragraph shall be followed; and
 - (B) The updated Transmittal Sheet shall be emailed, faxed or postmarked to the Commission's warehouse within three days of delivery of the pallet(s);Remittance shall be made as referenced in Subparagraph (10) of this Paragraph;
 - (9) The local board representative and the driver shall sign the Transmittal Sheet(s) and the driver shall return the Transmittal Sheet(s) to the Commission's warehouse. The local board representative shall receipt date stamp or sign the distiller's Invoice Bills of Lading copies and the driver shall return them to the Commission's warehouse; and
 - (10) The local board shall remit payment to the party listed in the "Remit to" information listed on the Invoice Bill(s) of Lading which includes any Bailment Invoices or Surcharge Invoices. The local board shall enter the Invoice Bill of Lading number on each check or each check stub.
- (c) Security Measures. Security of the merchandise during the delivery process shall be as follows:
- (1) The conveyances (trucks and trailers) shall be secured with a lock and serially numbered metal or plastic seal by the contractor. Each local board shall be issued a key that will unlock all the locks used by the contractor;
 - (2) The seal numbers will be entered on the "Seal Nos." line of the invoice transmittal sheet. Extra seals shall be included in sealed envelopes for resealing the unit when shipments are destined for more than one local board and for the return trip after final delivery;
 - (3) The local board general manager or his designated representative shall check the seal number on the unit with the number on the invoice transmittal sheet upon arrival of a shipment. If the numbers correspond the unit shall be unlocked by the local board's representative. If the numbers do not correspond the contractor shall be contacted for further instructions; and
 - (4) The local boards' general manager shall limit the accessibility of the key to three personnel and shall not allow the contractor's driver or his assistant to remove the seal or have the key in his possession at any time.
- (d) Local boards shall not pick up merchandise from the Commission's warehouse without prior approval from the Commission's Administrator or his designee.
- (e) Local boards may purchase, exchange, or otherwise obtain spirituous liquor from another local board and transport such beverages as necessary for the operation of its ABC stores. Payment for such transactions shall be satisfied as provided by 04 NCAC 15A .1406.

*History Note: Authority G.S. 18B-100; 18B-204; 18B-207; 18B-701(a)(1);
Eff. January 1, 1982;
Amended Eff. January 1, 2011; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1302 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.*

14B NCAC 15A .1302 COMMERCIAL TRANSPORTATION: PERMIT AND BOND REQUIRED

(a) Any person transporting spirituous liquors into and through the State of North Carolina shall first give a bond of one thousand dollars (\$1,000) as required by G.S. 18B-1115(e) and secure a blanket fleet permit for the transportation of spirituous liquors signed by the chairman or administrator of the Commission. That permit shall designate the spirituous liquors to be shipped.

(b) Driver to Possess Permit. Any person applying for and receiving this permit shall require the driver or operator of any truck, tractor, or trailer to have in his possession a copy of the permit together with the bills of lading of the spirituous liquors being transported disclosing the consignor and consignee of the spirituous liquors being transported.

(c) Commission to Provide Forms. Blank forms for the bond will be supplied by the Commission upon request.

(d) A local board owning and operating trucks for the purpose of transporting spirituous liquors from a local warehouse to the various local stores within an ABC system shall not be required to give bond and shall be permitted to operate its trucks without a common carrier permit.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1115;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1303 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.*

14B NCAC 15A .1303 TRANSPORTATION FROM STATE ABC WAREHOUSE

Except as authorized by statute or the rules of the Commission, no spirituous liquors or antique spirituous liquors shall be transported within, into, or through this State for delivery to a local board except from the State ABC warehouse.

*History Note: Authority G.S. 18B-100; 18B-101; 18B-207; 18B-701(a)(1); 18B-1001;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1304 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. January 1, 2018.*

14B NCAC 15A .1304 DIRECT SHIPMENTS

(a) A "direct shipment" means a shipment from the distiller or a warehouse of spirituous liquors, or from an antique spirituous liquor seller of antique spirituous liquor, directly to a local board without passing through the State ABC warehouse.

(b) Direct shipments shall be allowed by the Commission in emergency situations when the State ABC warehouse is closed due to natural or other disasters or in a situation where for transportation reasons it is mutually advantageous to local boards, the Commission, or the operator of the State ABC warehouse.

(c) Direct shipment shall have prior written approval from the Commission. Merchandise authorized to be shipped by direct shipment shall be consigned by the State ABC warehouse to the distiller's account in care of the local board. The local board shall acknowledge receipt of the merchandise on the shipping documents and forward them to the Contractor for processing through the accounting system as though the merchandise were shipped from the State ABC warehouse.

(d) Upon compliance with 14B NCAC 15A .1403 and obtaining a transportation permit as required by G.S. 18B-403, an antique spirituous liquor seller may deliver antique spirituous liquor listed in its inventory directly to the local board that placed the special order for that inventory.

*History Note: Authority G.S. 18B-100; 18B-204; 18B-207; 18B-403; 18B-701(a)(1);
Eff. January 1, 1982;
Amended Eff. January 1, 2011; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1305 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. January 1, 2018.*

SECTION .1400 - PURCHASE OF ALCOHOLIC BEVERAGES BY LOCAL BOARDS

14B NCAC 15A .1401 PURCHASE LIMITED TO APPROVED BRANDS

History Note: Authority G.S. 18B-207; 18B-800(c);
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1401 Eff. August 1, 2015;
Expired Eff. September 1, 2015 pursuant to G.S. 150B-21.3A.

14B NCAC 15A .1402 PERMIT REQUIRED TO SELL ALCOHOLIC BEVERAGES

No purchase of any spirituous liquor, antique spirituous liquor, or fortified wine for resale in ABC stores shall be made by any local board from any person that does not hold a permit from the Commission authorizing the sale of those beverages to the local boards. However, brands approved for sale in North Carolina on which all taxes have been paid may be purchased for resale in a sale ordered pursuant to G.S. 18B-503. A local board shall purchase fortified wine only from a North Carolina wholesaler who holds an active wine wholesaler permit.

History Note: Authority G.S. 18B-100; 18B-101; 18B-207; 18B-304(a); 18B-503(e); 18B-1107(a)(2);
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1402 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. January 1, 2018.

14B NCAC 15A .1403 SPECIAL ORDERS

(a) Spirituous liquor products shall be approved for purchase from the Special Orders Price List as follows:

- (1) When requested by a customer, a local board shall request that the Commission consider approval for inclusion on the Special Orders Price List any spirituous liquor brand or container size that is not otherwise approved.
- (2) The Commission shall consider the local board's request, and approve, in accordance with 14B NCAC 15C .0203 and .0204, any brand or product for special order and the addition to the Special Orders Price List, including the minimum order size requirement as required by the vendor of at least one case.

(b) When requested by a customer, a local board may place an order with the Commission for any product on the Special Orders Price List. All customer orders shall be prepaid by the customer prior to the order being placed with the Commission. Any order must meet the minimum order quantity requirements set by the Commission.

(c) Upon receipt of the special order from the local board, the Commission shall place the order with the vendor for shipment to the State ABC warehouse for delivery to the local board by the State ABC warehouse with the next regularly scheduled shipment to the local board.

(d) After completing the special order transaction with the customer, the local board shall report the sale of merchandise sold pursuant to this Rule on its next monthly report to the Commission.

(e) In addition to the provisions set forth in Paragraph (a) of this Rule, antique spirituous liquor products shall be approved for purchase from the Special Orders Price List as follows:

- (1) Upon receipt of a request for inclusion of an antique spirituous liquor on the Special Orders Price List from either a local board at the request of the owner of antique spirituous liquor, the owner of antique spirituous liquor, or a mixed beverages permittee, the Commission shall consider the request. Any antique spirituous liquor brand or product approved by the Commission for sale pursuant to 14B NCAC 15C .0203 and .0204 shall be added to the Special Orders Price List. The Commission shall determine the retail price for each product based on the markup formula pursuant to G.S. 18B-804, set up each product in its pricing system, assign code numbers for each product, and notify the local board and the State ABC warehouse of the price and product code number of each product.
- (2) The seller of the antique spirituous liquor shall provide to the Commission an inventory of each product to be sold, the seller's selling price per bottle, and a picture or copy of the label of each product legible to the Commission sufficient to identify the product to be sold.

(f) An owner of antique spirituous liquor who desires to sell antique spirituous liquor shall obtain a special one-time permit pursuant to G.S. 18B-1002(a)(4) prior to the sale.

(g) A mixed beverages permittee who wants to order antique spirituous liquor from the Special Orders Price List from a permittee authorized to sell antique spirituous liquor pursuant to G.S. 18B-1002(a)(4) shall first obtain an antique spirituous liquor permit pursuant to G.S. 18B-1001(20).

(h) When requested by an antique spirituous liquor permittee, a local board shall place an order from the special one-time permittee selling the antique spirituous liquor on the Special Orders Price list. All orders shall be prepaid by the antique spirituous liquor permittee to the local board prior to the order being placed with the special one-time permittee.

(i) Upon delivery of the antique spirituous liquor to the local board by the special one-time permittee, the local board shall pay the seller's price to the special one-time permittee and notify the antique spirituous liquor permittee the order is available for pick up, and the location where it may be picked up.

(j) Once the local board has possession of the antique spirituous liquor to be sold, the local board shall notify the Commission and the State ABC warehouse, and forward the invoice bill of lading for the product to the State ABC warehouse. The State ABC warehouse shall bill the local board for the bailment and bailment surcharge for the product. The local board shall pay the bailment and bailment surcharge to the Commission.

History Note: Authority G.S. 18B-100; 18B-101; 18B-207; 18B-800(c); 18B-804; 18B-807; 18B-1001; 18B-1002(a)(4);
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1404 Eff. August 1, 2015;
Agency did not readopt rule pursuant to G.S. 150B-21.3A by RRC established deadline of May 31, 2017;
Eff. January 1, 2018 (Codifier approved request from agency to reuse rule number).

14B NCAC 15A .1404 COMMEMORATIVE BOTTLES

The Commission shall approve local boards' orders and sales of specially designed bottles commemorating particular events, occasions, or ceremonies, provided advertising borne upon commemorative bottles is limited to commemorating historical events of the local board and non-profit, charitable enterprises (i.e., ordinary profit-oriented businesses are not permitted to advertise themselves or their products via commemorative bottles.)

History Note: Authority G.S. 18B-100; 18B-207; 18B-807;
Eff. January 1, 1982;
Amended Eff. November 1, 2010;
Transferred and Recodified from 04 NCAC 02R .1405 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .1405 RECORDS REQUIRED

A record of all orders, receipts, invoices, and payments shall be maintained by local boards and be available for inspection by any representative of the Commission at any reasonable time. More specifically, local boards shall retain records as follows:

- (1) sales report (until annual audit completed),
- (2) warehouse report (one year),
- (3) daily store report (until annual audit completed),
- (4) stock difference report (three years),
- (5) receiving report (until annual audit completed),
- (6) clerk's daily sales and cash report (until annual audit completed), and
- (7) paid invoices (three years).

In addition, local boards shall retain the Loss and Damage Claim records and required records related to the sale of mixed beverages for a period of three years.

History Note: Authority G.S. 18B-100; 18B-203(a)(4); 18B-205; 18B-207; 18B-702(s)(u);
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1406 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .1406 PAYMENT

- (a) Local boards shall remit full payment of the contractor's statement of account pertaining to the bailment fee within 30 days of receipt of the statement.
- (b) Local boards shall remit full payment of the contractor's statement of account pertaining to the bailment surcharge within 15 days of receipt of the statement.
- (c) Local boards shall remit full payment of the distiller's invoice within 30 days of delivery of the liquor.
- (d) Local boards that obtain spirituous liquor from another local board pursuant to 14B NCAC 15A .1301(e) shall remit full payment within 15 days of the transaction.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-702(u);
Eff. May 1, 1984;
Amended Eff. November 1, 2010; July 1, 1992;
Transferred and Recodified from 04 NCAC 02R .1407 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.*

SECTION .1500 - PRICING OF SPIRITUOUS LIQUOR

14B NCAC 15A .1501 PRICE INCREASES

Distillers shall not increase F.O.B. prices except at a regularly scheduled effective date of the Commission's official price list, namely: February 1, May 1, August 1, and November 1 of each year.

*History Note: Authority G.S. 18B-100; 18B-203(a)(3); 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1501 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.*

14B NCAC 15A .1502 MARKUP FORMULA

(a) On every delivered case of spirituous liquors, there shall be an added markup, which is derived by the following formula:

- (1) local board markup, plus
- (2) (one added to the local board markup) multiplied by the state excise tax, plus
- (3) (one added to the local board markup) multiplied by 3.5 percent, equals
- (4) the total markup.

(b) The selling price of spirituous liquor is derived by the following steps:

- (1) Determine the subtotal case cost by adding base case cost, freight and bailment together;
- (2) Multiply the subtotal case cost by the total markup calculated in Paragraph (a) of this Rule, to four decimals;
- (3) Add the bailment surcharge;
- (4) Divide the result by the number of bottles in the case;
- (5) Add five cents (\$.05) rehabilitation tax [Add one cent (\$.01) for bottles 50 ml. or less];
- (6) Add five cents (\$.05) for the local board charge [Add one cent (\$.01) for bottles 50 ml. or less];
- (7) Round the result to an integer evenly divisible by five cents. The break point is one cent, one mill.
- (8) The result is the retail selling price per bottle.

*History Note: Authority G.S. 18B-100; 18B-203(a)(3); 18B-207; 18B-804;
Eff. January 1, 1982;
Amended Eff. November 1, 2010; November 1, 1993; August 1, 1991; November 1, 1988; June 1, 1986;
Transferred and Recodified from 04 NCAC 02R .1502 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.*

14B NCAC 15A .1503 SPECIAL PURCHASE ALLOWANCES; POST OFFS; PASS THROUGHs

(a) Temporary Price Reductions. The Commission will, from time to time, reduce the retail prices of selected liquor products to reflect manufacturer or importer offers of special price reductions.

(b) Selection of Items. Individual liquor products will be selected for retail price reductions based on the following criteria:

- (1) Amount of reduction offered by industry member;
- (2) Profitability of product;
- (3) Sales history of product;
- (4) Quantity of product available; and
- (5) Marketing support offered by industry member.

(c) Offers of Reductions. In order for a product to be considered, an industry member shall file, within the time set by the Commission, special purchase allowances offered for its products.

(d) Time Periods. If approved by the Commission, the reduction of the retail price of a liquor product will be in effect for a period of 30 days. The Commission will notify industry members and local boards at least 30 days in advance of the effective date of a reduced price for each approved price reduction.

(e) Supplemental Price Lists. The Commission will publish additional price lists indicating price reductions to supplement the quarterly price lists published in February, May, August and November of each year. Supplemental price lists shall be made available by each local board in each of its ABC stores, and all reduced prices shall be posted by either affixing the price of the product to the shelf or affixing a price sticker on the container. Additional signs may be utilized by an ABC store to notify customers of the price reductions.

(f) Reduced Prices Effective Statewide. A local board that sells a product selected for a temporary price reduction shall sell that product at the reduced price for the entire period the lower price is in effect.

History Note: Authority G.S. 18B-100; 18B-203(a)(3); 18B-207; 18B-702(u); 18B-804(a); 18B-807; Eff. July 1, 1992; Transferred and Recodified from 04 NCAC 02R .1503 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

SECTION .1600 - WAREHOUSE STORAGE OF SPIRITUOUS LIQUORS

14B NCAC 15A .1601 PERMIT REQUIRED

Permits to store spirituous liquors will be issued to privately-owned bonded warehouses when application has been made to the Commission if the applicant complies with the conditions as set forth in this Section and the requirements of G.S. 18B-900.

History Note: Authority G.S. 18B-100; 18B-204; 18B-207; 18B-900; Eff. January 1, 1982; Amended Eff. May 1, 1984; Transferred and Recodified from 04 NCAC 02R .1601 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .1602 INSPECTION UPON APPLICATION

Upon receipt of an application for a storage permit from a privately-owned bonded warehouse, the Commission shall cause an inspection to be made of the warehouse to determine whether the warehouse has adequate security measures necessary for safe and proper storage and whether the warehouse is a safe and proper physical structure for the storage of spirituous liquors.

History Note: Authority G.S. 18B-100; 18B-204; 18B-207; Eff. January 1, 1982; Amended Eff. May 1, 1984; Transferred and Recodified from 04 NCAC 02R .1602 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .1603 REQUIREMENTS FOR STORAGE

All privately-owned bonded warehouses holding permits for the storage of spirituous liquors are required to:

- (1) store all liquor separate and apart from other merchandise;
- (2) store all military codes separate and apart from State codes;
- (3) store all liquor of the same code together and spaced evenly for inventory purposes;
- (4) submit to the Commission monthly reports of all spirituous liquors received and delivered so that a perpetual inventory may be kept at the Commission. The report must match the inventory at the bonded warehouse at all times and upon inspection;
- (5) take at their expense, and submit to the Commission, at least once every 12 months inventories of all spirituous liquors being held in the bonded warehouse. These inventories may be observed by representatives of the Commission or the State Auditor's Office;
- (6) return to the distiller all liquor that is distressed when received within 30 days of its receipt;
- (7) destroy all liquor that becomes distressed after it is received, after notifying the distiller and obtaining in writing the distiller's approval to destroy the distressed liquor. The distiller, or a representative of the distiller, shall be given an opportunity to:
 - (a) be present in person or by video conference at the destruction; or
 - (b) request proof of destruction by photographs or video recordings showing the distressed liquor before and after the destruction.

The warehouse shall provide the distiller with a written or electronic copy of the Destruction of Unsalable Merchandise Report for the distressed liquor destroyed. A written or electronic copy of the report shall be sent quarterly by the warehouse to the Commission.

History Note: Authority G.S. 18B-100; 18B-204; 18B-207; S.L. 2018-100, s. 2;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1603 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. April 1, 2019.

14B NCAC 15A .1604 PROHIBITED PRACTICES

- (a) The removal of any spirituous liquors except as provided for in these Rules to any place except the State ABC warehouse, military posts, points outside the State, or the shipping distillery shall be prohibited.
- (b) No liquor, distressed or otherwise, shall be given to any distiller representative or employee of the warehouse but, in accordance with Rule .1603 of this Section, shall be returned to the distiller or destroyed and recorded in the Destruction of Unsalable Merchandise Report.

History Note: Authority G.S. 18B-100; 18B-204; 18B-207; S.L. 2018-100, s. 2;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1604 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. April 1, 2019.

14B NCAC 15A .1605 INSPECTION OF PREMISES AND RECORDS

All warehouses receiving a permit for the storage of spirituous liquors shall make available to the Commission on request all records, invoices, and inventories pertaining to the storage of spirituous liquors. All spirituous liquors inventories shall be kept segregated and filed according to distillery name. These records shall be retained by the warehouse for a period of three years.

History Note: Authority G.S. 18B-100; 18B-204; 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1605 Eff. August 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .1606 SUSPENSION OF PERMIT

(a) Notice of suspension and discontinuance of the storage of spirituous liquors by privately-owned bonded warehouses may be given to any person holding storage permits by the Commission. Upon receiving this notice, permittees shall halt the storage of spirituous liquors until the Commission has by appropriate action declared that storage may be resumed in the warehouse. Upon notification, the warehouse permittee shall remove all spirituous liquors to a proper storage facility within 30 days.

(b) The Commission may revoke or suspend the permit of any person violating any order issued pursuant to these Rules.

*History Note: Authority G.S. 18B-100; 18B-104; 18B-204; 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1606 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.*

SECTION .1700 - RETAIL SALES OF ALCOHOLIC BEVERAGES

14B NCAC 15A .1701 REMOVAL OF BEVERAGES FROM ABC STORES

(a) Except as allowed pursuant to Paragraph (b) of this Rule, spirituous liquor, either distressed or otherwise, shall not leave the custody of a local board after receipt unless:

- (1) The spirituous liquor is sold at retail;
- (2) The liquor is returned to the State ABC warehouse; or
- (3) The liquor is purchased, exchanged, or otherwise obtained by another local board as provided by 14B NCAC 15A .1301(e).

Any spirituous liquor otherwise leaving the local board is nontaxpaid spirituous liquor.

(b) Distressed Liquor. Distressed liquor shall be given to a public or private hospital for medicinal purposes only or destroyed and the destruction witnessed by the manager, or the manager's designee, in accordance with this Paragraph. The local board shall notify the distiller, or a representative of the distiller, in writing of the intent to destroy the distressed liquor, and obtain the distiller's, or a representative of the distiller's, written approval to destroy the distressed liquor. The distiller, or a representative of the distiller, shall be given an opportunity to:

- (1) be present in person or by video conference at the destruction; or
- (2) request proof of destruction by photographs or video recordings showing the distressed liquor before and after the destruction.

(c) A Destruction of Unsalable Merchandise Report shall be completed and signed by the party destroying the distressed liquor and the party approving the destruction on behalf of the distiller. The report shall contain the following:

- (1) the name of the entity submitting the report;
- (2) the date of the report;
- (3) the name of the distiller of the distressed liquor;
- (4) the product code and brand name of the distressed liquor;
- (5) the quantity of bottles being destroyed;
- (6) the cost of each bottle;
- (7) the total cost of all bottles destroyed;
- (8) an explanation of the type of damage that makes the liquor distressed;
- (9) the name and title of the distiller, or representative of the distiller, who provided written approval to destroy the distressed liquor; and
- (10) the date the approval to destroy was given.

A written or electronic copy of the report shall be sent to the distiller and a written or electronic copy shall be sent quarterly to the Commission by the local board. The original shall be retained by the local board for a period of three years.

(d) No sales of alcoholic beverages shall be made to employees, board members, or other retail customers on credit. This does not prohibit purchases made by the use of credit cards.

History Note: Authority G.S. 18B-100; 18B-207; 18B-806; 18B-807; S.L. 2018-100, s. 2;
Eff. January 1, 1982;
Amended Eff. January 1, 2011; July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1701 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,
2015;
Amended Eff. April 1, 2019.

14B NCAC 15A .1702 SALE OF CERTAIN BEVERAGES BELOW RETAIL PRICE

The Commission may authorize a local board to sell certain alcoholic beverages at below the uniform price.

History Note: Authority G.S. 18B-100; 18B-207; 18B-804(a); 18B-807;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1702 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,
2015.

14B NCAC 15A .1703 STORES: APPEARANCE AND STATE LIST

(a) Interior Appearance of Stores. Stores shall meet the following standards:

- (1) Stores shall be well lit so as an average customer can shop safely and be free of trash;
- (2) Floors shall be clean;
- (3) Bottles and shelves shall be clean;
- (4) Signs and displays shall not be faded or worn;
- (5) Televisions that are on shall be tuned to a news, weather or community service channel when not providing liquor related information and the volume shall be kept low enough so as not to interfere with sales;
- (6) Smoking shall not be permitted in any stores, warehouses or storage areas; and
- (7) Security systems shall be functional.

(b) Exterior Appearance of Stores. Stores shall meet the following standards:

- (1) Areas around stores shall be well lit and free of trash; and
- (2) Signs shall not be faded or worn.

(c) State List to be Available. Every store shall make available for its customers' inspection a copy of the most current complete state price list and any supplemental price lists. A local board may draw up and post its own price list for items or brands sold in its stores, provided the items and prices listed on the local list are also listed on the complete state list.

History Note: Authority G.S. 18B-100; 18B-203(a)(20); 18B-207; 18B-807;
Eff. January 1, 1982;
Amended Eff. November 1, 2011; July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1703 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,
2015.

14B NCAC 15A .1704 HOURS OF SALE

(a) No local board shall sell any alcoholic beverages at any store:

- (1) after the closing hours as established by the local board; provided, however, that no sales shall be made between 9:00 p.m. and 9:00 a.m.;
- (2) on any day the local board so designates;
- (3) on Sundays; and
- (4) on the following holidays: New Year's Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.

(b) No employee shall enter a store at any time the store is not open, as designated in this Rule, except by permission of the store manager.

History Note: Authority G.S. 18B-100; 18B-207; 18B-802; 18B-807;

Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1705 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .1705 CUSTOMER SERVICE

- (a) The manager and the employees in every store shall see that customers are waited on professionally and as soon as possible to reduce customers' wait time. The manager and the employees shall not allow people without the intent to purchase to loiter.
- (b) If a local board has a price discrepancy between the price on the shelf or bottle and the cash register, and the price on the shelf or bottle is lower, the local board shall sell the item at the shelf or bottle price and correct the shelf or bottle price to match the Commission's published price.
- (c) If a customer inquires about a product that a local board does not carry, the local board's manager or employee shall inform the customer that a case of the product can be special ordered. The manager or employee shall also inform the customer what guidelines must be followed to place the special order.

History Note: Authority G.S. 18B-100; 18B-203(a)(20); 18B-207; 18B-807;
Eff. January 1, 1982;
Amended Eff. November 1, 2011;
Transferred and Recodified from 04 NCAC 02R .1706 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .1706 PURCHASE-TRANSPORTATION PERMITS

A copy of all Purchase-Transportation Permits shall be maintained by local boards for a period of one year following issuance. A copy of all Mixed Beverages Purchase-Transportation Permit/Invoice forms shall be retained by the local board for a period of at least three years.

History Note: Authority G.S. 18B-100; 18B-207; 18B-403; 18B-403.1; 18B-404; 18B-807;
Eff. January 1, 1982;
Amended Eff. November 1, 2010; July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1708 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .1707 ALCOHOL REHABILITATION COLLECTIONS PERMITTED

- (a) Local boards may provide containers for the collection of voluntary contributions to alcohol rehabilitation programs approved by the Commission.
- (b) Collection or solicitation of contributions for any other purpose is prohibited.

History Note: Authority G.S. 18B-100; 18B-207; 18B-807;
Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1709 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .1708 SHELF MANAGEMENT

- (a) Each local board shall establish and maintain a shelf management plan. The local board shall establish policies within its plan that incorporates the following concepts:
- (1) set the higher priced items on the upper shelves at eye level and set the lower priced items on the bottom shelves;
 - (2) block categories in vertical sets per their category;
 - (3) arrange bottle sizes so they increase left to right of the same item;
 - (4) create brand billboard by stacking all brand sizes together;
 - (5) set shelf space for products considering the following factors:

- (A) market share;
 - (B) promotions;
 - (C) traffic patterns
 - (D) seasonal sales; and
 - (E) cross merchandising;
 - (6) set and maintain all bottles at the front of the shelf; and
 - (7) discontinue low profit slow moving items.
- (b) Each local board shall keep a copy of its shelf management plan at each store location and, upon request, provide a copy to a Commission representative.

History Note: Authority G.S. 18B-100; 18B-203(a)(20); 18B-207; 18B-807; Eff. December 1, 2011; Transferred and Recodified from 04 NCAC 02R .1711 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

SECTION .1800 - PURCHASE-TRANSPORTATION PERMITS FOR INDIVIDUALS AND MIXED BEVERAGES PERMITTEES

14B NCAC 15A .1801 PURCHASE-TRANSPORTATION PERMITS: WINE: LIQUOR:

(a) Form. The Purchase-Transportation Permit shall be issued on a printed three-part form and shall specify the following information on the face of the permit:

- (1) the name and location of the store from which the purchase is to be made;
- (2) whether the purchase is for unfortified wine, fortified wine or spirituous liquor;
- (3) destination of the alcoholic beverages including name and address of location;
- (4) Special Occasions Permit number of a location, if alcoholic beverages are purchased for a special occasion;
- (5) time and date of commencement and conclusion of special occasion, if any;
- (6) quantity and type of alcoholic beverages purchased;
- (7) signature of local ABC official issuing the permit;
- (8) name, address and driver's license number of purchaser.

The form shall contain a statement that the permit is valid for only one purchase on the date shown and will expire at 9:30 p.m. on the date of purchase and a further statement that the permit shall accompany the beverages during transport and storage and be exhibited to any law enforcement officer upon request.

(b) A local board issuing a Purchase-Transportation Permit shall retain one copy of the permit in its files for a period of one year and give the purchaser two copies, one of which the purchaser shall give the store from which the alcoholic beverages are purchased.

History Note: Authority G.S. 18B-100; 18B-207; 18B-403; Eff. January 1, 1982; Amended Eff. November 1, 2010; July 1, 1992; May 1, 1984; Transferred and Recodified from 04 NCAC 02R .1801 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .1802 MIXED BEVERAGE PERMIT/INVOICE FORM

(a) Providing Form. A local board in a jurisdiction in which the sale of mixed beverages is lawful shall provide to a mixed beverages permittee ordering and purchasing spirituous liquor for resale in mixed beverages a Purchase-Transportation Permit/Invoice Form for every purchase of liquor by the permittee.

(b) Contents of Form; Copies. Each Purchase-Transportation Permit/Invoice Form shall be printed in duplicate and shall show on the face of the form the information required by 14B NCAC 15B .0501. The local board shall retain one copy in its permanent records for a period of three years and shall give one copy of the permit/invoice to the mixed beverages permittee or designated employee to accompany the liquor during transport.

History Note: Authority G.S. 18B-100; 18B-205; 18B-207; 18B-404(b); 18B-807; Eff. January 1, 1982;

*Amended Eff. November 1, 2010; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1802 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,
2015.*

14B NCAC 15A .1803 CABINET PERMITTEES; PURCHASE-TRANSPORTATION PERMITS

- (a) Approved Container Sizes. Local ABC Boards may sell 50 milliliter, 100 milliliter, 200 milliliter, 355 milliliter, and 375 milliliter containers of liquor to a hotel that has been issued a Guest Room Cabinet Permit.
- (b) Purchase-Transportation Permits. A local board receiving an order from a guest room cabinet permittee for liquor intended for resale from guest room cabinets shall provide a separate Purchase-Transportation Permit/Invoice form for the permittee in the same manner as for sales of liquor for mixed beverages permittees, as specified in Rule .1802 of this Section. The Purchase-Transportation Permit/Invoice shall contain all the information required by 14B NCAC 15B .0501(b), and in addition, shall show on the face of the form the permittee's Guest Room Cabinet Permit number. One copy of the Purchase-Transportation Permit/Invoice form for guest room cabinet permittees shall be retained by the local board for a period of three years.
- (c) Minimum Orders. A local board may require a guest room cabinet permittee to make a minimum purchase of multi-bottle packages or "sleeves" packaged by the manufacturer or bottler, but may not require minimum purchases in case quantities except as authorized by Rule .1404 of this Subchapter.

*History Note: Authority G.S. 18B-100; 18B-205; 18B-207; 18B-404(d); 18B-1001(13);
Eff. July 1, 1992;
Amended Eff. November 1, 2010;
Transferred and Recodified from 04 NCAC 02R .1803 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,
2015.*

14B NCAC 15A .1804 TAX STAMP PROCEDURES FOR GUEST ROOM CABINET PERMITTEES

- (a) A local board selling liquor for resale in guest room cabinets shall either affix the mixed beverages tax stamp to each individual container of liquor sold to a guest room cabinet permittee, or shall give the permittee one tax stamp for each container purchased so the permittee may affix the stamps to the containers so long as the unaffixed stamps conform to the requirements in Paragraph (b) of this Rule.
- (b) A local board choosing to give unaffixed mixed beverages tax stamps to a guest room cabinet permittee shall use a stamp substantially different in size and color from the mixed beverages tax stamp used for regular mixed beverages sales.
- (c) Each mixed beverages tax stamp for liquor sold to a guest room cabinet permittee shall contain the same information required by Rule .1901 of this Subchapter, except that the permittee's Guest Room Cabinet Permit number shall appear on the stamp in lieu of the permittee's Mixed Beverages Permit number.
- (d) Nothing in this Rule shall be construed to allow a local board to give unaffixed mixed beverages tax stamps to a mixed beverages permittee for liquor containers purchased for resale in mixed beverages.

*History Note: Authority G.S. 18B-100; 18B-203(a)(20); 18B-207; 18B-807;
Eff. July 1, 1992;
Transferred and Recodified from 04 NCAC 02R .1804 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,
2015.*

14B NCAC 15A .1805 LOCAL RULES REQUIRED FOR GUEST ROOM CABINET SALES

- (a) Each local board selling liquor to a hotel with a Guest Room Cabinet Permit shall adopt rules governing purchases of liquor by guest room cabinet permittees and shall submit those rules to the Commission for approval as required by Rule .1102 of this Subchapter.
- (b) Areas to be regulated shall include:
 - (1) minimum purchase requirements;
 - (2) responsibility for affixing tax stamps;
 - (3) pre-ordering requirements;
 - (4) special orders; and
 - (5) times when sales shall be made.

(c) Upon approval by the Commission, the local board shall provide a copy of such rules to each guest room cabinet permittee, and shall have a copy available on the premises of the store from which sales will be made.

History Note: Authority G.S. 18B-100; 18B-203(a)(10); 18B-207; 18B-701(a)(2); 18B-807; Eff. July 1, 1992; Transferred and Recodified from 04 NCAC 02R .1805 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

SECTION .1900 - SALES OF LIQUOR TO MIXED BEVERAGES PERMITTEES

14B NCAC 15A .1901 MIXED BEVERAGES TAX STAMP

(a) Except as permitted pursuant to Paragraph (c) of this Rule, prior to the sale of any container of spirituous liquor or antique spirituous liquor to a permittee, the local board shall affix to the container a mixed beverages tax stamp that states the following:

- (1) the local board system of sale;
- (2) the permittee's transaction number; and
- (3) the permittee's Mixed Beverage Permit number.

(b) The mixed beverages tax stamp shall be affixed to any vertical portion of each container. In no event shall the stamp be affixed to the cap or closure of a container. Where a case of one brand has been purchased, the mixed beverages tax stamp shall be affixed to each container in the case and it shall not be sufficient to stamp the exterior of the case.

(c) For sales of liquor to a guest room cabinet permittee, a local board may affix the mixed beverages tax stamp to any portion of the container other than the cap or closure. In lieu of affixing the stamp to each container purchased by a guest room cabinet permittee, a local board may choose to give to the guest room cabinet permittee one tax stamp for each container of liquor purchased for resale from a guest room cabinet, to be affixed by the permittee as authorized by Rule .1804 of this Subchapter.

(d) Mixed beverage permittees may transport no more than eight liters of opened containers of spirituous liquor without a purchase-transportation permit to and from a local board in the non-passenger area of a motor vehicle for the purpose of replacing mixed beverage tax stamps that are defaced or that have worn out numbers.

History Note: Authority G.S. 18B-100; 18B-203(a)(1); 18B-207; 18B-807; S.L. 2018-100, s. 3; Eff. January 1, 1982; Amended Eff. January 1, 2011; July 1, 1992; May 1, 1984; Transferred and Recodified from 04 NCAC 02R .1901 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015; Amended Eff. April 1, 2019; January 1, 2018.

14B NCAC 15A .1902 LOCAL BOARD PRODUCT IDENTIFICATION

History Note: Authority G.S. 18B-807; Eff. May 1, 1984; Amended Eff. September 1, 1993; July 1, 1992; Transferred and Recodified from 04 NCAC 02R .1903 Eff. August 1, 2015; Expired Eff. September 1, 2015 pursuant to G.S. 150B-21.3A.

SECTION .2000 – LOCAL BOARD TRAINING

14B NCAC 15A .2001 LOCAL BOARD MEMBERS AND EMPLOYEES

(a) All board members, finance officers and general managers of local boards shall complete a Commission training course for local boards by August 2, 2011. Completion of a Commission training course for local boards prior to May 2, 2011, is acceptable. Thereafter:

- (1) All board members shall complete a Commission training course for local boards within 12 months of their initial appointment. All board members shall complete a Commission training course for local boards within 12 months of any subsequent appointment.

- (2) All finance officers and general managers shall complete a Commission training course for local boards within 12 months of their initial employment.
 - (3) After taking the initial Commission training course for local boards, all finance officers and general managers shall complete a Commission training course for local boards every three years that they are employed by a local board.
- (b) Non-Commission training courses are not acceptable forms of training and do not meet the requirements of this Rule.
- (c) Board members, finance officers and general managers of local boards who do not meet the requirements of this Section are subject to removal by the Commission as referenced by G.S. 18B-704(c)(iii).

History Note: Authority G.S. 18B-100; 18B-203(a)(21); 18B-207; 18B-701(b); 18B-704(c)(iii); 18B-706(b); Temporary Adoption Eff. May 2, 2011; Eff. August 1, 2011; Transferred and Recodified from 04 NCAC 02R .2001 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .2002 LOCAL BOARD TRAINING COURSES

All Commission training courses for local boards shall consist of two hours of ethics as a subject matter and no more than two hours of other subject matter.

History Note: Authority G.S. 18B-100; 18B-203(a)(21); 18B-207; 18B-701(b); 18B-704(c)(iii); 18B-706(b); Temporary Adoption Eff. May 2, 2011; Eff. August 1, 2011; Transferred and Recodified from 04 NCAC 02R .2002 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

14B NCAC 15A .2003 PARTICIPATION STANDARDS AND ATTENDANCE REQUIREMENTS

- (a) Instructors shall require that participants comply with the following participation standards:
- (1) Attendees shall direct their attention to the instruction being provided and refrain from engaging in activities unrelated to the instruction.
 - (2) Attendees shall refrain from engaging in any activities which are distracting to other participants or the instructor, or which otherwise disrupt the orderly conduct of a class.
- (b) Instructors may dismiss from a training course any attendee who fails to comply with the participation standards prescribed in Paragraph (a) of this Rule.
- (c) Instructors shall not issue a training course completion certificate to any attendee who fails to comply with the participation standards set forth in Paragraph (a) of this Rule, nor shall instructors include the name of such attendee on their reports verifying completion of a training course. Instructors shall submit to the Commission with their reports for the training course a written statement which includes the name of the attendee and the name of the attendee's local board for whom the instructor does not report course credit, details concerning the attendee's failure to comply with the participation standards, and names of other persons in attendance at the class who witnessed the attendee's conduct.
- (d) Attendees must complete at least 90 percent of a Commission local board training course to be issued a local board training course completion certificate. Attendees shall not be admitted to a scheduled local board training course after 10 percent of the allotted time has elapsed. Instructors may not make any exceptions to the attendance requirement.

History Note: Authority G.S. 18B-100; 18B-203(a)(21); 18B-207; 18B-701(b); 18B-706(b); Temporary Adoption Eff. May 2, 2011; Eff. August 1, 2011; Transferred and Recodified from 04 NCAC 02R .2003 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

SECTION .2100 – DISTILLERY PERMIT HOLDERS' SALE OF SPIRITUOUS LIQUOR DISTILLED ON PREMISES TO VISITORS OF THE DISTILLERY FOR CONSUMPTION OFF THE PREMISES

14B NCAC 15A .2101 PRIOR APPROVAL FROM ABC COMMISSION

- (a) Prior to selling spirituous liquor distilled at the distillery on the premises to consumers, a distillery permittee shall submit a written request for approval to the Commission regarding its intent to sell bottles direct to consumers.
- (b) The Commission shall verify compliance with G.S. 18B-1105(a)(4).
- (c) Within 15 days of receipt of the request, the Commission shall send written notice to the permittee of approval based on satisfying the requirements in Paragraph (b) of this Rule, or of disapproval and the reasons for disapproval.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1105;
Eff. January 1, 2018.*

14B NCAC 15A .2102 RETAIL SALES AT DISTILLERY'S PERMITTED PREMISES

- (a) No retail sales shall be made on the distillery's permitted premises on:
 - (1) New Year's Day;
 - (2) Fourth of July;
 - (3) Labor Day;
 - (4) Thanksgiving Day;
 - (5) Christmas Day;
 - (6) Any Sunday; or
 - (7) Any other day between the hours of 9:00 p.m. and 9:00 a.m.
- (b) Any distillery employee involved with the sale of spirituous liquor to the consumer shall be at least 18 years of age.
- (c) Distillery products to be sold directly to consumers shall be stored in a retail area in the permitted premises separate from distillery products to be shipped to the State ABC warehouse for sale to local boards.
- (d) The distillery permittee shall not sell any bottle of spirituous liquor to a consumer until after the consumer has completed a tour of the distillery.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-802; 18B-1105;
Eff. January 1, 2018.*

14B NCAC 15A .2103 DISTILLERY RECORD-KEEPING

The distillery permittee's electronic records, as required by G.S. 18B-1105(a)(4), shall be available for inspection by alcohol law enforcement officers and employees of the Commission at any time an employee of the permittee is present on the permitted premises.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-502; 18B-1105;
Eff. January 1, 2018.*

SECTION .2200 – SPECIAL ONE-TIME PERMITS

14B NCAC 15A .2201 DEFINITIONS

The following definitions apply to this Section:

- (1) "Collector" means a person, other than an industry member, engaged in the collection of one or more wines, decorative decanters of spirituous liquor, or antique spirituous liquors.
- (2) "Decorative decanters of spirituous liquor" means the manufacturer's original sealed decanters, limited in quantities as a specialized limited run or as a limited edition, filled with spirituous liquor by a person issued a permit pursuant to state or federal law.
- (3) "Private sale" means a sale between two collectors, neither of who are required to hold permits pursuant to Chapter 18B of the General Statutes, except for permits issued pursuant to G.S. 18B-1002(a)(4).

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1002;
Temporary Adoption Eff. February 23, 2018 (See S.L. 2017-87, s. 19.(a));
Eff. December 1, 2018.*

14B NCAC 15A .2202 COLLECTOR TRANSPORT OR SALE PERMITS

To qualify for a permit issued pursuant to G.S. 18B-1002(a)(4), in addition to the applicable information required pursuant to G.S. 18B-900, a collector shall submit an application to the Commission that requires the following information:

- (1) the basis for qualification as a collector;
- (2) whether the application is for the transportation or sale of wine or spirituous liquors;
- (3) a list of the specific wine or spirituous liquors being transported, possessed, or sold, including the name, brand, quantity, and volume of each bottle or decanter;
- (4) pictures of the containers of spirituous liquors to be transported, possessed, or sold in sufficient clarity for the content of the labels to be legible;
- (5) if the application is for a sale, the details of the method of sale including whether the sale will be as a special order pursuant to 14B NCAC 15A .1403, by auction, or by private sale, including the name of the buyer if by special order or private sale, or the name of the auctioneer if by auction; and
- (6) certification under oath to the conditions for permits pursuant to G.S. 18B-900.

History Note: Authority G.S. 18B-100; 18B-207; 18B-900; 18B-1002;
Temporary Adoption Eff. February 23, 2018 (See S.L. 2017-87, s. 19.(a));
Eff. December 1, 2018.

14B NCAC 15A .2203 PERMISSIBLE SALES UNDER COLLECTOR TRANSPORT OR SALE PERMIT

(a) Sales of wine or spirituous liquor by the holder of a permit issued pursuant to Rule .2202 of this Section shall be subject to the following conditions:

- (1) sales shall only be made to persons at least 21 years of age;
- (2) sales shall only be made as a special order pursuant to 14B NCAC 15A .1403, by auction, or by private sale;
- (3) sales shall be conducted subject to the dates, time, place, and manner specified in the permit;
- (4) no sales shall be made to a person who is intoxicated as defined in 14B NCAC 15B .0101(2); and
- (5) the quantity of wine or spirituous liquor sold to a single buyer shall not be in excess of the limits set forth in G.S. 18B-303, unless the buyer of the wine or spirituous liquor has a valid permit issued pursuant to G.S. 18B-1002(a)(4).

(b) The wine or spirituous liquor sold pursuant to a permit issued pursuant to this Rule shall remain in the possession of the collector until transferred to the buyer.

(c) A permit issued pursuant to G.S. 18B-1002(a)(4) is not required for sales of wine or spirituous liquors by auction pursuant to G.S. 18B-1002.1.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1002;
Temporary Adoption Eff. February 23, 2018 (See S.L. 2017-87, s. 19.(a));
Eff. December 1, 2018.

14B NCAC 15A .2204 SPECIAL AUCTION PERMITS

(a) To qualify for a permit issued pursuant to G.S. 18B-1002.1, in addition to the applicable information required pursuant to G.S. 18B-900, an auction firm or auctioneer licensed pursuant to Chapter 85B of the General Statutes shall submit an application to the Commission that requires the following information:

- (1) a copy of the applicable active license issued by the North Carolina Auctioneers Commission;
- (2) the details of the date, time, duration, place, and manner of the auction;
- (3) a list of the specific wine or spirituous liquors which may be subject to auction, including the name, brand, quantity, and volume of each bottle or decanter; and
- (4) pictures of the containers of spirituous liquors to be sold in sufficient clarity for the content of the labels to be legible.

(b) No permit is required pursuant to G.S. 18B-1002.1 for sale at auction of alcoholic beverages pursuant to a permit issued pursuant to G.S. 18B-1002(a)(1), (2) or (3), or a permit issued pursuant to G.S. 18B-1002(a)(4) when the auction is conducted on the collector's premises and the alcoholic beverages remain in the possession of the collector until transferred to the buyer.

History Note: Authority G.S. 18B-100; 18B-207; 18B-900; 18B-1002.1; Temporary Adoption Eff. February 23, 2018 (See S.L. 2017-87, s. 19(a)); Eff. December 1, 2018.

14B NCAC 15A .2205 CONDITIONS OF SALE UNDER SPECIAL AUCTION PERMITS

Sales at auction of wine or spirituous liquor by the holder of a permit issued pursuant to Rule .2204 of this Section shall be subject to the following conditions:

- (1) the auctioneer shall be in physical possession of the wine or spirituous liquor subject to sale at auction;
- (2) sales shall only be made to persons at least 21 years of age;
- (3) sales shall be conducted subject to the date, time, place, and manner specified in the permit;
- (4) no sales shall be made to a person who is intoxicated as defined in 14B NCAC 15B .0101(2);
- (5) delivery of possession of a quantity of wine or spirituous liquor sold pursuant to this Rule to a single buyer in excess of the limits set forth in G.S. 18B-303 shall not be permitted unless the buyer at auction of the wine or spirituous liquor has a valid permit issued pursuant to G.S. 18B-1002(a)(4) or otherwise complies with the provisions of G.S. 18B-303;
- (6) records of sales maintained in accordance with G.S. 85B-7(d) of an auction conducted pursuant to Rule .2204 of this Section shall be open to inspection by the Commission and law enforcement agents in accordance with G.S. 18B-502; and
- (7) purchases by the holder of a permit issued pursuant to Rule .2204 of this Section who bids on and purchases at auction wine or spirituous liquor shall be subject to the conditions, limitations, and requirements of Items (2), (4), and (5) of this Rule.

History Note: Authority G.S. 18B-100; 18B-207; 18B-303; 18B-502; 18B-1002; 18B-1002.1; Temporary Adoption Eff. February 23, 2018 (See S.L. 2017-87, s. 19(a)); Eff. December 1, 2018.

14B NCAC 15A .2206 NONPROFIT SALES AT RAFFLE OR AUCTION

(a) Sales of alcohol under a special one-time permit pursuant to G.S. 18B-1002(a)(5) by a nonprofit organization as a prize in a raffle or at auction shall be sold for off-premises consumption and shall not be consumed on the permitted premises.

(b) Possession of the alcohol sold as a prize at a raffle or at auction pursuant to this Rule shall not be given by the nonprofit organization to the raffle prize winner or buyer at auction until the conclusion of the event or until the time the buyer leaves the event.

(c) Sales of alcohol pursuant to G.S. 18B-1002(a)(5) by a nonprofit organization shall be subject to the following conditions:

- (1) sales shall only be made to persons at least 21 years of age;
- (2) no sales shall be made to a person who is intoxicated as defined in 14B NCAC 15B .0101(2); and
- (3) delivery of possession of a quantity of alcohol sold pursuant to this Rule to a single buyer in excess of the limits set forth in G.S. 18B-303 shall not be permitted unless the raffle prize winner or buyer at auction of the alcohol has a valid permit issued pursuant to G.S. 18B-1002(a)(4) or otherwise complies with the provisions of G.S. 18B-303.

History Note: Authority G.S. 18B-100; 18B-207; 18B-303; 18B-1002; Eff. April 1, 2019.

SECTION .2300 – HOMEMADE WINE AND MALT BEVERAGE EVENTS

14B NCAC 15A .2301 DEFINITIONS

As used in this Section:

- (1) "Competition" means, as the term is used in G.S. 18B-306, a gathering or activity organized by homemakers at which homemade product is entered to be judged, that is either:
 - (a) sanctioned by a national or international beer or wine judging program; or
 - (b) judged by individuals of whom at least 50% are currently certified as judges by a national or international beer or wine judging program.

National or international beer or wine judging programs include the American Homebrew Association/Beer Judge Certification Program, the Cicerone Certification Program, the International Wine and Spirits Guild Certification Program, the American Wine Society Certification Program, and the National Wine School Sommelier Certification Program.

- (2) "Contest" means, as the term is used in G.S. 18B-306, a gathering or activity organized by a homemaker club at which homemade product of members of the club is entered to be judged.
- (3) "Exhibition" means, as the term is used in G.S. 18B-306, a gathering or activity at which homemade product produced by multiple homemakers is displayed or shown but is not consumed or judged.
- (4) "Event" includes an organized affair, exhibition, or competition.
- (5) "Family" means a spouse, lineal descendant, ancestor, sibling, spouse's lineal descendant, spouse's ancestor, and spouse's sibling of the homemaker, and the spouse of any of these individuals.
- (6) "General public" means any individual not a homemaker, a homemaker's family, or a guest.
- (7) "Guest" means an individual known to the homemaker or the homemaker's family who is invited to the event by direct contact, including in person or by telephone, mail, or electronic mail, between the individual and the homemaker or the homemaker's family, and that person's guest.
- (8) "Homemade product" means wine or malt beverages produced pursuant to G.S. 18B-306.
- (9) "Homemaker" means a person who makes homemade product.
- (10) "Homemaker club" means an organization devoted to homemade product that:
 - (a) has a defined membership with a stated common purpose;
 - (b) has a written policy for granting membership that includes a written application submitted by each member, both of which may be produced or maintained electronically; and
 - (c) maintains a list of all active members and their addresses that is present at all organized affairs of the club and is open to inspection by alcohol law-enforcement agents upon request.
- (11) "Organized affair" means, as the term is used in G.S. 18B-306, a gathering or activity, other than a competition or exhibition, organized in whole or part by homemakers that includes as one of its purposes tasting or judging of homemade product. An organized affair includes meetings of a homemaker club, and a home product production educational meeting that meets the requirements of Rule .2305 of this Section, if tasting of homemade product is included as part of the meeting.
- (12) "Tasting" means, as the term is used in G.S. 18B-306, a gathering or activity at which samples of one or more home products are given for immediate consumption by a homemaker to another homemaker, that homemaker's family, or that homemaker's guest or to registered attendees at a home product production education meeting in accordance with the requirements of Rule .2305 of this Section.

History Note: Authority G.S. 18B-100; 18B-207; 18B-306;
Eff. January 1, 2019.

14B NCAC 15A .2302 COMPETITIONS

(a) Consumption of homemade products at a competition, other than at a private residence, shall be limited to judges and stewards of the competition, as defined by a national or international beer or wine judging program, who are identified in advance of the competition by the competition organizer. Judges may enter their homemade product in competitions in which they judge provided they do not judge any competition category in which they have entries. A competition may be limited to invitees or open to the general public, except as prohibited in Paragraph (c) of this Rule.

(b) A competition may be held on a premise holding a retail ABC permit if the following conditions are met:

- (1) the competition shall be segregated from the remainder of the premises in a separate space with closable doors, or by a barrier that may include curtains, partitions or other structures, that separates the competition area and makes the competition not visible from the portion of the premises where food or beverages are served to the general public during the time of the event;
- (2) no homemade product shall be consumed outside of the homemade product consumption area designated pursuant to Subparagraph (1) of this Paragraph during the times any portion of the retail premises is open to the general public;

- (3) the retail permittee shall only provide or offer commercial alcoholic products to participants in the competition at the same rate and method as offered to the general public at any other times of that business day that the permittee is authorized to sell; and
 - (4) homemade product for the competition shall not be stored on permitted premises for more than 48 hours prior to the competition, provided the homemade product is sealed, labeled as "homemade product for competition entry," and segregated from other alcoholic beverages located on the premises. No homemade product shall remain on the permitted premises the day after the conclusion of the competition. All containers of homemade product left on the permitted premises contrary to the provisions of this Rule shall be disposed of by the permittee or the permittee's employee by making the homemade product unsuitable for, or incapable of, being consumed.
- (c) A competition may be held on a premise holding a commercial ABC permit if the following conditions are met:
- (1) the area for consumption of homemade product during a competition shall only be in the areas of the permitted premises without active production;
 - (2) the competition shall only be held on those portions of permitted premises that are not open to the public;
 - (3) no homemade product shall be consumed on the commercial permitted premises, except for judges and stewards, during the times any portion of the commercial premises is open to the general public; and
 - (4) homemade product for the competition shall not be stored on permitted commercial premises for more than 30 days prior to the competition, provided the homemade product is sealed, labeled as "homemade product for competition entry," stored only in post-production areas that may also contained sealed alcoholic beverages produced by the commercial permittee, and segregated from other alcoholic beverages located on the premises. No homemade product shall remain on the permitted premises the day after the conclusion of the competition. All containers of homemade product left on the permitted premises contrary to the provisions of this Rule shall be disposed of by the permittee or the permittee's employee by making the homemade product unsuitable for, or incapable of, being consumed.
- (d) Cash prizes may be paid to entrants in a competition from the registration fees collected so long as not all homemakers participating in the event share in the proceeds from the registration fees.

History Note: Authority G.S. 18B-100; 18B-207; 18B-306;
Eff. January 1, 2019.

14B NCAC 15A .2303 EXHIBITIONS

- (a) An exhibition may be open to the general public.
- (b) An exhibition shall not be held at a private residence.

History Note: Authority G.S. 18B-100; 18B-207; 18B-306;
Eff. January 1, 2019.

14B NCAC 15A .2304 ORGANIZED AFFAIRS

- (a) Homemade product may be consumed at organized affairs provided that, if the affair is a contest, it is not sanctioned by a national or international beer or wine judging program and no fee is charged to attend or participate, except for fees as authorized pursuant to Rule .2305 of this Section. Consumption at organized affairs shall be limited to homemakers, their families, and their guests.
- (b) All judges of a contest shall be members of the homemaker club or their guests. Prizes shall not be awarded as a result of the contest, but homemakers may be recognized for their homemade products.
- (c) An organized affair may be held on a premise holding a retail ABC permit if the following conditions are met:
 - (1) the area for consumption of homemade product during an organized affair shall be segregated from the portion of the premises open to the general public during the time of the event by vertical boundaries that separate the private event from areas open for public consumption;
 - (2) no homemade product shall be consumed outside of the homemade product consumption area designated pursuant to Subparagraph (1) of this Paragraph during the times any portion of the retail premises is open to the general public;
 - (3) the retail permittee may sell or offer commercial alcoholic products the permittee is authorized to sell to persons attending the organized affair on the retail permittee's premises, provided that all

- alcoholic beverages offered to participants in the organized affair shall be at the same price and method as offered to the general public at any other times of that business day; and
- (4) for an organized affair, homemade product may be stored on permitted premises for no more than 48 hours prior to the organized affair, provided that the homemade product shall be sealed, labeled as "homemade product for contest entry," and segregated from other alcoholic beverages located on the premises. No homemade product shall remain on the permitted premises the day after the conclusion of the organized affair. All containers of homemade product left on the permitted premises contrary to the provisions of this Rule shall be disposed of by the permittee or the permittee's employee, by making the homemade product unsuitable for, or incapable of, being consumed.

(d) An organized affair may not be held on a premise holding a commercial ABC permit.

(e) There shall be no admission or entrance fee charged for an organized affair occurring at a private residence.

History Note: Authority G.S. 18B-100; 18B-207; 18B-306;
Eff. January 1, 2019.

14B NCAC 15A .2305 HOME PRODUCT PRODUCTION EDUCATION MEETING

A home product production education meeting shall be an organized affair of a state, regional, national, or international homemade beer or wine organization that requires payment of dues for membership, that includes programs to educate and inform homemakers concerning the production of homemade products. Registration may be charged to participate in the educational portions of the program. In addition to educational programs, the home product production education meeting may include homemade product tastings by registered attendees of homemade product brought to the meeting by registered attendees. Commercial alcoholic products may be sold or offered at home product education meetings by a retail permittee, in addition to home products, provided that all commercial alcoholic products offered by the retail permittee to participants at the meeting shall be at the same price and method as offered to the general public at any other times of that business day.

History Note: Authority G.S. 18B-100; 18B-207; 18B-306;
Eff. January 1, 2019.

14B NCAC 15A .2306 POSSESSION, CONSUMPTION, TRANSPORTATION, AND DISPOSITION OF HOMEMADE PRODUCT

(a) Possession and consumption of homemade product shall be limited to persons who are 21 years of age or older. Homemade product shall not be offered, given to, or consumed by the general public.

(b) Except as limited by this Section, events may be held at locations where possession and consumption of malt beverages and unfortified wine are otherwise authorized by law.

(c) Homemade product shall remain in possession of the homemaker, except:

- (1) at an exhibition;
- (2) when the homemade product is under the control of a retail permittee or a commercial permittee in accordance with Rules .2302 and .2304 of this Section; or
- (3) when transfer of possession is acknowledged and custody, control and liability is assumed in writing by an individual acting on behalf of the organizer or sponsor of a competition held in accordance with Rule .2302 of this Section.

Only a homemaker shall deliver that person's homemade product to the location of an event.

(d) A homemaker may transport quantities of homemade product up to the limits set forth in G.S. 18B-303(a), provided that the maximum aggregate amount of all homemade product transported by an individual homemaker at any one time for any one event shall not exceed 80 liters.

(e) All containers of homemade product remaining on non-permitted premises after the conclusion of an event, other than events held at a private residence, shall be removed from the premises or the contents of the container shall be disposed of by being made unsuitable for, or incapable of, being consumed at the conclusion of the event.

History Note: Authority G.S. 18B-100; 18B-207; 18B-306;
Eff. January 1, 2019.

14B NCAC 15A .2307 ALLOWABLE FEES

(a) No admission fee shall be charged to persons consuming homemade product.

- (b) A fee required to enter into the site of a competition may be charged for a competition, except that no fees shall be charged for a competition occurring at a private residence.
- (c) An admission or entrance fee may be charged by the organizer of an exhibition.
- (d) A registration or entry fee may be charged to a homemaker for entering a homemade product to be judged in a competition, or for participating in a home product production education meeting.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-306;
Eff. January 1, 2019.*

SUBCHAPTER 15B - RETAIL BEER: WINE: MIXED BEVERAGES: BROWNBAGGING: ADVERTISING: SPECIAL PERMITS

SECTION .0100 - DEFINITIONS: PERMIT APPLICATION PROCEDURES

14B NCAC 15B .0101 DEFINITIONS

In addition to the definitions found in Sections 18B-101 and 18B-1000 of the North Carolina General Statutes, the following definitions apply to this Subchapter:

- (1) "Employee" means any person who performs a service for any person holding an ABC permit, regardless of whether that person is compensated for the performance of those services.
- (2) "Intoxicated" means the condition of a person whose mental or physical functioning appears to be presently substantially impaired as a result of the use of alcohol or other substance, as set forth in G.S. 122C-3(18), and shall be when the person appears to a reasonable observer to be so far under such influence that:
 - (A) the person's emotions are conspicuously uncontrolled; or
 - (B) the person's intelligence, sense-perceptions, judgment, continuity of thought or of ideas, speech and coordination of volition with muscular action, or some of these faculties or processes are materially impaired.
- (3) "Modified Plan Permits," as used in Rules .0105 and .0106 of this Section, mean on-premise malt beverage permits authorized by elections held pursuant to G.S. 18B-602(a)(4).
- (4) "Original container" means a bottle, can, or other alcoholic beverage product container filled by a manufacturer or bottler that has been approved for sale within this State.
- (5) "Premises" means the same as defined in G.S. 18B-101(12a). A diagram attached to the investigative report and kept in the permittee's file is prima facie evidence of the premises covered by that permit and for which the permittee and the permittee's employees are responsible. Permits shall authorize the sale and possession or consumption of alcoholic beverages only on the premises described in the investigative report and diagram furnished by the investigating agent.
- (6) "Private dining area" means any area of a restaurant or hotel that is or can be closed off from public view.
- (7) "Sports and entertainment venue," as used in G.S. 18B-1000(7a) and in this Subchapter, shall include a building, structure, or place in which sporting competitions or contests are held, or shows, performances, or other entertainment is provided.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1000; 18B-1008;
Eff. January 1, 1982;
Amended Eff. January 1, 2011; July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0101 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;
Amended Eff. April 1, 2019.*

14B NCAC 15B .0102 APPLICATIONS FOR PERMITS: GENERAL PROVISIONS

- (a) Application forms for all ABC permits may be obtained from the North Carolina Alcoholic Beverage Control Commission's office or website as set forth in 14B NCAC 15A .0102.
- (b) An applicant operating noncontiguous buildings or structures, except as permitted pursuant to G.S. 18B-1120, or businesses with separate trade names, shall obtain and hold separate permits for each building or business for which

he or she wants permits, and shall pay the application fees as set forth in G.S. 18B-902(d). If the applicant requests a single permit for a business that is operated in contiguous buildings or structures over which the applicant has exclusive control over the buildings and the space between buildings, the Commission shall determine if the business is operating as a single business with the same operating scheme and purpose. If so, the Commission shall issue a single permit for the business.

(c) Each individual required to qualify for an ABC permit under G.S. 18B-900(c) shall file a written application with the Commission and in the application shall state, under oath, the following information:

- (1) the name, address, email address, last four digits of social security number, and telephone number(s) of the applicant;
- (2) the name of the business and whether the business is a sole proprietorship, corporation, limited liability company, or partnership;
- (3) the mailing address and location address of the business for which a permit is desired, and the county, and city if applicable, where the business is located;
- (4) the trade name of business;
- (5) the applicant's date of birth;
- (6) if the business is a corporation or limited liability company, the name and address of the person authorized to accept service of process under G.S. 1A, Rule 4(j) of Commission notices or orders;
- (7) if the applicant is a non-resident, the name and address of a resident of this State appointed as the applicant's attorney-in-fact in accordance with Chapter 32C of the General Statutes for purposes of G.S. 18B-900(a)(2)b.;
- (8) an actual diagram of the premises showing:
 - (A) the entrances and exits;
 - (B) the storage area for alcoholic beverages;
 - (C) the locations where alcoholic beverages will be served or consumed; and
 - (D) the exterior areas under lease, authority, or control of the applicant;
- (9) that the applicant is the actual owner or lessee of the premises, or controls the premises pursuant to a management agreement to operate the premises with the actual owner or lessee, where a permit is sought;
- (10) that the applicant is an actual resident of the State of North Carolina or, as a non-resident, has appointed, by a power of attorney, a resident manager, who is an actual resident of this State, to serve as attorney-in-fact who will manage the business and accept service of process and official Commission notices or orders; and
- (11) that the applicant is in compliance with G.S. 18B-900(a)(3) through (8).

(d) The following documents completed, signed, notarized, and recorded, as applicable, shall be attached to and submitted with an application, and shall be incorporated as part of the application:

- (1) a Zoning and Compliance Form signed by the appropriate officials pursuant to G.S. 18B-901(c);
- (2) for applicants for retail permits, a Proof of Alcohol Seller/Server Training Form containing the applicant's name, business name, address, and telephone number, and a certification of completion of an approved Alcohol Seller/Server training class with training date issued by the approved course provider unique to the applicant;
- (3) the fingerprint card, Authority for Release of Information Form, and certified check, cashier's check, money order, electronic payment, or credit card payment made payable to the North Carolina ABC Commission in the amount of thirty-eight dollars (\$38.00) for payment of a state and national fingerprint based check pursuant to 14B NCAC 18B .0405, which is incorporated herein by reference, including subsequent amendments and editions;
- (4) payment of applicable permit fees as authorized in 14B NCAC 15A .0104;
- (5) a certified copy of any recorded power of attorney registered in the county where the proposed licensed premises is located;
- (6) a Recycling Compliance Form for on-premise malt beverage, fortified wine, unfortified wine, and mixed beverage permits only;
- (7) for corporations not already holding a permit in this State, a copy of the Articles of Incorporation and notarized corporate certification of shareholders holding 25 percent or more of the shares of the corporation;
- (8) for limited liability companies not already holding a permit in this State, a copy of Articles of Organization and notarized organizational certification of members owning 25 percent or more interest in the company. Additionally, if manager managed, a copy of the Operating Agreement;

- (9) a black and white copy of applicant's current photo identification;
- (10) a copy or memorandum of the lease showing the applicant as tenant, a copy of the deed showing the applicant as the grantee or owner, or a copy of a management agreement with the owner or lessee of the permitted property showing the applicant has the authority to operate the business at the permitted location;
- (11) a diagram of the premises including the details required pursuant to Subparagraph (c)(8) of this Rule; and
- (12) a Federal Employer Identification/Social Security Number Verification Form.

History Note: Authority 18B-100; 18B-207; 18B-900; 18B-901; 18B-902; 18B-903; Eff. January 1, 1982; Amended Eff. January 1, 2011; July 1, 1992; May 1, 1984; Temporary Amendment Eff. October 25, 2013; Amended Eff. September 1, 2014; Transferred and Recodified from 04 NCAC 02S .0102 Eff. August 1, 2015; Recodified Paragraphs (c)-(l) to 14B NCAC 15B .0103 Eff. July 1, 2018; Readopted Eff. July 1, 2018.

14B NCAC 15B .0103 ADDITIONAL PERMIT LIMITATIONS AND REQUIREMENTS

- (a) No permit for the possession, sale, or consumption of alcoholic beverages shall be issued to any establishment when there are living quarters in or connected to the premises being permitted, and no permittee shall establish or maintain living quarters in or connected to the permittee's licensed premises.
- (b) No permit for the on-premises possession, sale, or consumption of alcoholic beverages shall be issued to any establishment unless there are two restrooms in working order on the premises. The Commission shall waive the two-restroom requirement upon a showing by the permittee that it is not possible to have a second restroom in the existing premises due to building restrictions under historical preservation or zoning laws, or building or fire codes.
- (c) In determining the areas where alcoholic beverages may be sold and consumed, the Commission shall consider the convenience of the permittee and patrons, allowing the maximum use of the premises consistent with the control of the sale and consumption of alcoholic beverages. Consumption shall not be allowed in areas open to the general public other than patrons. To be approved, any premises shall have delineated vertical boundaries that the consumer would recognize as indicating the boundaries that physically separate areas where consumption is allowed from areas open to the general public other than patrons.
- (d) The sale and delivery of alcoholic beverages by permitted retail outlets located on fairgrounds, golf courses, ball parks, race tracks, and other similar public places are restricted to an enclosed establishment in a designated place. No alcoholic beverages shall be sold, served, or delivered by these outlets outside the enclosed establishment, nor in grandstands, stadiums, or bleachers at public gatherings, except as provided in Paragraph (g) of this Rule. As used in this Paragraph, the term "enclosed establishment" includes a temporary structure or structures constructed and used for the purpose of dispensing food and beverages at events to be held on fairgrounds, golf courses, ball parks, race tracks, and other similar places. Sales of alcoholic beverages may be made in box seats only under the following conditions:
 - (1) table service of food and non-alcoholic beverages are available to patrons in box seats;
 - (2) no alcoholic beverages are delivered to the box seats area until after orders have been taken; and
 - (3) box seat areas have been designated as part of the permittee's premises on a diagram submitted by the permittee, and the Commission has granted written approval of alcoholic beverage sales in these seating areas.
- (e) If one permittee has more than one location within a single terminal of an airport boarding at least 150,000 passengers annually and that permittee leases space from the airport authority, the permittee in such a situation may:
 - (1) obtain a single permit for all its locations in the terminal;
 - (2) use one central facility for storing the alcoholic beverages it sells at its locations; and
 - (3) pool the gross receipts from all its locations for determining whether it meets the requirements of G.S. 18B-1000(6) and 14B NCAC 15B .0514.
- (f) Unless the business otherwise qualifies as a wine shop primarily engaged in selling wines for off-premise consumption, a food business qualifies for an off-premise fortified wine permit only if it maintains an inventory of staple foods worth at least one thousand five hundred dollars (\$1,500) at retail value. Staple foods include meat, poultry, fish, bread, cereals, vegetables, fruits, vegetable and fruit juices, and dairy products. Staple foods do not

include coffee, tea, cocoa, soft drinks, candy, condiments, and baked goods ingredients, except for ingredients also listed as staple foods in this Paragraph.

(g) Notwithstanding Paragraph (d) of this Rule, holders of a retail permit pursuant to G.S. 18B-1001(1) may have in-stand sales pursuant to G.S. 18B-1009, provided that:

- (1) the permittee or the permittee's employee shall not wear or display alcoholic beverage branded advertising;
- (2) the permittee or the permittee's employee shall not use branded carrying trays, coolers, or other equipment to transport malt beverage products;
- (3) the permittee or the permittee's employee may display the malt beverage product names and prices provided that all of the product names are displayed with the same font size and font style; and
- (4) in-stand sales shall cease, whichever is earlier, upon the cessation of other malt beverage sales otherwise in the sports facility or upon the commencement of:
 - (A) the eighth inning during baseball games. However, if a single ticket allows entry to more than one baseball game, then the eighth inning of the final game;
 - (B) the fourth quarter during football and basketball games;
 - (C) the sixtieth minute during soccer games;
 - (D) the third period during hockey games;
 - (E) the final 25 percent of the distance scheduled for automotive races; and
 - (F) the final hour of the anticipated conclusion of a contest or event for all other events.

History Note: Authority G.S. 18B-100; 18B-207; 18B-900; 18B-901; 18B-902; 18B-903; 18B-1000(3); 18B-1001; 18B-1008; 18B-1009;
Existing rule text was recodified to 14B NCAC 15B .0109, and current rule text was transferred from 14B NCAC 15B .0102(c)-(l) Eff. July 1, 2018;
Readopted Eff. July 1, 2018.

14B NCAC 15B .0104 NONRESIDENT PERMITTEE: RESIDENT MANAGER REQUIRED

All nonresident applicants for retail ABC permits shall appoint a resident of North Carolina as manager of the business for which the permit is sought. In addition, the nonresident applicant shall execute a power of attorney, appointing the resident manager as attorney-in-fact for the nonresident. The power of attorney shall be registered in the county in which the proposed licensed business is located as provided in G.S. 47-28. A certified copy of the duly registered power of attorney shall be submitted with the application of all persons required to file and qualify under G.S. 18B-900(c).

History Note: Authority G.S. 18B-100; 18B-207; 18B-900(a),(c);
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0104 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0105 SPECIAL REQUIREMENTS FOR RESTAURANTS

(a) Requirements to Qualify for Brownbagging, On-premise Fortified Wine, Mixed Beverages, or Modified Plan Permits. To qualify as a restaurant for a Brownbagging, on-premise Fortified Wine or Mixed Beverages Permit, or a Malt Beverages Permit in areas approving on-premise malt beverages under G.S. 18B-602(a)(4), a business shall have an inside dining area set aside for the service of meals that contains seating for at least 36 persons. Food shall be available at all times that alcoholic beverages are being served. After 10:00 P.M., restaurants may offer a partial food menu or prepackaged food in individual servings.

(b) Typical Characteristics. Although a facility need not possess all of the following characteristics to qualify as a restaurant, each is typical of a bona fide restaurant and the Commission shall consider the extent to which a facility possesses these characteristics in deciding whether to issue, suspend, or revoke the permits listed in Paragraph (a):

- (1) The facility has a printed menu listing full meals with substantial entrees;
- (2) The facility has complete cooking and refrigeration equipment;
- (3) The greatest portion of the food sold is prepared in the facility's own kitchen and prepackaged food is only an incidental part of the sales;
- (4) The greatest portion of the food sold is consumed on the premises;

- (5) There are separate kitchen and service staffs;
 - (6) Seating for dining customers is primarily at tables;
 - (7) Only a small portion of the premises is devoted to activities unrelated to the service and consumption of food; and
 - (8) Sales of food are significantly greater than sales of nonalcoholic beverages, especially nonalcoholic beverages sold as "set-ups."
- (c) Requirements for Application. For a restaurant to obtain a permit listed in Paragraph (a), the applicant shall submit to the Commission the appropriate application fee and the following documents:
- (1) a completed application on a form provided by the Commission, which includes the full names and addresses of all owners, officers, directors, shareholders owning 25 percent or more of the stock, interest holders holding 25 percent or more of the interest, and the manager; if, however, a corporation holds any other ABC permit, application by the manager is sufficient;
 - (2) a copy of the restaurant's menu or list of food served;
 - (3) photographs of sufficient detail to show the following:
 - (A) entire kitchen, including all equipment;
 - (B) all dining areas, showing seating arrangements, including patios or outdoor areas where alcoholic beverages will be sold or consumed;
 - (C) bars, counters, mixing stations;
 - (D) locked storage area or areas for storage of alcoholic beverages; and
 - (E) front exterior of premises or if establishment is located in an office building, mall or other larger structure, the main entrance.

History Note: Authority G.S. 18B-100; 18B-207; 18B-900; 18B-901; 18B-902; 18B-1000(6); 18B-1008; Eff. January 1, 1982; Amended Eff. January 1, 2011; July 1, 1992; May 1, 1984; Transferred and Recodified from 04 NCAC 02S .0105 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0106 SPECIAL REQUIREMENTS FOR HOTELS

- (a) Requirements to Qualify for Brownbagging, On-premise Fortified Wine, Mixed Beverages, or Modified Plan Permits. To qualify as a hotel for a Brownbagging or a Mixed Beverages Permit, or a Malt Beverage Permit in areas approving on-premise malt beverages under G.S. 18B-602(a)(4), an establishment shall have on or closely associated with its premises a restaurant providing at least 36 seats. The restaurant may or may not be owned by the same person who owns the hotel. (If the restaurant is owned by a person different from the owner of the hotel, permits shall not be issued to the restaurant unless it qualifies under Rule .0105 of this Section).
- (b) For a hotel to obtain one of the permits listed in Paragraph (a), the applicant shall submit to the Commission, the appropriate application fee and the following documents:
- (1) a completed application on a form provided by the Commission, which includes the full names and addresses of all owners, officers, directors, shareholders owning 25 percent or more of the stock, interest holders holding 25 percent of the interest, and the manager; if, however, a corporation holds any other ABC permit, application by the manager is sufficient;
 - (2) a copy of the restaurant's menu or a list of food served; and
 - (3) photographs of sufficient detail to show the following:
 - (A) entire kitchen including all equipment;
 - (B) all permanent dining areas, showing seating arrangements, including patio or outdoor areas where alcoholic beverages might be served or consumed;
 - (C) bars, counters and mixing stations;
 - (D) locked storage area or areas; and
 - (E) front exterior of hotel and restaurant.
- (c) Locations Where Sales Permitted. Brownbagging by patrons, consumption of alcoholic beverages and sales of mixed beverages are allowed at any time during lawful hours in the restaurant and in any lounge or other place that is customarily open to the general public and that is associated with the restaurant. These lounges and other places need not be directly connected to the restaurant as long as the services of the restaurant are available to the lounge at all times that alcoholic beverages are being served. Sales and consumption of mixed beverages are allowed in banquet rooms, convention rooms, suites and similar places not usually open to the general public only during

scheduled events and only to persons attending those events. Portable bars may be used for the sale or mixing of mixed beverages in those rooms.

(d) Diagram of Premises. The diagram of the premises submitted with the application for a permit under this Rule and the diagram submitted to the Commission when the permit is issued shall be marked to indicate which spaces are considered part of the restaurant and lounge or other places associated with the restaurant and customarily open to the general public, and which spaces are considered banquet rooms, convention rooms, meeting rooms, suites, and similar places where mixed beverages are to be sold only during scheduled events.

(e) Managers' Receptions. Hotels operating lodging, restaurant and lounge facilities under one set of ABC permits may offer lodging guests up to two alcoholic beverages per guest per day in the price of the room package under the following conditions:

- (1) The reception or social hour is held on the licensed premises of the hotel;
- (2) The hotel issues a voucher or other proof of guest registration for the beverages that can be used by the guest to obtain the beverage of his choice;
- (3) Nonalcoholic beverages are also offered to lodging guests during the function; and
- (4) The hotel accounts for the beverages by an internal accounting procedure that insures that the price of each beverage included in the room rate package is the same price as is being charged other patrons in the lounge or restaurant for the same beverage.

(f) Guest Room Cabinet Permits; Application Requirements. Applications for a Guest Room Cabinet permit shall be accepted only from hotels with Mixed Beverages permits, or from hotels simultaneously applying for Mixed Beverages permits.

In addition to the general requirements for permit applications in this Rule and in Rule .0102 of this Section, a hotel applying for a Guest Room Cabinet permit shall submit the following items along with the completed application form and appropriate fee:

- (1) List of lodging rooms by room number in which cabinets will be placed;
- (2) Total number of lodging rooms and total number of rooms set aside that will not have a cabinet;
- (3) Description of cabinets to be installed by the hotel. A manufacturer's brochure describing the cabinet is sufficient, or the permittee may submit photographs and a written description of the lock used on the cabinet; and
- (4) Written policies developed by the permittee regarding the procedures that will be implemented by the hotel to:
 - (A) insure no one under 21 is able to obtain a key to the cabinet;
 - (B) control inventory;
 - (C) insure price lists for items sold from cabinets are easily readable;
 - (D) dispose of all opened alcoholic beverage containers sold from cabinets after guest has checked out; and
 - (E) maintain adequate numbers of ice and soft drink vending machines elsewhere on the premises.

History Note: Authority G.S. 18B-100; 18B-207; 18B-900; 18B-901; 18B-902; 18B-1000(4); 18B-1001(13); 18B-1008; Eff. January 1, 1982; Amended Eff. January 1, 2011; July 1, 1992; May 1, 1984; Transferred and Recodified from 04 NCAC 02S .0106 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0107 SPECIAL REQUIREMENTS FOR PRIVATE CLUBS

(a) Use of the private club's facility shall not be open to the general public but shall be limited to members of the private club and their guests.

(b) Typical Characteristics. Although a private facility need not possess all of the following characteristics to qualify as a private club, each is typical of a club and the Commission shall consider the extent to which a facility possesses these characteristics in deciding whether to issue, suspend, or revoke a Brownbagging, Fortified Wine or Mixed Beverages Permit:

- (1) Membership is subject to stated requirements that tend to show a common bond among members;
- (2) Some limit related to the size of the facility is placed on total membership;

- (3) All members are allowed to participate in its organizational affairs, including the selection of officers or directors at reasonably frequent intervals;
 - (4) The club operates pursuant to a charter, articles of association, constitution, or similar basic document and has adopted by-laws, copies of which are provided to each member;
 - (5) The club has stated objectives of a social, recreational, patriotic or fraternal nature and its activities advance those objectives;
 - (6) Membership entitles a person to multiple privileges other than the consumption of alcoholic beverages;
 - (7) Most members hold full rather than limited memberships;
 - (8) Facilities and activities other than those customarily related to the consumption of alcoholic beverages are available to members;
 - (9) Some limits are placed on the number of times a guest may use the facility; and
 - (10) Guests constitute a relatively small portion of the users of the facility.
- (c) **Mandatory Requirements.** To qualify as a private club, a facility shall meet the following requirements concerning membership:
- (1) collect an annual membership fee separate from any admission or cover charge, no dues from which shall be more than 30 days past due;
 - (2) maintain a written policy on the granting of full and limited memberships;
 - (3) require each prospective member to complete a written application that contains questions directly related to the applicant's interest in the social, patriotic, fraternal or recreational purpose of the club, the applicant's qualifications for membership, and the applicant's background;
 - (4) retain each completed application, if approved, in the organization's permanent records as long as the individual's membership continues;
 - (5) issue written or printed evidence of membership to each member, which evidence of membership or other reasonably reliable document of identification shall be in the possession of each member present on the licensed premises;
 - (6) maintain on the premises a current alphabetical roster of all members and their complete addresses; and
 - (7) maintain and provide to each member a written policy concerning the use of facilities by guests.
- (d) **Permit Application Procedures.** For a private club to obtain a Brownbagging, or Fortified Wine or Mixed Beverages Permit, the applicant shall submit to the Commission the appropriate application fee and the following documents:
- (1) a completed application on a form provided by the Commission, which includes the full names and addresses of all officers and directors (including those chosen by the membership), and the manager;
 - (2) the written policy on granting of full and limited memberships;
 - (3) a copy of the membership application form;
 - (4) a copy of the membership card or certificate to be issued to members;
 - (5) the written policy on use of facilities by guests; and
 - (6) the charter, articles of incorporation, constitution, or other basic documents, and the by-laws, if any.

History Note: Authority G.S. 18B-100; 18B-207; 18B-900; 18B-901; 18B-902; 18B-1000(5); 18B-1008; Eff. January 1, 1982; Amended Eff. January 1, 2011; July 1, 1992; February 1, 1986; May 1, 1984; Transferred and Recodified from 04 NCAC 02S .0107 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0108 ILLEGAL USE OF PERMITS: CHANGE OF OWNERSHIP OR NAME

- (a) No permittee shall allow any other person to use his permit to operate the licensed premises after disposing of his financial interest in the licensed premises.
- (b) A permittee shall not pay any profits derived from the operation of the licensed business to any person who neither owns a financial interest in the business nor performs a service for the business. This restriction shall not, however, prohibit a permittee from entering into a lease by which the landlord is entitled to a percentage of receipts in lieu of or in addition to a periodic rent payment.

(c) Change in Ownership. A permit shall automatically terminate whenever any change in the ownership of the business, as provided in G.S. 18B-903(c) occurs. Permits issued for a business in which a change of ownership has occurred shall be returned to the Commission or delivered to the State ALE agent assigned to the area.

(d) Change in Name. When the permittee's name or name of business is changed, the permittee shall apply to the Commission for duplicate permits in accordance with G.S. 18B-903(g).

*History Note: Authority G.S. 18B-100; 18B-207; 18B-903;
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0108 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

14B NCAC 15B .0109 CORPORATIONS HOLDING PERMITS

Any corporation holding an ABC permit in this State that seeks permits for any additional business location shall have the manager of the new location file the appropriate application and fee, and qualify under G.S. 18B-900(a).

*History Note: Authority G.S. 18B-100; 18B-207; 18B-900; 18B-902(a); 18B-903(d);
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0103 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;
Recodified from 14B NCAC 15B .0103 Eff. July 1, 2018.*

14B NCAC 15B .0113 ALCOHOL SELLER/SERVER TRAINING

(a) All applicants applying for retail ABC permits shall submit as part of the application proof of responsible alcohol seller/server training prior to obtaining an ABC permit.

(b) The Commission shall accept documentation provided by an approved course provider or approved corporate, partnership, or limited liability company business permittee, such as a certificate of training or transcript. In the event the approved course provider did not issue a document reflecting completion of training, the applicant may have the course provider sign a form provided by the ABC Commission attesting to completion of this training.

(c) Minimum course content requirements for an approved responsible alcohol seller/server training course shall include North Carolina-specific laws including:

- (1) age requirements for possessing, purchasing, and consuming alcoholic beverages;
- (2) age requirements for selling and serving alcoholic beverages;
- (3) acceptable forms of identification;
- (4) methods to detect fake, altered, and imposter forms of identification;
- (5) State Dram Shop laws;
- (6) sales to intoxicated persons, including:
 - (A) penalties;
 - (B) prevention;
 - (C) typical signs of intoxication; and
 - (D) methods of detecting intoxication in customers;
- (7) sales to underage persons, including:
 - (A) penalties;
 - (B) prevention; and
 - (C) methods of identifying potentially underage customers;
- (8) hours of sale and consumption, including clearing of tables;
- (9) prohibited conduct on the ABC licensed premises, including:
 - (A) drug use; and
 - (B) gambling; and
- (10) amounts of alcohol that may be purchased by customers in accordance with G.S. 18B-303.

(d) Responsible alcohol seller/server training courses and providers shall be approved by the Commission before a certificate of training or transcript will be accepted by the Commission for purposes of this Rule. A person seeking to become an approved vendor for alcohol education in North Carolina and a business permittee that provides

training for its own employees shall submit the course provider's name, mailing, physical and email addresses, telephone numbers and the contract person's name and contact information, together with a copy of its responsible alcohol seller/server training program course content, to the Commission for approval. The Commission shall approve courses and providers that meet the minimum course content requirements set forth in Paragraph (c) of this Rule. Course approval shall be valid for three years. A course provider's course content shall be submitted to the Commission for approval at least once every three years in order to maintain approved status.

(e) An approved course provider shall update their responsible alcohol seller/server training course content within 30 days of notice from the Commission to the course provider of changes needed in the alcohol education training curriculum to reflect changes in current ABC laws or rules.

*History Note: Authority G.S. 18B-100; 18B-122; 18B-207;
Eff. July 1, 2018.*

SECTION .0200 - GENERAL RULES AFFECTING RETAILERS AND BROWNBAGGING PERMITTEES

14B NCAC 15B .0201 GENERAL GUIDELINES

(a) The permittee shall ensure that the Commission's rules governing the sale, possession, transportation, storage, and consumption of alcoholic beverages on the licensed premises are adhered to by employees and patrons. Further, a permittee shall ensure that all Commission rules on the operation of a business with ABC permits are adhered to by employees and patrons.

(b) Wrist bands, ink stamps or other similar devices are not reasonable indications of age of a purchaser at the time of sale as referenced by G.S. 18B-302(d)(2).

(c) The permittee is responsible for the actions of all sellers and servers of alcoholic beverages on the permitted premises.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-302(d)(2); 18B-1003(a),(b);
Eff. January 1, 1982;
Amended Eff. November 1, 2011; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0201 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

14B NCAC 15B .0202 CLEARING TABLES/COUNTERS; HOURS FOR POSSESSION/REMOVAL

(a) Clearing Beverages Off Tables and Counters. All tables and counters shall be cleared of all alcoholic beverages, bottles, cans, glasses and containers by 2:30 a.m. No permittee or his employees shall allow a patron to possess a container of alcoholic beverages after 2:30 a.m.

(b) Removal From Premises. No alcoholic beverages may be removed from any retail licensed premises whenever the sale of alcoholic beverages is prohibited by law.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1004; 18B-1005(a)(1);
Eff. January 1, 1982;
Amended Eff. July 1, 1992;
Transferred and Recodified from 04 NCAC 02S .0202 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

14B NCAC 15B .0203 EMPLOYEE AGE REQUIREMENT

(a) Age Requirement: Brownbagging, Mixed Beverages and Special Occasions Permits. Persons holding Brownbagging, Mixed Beverages or Special Occasions Permits shall have an employee who is at least 21 years of age in charge of the licensed premises at all times.

(b) Age Requirement: Malt Beverage, Unfortified Wine and Fortified Wine Permits. Persons holding retail Malt Beverage, Unfortified Wine, or Fortified Wine Permits shall have an employee who is at least 18 years old in charge of the licensed premises at all times.

(c) Bartenders: Brownbagging, Mixed Beverages and Special Occasions Permits. No person under the age of 21 may be employed by any permittee to mix drinks containing spirituous liquor.

(d) Waiters and Waitresses. Ages of persons employed in the preparation, serving, sale or delivery of alcoholic beverages at any establishment holding permits for the on-premise sale or consumption of alcoholic beverages are governed by the provisions of The Wage and Hour Act, Article 2A of Chapter 95 of the N.C. General Statutes.

(e) Other Employees: This Rule does not prohibit the employment of a minor by a permittee if the minor does not prepare, serve, sell, or deliver any alcoholic beverages, and if the employment is otherwise lawful under the Wage and Hour Act.

(f) Off-Premise Permits. This Rule does not prohibit the employment of minors at an establishment holding only off-premise permits for the retail sale of malt beverages or wine.

(g) Topless Minors. No permittee may employ or allow any female under the age of 18 to perform any service if the minor exposes to public view or wears transparent clothing that reveals the nipple or any portion of the areola of the breast.

History Note: Authority G.S. 18B-100; 18B-207; 18B-900; 95-25.5(j);
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0205 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0204 INTOXICATED PERSONS

No permittee or his employees shall allow an intoxicated person to consume alcoholic beverages on his licensed premises.

History Note: Authority G.S. 18B-100; 18B-207; 18B-305;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0206 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0205 GAMBLING: GAMBLING DEVICES PROHIBITED

(a) No permittee or his employee shall engage in gambling nor allow any other person to engage in gambling on the licensed premises.

(b) No permittee or his employees shall possess or permit the possession by another person of any gambling devices on the licensed premises.

History Note: Authority G.S. 14-292 through 14-297; 18B-100; 18B-207; 18B-1005(a)(3);
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0207 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0206 ILLEGAL DRUG USE PROHIBITED

No permittee or his employees shall possess or use, or knowingly allow any other person to possess or use any controlled substance or other illegal drug in violation of the North Carolina Controlled Substances Act (Article 5 of Chapter 90 of the N. C. General Statutes) on the licensed premises.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1005(a)(3);
Eff. January 1, 1982;
Transferred and Recodified from 04 NCAC 02S .0208 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0207 DISORDERLY CONDUCT PROHIBITED

No permittee or his employee shall engage in an affray or disorderly conduct, or permit any other persons to engage in an affray or disorderly conduct on the licensed premises.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1005(a)(2);
Eff. January 1, 1982;
Transferred and Recodified from 04 NCAC 02S .0210 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0208 UNLAWFUL POSSESSION OR CONSUMPTION OF ALCOHOLIC BEVERAGES

No permittee or his employee shall sell, offer for sale, possess or knowingly permit the possession or consumption on the licensed premises of any kind of alcoholic beverages, the sale or possession of which is not authorized by the ABC laws or by the permits issued to that permittee.

History Note: Authority G.S. 18B-100; 18B-102(a); 18B-207; 18B-301(f)(4),(6); 18B-1006(c),(d);
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0211 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0209 CONSUMPTION; INTOXICATION BY PERMITTEE PROHIBITED

(a) No permittee or permittee's employees shall be on licensed premises permitted under G.S. 18B-1001, 18B-1002, 18B-1114.1 or 18B-1114.5 after consuming alcoholic beverages except under the following conditions:

- (1) The permittee or employee is off duty for the remainder of that day or night during which the permittee or employee consumes any alcoholic beverage;
- (2) The permittee or employee is out of uniform when uniforms are required to be worn while performing any on duty services; and
- (3) The permittee or employee shall not perform any on duty services of any nature while or after consuming alcoholic beverages.

(b) Notwithstanding Paragraph (a) of this Rule, a malt beverage or wine permittee or its employee who is of legal age and who is responsible for ordering or serving alcoholic beverages may sample new malt beverage or wine products as provided by 14B NCAC 15C .0711(b) on the licensed premises. Samples shall not exceed two ounce servings of individual products and the total of the samples shall not exceed eight ounces in one calendar day.

(c) No permittee or the permittee's agents or employees shall be or become intoxicated on the licensed premises.

(d) Notwithstanding Paragraph (a) of this Rule, a permittee or the permittee's employees may be on licensed premises after consuming alcoholic beverages pursuant to G.S. 18B-1121(3) and (4) and may serve or pour alcoholic beverages for other persons for the remainder of the day provided the alcohol concentration of the permittee or the permittee's employees who serve or pour remains less than 0.03. The serving or pouring of alcoholic beverages for other persons pursuant to this Paragraph constitutes implied-consent to a chemical analysis of the person's alcohol concentration consistent with G.S. 20-16.2 and G.S. 20-139.1. The failure to submit to a chemical analysis pursuant to this Paragraph shall constitute a violation of the ABC laws.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1005(b); 18B-1006(d); 18B-1121;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Pursuant to G.S. 150B-33(b)(9), Administrative Law Judge James L. Conner, II declared Rule 04 NCAC 02S .0212(b) void as applied in North Carolina Alcoholic Beverage Control Commission v. Midnight Sun Investments, Inc. t/a Tiki Cabaret (03 ABC 1732);
Amended Eff. January 1, 2011;
Transferred and Recodified from 04 NCAC 02S .0212 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;
Amended Eff. April 1, 2019.

14B NCAC 15B .0210 COOPERATION WITH LAW ENFORCEMENT OFFICERS

No permittee or his employee shall interfere with or fail to cooperate with an ALE agent or any other law enforcement officer in the performance of his duties.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-502;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0213 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

14B NCAC 15B .0211 EMPLOYMENT OF UNSUITABLE PERSONS

A permittee shall not employ an unsuitable person in any position involved with the preparation, sale, distribution, or dispensing of alcoholic beverages or place such a person in charge of the licensed premises. For purposes of this Rule, "unsuitable person" includes a person who:

- (1) has been convicted of a felony within the preceding three years;
- (2) has been convicted of an alcoholic beverage or controlled substances offense within the preceding two years; or
- (3) has had any permit for the sale or possession of alcoholic beverages revoked within the preceding three years.

The Commission may waive the provisions of this Rule upon investigation and determination that the restriction would cause undue hardship for the employee or the permittee or otherwise unreasonably interfere with the operation of a licensed establishment.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1003(c);
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0214 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

14B NCAC 15B .0212 SUPERVISION OF PREMISES

(a) No permittee or his employee shall allow any persons to use the yards or grounds of the licensed premises as a toilet.

(b) A permittee shall keep the licensed premises clean and arranged and well lighted to allow ready access and observation by enforcement officers and to avoid any undue hazards to patrons.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1005;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0215 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

14B NCAC 15B .0213 COIN VENDING MACHINES TO DISPENSE BEVERAGES PROHIBITED

(a) No permittee or his employee shall use or permit the use of any automatically operated or coin vending machines for dispensing alcoholic beverages.

(b) In-room bars or cabinets from which alcoholic beverages are dispensed, that are placed in the lodging rooms of a guest room cabinet permittee, shall not be considered automatically operated vending machines.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1001(13);
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0218 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

14B NCAC 15B .0214 TRADE NAME SIGNS

Within 60 days of receipt of his permanent permit, a permittee shall have at least one sign on the exterior of his premises that states the trade name of his premises as it appears on his permit. The sign shall be maintained on the exterior of the premises at all times.

History Note: Authority G.S. 18B-100; 18B-207;
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0220 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0215 SALES ONLY OF APPROVED PRODUCTS

Except as otherwise provided in the Commission's rules, no person holding a permit for the retail sale of any alcoholic beverages shall sell, offer for sale, or possess for the purpose of sale any alcoholic beverage product that has not been first approved by the Commission for sale and distribution in the State of North Carolina.

History Note: Authority G.S. 18B-100; 18B-206; 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0222 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0216 SPECIAL ORDERS FOR WINES

Individuals with an approved special order permit may order and purchase wines not on the Commission's approved list of wines for their personal consumption and for consumption by their bona fide guests. Restaurants with both the appropriate on-premise wine permit and an approved special order permit may order and purchase wine for resale to their patrons. The customer shall be of good character and reputation, have no record of violation of the ABC laws, and certify that his purchase is for the use of himself or bona fide guests or for use at a restaurant holding the appropriate on-premise wine permit. A special order permit is issued at no charge for one year and is good for all purchases made through the same retailer during that year. Orders for these purchases shall be made at licensed retail outlets that in turn place their orders with licensed wine wholesalers. These orders and purchases shall be made in case quantities not exceeding the legal limit for any one purchaser. When the wholesaler or retailer possesses the wine, he shall also possess a copy of the permit. Any wine specially ordered shall meet the standards of identity and labeling requirements for wine set forth in the Subchapter 15C, Section .0400.

History Note: Authority G.S. 18B-100; 18B-207; 18B-403(a); 18B-1006(c);
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0223 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0217 FILL OR REFILL ORIGINAL CONTAINERS

No permittee shall fill or refill in whole or in part any original container of alcoholic beverages with the same or any other kind of alcoholic beverage, except a bottler, manufacturer, or permittee authorized pursuant to G.S. 18B-1001(1), (2), (3), (4), or (16).

History Note: Authority G.S. 18B-206(a); 18B-207; 18B-1001;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0224 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;

*Temporary Amendment Eff. November 28, 2017;
Amended Eff. August 1, 2018.*

14B NCAC 15B .0218 ADULTERATION OF MALT BEVERAGES AND WINE PROHIBITED

Except as provided in the ABC laws, no permittee or his employee shall fortify, adulterate, contaminate, or in any manner change the character or purity of a malt beverage, unfortified wine, or fortified wine product from that as originally marketed, packaged, and sealed by the manufacturer or bottler.

*History Note: Authority G.S. 18B-100; 18B-206(a); 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0226 Eff. August 1, 2015.
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

14B NCAC 15B .0219 CONTAINER SIZES

Fortified wine may be sold in any original container that holds up to five liters, and unfortified wine may be sold in any original container that holds up to 20 liters.

*History Note: Authority G.S. 18B-100; 18B-206; 18B-207;
Eff. January 1, 1982;
Amended Eff. July 1, 1992; June 1, 1986; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0227 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

14B NCAC 15B .0220 DISPENSING ALCOHOLIC BEVERAGES: PRODUCT IDENTIFICATION

(a) Malt Beverages, On-Premises. Malt beverages may be sold by persons holding on-premise permits in the original containers, by the glass, by the mug, by the pitcher, or a single-service and single-use container as defined by FDA Food Code 2009, 1-201.10(B). The brand name of draught malt beverages dispensed in retail outlets shall be shown on the knobs of draught faucets. Covers for these faucets bearing a brand name may be used if the brand name appearing on the cover corresponds with the brand name on the knob of the faucets that are to be used for that brand.

(b) Malt Beverages, Off-Premises. Malt beverages may be sold by persons holding an off-premise permit only in the unopened original container that was filled by the product manufacturer, except as permitted pursuant to G.S. 18B-1001.

(c) Wine, On-Premises. A person holding an on-premises wine permit may sell wine in the unopened original container, by the carafe, by the glass, or a single-service and single-use container. A person holding an on-premises wine permit may sell wine mixed with non-alcoholic beverages by the carafe, by the glass, or a single-service and single-use container. Wine served in carafes, by the glass, or single-service and single-use containers may be dispensed under pressure from nitrogen from sealed bulk containers provided the containers and dispensing systems have been approved by the Commission and the Commission for Public Health. The vintner, brand, and type of wine dispensed by the carafe, glass, or single-service and single-use container, except for the house wine, shall appear on the wine list. Where the wine is dispensed from bulk containers, the vintner, brand, and type shall be shown on the knobs of draught faucets.

(d) Use of Siphons. The use of siphons or pressurized dispensers is allowed if the malt beverage or wine contents are dispensed directly from the original containers.

(e) Mixed Beverages. A person holding a mixed beverages permit may sell mixed beverages in a glass, in a pitcher, or in a single-service and single-use container.

(f) Multi-Use Containers. All multi-use containers used by permittees to serve any alcoholic beverages shall meet the requirements as referenced by FDA Food Code 2009, 3-304.11(a). Multi-use containers include glassware, mugs, pitchers, and carafes.

(g) Incorporation by Reference. The 2009 FDA Food Code, as established by the U.S. Department of Health and Human Services, Food and Drug Administration, is hereby incorporated by reference, excluding subsequent amendments and editions, and may be accessed at no cost at <https://www.fda.gov/food/guidanceregulation/retailfoodprotection/foodcode/ucm2019396.htm>.

History Note: Authority G.S. 18B-100; 18B-206; 18B-207; 18B-1001; 130A-248(a);
Eff. January 1, 1982;
Amended Eff. June 1, 2013; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0228 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,
2016;
Temporary Amendment Eff. November 28, 2017;
Amended Eff. August 1, 2018.

14B NCAC 15B .0221 DESTRUCTION OF UNCONSUMED BEVERAGES

Any alcoholic beverages served to a customer that he does not completely consume and that he leaves shall be destroyed immediately, except that a hotel guest cabinet permittee shall not be required to dispose of opened containers of alcoholic beverages sold from an in-room bar or cabinet until after the lodging guest has checked out of the hotel.

History Note: Authority G.S. 18B-100; 18B-206; 18B-207;
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0229 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,
2016.

14B NCAC 15B .0222 SALES ON APPROVED PREMISES ONLY: ALTERATION

(a) Sale, possession, consumption, and storage of alcoholic beverages is prohibited in areas of the premises other than those specifically approved by the Commission for that purpose. The permittee is responsible for any sale, possession, consumption, or storage that takes place on any part of his licensed premises.

(b) Any structural renovation or expansion of the premises that significantly alters or expands the area where alcoholic beverages are to be sold, possessed, stored, or consumed shall be submitted as a proposal in diagram form to the Commission for approval. Upon submission of such a proposal, the Commission may modify the areas previously approved for sale, possession, consumption, and storage.

History Note: Authority G.S. 18B-100; 18B-207; 18B-901(d);
Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0231 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,
2016.

14B NCAC 15B .0223 HAPPY HOURS REGULATED

(a) An on-premise permittee or his agent shall not:

- (1) sell more than one drink to a patron for a single price;
- (2) establish a single price based upon the required purchase of more than one drink; or
- (3) deliver more than one drink at one time to a patron for his consumption.

This Rule does not prohibit the sale of pitchers of alcoholic beverages to two or more patrons. This Rule also does not prohibit serving a single carafe or bottle of wine to a single patron.

(b) An on-premise permittee or his agent shall not give away a drink or sell one at a price that is different from the usual or established price charged for the drink for any period of time less than one full business day. Free or reduced drinks under this provision shall be offered to all customers, not just a segment of the population.

(c) For purposes of this Rule, a "drink" contains the amount of alcoholic beverages usually and customarily served to a single patron as a single serving by the permittee. A "drink" may also include two different alcoholic beverages served separately at the same time to a single patron if such "drink" is a customary combination, such as a shot of spirituous liquor with a malt beverage.

(d) An on-premise permittee may include alcoholic beverages in a package offering that includes a meal or entertainment.

(e) The offer of a meal and alcoholic beverage at a single total price is not a violation of this Rule so long as the total price reflects the actual price of the alcoholic beverages and not a reduced price.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1008;
Eff. August 1, 1985;
Amended Eff. January 1, 2011; July 1, 1992;
Transferred and Recodified from 04 NCAC 02S .0232 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0224 CONSUMPTION BY UNDERAGE PERSONS

- (a) Consumption by Persons Under Age. No permittee or his employees shall knowingly allow a person under the age of 21 to possess or consume any alcoholic beverages on the licensed premises.
- (b) Identification. It shall be the duty of the permittee and his employees to determine the age of any person consuming or possessing alcoholic beverages on the licensed premises. Acceptable identification for purposes of determining age shall be a driver's license, a special identification card issued by the North Carolina Division of Motor Vehicles, a military identification card, or a passport.

History Note: Authority G.S. 18B-100; 18B-207; 18B-302; 18B-1005(a)(1);
Eff. July 1, 1992;
Transferred and Recodified from 04 NCAC 02S .0233 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0225 PRIVATE CLUBS: GENERAL PROHIBITIONS; GUESTS

- (a) Private club permittees or their employees shall not allow any person who is not a member or a guest of a member to purchase or possess alcoholic beverages on the premises.
- (b) "House" Guests. No private club permittee or his employee shall admit patrons as "house" guests.
- (c) Employee Member. An employee who is also a member of the private club shall not admit a patron as his guest while that employee is on duty.
- (d) A member shall designate his own guest. If a member accepts a patron as his guest at the behest of the private club mixed beverages permittee or employee, then the Commission shall consider that member to be acting as the permittee's agent.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1008;
Eff. July 1, 1992;
Amended Eff. January 1, 2011;
Transferred and Recodified from 04 NCAC 02S .0234 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0226 PRIVATE CLUBS; RECIPROCAL MEMBERSHIPS

A private club permittee may offer reciprocal memberships to members of other private clubs under the following conditions:

- (1) Reciprocity shall extend only to members of private clubs holding Mixed Beverages or Brownbagging permits issued by the Commission.
- (2) All clubs participating in reciprocal membership arrangements shall enter into a written agreement setting forth the terms of their arrangement, and each club shall adopt rules governing the use of their facilities by reciprocal members. The agreement and rules shall be filed with the Commission and made a part of the permittees' files.
- (3) A member of another club who is granted a reciprocal membership shall be required to show a valid membership card indicating he is a member of the reciprocal club each time he enters the facility.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1008;
Eff. July 1, 1992;
Amended Eff. January 1, 2011;
Transferred and Recodified from 04 NCAC 02S .0235 Eff. August 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0227 TRANSFER OF PRODUCTS BETWEEN PREMISES PROHIBITED

A permittee owning more than one licensed retail establishment shall not transfer alcoholic beverages from one business location to another except upon written request to and approval by the Commission. No approval for such transfer will be given except upon a showing by the permittee of the following:

- (1) the establishment from which the alcoholic beverages are to be removed is going out of business or closing for such a period of time that the alcoholic beverages will spoil or deteriorate before the business reopens; or
- (2) the wholesaler assigned to the establishment to which the products will be transferred is unable or unwilling to supply the products.

This Rule shall not be construed to authorize a retail permittee to make purchases at a central location or warehouse for distribution to other retail establishments owned by the permittee.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1006(h); 18B-1007(a); Eff. July 1, 1992; Transferred and Recodified from 04 NCAC 02S .0236 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0228 KEG PURCHASE-TRANSPORTATION PERMIT

(a) Retail Permittee to Issue. Whenever a person chooses to purchase and transport a keg designed to hold and dispense 7.75 gallons or more of malt beverages, the person shall apply to the retail permittee from whom the purchase will be made for a Keg Purchase-Transportation Permit. The retail permittee from whom the keg is purchased shall issue the purchaser the permit following G.S. 18B-403.1.

(b) The Keg Purchase-Transportation Permit shall specify the following information on the face of the permit:

- (1) The date of issue;
- (2) The name and address of the retail business from which the purchase is made;
- (3) The purchaser's name and address;
- (4) The purchaser's driver's license, North Carolina ID, Military ID or passport number;
- (5) The address of destination of keg(s);
- (6) The total number of kegs purchased;
- (7) An underage responsibility warning; and
- (8) Signatures of the purchaser and an authorized retail employee.

(c) The retailer shall retain a copy of the permit at the retail location where the purchase was made for 90 days unless requested by any individual in writing to the retailer to retain the copy for a specified period longer than 90 days but not longer than 180 days. The permit shall accompany the keg during its transport and usage and shall be exhibited to any law enforcement officer upon request.

(d) The Commission shall provide Keg Purchase-Transportation Permits to any retailer who requests the permits. Permittees may also download a copy of the Keg Purchase-Transportation Permit from the Commission's website (www.abc.nc.gov).

History Note: Authority G.S. 18B-100; 18B-207; 18B-403.1; Temporary Adoption Eff. December 1, 2006; Eff. November 1, 2007; Amended Eff. December 1, 2012; Transferred and Recodified from 04 NCAC 02S .0237 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

SECTION .0300 - MALT BEVERAGE AND WINE RETAILER/WHOLESALE RELATIONSHIP

14B NCAC 15B .0301 RETAILER/WHOLESALE RELATIONSHIPS

Rules covering relationships between retail malt beverage and wine permittees and wholesalers are in Subchapter 15C, Sections .0600 and .0700 of these Rules.

*History Note: Authority G.S. 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0301 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

SECTION .0400 - ADDITIONAL REQUIREMENTS FOR BROWNBAGGING PERMITTEES

14B NCAC 15B .0401 PRIVATE CLUBS: POSSESSION OF ALCOHOLIC BEVERAGES

- (a) Quantity. No private club brownbagging permittee shall allow a member or guest of the club to possess more than five liters of spirituous liquor or five liters of fortified wine, or five liters of the two combined; more than 80 liters of malt beverages (nine cases of 355 milliliter cans plus nine 355 milliliter cans, or seven cases of 473 milliliter cans plus one 473 milliliter can); or more than 20 liters of unfortified wine upon the premises.
- (b) Label Required. A permittee shall ensure that each container brought onto the premises is labeled immediately with the member's name substantially as it appears on the membership roster and that containers brought by guests are labeled with the names of the guest and the sponsoring member.
- (c) Possession by Permittee Not Holding Mixed Beverages Permit. A permittee not holding a Mixed Beverages Permit or his employee may maintain custody over a member's or guest's alcoholic beverages and locker key provided that during custody, the member or guest is present on the premises. The member's or guest's alcoholic beverages shall be used exclusively by the member and his bona fide guests, and the alcoholic beverage containers and locker key shall be returned to the member or guest before he leaves the premises.
- (d) Furnishing Alcoholic Beverages Limited. Neither the permittee nor a member shall furnish or have furnished alcoholic beverages to other members or bona fide guests of members unless the member owning the beverages is physically present upon the premises.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1001(7); 18B-1006(b);
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0402 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

14B NCAC 15B .0402 PRIVATE CLUBS: STORAGE OF ALCOHOLIC BEVERAGES

- (a) A private club brownbagging permittee shall see that alcoholic beverages are stored in compliance with the following conditions:
- (1) All alcoholic beverages stored at the club shall be kept in individual lockers that are labeled with the members' names as they appear on the membership roster; lockers shall remain locked when the member is not on the premises;
 - (2) Each locker shall contain a lock that can be opened only with a key, and the key shall be possessed by the individual member when that member is not present on the premises of the club;
 - (3) No member shall store, whether in one or more lockers, more than five liters of fortified wine or spirituous liquor, or five liters of the two combined; five liters of malt beverages; or five liters of unfortified wine upon the premises;
- Note:** For example, one member may store the above mentioned quantities of alcoholic beverages in the aggregate in one or more lockers, such as a beverage locker and a sports equipment locker on one premises, provided that beverage containers and lockers are labeled as required, and when he is not on the premises, the member has exclusive possession of the key or keys.
- (4) Alcoholic beverages belonging to different members shall not be stored in the same locker, except that a husband and wife may store alcoholic beverages in the same locker as long as the total quantity does not exceed the quantities stated in Subparagraph (3) of this Paragraph.
- (b) The permittee and his employee shall be responsible for returning to a member when he leaves the premises all malt beverages and unfortified wine brought to the club by the member in excess of the amounts that may be legally stored at the establishment by the member.

(c) All alcoholic beverages left on the premises of the club contrary to the provisions of this Rule shall be destroyed by the permittee or his employee.

History Note: Authority G.S. 18B-100; 18B-207; 18B-301(b)(3); 18B-1001(7); 18B-1008; Eff. January 1, 1982; Amended Eff. July 1, 1992; May 1, 1984; Transferred and Recodified from 04 NCAC 02S .0403 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0403 RESTAURANTS: HOTELS: DISPLAY: CONTROL OF BEVERAGES

(a) A restaurant or hotel holding a Brownbagging Permit shall ensure that all fortified wine and liquor is possessed inconspicuously by patrons when they are not in a private dining area.

(b) Every person possessing fortified wine or spirituous liquor in restaurants and hotels with Brownbagging Permits shall at all times retain control of his alcoholic beverages.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1001(7); Eff. January 1, 1982; Amended Eff. January 1, 2011; May 1, 1984; Transferred and Recodified from 04 NCAC 02S .0404 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0404 RESTAURANTS AND HOTELS: MIXING DRINKS

A restaurant or hotel holding a Brownbagging Permit may sell and distribute ice and set-ups, but neither the permittee nor his employee may mix drinks for customers except in private dining areas.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1001(7); Eff. January 1, 1982; Amended Eff. May 1, 1984; Transferred and Recodified from 04 NCAC 02S .0405 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0405 CONGRESSIONALLY CHARTERED VETERANS ORGANIZATIONS

A congressionally chartered veterans organization holding a brown-bagging permit pursuant to G.S. 18B-1001(7) may provide its members with locker storage facilities on the premises. If such a permittee provides lockers, possession and storage of alcoholic beverages shall be in compliance with the rules of this Section.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1001(7); Eff. July 1, 1992; Transferred and Recodified from 04 NCAC 02S .0407 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

SECTION .0500 - ADDITIONAL REQUIREMENTS FOR MIXED BEVERAGES PERMITTEES

14B NCAC 15B .0501 PURCHASE TRANSPORTATION PERMIT/PURCHASE INVOICE FORM

(a) A mixed beverages permittee or a designated employee shall obtain a Purchase-Transportation Permit/Invoice form from the ABC store designated by the local board as the place where spirituous liquor will be sold to mixed beverages permittees.

(b) A Purchase-Transportation Permit/Invoice form, which shall be completed by the local ABC board, shall contain the following:

- (1) permittee's name;
- (2) trade name, address and telephone number of the licensed premises;
- (3) permittee's Mixed Beverages Permit number;

- (4) name and driver's license number of person or persons authorized to purchase and transport spirituous liquor;
- (5) number and location of ABC store where purchase is to be made;
- (6) permittee's transaction or order number;
- (7) date of transaction;
- (8) destination of the spirituous liquor which shall be the address given in Subparagraph (b)(2) of this Rule;
- (9) brand, quantity, size and item code number of each spirituous liquor container purchased and transported, including the serial number of each complete case or carton sold;
- (10) signatures of persons issuing and receiving permit/invoice form;
- (11) regular retail price per container;
- (12) mixed beverages tax per container;
- (13) total price per container;
- (14) total cost of transaction; and
- (15) date of order, date of purchase, and expiration date.

(c) The Purchase-Transportation Permit/Invoice form shall be retained by the permittee for three years.

History Note: Authority G.S. 18B-100; 18B-207; 18B-403(d); 18B-404;
 Eff. January 1, 1982;
 Amended Eff. July 1, 1992; May 1, 1984;
 Transferred and Recodified from 04 NCAC 02S .0502 Eff. August 1, 2015;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0502 PRE-ORDERS

A mixed beverages permittee shall make every effort to place orders for spirituous liquor with the local board at least 24 hours in advance and in every case shall comply with local board policies regarding the purchase of liquor for resale in mixed beverages.

History Note: Authority G.S. 18B-100; 18B-207; 18B-404;
 Eff. January 1, 1982;
 Amended Eff. May 1, 1984;
 RRC Objection due to ambiguity Eff. May 21, 1992;
 Amended Eff. July 6, 1992;
 Transferred and Recodified from 04 NCAC 02S .0503 Eff. August 1, 2015;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0503 CONFLICTS OF INTEREST

No person shall be employed or allowed by a mixed beverages permittee to work on the licensed premises if that person is employed or engaged in any manner in the manufacturing, rectifying, bottling or wholesaling of spirituous liquor.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1116;
 Eff. January 1, 1982;
 Transferred and Recodified from 04 NCAC 02S .0507 Eff. August 1, 2015;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0504 DISPENSING EQUIPMENT

(a) A mixed beverages permittee may not install or use any equipment or device for the automated mixing or dispensing of mixed beverages unless use of the equipment or device has been approved by the Commission. A brand or type of equipment will not be approved by the Commission if it:

- (1) dispenses from any container other than the spirituous liquor container to which the mixed beverages tax stamp is affixed,

- (2) employs an in-series hook-up which would permit spirituous liquor to flow from container to container before reaching the dispensing spigot or nozzle, or
 - (3) allows the intermixing of different kind of products or brands.
- (b) Neither a mixed beverages permittee nor an employee of a permittee may mix or dispense any mixed beverage from any automated equipment or device unless a card, label sign, plate or other insignia indicating the brand of spirituous liquor being dispensed is displayed at the location where the equipment is in use.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1107;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0508 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

14B NCAC 15B .0505 MINIMUM CONTENTS OF MIXED BEVERAGES

A permittee shall not advertise or sell as a mixed beverage a drink that contains less than one ounce of spirituous liquor unless the permittee informs the customer that the drink contains a lesser amount.

*History Note: Authority G.S. 18B-100; 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0509 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

14B NCAC 15B .0506 PRICE LISTS: MISREPRESENTATION

- (a) Each mixed beverages permittee shall have available for its customers a written price list containing current prices for the most common or popular mixed beverages the permittee offers for sale. Any menu, master beverage price list or other written list that contains prices is sufficient as long as the prices listed are current and the list is readily available to the customer.
- (b) Neither a mixed beverages permittee nor his employee shall misrepresent the price of any mixed beverage that is sold or offered for sale on the licensed premises.
- (c) A guest room cabinet permittee shall affix to the door of every in-room bar or cabinet a complete list of the current prices of each alcoholic beverage offered for sale from the cabinet.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1001(13); 18B-1007(c);
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0510 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

14B NCAC 15B .0507 PRE-MIXING DRINKS

- (a) Except as provided in this Rule, neither a mixed beverage permittee nor his employee shall pre-mix mixed beverages or prepare any mixed beverage before receiving an order for the beverage from a customer.
- (b) A mixed beverages permittee may pre-mix mixed beverages upon receiving Commission approval provided the following conditions are complied with:
- (1) No spirituous liquor may be used in the pre-mixing of mixed beverages except spirituous liquor on which the mixed beverages charge imposed by G.S. 18B-804(b)(8) has been paid. All spirituous liquor used for pre-mixing of mixed beverages shall be dispensed into the approved pre-mixing system from a container to which a mixed beverages tax stamp is affixed;
 - (2) All pre-mixing shall be done pursuant to a recipe that has been approved by the Commission. That recipe shall state the exact percentage and type or types of spirituous liquors and other alcoholic beverages used in the mixture;

- (3) Pre-mixing shall be limited to those approved recipes for which the permittee prepares and sells at least five gallons per week. The Commission shall withdraw its approval for pre-mixing of any recipe for which this minimum standard is not maintained;
- (4) Only equipment and systems approved by the Commission shall be employed in the pre-mixing and dispensing of mixed beverages;
- (5) A permittee that is authorized to pre-mix mixed beverages shall maintain at all times an accurate inventory reflecting withdrawals from his spirituous liquor stock for purposes of pre-mixing that specifies:
 - (A) the brand and container size of each item withdrawn;
 - (B) the date and time of withdrawal; and
 - (C) the date and time partially used containers are returned to storage.

History Note: Authority G.S. 18B-100; 18B-207;
 Eff. January 1, 1982;
 Amended Eff. May 1, 1984;
 Transferred and Recodified from 04 NCAC 02S .0511 Eff. August 1, 2015;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0508 STORAGE AND DISPOSAL OF SPIRITUOUS LIQUOR CONTAINERS

- (a) Keys Required. Any lock used to secure a storage area shall be capable of being unlocked with a key that is available on the premises at all times.
- (b) Official Inspections. Storage areas shall be open to inspection by the Commission or law enforcement officers pursuant to G.S. 18B-502.
- (c) Empty Containers. As soon as a container of spirituous liquor is empty, the permittee or his employee shall permanently deface the mixed beverages tax stamp and dispose of the bottle.
- (d) Guest Room Cabinet Permittees. A hotel that has been issued a Guest Room Cabinet Permit may store spirituous liquor and premixed cocktails purchased for resale from guest room cabinets in the same storage area with alcoholic beverages purchased for resale in mixed beverages, as provided in Paragraph (a) of this Rule. A hotel shall not, however, place on display at mixing stations any 50 milliliter containers of liquor that were purchased for resale from cabinets. Empty or partially empty containers of alcoholic beverages purchased by a room guest from a cabinet shall be disposed of by the permittee after the room guest has checked out of the hotel.

History Note: Authority G.S. 18B-100; 18B-207; 18B-502; 18B-1001(13); 18B-1007(b);
 Eff. January 1, 1982;
 Amended Eff. April 1, 2011; July 1, 1992; May 1, 1984;
 Transferred and Recodified from 04 NCAC 02S .0512 Eff. August 1, 2015;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0509 PROHIBITED ACTS: HANDLING AND STORAGE OF LIQUOR

Neither a mixed beverages permittee nor his employee, whether on or off the premises, shall:

- (1) add any alcoholic beverage to any container of spirituous liquor purchased for resale in mixed beverages;
- (2) transfer from one spirituous liquor container to another or remove from any liquor container the mixed beverages tax stamp or any other stamp, label, seal or device required by law to be affixed to the container;
- (3) destroy, alter or deface the mixed beverages tax stamp or any other stamp, label, seal or device required by law to be affixed to a liquor container before the container has been emptied;
- (4) possess a counterfeit mixed beverages stamp, place a counterfeit mixed beverages stamp on any liquor container, or knowingly possess any container with a counterfeit stamp;
- (5) store any spirituous liquor purchased for resale in mixed beverages in any place other than the approved storage area of the premises specified in the purchase-transportation permit;
- (6) place or have in the approved storage area or possess elsewhere on the licensed premises any container of spirituous liquor not bearing a mixed beverages tax stamp;
- (7) dilute or otherwise tamper with the contents of any container of alcoholic beverages;

- (8) give or sell to any patron any container of spirituous liquor that was purchased for resale as mixed beverages, whether the container is full or partially full; provided, however, this prohibition shall not be construed to prohibit a room guest from removing from the hotel a container of alcoholic beverages purchased from a guest room cabinet;
- (9) possess any empty container of spirituous liquor purchased for resale in mixed beverages if the mixed beverages tax stamp on that container has not been permanently defaced;
- (10) possess or sell on the premises any brand of spirituous liquor that has not been approved by the Commission for sale in North Carolina or that was not purchased by the permittee pursuant to an approved special order;
- (11) purchase any spirituous liquor for resale in mixed beverages other than as authorized by a valid purchase-transportation permit;
- (12) conceal or otherwise fail to indicate truthfully and accurately in any records required to be kept by the permittee the sale of any alcoholic beverages on the licensed premises; or
- (13) make any other incomplete, inaccurate, false or misleading statements in any report or record required by these Rules.

Editor's Note: Beecher R. Gray, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 04 NCAC 02S .0513(3) void as applied in North Carolina Alcoholic Beverage Control Commission v. Keven Scott Heath, Robinhood Grille, LLC, T/A Robinhood Grille (00 ABC 1026).

History Note: Authority G.S. 18B-100; 18B-207; 18B-404; 18B-1001(13); 18B-1007; 18B-1008; Eff. January 1, 1982; Amended Eff. July 1, 1992; May 1, 1984; Transferred and Recodified from 04 NCAC 02S .0513 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0510 PROHIBITED ACTS: SERVING ALCOHOLIC BEVERAGES

Neither a mixed beverages permittee nor his employee shall:

- (1) sell or allow the consumption of any mixed beverages in an area other than one specifically approved by the Commission for that purpose;
- (2) sell, offer to sell, or serve on the premises any mixed beverage by customer self-service or allow any such sale or service, except that a guest room cabinet permittee may sell alcoholic beverages from guest room cabinets as authorized by G.S. 18B-1001(12) and the rules of the Commission;
- (3) sell, offer for sale, or possess for the purpose of sale on the premises any alcoholic beverages that the permittee is not licensed to sell;
- (4) possess or consume, or allow any other person to possess or consume, on the premises any alcoholic beverages for which no permit is held if a permit is required by law for the possession or consumption of that beverage;
- (5) misrepresent the brand of any spirituous liquor contained in any mixed beverage sold or offered for sale; or
- (6) sell or serve any brand of alcoholic beverage not identical to that ordered by the patron without first advising the patron of the difference.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1001(13); 18B-1006(d); 18B-1008; Eff. January 1, 1982; Amended Eff. July 1, 1992; May 1, 1984; Transferred and Recodified from 04 NCAC 02S .0514 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0511 PRIVATE CLUBS: MEMBERS' LIQUOR KEPT SEPARATE

In a private club with both a Mixed Beverages Permit and a Brownbagging Permit, the permittee shall comply with the following requirements:

- (1) The permittee shall not allow a member or guest to possess on the premises more than five liters of fortified wine or spirituous liquor, or five liters of the two combined, or more than 80 liters of malt beverages other than draft malt beverages in kegs;
- (2) The permittee shall ensure that each container of alcoholic beverages brought onto the premises by a member or guest is labeled immediately with the member's name or the guest's and sponsoring member's names;
- (3) Neither a permittee nor a member shall furnish or have any person furnish a member's alcoholic beverages to another member or a guest of a member unless the member owning the beverage is present on the licensed premises;
- (4) Other than to label a container, or during private meetings or parties held under a Special Occasion Permit, neither a permittee nor an employee shall possess or maintain custody over a member's alcoholic beverages or a member's storage locker key, whether or not the member is present on the licensed premises.

Note: This Paragraph prohibits the employees of the private club from handling a member's alcoholic beverages in any way whatsoever other than to put on the member's name label or when a private function is being held for a private group under a Special Occasion Permit, pursuant to G.S. 18B-1001(8). It is a violation of this Rule for a member's alcoholic beverages to be kept at or behind the bar where mixed beverages are prepared and sold.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1006(b); 18B-1008; Eff. January 1, 1982; Amended Eff. July 1, 1992; May 1, 1984; Transferred and Recodified from 04 NCAC 02S .0516 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0512 PRIVATE CLUBS: STORAGE OF MEMBERS' BEVERAGES

In a private club with both a Mixed Beverages Permit and a Brownbagging Permit, the permittee and his employees shall ensure that members' alcoholic beverages, other than those being consumed, are stored in strict compliance with the provisions of Rule .0403 of this Subchapter.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1006(b); 18B-1008; Eff. January 1, 1982; Amended Eff. May 1, 1984; Transferred and Recodified from 04 NCAC 02S .0517 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0513 PRIVATE CLUBS: FINANCIAL STATEMENTS: RECORD KEEPING

- (a) A private club holding a Mixed Beverages Permit shall maintain full and accurate monthly records of its finances, separately indicating each of the following:
 - (1) amounts expended for the purchase of spirituous liquor from ABC stores and the quantity of spirituous liquor purchased;
 - (2) amounts collected from the sale of mixed beverages and, by brand and container size, the quantity of spirituous liquor sold;
 - (3) amounts received in payment of members' dues;
 - (4) amounts received from charges to members and guests of members; and
 - (5) quantity of spirituous liquor, by brand and container size, that was not sold but is no longer on the licensed premises due to stated reasons, such as breakage or theft.
- (b) Records of purchases of spirituous liquor and sales of mixed beverages shall be filed separate and apart from all other records maintained on the premises.
- (c) Records, including original invoices for the items in Paragraph (a) of this Rule, shall be maintained on the premises for three years and shall be open for inspection or audit pursuant to G.S. 18B-502.
- (d) A private club holding a Mixed Beverages Permit shall submit to the Commission for its review, reports summarizing the information required to be maintained by this Rule. These reports shall be submitted on an annual basis or upon request by the Commission.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1008;
Eff. January 1, 1982;
Amended Eff. April 1, 2011; July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0518 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

14B NCAC 15B .0514 RESTAURANTS: INCOME FROM SALES

(a) For the purposes of G.S. 18B-1000(6), in determining what portions of sales can be attributed to the sale of food and non-alcoholic beverages, the following sales may be included:

- (1) food prepared in the permittee's kitchen and served as a meal to be consumed on the premises or as a "take-out" order;
- (2) prepackaged food sold to accompany the meal; and
- (3) non-alcoholic beverages sold to accompany the meal.

(b) For the purposes of G.S. 18B-1000(6), in determining what portions of sales can be attributed to the sale of food and non-alcoholic beverages, the following items may not be included:

- (1) mixed beverages, including the mixer;
- (2) any other alcoholic beverages;
- (3) grocery items not ordered and purchased with meals; and
- (4) cover charges.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1000(6); 18B-1008;
Eff. January 1, 1982;
Amended Eff. April 1, 2011; July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0519 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

14B NCAC 15B .0515 RESTAURANTS, HOTELS, AND TOUR BOATS: RECORD KEEPING

(a) Monthly Records. Restaurants, hotels and tour boats holding Mixed Beverages Permits shall maintain full and accurate monthly records of their finances, separately indicating each of the following:

- (1) amounts expended for the purchase of spirituous liquor from ABC stores and the quantity of spirituous liquor purchased;
- (2) amounts collected from the sale of mixed beverages and, by brand and container size, the quantity of spirituous liquor sold;
- (3) if a guest room cabinet permittee, the amounts collected from the sale of liquor from guest room cabinets, and by container size, the quantity of liquor sold from cabinets;
- (4) the quantity of spirituous liquor, by brand and container size, that was not sold but is no longer on the premises due to stated reasons, such as breakage or theft;
- (5) if a restaurant or tour boat, amounts collected from the sale of:
 - (A) food and non-alcoholic beverages;
 - (B) items other than food and beverages of all kinds; and
 - (C) malt beverages, unfortified wine and fortified wine;
- (6) if a hotel, amounts collected from:
 - (A) furnishing lodging;
 - (B) sale of meals;
 - (C) sale of malt beverages, unfortified wine and fortified wine; and
 - (D) all other sources.

(b) Segregation of Records. Records of purchases of spirituous liquor and sales of alcoholic beverages shall be filed separate and apart from all other records maintained on the premises.

(c) Retention and Inspection of Records. Records, including original invoices related to alcoholic beverages and mixed beverages, shall be maintained on the premises for three years and shall be open for inspection or audit pursuant to G.S. 18B-502.

(d) Submission of Financial Records. A restaurant, tour boat, or hotel holding a Mixed Beverages Permit shall submit to the Commission for its review, reports summarizing the information required to be maintained by this Rule. These reports shall be submitted on an annual basis or upon request by the Commission.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1006(i); 18B-1008;
Eff. January 1, 1982;
Amended Eff. April 1, 2011; July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0520 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0516 HOTELS: INCOME FROM SALES

For the purpose of defining a hotel, the term "substantially engaged in the business of furnishing lodging" in G.S. 18B-1000(4) means that the establishment's gross receipts from the rental of lodging rooms, sale of food, and sale of non-alcoholic beverages are greater than its gross receipts from the sale of alcoholic beverages.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1000(4); 18B-1008;
Eff. July 1, 1992;
Transferred and Recodified from 04 NCAC 02S .0523 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0517 GUEST ROOM CABINET PERMITTEES: PURCHASES OF LIQUOR

(a) Ordering Liquor. A guest room cabinet permittee shall comply with Rule .0503 of this Section and place orders for liquor to be sold from guest room cabinets in accordance with the local board's rules and the following additional conditions:

- (1) Orders for liquor to be sold from cabinets shall be placed separately from orders for liquor to be resold in mixed beverages;
- (2) Liquor may be purchased for resale from cabinets in 50, 355 and 375 milliliter sizes only; premixed cocktails purchased for resale from cabinets may be purchased in 355 or 375 milliliter sizes only.

(b) Mixed Beverages Surcharge Stamps. A guest room cabinet permittee who receives unaffixed stamps from a local board shall immediately affix one stamp to each container of liquor before the container is logged into the permittee's inventory. Errors in receiving incorrect numbers of stamps or containers from local board personnel shall be the responsibility of the permittee at the time of purchase.

History Note: Authority G.S. 18B-100; 18B-207; 18B-404(d); 18B-1001(13);
Eff. July 1, 1992;
Transferred and Recodified from 04 NCAC 02S .0524 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0518 GUEST ROOM CABINETS; INVENTORY AND RECORDS

A guest room cabinet permittee shall maintain on the premises an accurate inventory and sales records of all liquor purchased for resale in cabinets in accordance with the following requirements:

- (1) Sales records of guest room cabinet liquor shall be kept on a monthly basis in accordance with the requirements of Rule .0520 of this Section; and
- (2) Purchase-transportation permits for liquor to be sold from guest room cabinets shall be maintained by the permittee on the premises for a period of three years.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1001(13);
Eff. July 1, 1992;
Amended Eff. November 1, 2012;
Transferred and Recodified from 04 NCAC 02S .0525 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0519 GUEST ROOM CABINETS; SALES OF ALCOHOLIC BEVERAGES

- (a) Restrictions on 50 Milliliter Containers. A guest room cabinet permittee shall not display or sell any 50 milliliter container of liquor on any part of the hotel premises other than in guest room cabinets installed in guest rooms.
- (b) Cabinet Locks and Keys. A guest room cabinet shall contain a lock which may be opened only with a key that is separate from the hotel room key. Electronically operated locking systems for guest room cabinets may be installed by a permittee upon written approval of the Commission when it has been shown that the electronic locking system contains adequate safeguards against underage persons being able to obtain alcoholic beverages from guest room cabinets.
- (c) Lodging Guests. No guest room cabinet permittee or his employee shall give a guest room cabinet key to any person under 21 years of age. No lodging guest shall be required to accept a guest room cabinet key if the guest does not wish to have a key.
- (d) Price List. Every guest room cabinet installed by a permittee shall have firmly affixed to the door of the cabinet a complete list of all alcoholic beverages offered for sale from the cabinet and the current price of each alcoholic beverage.
- (e) Notice of Age Requirement. In addition to the price list required in Paragraph (d) of this Rule, each guest room cabinet shall contain a notice to guests that reads as follows: "IT IS UNLAWFUL IN NORTH CAROLINA FOR ANY PERSON TO GIVE ALCOHOLIC BEVERAGES TO ANY PERSON UNDER 21 YEARS OF AGE. G.S. 18B-302."

History Note: Authority G.S. 18B-100; 18B-207; 18B-302; 18B-404(d); 18B-1001(13);
Eff. July 1, 1992;
Transferred and Recodified from 04 NCAC 02S .0526 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0520 GUEST ROOMS CONSIDERED RESIDENCE

- (a) Law Enforcement Jurisdiction. A hotel room is considered a place of temporary residence and not part of the permittee's retail licensed premises. Therefore, when a hotel room has been rented to a lodging guest, entrance by a law enforcement officer into the guest room is governed by the same laws as entry into any residence, notwithstanding the fact that the hotel has installed a guest room cabinet in the room. For the purposes of enforcing the ABC laws related to guest room cabinets, a permittee shall allow Alcohol Law Enforcement agents, local ABC officers and employees of the Commission reasonable access to guest rooms that are not rented to a lodging guest at the time of the inspection.
- (b) Certain Restrictions Not Applicable to Guest Room Cabinet Sales. Because a rented hotel room is considered a temporary residence, the rooms are not considered part of the permittee's retail licensed premises. Therefore, rules regulating such areas as "happy hours," and advertising are not applicable to sales of alcoholic beverages from hotel cabinets.

History Note: Authority G.S. 18B-100; 18B-207; 18B-301(a); 18B-502; 18B-1001(13);
Eff. July 1, 1992;
Transferred and Recodified from 04 NCAC 02S .0527 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0521 MIXED BEVERAGES CATERING PERMITS; GENERAL

- (a) Liquor Purchases. Liquor catered by a mixed beverages permittee shall be purchased by the permittee from the mixed beverages store operated by the local ABC board for the jurisdiction in which the restaurant or hotel is issued a Mixed Beverages permit. A hotel or restaurant with a Mixed Beverages Catering permit shall not cater any liquor on which the mixed beverages surcharge imposed by G.S. 18B-804(b)(8) has not been paid.
- (b) Cash Bars Prohibited. The Mixed Beverages Catering permit does not authorize the sale of individual mixed beverages at a catered event. Therefore, no mixed beverages catering permittee shall set up a cash bar for beer, wine or mixed beverages at any place other than on the licensed premises of the hotel or restaurant.
- (c) Food Required. A mixed beverages catering permittee who is catering liquor at an event held off the licensed premises of the hotel or restaurant shall also cater food at that event.
- (d) Intent of Rules. Nothing in the provisions of the rules of the Commission shall be construed to allow a mixed beverages catering permittee to contract with the holder of a Special Occasions or Brownbagging permit to serve or

sell mixed beverages to the patrons of that permittee's business for a function to be held at the location for which those permits were issued.

History Note: Authority G.S. 18B-100; 18B-203(a)(1); 18B-207; 18B-1001(12); 18B-1007(a); 18B-1008; Eff. July 1, 1992; Transferred and Recodified from 04 NCAC 02S .0528 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0522 MIXED BEVERAGES CATERING PERMITS IN "DRY AREAS"

(a) Definitions. For purposes of this Rule, the following definitions shall apply:

- (1) "Dry area" means a jurisdiction in which the sale of mixed beverages has not been approved in an election held pursuant to G.S. 18B-600 or by any other provision of the ABC laws.
- (2) "Private function" means an unadvertised event for which the host has issued personal invitations. Events for which invitations are issued by radio, television, newspaper, circular or fliers to the general public shall not be construed as "private."

(b) Restrictions. In addition to Rule .0528 of this Section, the following additional restrictions shall apply to all events being catered in areas in which the sale of mixed beverages is not lawful:

- (1) Liquor may be catered at political or charitable events held to allow a non-profit or political organization to raise funds where the host organization has obtained a Special One-Time permit pursuant to G.S. 18B-1002(5) authorizing the serving of mixed beverages to persons attending the event. These fund-raising events may be private or open to the public, and may be held on private, commercial, or government owned property unless prohibited by the provisions of G.S. 18B-300 or G.S. 18B-301(f).
- (2) Liquor may be catered at any private function held on the premises of a business that holds a Special Occasion permit, or for a person who has obtained a Limited Special Occasion permit only if:
 - (A) the host is not a permittee who has been issued a Special Occasion permit pursuant to G.S. 18B-1001(8); and
 - (B) there is no admission charged to those attending.
- (3) Liquor may be catered at any private function held on private residential or non-commercial property so long as no admission is charged to those attending.

History Note: Authority G.S. 18B-100; 18B-203(a); 18B-207; 18B-301(a),(c); 18B-603; 18B-1001; 18B-1002(5); Eff. July 1, 1992; Transferred and Recodified from 04 NCAC 02S .0529 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0523 ANTIQUE SPIRITUOUS LIQUOR REGULATED

For the purposes of this Subchapter, antique spirituous liquor shall be regulated and treated the same as spirituous liquor for mixed beverages permittees.

History Note: Authority G.S. 18B-101; 18B-207; 18B-1001; Eff. January 1, 2018.

SECTION .0600 - SPECIAL REQUIREMENTS FOR CONVENTION CENTERS, COMMUNITY THEATRES, SPORTS CLUBS, AND NONPROFIT AND POLITICAL ORGANIZATIONS

14B NCAC 15B .0601 RECORD KEEPING

(a) Convention centers, community theatres, nonprofit and political organizations holding Mixed Beverages permits shall maintain full and accurate monthly records of their finances, separately indicating each of the following:

- (1) amounts expended for the purchase of spirituous liquor from ABC stores and the quantity of spirituous liquor purchased;

- (2) amounts collected from the sale of mixed beverages and, by brand and container size, the quantity of spirituous liquor sold; and
 - (3) the quantity of spirituous liquor, by brand and container size, that was not sold but is no longer on the premises due to stated reasons, such as breakage or theft.
- (b) Segregation of Records. Records of purchases of spirituous liquor and sales of alcoholic beverages shall be filed separate and apart from all other records maintained on the premises.
- (c) Retention and Inspection of Records. Records, including original invoices related to alcoholic beverages and mixed beverages, shall be maintained on the premises for three years and shall be open for inspection or audit pursuant to G.S. 18B-502.
- (d) Submission of Financial Records. A permittee holding a Mixed Beverages permit under this Rule shall submit to the Commission for its review, reports summarizing the information required to be maintained by the rule. These reports shall be submitted on an annual basis or upon request by the Commission.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1007; Eff. July 1, 1992; Temporary Amendment Eff. September 24, 1993 for a Period of 180 Days or Until the Permanent Rule Becomes Effective, Whichever is Sooner; Amended Eff. April 1, 2011; February 1, 1994; Transferred and Recodified from 04 NCAC 02S .0612 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0602 SPORTS CLUB: DEFINITIONS

In interpreting the term sports club as contained in G.S. 18B-1000(8), the following definitions shall apply:

- (1) "Equipment" means golf clubs, tennis rackets, golf and tennis balls, golf and tennis shoes, golf and tennis gloves, golf tees, golf and tennis clothing, and other items worn or utilized by the golfer or tennis player while engaged in the activities of golf or tennis.
- (2) "Golf course" means an 18 hole course designed and maintained for the play of the game of golf with a total tee to green length of at least 4,000 yards.
- (3) "Gross receipts for alcoholic beverages" means all sales of beer, wine and spirituous liquor including any mixers sold in mixed beverages.
- (4) "Receipts for food" means that portion of the establishment's sales which can be attributed to the sale of food and non-alcoholic beverages, which portion is to be determined in accordance with the provisions of 14B NCAC 15B .0514(b) and (c).
- (5) "Restaurant" means restaurant as defined in G.S. 18B-1000(6) and 14B NCAC 15B .0105.
- (6) "Tennis court" means a 60 foot by 120 foot surface composed of asphalt, concrete, composite, grass or other similar material which is constructed and maintained so as to permit the play of tennis on a regular basis and which is completely enclosed by a chain link, particle board or other comparable fence.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1000(8); 18B-1008; Temporary Adoption Eff. September 24, 1993 for a Period of 180 Days or Until the Permanent Rule Becomes Effective, Whichever is Sooner; Eff. February 1, 1994; Transferred and Recodified from 04 NCAC 02S .0613 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0603 SPORTS CLUB: REQUIREMENTS FOR RECEIVING AND HOLDING PERMITS

To be eligible to receive and to hold ABC permits as a sports club, in addition to the requirements imposed by G.S. 18B-1000(8), an establishment shall:

- (1) operate a golf course or a tennis court or both on its premises, and
- (2) derive at least 15% of its club activity fees from sources other than receipts for food.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1000(8); 18B-1008;

Temporary Adoption Eff. September 24, 1993 for a Period of 180 Days or Until the Permanent Rule Becomes Effective, Whichever is Sooner;
Eff. February 1, 1994;
Transferred and Recodified from 04 NCAC 02S .0614 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0604 SPORTS CLUB: CLUB ACTIVITY FEES

Club activity fees may only include revenues from the following:

- (1) membership dues paid for golf or tennis privileges;
- (2) court or greens fees paid by patrons for the privilege of using the golf course or the tennis court located on the sports club's premises;
- (3) receipts for food if the establishment operates a restaurant on its licensed premises;
- (4) equipment sales on the sports club's licensed premises;
- (5) golf cart rental fees;
- (6) teaching fees paid to golf or tennis professionals for lessons given on the sports club's premises;
- (7) equipment rental fees, if the equipment is rented for use on the sports club's golf course or tennis court;
- (8) entry fees for golf or tennis tournaments held on the sports club's premises;
- (9) revenue generated by the sale of tickets to golf or tennis tournaments held on the sports club's premises.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1000(8); 18B-1008;
Temporary Adoption Eff. September 24, 1993 for a Period of 180 Days or Until the Permanent Rule Becomes Effective, Whichever is Sooner;
Eff. February 1, 1994;
Transferred and Recodified from 04 NCAC 02S .0615 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0605 SPORTS CLUB: RECORD KEEPING REQUIREMENTS

(a) Monthly Records. A sports club holding ABC permits issued by the Commission shall maintain full and accurate monthly records of the following:

- (1) amounts expended for the purchase of spirituous liquor from ABC stores and the quantity of spirituous liquor purchased;
- (2) amounts collected from the sale of mixed beverages and, by brand and container size, the quantity of spirituous liquor sold;
- (3) the quantity of spirituous liquor, by brand and container size, that was not sold but is no longer on the premises due to stated reasons, such as breakage or theft;
- (4) amounts collected from the sale of malt beverages, fortified wine, and unfortified wine;
- (5) amounts collected from club activity fees, excluding receipts for food; and
- (6) receipts for food.

(b) The records required to be kept by this Rule shall be kept separate and apart from all other records maintained on the premises.

(c) Records, including original invoices related to alcoholic beverages and mixed beverages, shall be maintained on the premises for three years and shall be open to inspection or audit pursuant to G.S. 18B-502.

(d) A sports club holding ABC permits shall submit to the Commission for its review, reports summarizing the information required by this Rule. These reports shall be submitted on an annual basis or upon request by the Commission.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1000(8); 18B-1008;
Temporary Adoption Eff. September 24, 1993 for a Period of 180 Days or Until the Permanent Rule Becomes Effective, Whichever is Sooner;
Eff. February 1, 1994;
Amended Eff. April 1, 2011;
Transferred and Recodified from 04 NCAC 02S .0616 Eff. August 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

SECTION .0700 - SPECIAL OCCASIONS PERMITS

14B NCAC 15B .0701 STORAGE OF ALCOHOLIC BEVERAGES

Alcoholic beverages possessed under a Special Occasion Permit or a Limited Special Occasion Permit may be stored on the premises covered by the permit in accordance with G.S. 18B-403(g), as long as the beverages are stored in a secure area and are not stored in a mixed beverage permittee's storage area or commingled with the mixed beverages inventory.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-403(g); 18B-1001(8),(9);
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0703 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

14B NCAC 15B .0702 NOTICE TO BE POSTED

When a private function is being held under a Special Occasion Permit or Limited Special Occasion Permit, the permittee shall post a notice certifying that a private function is being held. The notice shall be posted in that area of the establishment in which alcoholic beverages are being consumed or possessed.

*History Note: Authority G.S. 18B-100; 18B-207;
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0704 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

14B NCAC 15B .0703 NO PERMIT REQUIRED AT APARTMENT CLUBHOUSE

A Special Occasion Permit is not required of club rooms or social centers that are provided by apartment complexes or multiple family housing projects for use by residents and their guests for parties, meetings or other social events as long as no more than a nominal fee is charged to cover additional or special janitorial services. (In those instances the club rooms or social centers shall be considered a reasonable extension of the residents' private residences, and no Special Occasion Permit is required). A club room or social center shall be considered a commercial establishment for which a Special Occasion Permit is required if the club room or social center:

- (1) is rented to nonresidents of the multiple family housing complex;
- (2) is rented to residents for a charge in excess of that reasonably calculated to cover additional or special janitorial services; or
- (3) holds a retail Malt Beverage, Unfortified Wine, Fortified Wine, or Mixed Beverages Permit.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-301(c);
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0705 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

14B NCAC 15B .0704 WHEN PERMITS INVALID: MIXED BEVERAGE SALES

When mixed beverages are being sold in a private dining area, any other private area, or when the entire premises is being used for a private function, any Special Occasion Permit that would otherwise be applicable to the premises or area of the premises is invalid for that period, and no person shall possess any spirituous liquor at that private function other than the permittee and his employees.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1008;

Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0706 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0705 DESTRUCTION OF LEFTOVER BEVERAGES

The owner or operator of a commercial establishment holding a Special Occasion Permit shall destroy all fortified wine and spirituous liquor left on the premises by the host of a private function more than 48 hours after the conclusion of the function.

History Note: Authority G.S. 18B-100; 18B-207; 18B-403(g); 18B-1001(8);
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0707 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0706 TYPES OF PERMITS REQUIRED

The owner or operator of any commercial facility or commercial establishment renting or furnishing the premises thereof for a private function where the host of the function will possess more than eight liters of fortified wine or spirituous liquor, or eight liters of the two combined, shall either:

- (1) apply for and obtain a Special Occasion Permit, as required by G.S. 18B-1001(8) and G.S. 18B-902; or
- (2) require the person in charge of the private function to apply for and obtain a Limited Special Occasion Permit under the provisions of G.S. 18B-1001(9) and 18B-902.

History Note: Authority G.S. 18B-100; 18B-207; 18B-301(b),(c); 18B-1001(8),(9);
Eff. July 1, 1992;
Amended Eff. November 1, 2012;
Transferred and Recodified from 04 NCAC 02S .0708 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

SECTION .0800 - CULINARY PERMITS

14B NCAC 15B .0801 GENERAL REQUIREMENTS

In addition to the general requirements for restaurants, hotels and cooking schools in G.S. 18B-1000 and the Rules of the Commission, a restaurant, hotel, cooking school or catering service using fortified wine or spirituous liquor for culinary purposes shall obtain those alcoholic beverages from a lawful source within this State.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1000(1b),(4),(6); 18B-1001(11); 18B-1006(h);
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0801 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0802 SUSPENSION OF MIXED BEVERAGES PERMIT

If the Mixed Beverages Permit of any permittee is suspended, no fortified wine or spirituous liquor shall be used by the permittee for culinary purposes during the period of suspension.

History Note: Authority G.S. 18B-100; 18B-104; 18B-207; 18B-1001(10),(11); 18B-1008;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0805 Eff. August 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

SECTION .0900 - WINE AND BEER TASTINGS

14B NCAC 15B .0901 TASTINGS HELD BY RETAILERS FOR CONSUMERS

(a) General. A retail wine or malt beverage permittee may conduct tastings of wine or malt beverages for consumers. A tasting held on the retailer's premises requires the appropriate permit. Any retailer conducting a wine or malt beverage tasting shall:

- (1) Provide training to its employees conducting and supervising any tasting, including:
 - (A) identification of potential underage customers;
 - (B) recognition of fictitious identification;
 - (C) identification of potentially intoxicated customers; and
 - (D) service of correct sample sizes; and
- (2) Prominently display in the area where the tasting is being conducted a sign informing customers that they must be 21 years of age to participate in the tasting.

(b) Tastings Assisted by Industry Member. For the purposes of this Rule, "industry member" means any manufacturer, bottler, importer, vendor, representative or wholesaler of alcoholic beverages. An industry member may assist with wine or malt beverage tastings for consumers in conjunction with, or on the licensed premises of, a retailer provided that:

- (1) The wine or malt beverage is taken directly from the retailer's existing inventory;
- (2) The industry member makes no payment to or on behalf of the retailer for promoting or advertising the tasting;
- (3) The retailer provides instruction to any participating industry member outlining how the tasting will be conducted prior to the tasting;
- (4) The retailer designates one of its employees to supervise the tasting. The retail supervisor shall:
 - (A) be physically present, actively supervise and be readily available to any participating industry member at all times during the tasting;
 - (B) wear visible identification;
 - (C) physically check-in with any participating industry member at each tasting station at least once per hour;
 - (D) make a final determination on the eligibility of a consumer to participate in a tasting in the event such a question arises;
 - (E) maintain an accurate accounting of all wine or malt beverages purchased for and consumed at the tasting; and
 - (F) dispose of any opened wine or malt beverage containers remaining after the tasting, unless the remaining wine is retained by a wine shop permittee.

(c) Unlawful Inducements Prohibited. No industry member shall require a retailer, and no retailer shall require an industry member, to conduct a wine or malt beverage tasting.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1001(15); 18B-1001(18); Eff. January 1, 1982; Amended Eff. November 1, 2012; January 1, 2011; May 1, 1984; Transferred and Recodified from 04 NCAC 02S .0901 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .0902 TASTINGS HELD BY INDUSTRY MEMBERS FOR CONSUMERS

Where the legal sale of those beverages is permitted, an industry member may furnish wine or malt beverages for tastings for consumers provided that:

- (1) The tasting is conducted for promotional purposes; and
- (2) No alcoholic beverages are sold, no sales or orders are solicited, and no order blanks are placed in or about the premises.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1107(a)(4); 18B-1109(a)(4); 18B-1116(b); Eff. January 1, 1982;

*Amended Eff. January 1, 2011; July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0902 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,
2016.*

**14B NCAC 15B .0903 TASTINGS HELD BY INDUSTRY MEMBERS FOR RETAIL PERMITTEES:
SAMPLES**

(a) Samples. An industry member may give samples of wine, malt beverages or spirituous liquor to a retail permittee authorized to sell that beverage under the following circumstances:

- (1) The industry member may give the retailer up to three gallons per brand of malt beverages, up to three liters per brand of wine and up to 50 milliliters per brand of spirituous liquor; and
- (2) The retailer has not previously purchased those brands from the industry member within the previous calendar year.

(b) Tastings. At educational seminars, an industry member may give a retail permittee samples by the glass of any products he offers for sale. A tasting may be conducted on the industry member's premises or at any other location. A tasting under this Paragraph shall not be conducted in conjunction with a meal, a party, or any other social event but shall be for business purposes only.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1107(a)(4); 18B-1109(a)(4); 18B-1116(b);
Eff. January 1, 1982;
Amended Eff. January 1, 2011; July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0903 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,
2016.*

14B NCAC 15B .0904 TASTINGS HELD BY INDUSTRY MEMBERS FOR ABC BOARDS

(a) Distiller representatives may conduct educational tastings for ABC board members, general managers and employees, whose duties include product selection, upon notification by the distiller representative to the Commission and if the distiller representative has obtained a permit under G.S. 18B-1001(9).

(b) A tasting held under this Rule shall not be conducted in conjunction with a meal, a party or any other social event, but shall be for business purposes only.

(c) No tasting shall be held on ABC board property.

*History Note: Authority G.S. 18B-100; 18B-203(a)(9); 18B-207; 18B-1116;
Eff. April 1, 2011;
Transferred and Recodified from 04 NCAC 02S .0904 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,
2016.*

SECTION .1000 - ADVERTISING

14B NCAC 15B .1001 DEFINITIONS

As used in this Section:

- (1) The terms defined in G.S. Chapter 18B and Subchapters 15A through 15C of this Chapter shall have the same meaning when used in this Section.
- (2) "Advertising" means the publicizing of the trade name of a permittee, in connection with or relating to alcoholic beverages or the publicizing of alcoholic beverages by brand name, manufacturer's name or by other reference and shall include any display intended to attract attention by a combination of letters, pictures, objects, lighting effects, illustrations, etc., except that such term shall not include:
 - (a) any label affixed to any container of alcoholic beverages or any individual covering, carton or other wrapper of the container; or
 - (b) any editorial for which no money or other valuable consideration is paid or promised, directly or indirectly, by any person subject to these Rules.
- (3) "Cooperative advertising" means any joint effort between permittees occupying a vertical relationship to each other to advertise alcoholic beverages, the retailer's business, or any

promotion as defined in 14B NCAC 15C .0701(3) of this Chapter. Cooperative advertising, however, shall not be construed to include point-of-sale advertising furnished by an industry member.

- (4) "Direct Mail" means any advertising material mailed via any class of postal service to a consumer.
- (5) "Display" means the exhibition of alcoholic beverage containers in cases, or bottles or cans outside of cases, together with advertising material, the purpose of which is to advertise those products to prospective purchasers on the premises.
- (6) "Case display" means alcoholic beverages in cartons or cases only. A handypack is included in the term "carton."
- (7) "Magazine" means any trade, fraternal or scientific periodical or a periodical having general circulation and containing descriptive matter, articles and stories, and designed primarily for the edification and entertainment of the reader that is published no less frequently than once each quarter.
- (8) "Newspaper" means any paper published more frequently than once monthly.
- (9) "Point-of-Sale" means advertising that is located inside and on the premises where the product is displayed or sold. Point-of-sale materials do not include consumer or retailer specialty items or novelties.

History Note: Authority G.S. 18B-100; 18B-105(b); 18B-207;
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .1001 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .1002 GENERAL PROVISIONS

- (a) Compliance with Rules. No permittee or affiliate shall publish, disseminate or broadcast, or cause to be published, disseminated or broadcast, any advertisement, either directly or indirectly, by newspaper, magazine, shopping guide, sign, circular, direct mail, billboard, display, radio, television or other advertising medium unless the advertisement is in conformity with all the rules of the Commission. This requirement shall apply to any alcoholic beverage advertising, whether or not it originates within this state. In addition, the Commission does not hereby waive the discretion conferred upon it under G.S. 18B-105 to prohibit any advertising that it considers objectionable or contrary to public interest.
- (b) Trade Practice Section Applies. In addition to the rules in this Section, industry members shall comply with the trade practice and advertising requirements of Section .0700 of Subchapter 15C of this Chapter in their dealings with retailers and special one-time permittees.
- (c) Approval of Advertising Not Authorized. Upon request and for good cause shown, the Commission may authorize a form of advertising not specifically allowed or authorized by these Rules.
- (d) Limited to Brands Listed. Advertisements of alcoholic beverages shall be limited to the brands actually approved and listed by the Commission at the time the advertisements appear.
- (e) Telephone Directory Listings. Permittees may insert telephone and city directory listings if the listings conform in copy to the restrictions enumerated in these Rules.
- (f) Advertising within Transportation Terminals. Upon application, the Commission may allow a permittee to advertise alcoholic beverages within transportation terminals by displays or otherwise.
- (g) Exchange of Advertising by Permittee. Any retail permittee of the Commission may give to any other retail permittee of the Commission any advertising material if it meets the requirements of these Rules.

Editor's Note: James L. Conner, II, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 4 NCAC 2S .1004(c) void as applied in Daniel W. Shelton t/a Shelton Broers v. N.C. Alcoholic Beverage Control Commission (99 ABC 1641).

History Note: Authority G.S. 18B-100; 18B-105(b); 18B-207;
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .1004 Eff. August 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .1003 PROHIBITED STATEMENTS IN ADVERTISING OR ON LABELS

(a) General Restrictions. An advertisement or product label on any alcoholic product sold or distributed in this State shall not contain any statement, design, device, or representation that:

- (1) is contrary to the Federal Alcohol Administration Act, 27 C.F.R. Sections 4.39, 4.64, 5.42, 5.65, 7.29, or 7.54, as interpreted by the Commission. The provisions of 27 C.F.R. Sections 4.39, 4.64, 5.42, 5.65, 7.29, and 7.54 referenced in this Rule are hereby incorporated, including subsequent amendments and editions, and may be accessed for free at <https://www.gpo.gov>;
- (2) depicts the use of alcoholic beverages in a scene that is determined by the Commission to be undignified, immodest, or in bad taste;
- (3) offers a prize or award upon the completion of any contest in which there is a requirement to purchase the advertised product, except as otherwise permitted pursuant to 14B NCAC 15C .0714, provided that no advertisement shall promote a game of chance or a lottery;
- (4) promotes or encourages the sale to, or use by, persons under 21 years of age of alcoholic beverages, including any representation portraying a person under 21 years of age consuming alcoholic beverages;
- (5) is inconsistent with the State laws of public safety or safe driving.
- (6) is contrary to State laws and rules governing sale, storage, or consumption of alcoholic beverages;
or
- (7) is otherwise prohibited pursuant to a rule in this Chapter.

*History Note: Authority G.S. 18B-100; 18B-105; 18B-206; 18B-207;
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Pursuant to G.S. 150B-33(b)(9), Administrative Law Judge James L. Conner II, declared Rule 04 NCAC 02S .1005(a)(3) void as applied in Daniel W. Shelton t/a Shelton Broers v. NC Alcoholic Beverage Control Commission (99 ABC 1641);
Transferred and Recodified from 04 NCAC 02S .1005 Eff. August 1, 2015;
Readopted Eff. July 1, 2018.*

14B NCAC 15B .1004 GENERAL PROHIBITIONS

(a) For the purposes of this Rule, the following definitions shall apply:

- (1) "Coupon" means a part of a retail permittee's advertisement that is redeemed by a purchaser to the retail permittee to obtain a discount at the time of sale;
- (2) "Loyalty card, discount card, or membership card" means a card that is issued by a retail permittee to customers that, upon presentation to the retail permittee, provides for the purchaser to receive a loyalty card, discount card, membership card, or coupon discount on a portion of the amount paid by the purchaser for off-premises beer or wine consumption sales at the time of sale; and
- (3) "Rebate" for a retail permittee, means a promise by the retail permittee to return a portion of the amount paid by the purchaser upon the condition the purchaser completes a rebate form and the purchaser meets the terms and conditions of the rebate form's requirements.

(b) Advertising for an alcoholic beverage shall not include a coupon or an offer for a free alcoholic beverage. No person shall advertise by means of a coupon, a rebate or a permittee's loyalty card, discount card or membership card offering a discount off the purchase of a malt beverage or wine, except as provided in this section. A combination of the use of a coupon, a rebate or a permittee's loyalty card, discount card or membership card shall not exceed a total of 25 percent of the advertised retail price of the item. Permittees may advertise by means of a coupon, a rebate or a permittee's loyalty card, discount card or membership card under the following conditions:

- (1) A permittee who holds an on-premises or off-premises malt beverage or wine permit under G.S. 18B-1001(1) through (6) or a wine shop permit under G.S. 18B-1001(16) may advertise by means of a coupon or a rebate in the following circumstances:
 - (A) The permittee may provide a coupon or a rebate for use by a customer when purchasing a malt beverage or wine sold at the permittee's retail location for off-premises consumption;

- (B) The permittee may require a customer to use the permittee's loyalty card, discount card or membership card with the use of a coupon or rebate when purchasing a malt beverage or wine sold at the permittee's retail location for off-premises consumption;
 - (C) No coupons or rebates shall be honored for the purchase of alcohol for any individual below the legal age for purchase of alcohol;
 - (D) A coupon or rebate shall not provide a discount exceeding 25 percent of the advertised retail price of the item;
 - (E) A permittee shall not advertise or distribute coupons or rebates in a publication produced for or by a higher education institution; and
 - (F) In any advertisement displaying a discount coupon or rebate, the permittee shall include the following statement on or about the discount coupon or rebate in a similar font to the discount coupon or rebate, "Drink Responsibly – Be 21;" and
- (2) A permittee who holds an on-premises or off-premises malt beverage or wine permit under G.S. 18B-1001(1) through (6) or a wine shop permit under G.S. 18B-1001(16) may advertise discounts, coupons and rebates with the requirement of the use of the permittee's loyalty card, discount card or membership card in the following circumstances;
- (A) The permittee shall require customers to present a loyalty card, discount card or membership card to receive the advertised loyalty card, discount card or membership card discount when purchasing a malt beverage or wine sold at the permittee's retail location for off-premises consumption;
 - (B) No loyalty card, discount card or membership card shall be honored for the purchase of alcohol for any individual below the legal age for purchase of alcohol;
 - (C) A loyalty card, discount card or membership card shall not provide a discount exceeding 25 percent of the advertised retail price of the item;
 - (D) A permittee shall not advertise permittee loyalty card, discount card or membership card discounts in a publication produced for or by a higher education institution; and
 - (E) In any advertisement displaying a permittee loyalty card, discount card or membership card discount, the permittee shall include the following statement on or about the discount coupon or rebate in a similar font to the discount, "Drink Responsibly – Be 21."

Direct or indirect cooperation shall not occur between a retailer and an industry member in either marketing, redemption or funding of coupons, rebates or loyalty card, discount card or membership card discounts under this Rule. Participation of an industry member in the use of coupons, rebates or loyalty card, discount card or membership card discounts is a violation of G.S. 18B-1116(a)(3).

(c) No industry member or retailer shall advertise alcoholic beverages in any programs for events or activities in connection with any elementary or secondary schools; nor shall any alcoholic beverages advertising be connected with these events when broadcast over radio or television.

(d) No industry member or retailer is permitted to advertise alcoholic beverages by use of sound trucks.

(e) No industry member or retailer shall advertise spirituous liquor upon the picture screen of any theater.

(f) Except as otherwise provided in these Rules, no industry member or retailer shall promote an alcoholic beverage product by giving prizes, premiums or merchandise to individuals for which any purchase of alcoholic beverages is required or based on the return of empty containers unless all containers of like products are accepted and considered on an equal basis with the product sold by the promoter.

(g) No on-premise permittee or his agent shall advertise any drink promotion prohibited by 14B NCAC 15B .0223. This Paragraph includes a ban on all advertisements of "2 for 1," "buy 1 get 1 free," "buy 1 get another for a _____ (nickel, penny, etc.)," and any other similar statement indicating that a patron must buy more than one drink.

*History Note: Authority G.S. 18B-100; 18B-105(b); 18B-207; 18B-1116(a)(3);
Eff. January 1, 1982;
Amended Eff. January 1, 2011; July 1, 1992; August 1, 1985; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .1006 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

14B NCAC 15B .1005 COOPERATIVE ADVERTISING PROHIBITED

Except for point-of-sale advertising furnished to a retailer by an industry member, a retailer and an industry member shall not directly or indirectly cooperate in a joint effort to advertise alcoholic beverages, the retailer's business, or any promotion or other event unless prior written approval has been obtained from the Commission under 14B NCAC 15C .0715 of this Chapter. This Rule shall not be construed to prohibit the use by a retailer of items and services that may be lawfully sold or provided by an industry member as described in 14B NCAC 15C .0700 of this Chapter.

History Note: Authority G.S. 18B-100; 18B-105(b); 18B-207; Eff. January 1, 1982; Amended Eff. July 1, 1992; May 1, 1984; Transferred and Recodified from 04 NCAC 02S .1007 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .1006 ADVERTISING OF MALT BEVERAGES, WINE AND MIXED BEVERAGES BY RETAILERS

(a) Interior Advertising.

- (1) Point-of-Sale. Retail malt beverage, wine, and mixed beverage permittees may utilize any amount of point-of-sale advertising for malt beverage, wine, and mixed beverage products offered for sale in the establishment. This advertising may be supplied by the industry member unless it constitutes a fixture or has value other than as advertising material. However, an industry member may give a retailer brand-identified items listed in 14B NCAC 15C .0711(c) for use as point-of-sale advertising;
- (2) Price Boards. Retail malt beverage, wine, and mixed beverage permittees may display inside price boards showing the brand names and prices of malt beverage, wine, and mixed beverage products offered for sale in the establishment;
- (3) Menus and Beverage Lists. Retail on-premise malt beverage, wine, and mixed beverage permittees may place on the menu and beverage lists the brand names and prices of malt beverage, wine, and mixed beverage products offered for sale in the establishment. Beverage lists may be supplied by an industry member and may include up to six items from the retailer's food menu but shall not include the name, logo, or other identifier of the retail permittee on the advertisement. A table tent shall be considered a beverage list for purposes of this Rule;
- (4) Retailer Advertising Specialty Items. "Retailer advertising specialty items" are items such as trays, coasters, mats, meal checks, paper napkins, glassware, cups, foam scrapers, back bar mats, thermometers, and other similar items that bear advertising matter. Advertising specialty items may be provided to a retailer by an industry member as provided in 14B NCAC 15C .0711(b)(8);
- (5) Window Displays. Retail malt beverage, wine, and mixed beverage permittees may arrange unopened malt beverage, wine, or spirituous liquor products in a window display;
- (6) Location. Except as permitted pursuant to Paragraph (e) of this Rule, no point-of-sale advertising, advertising specialty item or price board shall be displayed in a manner designed or intended to advertise malt beverages, wine, or mixed beverages on the outside of the establishment; and
- (7) T-shirts. A retailer's employees shall not wear alcoholic beverage brand identified t-shirts while working on the retailer's licensed premises.

(b) Exterior Advertising.

- (1) Outside signs on the premises.
 - (A) Malt Beverages. Retail malt beverage permittees may display the term "beer," "cold beer," "draught beer," "specialty beer," "craft beer," "North Carolina beer," "local beer," or "imported beer," on a single, non-mechanical outside sign. This sign may be neon illuminated. The letters and figures on the sign shall not be more than 5 inches in height and 2 inches apart and the sign shall be attached to the building on the licensed premises. Retail malt beverage permittees may also display the term "beer," "cold beer," "draught beer," "specialty beer," "craft beer," "North Carolina beer," "local beer," or "imported beer" or a similar term on a single, portable, non-mechanical sidewalk sign that is no larger than 25 inches by 45 inches on each of its two sides. The sidewalk sign shall be displayed only during the hours of operation.

- (B) Wine. Retail wine permittees may display the term "wine permit-off premise," "wine permit-on premise," "fine wine," or a similar term on a single non-mechanical outside sign. This sign may be neon illuminated. The letters and figures on the sign shall not be more than 5 inches in height and 2 inches apart and the sign shall be attached to the building on the licensed premises. Instead of the sign described in this Paragraph, retail wine permittees engaged in off-premise sales of wine may display the term "Wine Shop," "Wine and Cheese," or a similar term on a single non-mechanical sign. This sign may be neon illuminated. The letters and figures on the sign shall not be more than 18 inches in height and the sign shall be attached to the building on the licensed premises. Retail wine permittees may also display the term "wine permit-off premise," "wine permit-on premise," "fine wine," or a similar term on a single, portable, non-mechanical sidewalk sign that is no larger than 25 inches by 45 inches on each of its two sides. Instead of the sidewalk sign described in this Paragraph, retail wine permittees engaged in off-premise sales of wine may display the term "Wine Shop," "Wine and Cheese," "fine wine," or a similar term on a single, portable, non-mechanical sidewalk sign that is no larger than 25 inches by 45 inches on each of its two sides. A sidewalk sign shall be displayed only during the hours of operation.
 - (C) Restriction. Retail malt beverage, wine, and mixed beverage permittees shall not allow price advertising or additional signs advertising malt beverages, wine, and mixed beverages on the outside of their premises. Outside signs alluding to malt beverages, wine, or mixed beverages by slang descriptions such as "brew," "suds," "six-pack," "vino," or "booze" are prohibited.
 - (D) Exceptions for Menus. The placement of a food menu that also contains a list of alcoholic beverages by brand and price in a window, on the exterior of the retailer's building or on a sidewalk sign that is no larger than 25 inches by 45 inches on each of its two sides is not a violation of this Rule. A sidewalk sign shall be displayed only during the hours of operation.
 - (E) Mixed Beverages. Retail mixed beverage permittees may display the term "mixed beverages," "all ABC permits," "mixed drinks," "cocktails," or "spirits," on a single non-mechanical, non-neon, or otherwise self-illuminated outside sign. The letters and figures on the sign shall not be more than five inches in height and two inches apart and the sign shall be attached to the building on the licensed premises.
 - (F) Private Club. A private club shall not display any exterior sign advertising the availability of malt beverages, wine, or mixed beverages.
- (2) Billboards. Retail permittees shall not advertise malt beverage, wine, or mixed beverage products or the availability of alcoholic beverages by means of a billboard or outdoor sign except as provided in this Section. Industry members with retail permits may advertise tastings;
 - (3) Aerial Displays. Retail permittees shall not advertise malt beverage, wine, or mixed beverage products or the availability of alcoholic beverages by means of an aerial display or an inflatable item that is tethered; and
 - (4) This Rule permits only exterior advertising allowed by local ordinances.
- (c) Removal of Signs. A permittee shall remove any sign, display, or advertisement in or about the permittee's licensed premises if the Commission finds following a hearing it is contrary to public interest and orders its removal.
 - (d) Media Advertising. A retail malt beverage, wine, or mixed beverage permittee may advertise price and brand of malt beverage, wine, and mixed beverage products offered for sale by means of circular, newspaper, magazine, radio, television, and internet.
 - (e) Notwithstanding Subparagraphs (a)(6) and (c) of this Rule, a sports or entertainment venue with a permanently constructed seating capacity of 3,000 or more, which is not located on the campus of a school, college, or university, may display point-of-sale advertising for malt beverages and unfortified wine inside the venue that is visible from the outside of the venue, and shall not be required by the Commission to move or remove the advertising.

History Note: Authority G.S. 18B-100; 18B-105; 18B-207; S.L. 2018-65, s. 5.1; Eff. January 1, 1982; Amended Eff. March 1, 2012; January 1, 2011; July 1, 1992; May 1, 1984; Transferred and Recodified from 04 NCAC 02S .1008 Eff. August 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;
Amended Eff. April 1, 2019.

14B NCAC 15B .1007 ADVERTISING OF MALT BEVERAGES AND WINE BY INDUSTRY MEMBERS

- (a) Billboards; Media. Industry members may advertise malt beverages or wine on outdoor billboards, by radio, television, newspaper or magazine, and by other similar means. Outdoor billboards or signs shall not be displayed on the premises of any retail permittee's establishment nor in areas where sale of that product is unlawful.
- (b) Aerial Display. Malt beverages and wine may be advertised by industry members by means of aerial displays or tethered inflatables, including banner-towing, hot air balloons and parachutes, if:
- (1) One or more photographs or drawings of the displays have been submitted to the Commission and the permittee has received prior written approval;
 - (2) The advertising on the aerial display is in conformity with all other rules in this Section; and
 - (3) No aerial display or inflatable is placed on or over the premises of a retail permittee's establishment.
- (c) Delivery Trucks and Uniforms. Trucks owned by or leased exclusively to an industry member may be used for advertising purposes limited to the name or trade name of the permittee, and the brand names, slogans, house marks or trademarks of the alcoholic beverages manufactured or sold by the permittee. Wholesale permittees may display on the uniforms of their employees the names of their company and the brand names of the products handled by them.
- (d) Other Signs. Industry members may maintain any signs required by the laws of the United States to be displayed on their premises as well as signs on the premises indicating the brand names of malt beverages and wine sold by them, including the word "beer," or words describing other malt beverages and wine.
- (e) Price. Industry members shall not advertise the price of malt beverages or wine. A wholesaler may give a wholesale price list that contains the brand names and prices of his products to retail permittees.
- (f) College Campuses. All print advertising, including posters, flyers, display ads, or point-of-sale materials that are published primarily for distribution to college students or for dissemination on college campuses shall first be submitted to the Commission for approval prior to any publication or distribution. Industry members are encouraged to submit such advertising at least two months prior to distribution deadlines in order to allow adequate review by the Commission.

History Note: Authority G.S. 18B-100; 18B-105; 18B-207;
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .1009 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .1008 ADVERTISING OF SPIRITUOUS LIQUORS

- (a) ABC Stores. An ABC store may have one or more outside signs located on the premises for the purpose of identifying the outlet if the sign is not prohibited by local ordinance and it has been approved by the Commission. During the approval process the Commission shall consider the following factors:
- (1) the proximity of the ABC store to schools and churches;
 - (2) the number and size of the signs requested;
 - (3) the text and graphics on the sign;
 - (4) the materials that make up the sign; and
 - (5) the public concern in matters of the public's welfare.
- (b) Aerial Displays. No distiller, importer, or rectifier of spirituous liquor, or representative thereof, nor any retail permittee, shall advertise by means of an aerial display or inflatable the brand name or availability of spirituous liquor.
- (c) Billboards; Media. Industry members may advertise spirituous liquor on outdoor billboards, by radio, television, newspaper, magazine or internet, and by other similar means. Outdoor billboards or signs shall not be displayed on the premises of any retail permittee's establishment nor in areas where sale of that product is unlawful.

(d) Point-of-Sale. Point-of-sale and advertising specialties for spirituous liquor may be used in ABC stores. Advertising used in ABC stores shall conform to the provisions of Rule .1005 of this Section, and in addition shall not:

- (1) incorporate the use of any present or former athlete or athletic team; or
- (2) refer to the availability of or offer any alcoholic beverages by mail.

All point-of-sale advertising material, advertising specialties, and recipes, booklets or brochures intended for use and display in ABC stores shall first be submitted to the Commission prior to their display in an ABC store.

(e) Local ABC Boards. Local ABC boards may advertise on their web site or social networking page the following information:

- (1) general information such as the history of the ABC board, locations, hours of operation, contact information, employment opportunities, alcohol enforcement, alcohol education, underage drinking education and other local government information; and
- (2) liquor products and prices, as long as:
 - (A) no logos are shown;
 - (B) when a product is listed, all products that are offered are listed;
 - (C) when a product's regular price is listed, all products' regular prices offered by the board are listed; and
 - (D) when a special price is listed for a product, all products with special prices offered by the board are listed.

(f) Local boards may join local chambers of commerce or visitor's bureaus and may provide them general board information which includes store locations and hours to be distributed through the chambers of commerces' or visitor's bureaus' media information.

History Note: Authority G.S. 18B-100; 18B-105; 18B-207; 18B-807;
Eff. January 1, 1982;
Amended Eff. November 1, 2012; November 1, 2011; January 1, 2011; July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .1011 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .1009 NOVELTIES UTILIZING TRADEMARKS/NAMES: OTHER MATERIALS

Industry members may use or allow to be used their trademark, trade name or other similar advertising materials in the manufacturing of novelty items such as ice chests, beach towels, umbrellas, and other similar items provided that any advertising material other than trade name or trademark shall receive approval by the Commission prior to distribution in North Carolina. Novelties may be sold to a retailer by an industry member as provided in 14B NCAC 15C .0711(a)(1) of this Chapter.

History Note: Authority G.S. 18B-100; 18B-105(b); 18B-207;
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .1012 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .1010 BOTTLE NECK HANGERS

Bottle neck hangers that are in conformity with Rule .1003 of this Section may be used.

History Note: Authority G.S. 18B-100; 18B-105(b); 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .1013 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .1011 RECIPES AND BOOKLETS

Recipes, booklets and brochures for cooking with alcoholic beverages and information with reference to the use of those products with certain foods are permitted and may specify the brand and the name of the bottler, manufacturer or importer. Malt beverage and wine industry members may give recipes, booklets and brochures for cooking with those products to retailers. Recipes, booklets and brochures for cooking with spirituous liquor shall be submitted to the Commission with point-of-sale materials as required in Rule .1008(e) of this Section.

*History Note: Authority G.S. 18B-100; 18B-105(b); 18B-207;
Eff. January 1, 1982;
Amended Eff. July 1, 1992;
Transferred and Recodified from 04 NCAC 02S .1014 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

14B NCAC 15B .1012 REVOCATION OR SUSPENSION OF PERMITS

- (a) The permit of any manufacturer or wholesaler distributor that violates any of the provisions of this Section may be suspended or revoked in the discretion of the Commission.
- (b) The suspension or revocation of the permit of any wholesaler for a violation of these Rules shall raise a rebuttable presumption that the unlawful activity by the wholesaler was done with the knowledge and consent of the manufacturer.
- (c) Upon a finding that the manufacturer had knowledge of the wholesaler's violation of any of these Rules and that the manufacturer failed to take appropriate disciplinary action the permit of the manufacturer to do business in North Carolina may be suspended or revoked in the discretion of the Commission or any codes listed by the Commission may be put on embargo by the Commission for a specific period of time.

*History Note: Authority G.S. 18B-100; 18B-104; 18B-105(a); 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .1015 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

14B NCAC 15B .1013 REFUND OFFERS

- (a) General. Refund offers may be used to advertise spirituous liquor.
- (b) Conditions. A refund offer is an offer to a consumer for a rebate of money or merchandise from a liquor industry member, obtained by mailing a form. A refund offer is allowed under the following conditions:
 - (1) A refund may be offered only by a manufacturer, importer, distiller, rectifier or bottler of spirituous liquor.
 - (2) A refund may be offered only to purchasers of the manufacturer's original unopened container of liquor that is purchased from a local ABC store.
 - (3) A refund may be offered only when the redemption form is a part of or attached to the package or container, or when the forms are available on tear-off pads displayed in the store. Any offer that is a part of or attached to the package or container shall be placed there by the industry member who offers the refund.
 - (4) A refund offer shall apply throughout the state.
 - (5) A refund offer shall include an expiration date.
 - (6) A refund offer shall include a statement explaining the redemption procedure including the expiration date and length of time before the refund is sent to the purchaser. Refund offers shall be redeemed by mailing the redemption form to the industry member who offers the refund or its designated redemption agent. Such an agent shall not be a retail or wholesale permittee in the state.
 - (7) An industry member shall notify the commission at least 10 days before it offers a refund on liquor. The notice shall state the proposed amount of the refund, its expiration date, to whom redemption forms must be mailed and the name, address and phone number of the redemption agent. The notice shall also include a sample of the redemption form.
 - (8) An ABC board member or employee shall not receive refunds on offers obtained from liquor packages or containers before sale at retail.

(c) Commercial Bribery; Cooperative Advertising. No local ABC board member, board employee, retailer or retailer employee shall accept and no industry member shall pay any fee for the display or use of refund offers. The name of a retail business or retail permittee shall not appear on any refund offer.

(d) Advertising Refund Offers. Refund offers may be advertised by newspapers, magazines or direct mail but no redemption form may appear in such advertisement. No refund offer for liquor may be advertised on the premises of any retail permittee.

*History Note: Authority G.S. 18B-100; 18B-105(b); 18B-207;
Eff. June 1, 1987;
Amended Eff. July 1, 1992;
Transferred and Recodified from 04 NCAC 02S .1020 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

SECTION .1100 - EFFECT OF ADMINISTRATIVE ACTION: FINES: OFFERS IN COMPROMISE

14B NCAC 15B .1101 PROHIBITED ACTIVITY DURING PERIOD OF SUSPENSION

(a) The selling, dispensing or consuming of alcoholic beverage products on the licensed premises of any retail outlet is prohibited while the permit authorizing that activity is under suspension, and no alcoholic beverages shall be removed from the premises during the suspension period.

(b) During a period of suspension of a permittee's permit, he continues to be a permittee and shall comply with all ABC laws, including conditions of his permit, during the suspension period. Suspension of permits does not operate to relieve any permittee of the continuing requirements for qualification for a permit.

(c) The suspension of any permit authorizing the sale of alcoholic beverages also suspends the permittee's authorization to purchase or accept deliveries of those alcoholic beverages from a wholesaler or local ABC board for the entire length of the active suspension period.

(d) Suspensions shall begin at 7:00 a.m. on the effective date ordered by the Commission in the Order of Suspension or Order of Compromise.

*History Note: Authority G.S. 18B-100; 18B-104; 18B-207; 18B-1004(a); 18B-1008;
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .1101 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

14B NCAC 15B .1102 PROHIBITED ACTIVITY DURING SUSPENSION: BROWNBAGGING

The suspension of a Brownbagging Permit suspends the permittee's privilege to allow patrons or members to possess, store, and consume fortified wine or spirituous liquor upon the premises during the period of suspension.

*History Note: Authority G.S. 18B-100; 18B-104; 18B-207; 18B-1008;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .1102 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

14B NCAC 15B .1103 MEMBERSHIP REQUIREMENTS STILL APPLICABLE

Suspension of a private club permit does not operate to relieve the permittee of the continuing requirements for qualification for a private club permit, including requirements regarding membership and operation as a private facility.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1008;
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .1103 Eff. August 1, 2015;*

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

14B NCAC 15B .1104 ADMINISTRATIVE FINES: PAYMENT

When the Commission orders a permittee to pay a fine as part of a penalty, payment shall be received in the Commission offices in Raleigh no later than 21 days following the meeting at which the Commission orders the fine. The Commission shall include, as part of the order, what penalty will be imposed if the fine has not been received by the Commission by the prescribed deadline. Payment shall be made in accordance with 14B NCAC 15A .0104.

*History Note: Authority G.S. 18B-100; 18B-104; 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .1104 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;
Amended Eff. July 1, 2018.*

14B NCAC 15B .1105 OFFER IN COMPROMISE

When the Commission accepts from a permittee an offer in compromise as settlement or partial settlement in a contested case, the monetary payment accepted in the offer shall be paid on or before the date set by the Commission or a hearing officer and shall be paid by means of a certified check, cashier's check or money order made payable to the North Carolina ABC Commission.

*History Note: Authority G.S. 18B-100; 18B-104; 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .1106 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

SUBCHAPTER 15C - INDUSTRY MEMBERS: RETAIL/INDUSTRY MEMBER RELATIONSHIPS: SHIP CHANDLERS: AIR CARRIERS: FUEL ALCOHOL

SECTION .0100 - DEFINITIONS: APPLICATION PROCEDURES

14B NCAC 15C .0101 DEFINITIONS

*History Note: Authority G.S. 18B-100; 18B-101; 18B-207; 18B-1112; 18B-1113; 18B-1114; 18B-1116;
Eff. January 1, 1982;
Amended Eff. April 1, 2011; July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0101 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
Repealed Eff. September 1, 2019.*

14B NCAC 15C .0102 APPLICATION PROCEDURES

(a) Who Files. Before any winery, brewery, distiller, wholesaler, importer, bottler, vendor, distiller representative, brokerage representative, salesman, supplier representative, or vendor representative sells, solicits orders for, or manufactures, bottles, or imports any alcoholic beverage in this State, that person shall first file written application for the appropriate permit and pay any required fees, as described in G.S. 18B-902, and as set forth in this Rule. Applications for permits for businesses shall be filed by those individuals listed in G.S. 18B-900(c).

(b) Application. Application forms for all ABC permits may be obtained from the North Carolina Alcoholic Beverage Control Commission's office or website as set forth in 14B NCAC 15A .0102. Each person shall provide in the application, under oath, the following information, as applicable:

- (1) the name, address, email address, last four digits of social security number, and telephone number(s) of the applicant;
 - (2) the mailing address and location address of the business for which a permit is desired, and the county and state where the business is located;
 - (3) the name of the business and whether the business is a sole proprietorship, corporation, limited liability company, or partnership;
 - (4) the trade name of business;
 - (5) the applicant's date of birth;
 - (6) if the business is a corporation or limited liability company, the name and address of the person authorized to accept service of process of Commission notices or orders under G.S. 1A, Rule 4(j);
 - (7) if the applicant is a non-resident intending to operate a business in the State, the name and address of a resident of the State appointed as the applicant's attorney-in-fact in accordance with Chapter 32C of the General Statutes for purposes of G.S. 18B-900(a)(2)b.;
 - (8) if the application is for a vendor representative, brokerage representative, distiller representative, or supplier representative permit, authorization from the commercial permittee, brokerage, distiller, or spirituous liquor supplier to represent it; and
 - (9) that the applicant is in compliance with G.S. 18B-900(a)(3) through (8).
- (c) Additional documentation. The following documents completed, signed, notarized, and recorded, as applicable, shall be attached to and submitted with an application, and shall be incorporated as part of the application:
- (1) for applicants applying on behalf of a business pursuant to G.S. 18B-900(c), the fingerprint card, Authority for Release of Information Form, and certified check, cashier check, money order, electronic payment, or credit card payment made payable to the North Carolina ABC Commission in the amount of thirty-eight dollars (\$38.00) for payment of a state and national fingerprint-based criminal history record check pursuant to 14B NCAC 18B .0405;
 - (2) for applicants applying for brokerage representative, distiller representative, or supplier representative permits, a certified copy of the applicant's State criminal history record check;
 - (3) payment of applicable permit fees as authorized in 14B NCAC 15A .0104;
 - (4) for businesses located in this State, a certified copy of any recorded power of attorney registered in the county where the proposed licensed premises is located;
 - (5) for corporations not already holding a permit in this State, a copy of the Articles of Incorporation and notarized corporate certification of shareholders holding 25 percent or more of the shares of the corporation;
 - (6) for limited liability companies not already holding a permit in this State, a copy of Articles of Organization and notarized organizational certification of members owning 25 percent or more interest in the company. Additionally, if manager-managed, a copy of the Operating Agreement;
 - (7) a black and white copy of applicant's current photo identification;
 - (8) for a business located in this State, a copy or memorandum of the lease showing the applicant as tenant, a copy of the deed showing the applicant as the grantee or owner, or a copy of a management agreement with the owner or lessee of the permitted property showing the applicant has the authority to operate the business at the permitted location; and
 - (9) a Federal Employer Identification/Social Security Number Verification Form.
- (d) Salesmen, Representatives, Vendors To State Companies. All salesmen, vendor representatives, distiller representatives, brokerage representatives, supplier representatives, and vendors shall further state on the permit application the name of every manufacturer, importer, wholesaler, distiller, brokerage, spirituous liquor supplier, or vendor that the applicant will represent in the State. The persons listed in this Paragraph shall notify the Commission when their authorization to represent an industry member ceases. The manufacturer, importer, wholesaler, distiller, brokerage, spirituous liquor supplier, or vendor shall notify the Commission whenever any of the persons listed in this Paragraph are no longer their authorized representative. Notification required pursuant to this Paragraph shall be made to the Commission in writing within 30 days of the termination of the authorization to represent.
- (e) Wholesalers. In addition to the requirements set forth in Paragraphs (a), (b), and (c) of this Rule, before a wholesaler receives, possesses, transports, sells, delivers, or ships wine or malt beverages in the State, the vendor shall file with the Commission a separate distribution agreement filing form for each brand authorized to be sold by the wholesaler and the specific territory where the product may be sold for each wholesaler location. The distribution agreement filing form shall contain the vendor's and wholesaler's names, trade names if applicable, addresses, telephone numbers, ABC permit numbers, and the name of the brand and territory where the sales may take place in the State, by county or parts of counties. For wine vendors, the form shall also state whether the vendor

ships 1,250 cases or more of wine in the State each year. The form shall be signed and dated by the vendor and the wholesaler. If any changes in the distribution agreement affect the information on the distribution agreement filing form filed with the Commission, the wholesaler shall amend the form and file it with the Commission on a revised distribution agreement filing form before the changes become effective.

(f) Liquor Importer/Bottler. In addition to the requirements set forth in Paragraphs (a), (b), and (c) of this Rule, a liquor importer/bottler applying for a permit shall submit a description of the operations of its business, which shall include the location address of any storage facility or bottling plant, if different than the address shown on the permit application, and any associated federal alcoholic beverage permit numbers.

(g) Nonresident Vendors. In addition to the requirements set forth in Paragraphs (a), (b), and (c) of this Rule, a nonresident malt beverage vendor or a nonresident wine vendor applying for a permit shall submit the following:

- (1) a copy of the Federal Basic Permit or Brewers Notice;
- (2) a statement of whether the business is a malt beverage vendor or a wine vendor;
- (3) a statement whether the applicant has ever been disapproved by any government agency for any application to manufacture, use, store, rectify, bottle, distribute, sell, import, or transport distilled spirits, beer, or wine;
- (4) a statement whether the applicant has ever compromised, by payment of penalties or otherwise, any violation of any federal or state laws relating to internal revenue or customs taxation of alcoholic beverages; and
- (5) certification of understanding that the applicant can only engage in activities authorized by the ABC laws of this State for the permit issued, and that before any wine or malt beverage can be offered for sale in the State, the product and label must be approved by the Commission.

(h) Wine Producers. In addition to the requirements set forth in Paragraphs (a), (b), and (c) of this Rule, a wine producer applying for a permit shall submit a copy of the recorded deed or lease for the farming establishment that meets the requirements set forth in G.S. 18B-1000(10), including the address of the farm and one of the following:

- (1) a survey or diagram of the farm, indicating the areas and acreage used in the production of grapes, berries, or other fruits for the manufacture of unfortified wine; or
- (2) an affidavit stating that the farm consists of at least five acres committed to the production of grapes, berries, or other fruits for the manufacture of unfortified wine, listing the acreage used for this purpose and its function.

(i) Wine Shippers. In addition to the requirements set forth in Paragraphs (a), (b), and (c) of this Rule, a wine shipper applying for a permit shall submit the following:

- (1) a description of the operation of the business;
- (2) a website address through which orders will be received;
- (3) a statement whether the applicant has ever been disapproved by any government agency for any application to manufacture, use, store, rectify, bottle, distribute, sell, import or transport distilled spirits, beer, or wine;
- (4) a statement whether the applicant has ever compromised, by payment of penalties or otherwise, any violation of any federal or state laws relating to internal revenue or customs taxation of alcoholic beverages;
- (5) a statement whether the business entity holds a valid Federal Basic Permit, either as a Bonded Wine Cellar or Bonded Winery, and a copy of the Federal Basic Permit; and
- (6) a wine shipper brand listing consisting of all brands of fortified and unfortified wines identified to be shipped into the State by the wine shipper, including the names of the common carriers used for shipping. The permitted wine shipper may amend the brands of wine permitted to be shipped into the State by filing an amended wine shipper brand listing with the Commission prior to shipping. Only brands identified by the wine shipper to the Commission in writing may be legally shipped into the State.

History Note: Authority G.S. 18B-100; 18B-109; 18B-207; 18B-900; 18B-902; 18B-1000; 18B-1001.1; 18B-1105.1; 18B-1113; 18B-1114; 18B-1114.3; 18B-1114.7; 18B-1203; 18B-1303; Eff. January 1, 1982; Amended Eff. May 1, 1984; Transferred and Recodified from 04 NCAC 02T .0102 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017; Amended Eff. April 1, 2019.

14B NCAC 15C .0103 BEER FRANCHISE LAW; "BRAND" DEFINED

For purposes of Article 13 of Chapter 18B, the Beer Franchise Law, a distribution agreement between a supplier and wholesaler applies to all products distributed by the supplier under the same brand name. Different categories of products manufactured and marketed under a common identifying trade name are considered to be the same brand; e.g., the "Old Faithful" brand manufactured by Yellowstone Brewery Co. would include "Old Faithful", "Old Faithful Light", "Old Faithful Draft", "Old Faithful Dry" and other products identified principally by and relying upon the "Old Faithful" name, but would not include "Old Teton" which was also manufactured by Yellowstone Brewery Co. Determination of a product's brand shall be made by the Commission at the time the product is approved for sale in North Carolina and shall not be affected by later changes in the manufacturer's advertising strategy or labeling. Differences in packaging, such as different style, type or size of container, do not establish different brands.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1303(a); Eff. November 1, 1994; Amended Eff. April 1, 2011; Transferred and Recodified from 04 NCAC 02T .0103 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .0104 WINE PRODUCT BRAND

(a) Determination of a product's brand shall be made by the Commission at the time the product is approved for sale in North Carolina and shall not be affected by later changes in the manufacturer's advertising strategy or labeling. Differences in packaging, such as different style, type or size of container, do not establish different brands.

(b) For purposes of Bordeaux Chateau wine brought into North Carolina under the French negociant system only, "brand" as defined in 14B NCAC 15C .0101(1) shall be determined based on the nonresident wine vendor or importer's name as reflected on the back of the product label. For purposes of Bordeaux Chateau wines only, wines manufactured and marketed under a common identifying trade name such as "Chateau Domaine," but which may be imported into the United States through multiple channels based on written authorizations from French negociants, would not be considered to be the same brand; e.g., the "Chateau Domaine" brought into the United States by Importer A would be considered to be a different brand than the "Chateau Domaine" brought into the United States by Importer B. Such written authorization(s) must be provided to the Commission upon request prior to product approval or brand registration on a form provided by the Commission.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1203; Eff. April 1, 2011; Amended Eff. December 1, 2012; Transferred and Recodified from 04 NCAC 02T .0104 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

SECTION .0200 - PRODUCT APPROVALS: LISTING PROCEDURES: PRODUCT LISTS

14B NCAC 15C .0201 MALT BEVERAGE PRODUCT APPROVAL: LISTING IN STATE

(a) All malt beverage products offered for sale in this State shall first be approved by the Commission. The Commission shall provide blank Label/Product Application Forms upon request. Thereafter, any approved malt beverage product sold in this State shall conform to the analysis of the samples submitted.

(b) The Commission shall approve malt beverage products if:

- (1) the procedure for approval is complied with as required in Paragraph (c) of this Rule;
- (2) the analysis is within the limits as required in Paragraph (d) of this Rule;
- (3) the malt beverage product meets or exceeds the packaging requirements as required in 14B NCAC 15C .0301; and
- (4) at the time of consideration, the Commission does not have evidence to suspect that the product:
 - (A) contains harmful or impure substances;
 - (B) contains an improper balance of substances, based on studies by universities, laboratories, the Commission or other scientific studies;

- (C) is a spurious or imitation product; or
 - (D) is unfit for human consumption.
- (c) Procedure for Approval. To receive consideration for approval by the Commission for a new malt beverage product, an industry member shall comply with the following procedures:
- (1) submit a completed Label/Product Approval Form with a list of all container sizes being offered;
 - (2) attach all malt beverage product labels that are specified on the Label/Product Approval Form to the Label/Product Approval Form;
 - (3) upon request from the Commission, submit a sample of the product in a marketable container;
 - (4) attach a copy of the Federal Label Approval Form (COLA) to the Label/Product Approval Form;
 - (5) submit a non-refundable analysis fee in the form of a certified check, cashier's check or money order in the amount of twenty-five dollars (\$25.00) for each new malt beverage product submitted, except if an analysis certified by a laboratory of the product is submitted, submit a non-refundable administrative fee as set out in G.S. 18B-206(c) in the form of a certified check, cashier's check or money order; and
 - (6) forward all required items to the North Carolina Alcoholic Beverage Control Commission, 4307 Mail Service Center, Raleigh, North Carolina 27699-4307.
- (d) All malt beverage analyses shall be within the following limits:
- (1) a maximum 15 percent alcohol by volume;
 - (2) a maximum 25 parts per million of total sulphur dioxide content; and
 - (3) a maximum 100 parts per million of gallo tannins.
- (e) All analyses of products submitted by industry members shall provide the following information in English:
- (1) the measured amounts listed in Paragraph (d) of this Rule;
 - (2) the calories per 360 milliliters (12 ounces);
 - (3) the specific gravity; and
 - (4) the amount of any fortified stimulant per 360 milliliters (12 ounces).
- (f) The Commission shall withdraw approval of a malt beverage product when the Commission has evidence to suspect that the product:
- (1) contains harmful or impure substances;
 - (2) contains an improper balance of substances;
 - (3) is a spurious or imitation product; or
 - (4) is unfit for human consumption.

The malt beverage product shall not be reapproved until the Commission has evidence that proves otherwise.

(g) A person possessing malt beverage products that have had the approval withdrawn by the Commission shall have 60 days after notice of the withdrawal to sell or otherwise dispose of the malt beverage products.

History Note: Authority G.S. 18B-100; 18B-203(a)(5); 18B-206; 18B-207; Eff. January 1, 1982; Amended Eff. April 1, 2011; July 1, 1992; May 1, 1984; Transferred and Recodified from 04 NCAC 02T .0201 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .0202 WINE APPROVALS; LISTING IN STATE

(a) Except as provided in 14B NCAC 15B .0216 for special orders, all wine products offered for sale in this State shall first be approved by the Commission. The Commission shall provide blank Label/Product Application Forms upon request. Thereafter, any approved wine product sold in this State shall conform to the analysis of the samples submitted.

(b) The Commission shall approve a wine product if:

- (1) the procedure for approval is complied with as required in Paragraph (d) of this Rule;
- (2) it is a fortified wine product that the alcohol by volume is above 16 percent and no more than 24 percent;
- (3) it is an unfortified wine product that the alcohol by volume is 16 percent or less;
- (4) the wine product meets or exceeds the packaging requirements as required in 14B NCAC 15C .0301, and
- (5) at the time of consideration, the Commission does not have evidence to suspect that the product:
 - (A) contains harmful or impure substances;

- (B) contains an improper balance of substances, based on studies by universities, laboratories, the Commission or other scientific studies;
- (C) is a spurious or imitation product; or
- (D) is unfit for human consumption.

(c) Procedure for Approval. To receive consideration for approval by the Commission for a new wine product, an industry member shall comply with the following procedures:

- (1) submit a completed Label/Product Application Form;
- (2) submit separate Label/Product Application Forms for fortified and unfortified wine products;
- (3) attach all wine product labels that are specified on the Label/Product Application Form to the Label/Product Application Form;
- (4) upon request from the Commission, submit a 500 milliliter (or a larger size if 500 milliliter is not available) bottle of each product offered;
- (5) attach a copy of the Federal Label Approval Form (COLA) to the Label/Product Application Form;
- (6) submit a non-refundable analysis fee in the form of a certified check, cashier's check or money order in the amount of twenty-five dollars (\$25.00) for each new wine product submitted, except if an analysis certified by a laboratory of the product is submitted, submit a non-refundable administrative fee as set out in G.S. 18B-206(c) in the form of a certified check, cashier's check or money order; and
- (7) forward all required items to the North Carolina Alcoholic Beverage Control Commission, 4307 Mail Service Center, Raleigh, North Carolina 27699-4307.

(d) If an analysis of a product is submitted, it shall provide at least the following information in English:

- (1) alcohol by volume (percent);
- (2) total acidity (g/100 cc as tartaric acid);
- (3) total sulphur dioxide content (ppm);
- (4) volatile acidity, exclusive of sulphur dioxide (g/100 cc as acetic acid);
- (5) alcohol-free soluble solids (degrees/Brix degrees/Balling);
- (6) identity and quantity of any added chemical preservative; and
- (7) the amount of any fortified stimulant per container.

(e) The Commission shall withdraw approval of a wine product when the Commission has evidence to suspect that the product:

- (1) contains harmful or impure substances;
- (2) contains an improper balance of substances;
- (3) is a spurious or imitation product; or
- (4) is unfit for human consumption.

The wine product shall not be reapproved until the Commission has evidence that proves otherwise.

(f) A person possessing wine products that have had the approval withdrawn by the Commission shall have 60 days after notice of the withdrawal to sell or otherwise dispose of the wine products.

History Note: Authority G.S. 18B-100; 18B-203(a)(5); 18B-206; 18B-207; Eff. January 1, 1982; Amended Eff. April 1, 2011; July 1, 1992; May 1, 1984; Transferred and Recodified from 04 NCAC 02T .0202 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .0203 SPIRITUOUS LIQUOR PRODUCT APPROVALS

(a) All brands of spirituous liquor sold in this State shall have first been approved for listing and resale by the Commission.

(b) Listing Policy. In view of the fact that North Carolina is a monopoly state, the Commission is responsible for maintaining a wide range of spirituous liquor products and prices and a balanced selection between the various types of products. It is the Commission's responsibility to ensure that the various types of products, including specialty items and imports, are available to the North Carolina consumer, as well as the more popular products. To this end, the Commission shall, at least once a year, consider new spirituous liquor products for placement on the state's approved list. Listings shall be in the discretion of the Commission after considering sales trends of the type of product, sales trends of the product in other states, and the need for the product in the North Carolina market. The

Commission shall also, at least once a year, consider delisting items from the approved list. Items maintaining adequate sales histories for type and price range will not be considered for delisting unless the delisting is part of a penalty invoked after hearing, pursuant to this Chapter.

(c) Items shall be submitted to the Commission for consideration for listing, and will be considered only if they are offered on the prescribed forms by the distiller, rectifier, bottler or importer.

History Note: Authority G.S. 18B-100; 18B-203(a)(5); 18B-206; 18B-207;
Eff. January 1, 1982;
Amended Eff. July 1, 1992;
Transferred and Recodified from 04 NCAC 02T .0203 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .0204 SPIRITUOUS LIQUOR PRODUCT LISTS

The Commission prints a list of all brands of spirituous liquor that have been approved for sale in the state. The list, which includes container sizes and prices of all liquor products, is printed four times each year, on February 1, May 1, August 1 and November 1, and is available at no cost.

History Note: Authority G.S. 18B-100; 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0204 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .0205 SAMPLES REQUIRED ON REQUEST

Every industry member shall, upon demand of the Commission, furnish samples at no cost to the Commission of any alcoholic beverage products manufactured, sold, or offered for sale in this State, for the purpose of analysis.

History Note: Authority G.S. 18B-100; 18B-206(c); 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0205 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .0206 NEW FILING REQUIRED UPON TRANSFER OF BRAND

When any malt beverage or wine brand or product is transferred from one nonresident vendor, manufacturer or importer to another, the new vendor, manufacturer or importer shall, within 30 days of the acquisition of the brand or product, submit the following items to the Commission:

- (1) label approval application forms (BWL008), with labels attached;
- (2) copies of Federal Label Approval forms;
- (3) a certified laboratory analysis of the product, in English, showing alcohol content by volume, with a non-refundable administrative fee as set out in G.S. 18B-206(c) in the form of a certified check, cashier's check or money order; and
- (4) the wholesaler territorial designations for the brand and product that were in effect on the date the product was acquired by the vendor, manufacturer or importer.

Compliance with this Rule is mandatory notwithstanding the fact that the product has been previously approved by the Commission.

History Note: Authority G.S. 18B-100; 18B-203(a); 18B-206; 18B-207; 18B-1203; 18B-1303(a); 18B-1305(d);
Eff. July 1, 1992;
Amended Eff. April 1, 2011;
Transferred and Recodified from 04 NCAC 02T .0206 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

SECTION .0300 - PACKAGING AND LABELING OF MALT BEVERAGES AND WINE

14B NCAC 15C .0301 PACKAGING REQUIREMENTS

No wine or malt beverages shall be sold, offered for sale, or possessed for the purpose of sale in this State unless:

- (1) The alcoholic beverage product is packaged, marked, branded, sealed and labeled in conformity with these Rules; and
- (2) The label on each product truthfully describes the contents of the container in accordance with standards of identity, and the industry member responsible for labeling or product approval furnishes the Commission with adequate proof that a valid certificate of label approval for the label has been obtained from the Bureau of Alcohol, Tobacco and Firearms, U.S. Treasury Department.

History Note: Authority G.S. 18B-100; 18B-206(a); 18B-207; Eff. January 1, 1982; Amended Eff. May 1, 1984; Transferred and Recodified from 04 NCAC 02T .0301 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .0302 LABELS TO BE SUBMITTED TO COMMISSION

- (a) All labels for malt beverage and wine products shall be submitted in duplicate to the Commission on an "Application for Label Approval Form," as required by Rule .0201 or .0202 of this Subchapter.
- (b) Each person requesting label approval shall furnish, in the application for label approval, the names and addresses of the manufacturer, bottler, and importer of the product.
- (c) Notwithstanding Paragraphs (a) and (b) of this Rule, holders of retail permits pursuant to G.S. 18B-1001(1), (2), (3), (4), or (16) that fill or refill growlers on demand shall not be required to submit the labels required by Rules .0303(b) or (c) or .0304(d) or (e) of this Section.

History Note: Authority G.S. 18B-100; 18B-206(a); 18B-207; 18B-1001; Eff. January 1, 1982; Temporary Amendment Eff. October 25, 2013; Amended Eff. September 1, 2014; Transferred and Recodified from 04 NCAC 02T .0302 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017; Temporary Amendment Eff. November 28, 2017; Amended Eff. August 1, 2018.

14B NCAC 15C .0303 LABEL CONTENTS: MALT BEVERAGES

(a) Containers that are prefilled by the manufacturer shall be affixed with malt beverage labels that shall contain the following information in a form legible to the consumer:

- (1) brand name of product;
- (2) name and address of brewer or bottler;
- (3) class of product (e.g., beer, ale, porter, lager, bock, stout, or other brewed or fermented beverage);
- (4) net contents;
- (5) if the malt beverage is fortified with any stimulants, the amount of each (milligrams) per container; and
- (6) the alcoholic beverage health warning statement as required by the Federal Alcohol Administration Act, 27 C.F.R. Sections 16.20 through 16.22.

(b) Growlers that are filled or refilled on demand with malt beverages pursuant to Rule .0308 of this Section shall be affixed with a label or a tag containing the following information in type not smaller than 3 millimeters in height and not more than 12 characters per inch:

- (1) brand name of the product dispensed;
- (2) name of brewer or bottler;
- (3) class of product (e.g., beer, ale, porter, lager, bock, stout, or other brewed or fermented beverage);

- (4) net contents;
- (5) if the malt beverage is fortified with any stimulants from the original manufacturer, the amount of each (milligrams) per container;
- (6) name and address of business that filled or refilled the growler;
- (7) date of fill or refill;
- (8) if the malt beverage is more than six percent alcohol by volume, the amount of alcohol by volume pursuant to G.S. 18B-101(9); and
- (9) the following statement: "This product may be unfiltered and unpasteurized. Keep refrigerated at all times."

(c) Growlers that are filled or refilled on demand pursuant to Rule .0308 of this Section shall be affixed with the alcoholic beverage health warning statement as required by the Federal Alcohol Administration Act, 27 C.F.R. Sections 16.20 through 16.22. The provisions of 27 C.F.R. Sections 16.20 through 16.22 referenced in this Section are hereby incorporated by reference, including subsequent amendments and editions, and may be accessed for free at <https://www.gpo.gov>.

History Note: Authority G.S. 18B-100; 18B-101(9); 18B-206(a); 18B-207; 18B-1001; Eff. January 1, 1982; Amended Eff. April 1, 2011; Temporary Amendment Eff. October 25, 2013; Amended Eff. September 1, 2014; Transferred and Recodified from 04 NCAC 02T .0303 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017; Temporary Amendment Eff. November 28, 2017; Amended Eff. August 1, 2018.

14B NCAC 15C .0304 LABEL CONTENTS: WINE

(a) All wine labels shall contain the following information, in a form legible to the consumer:

- (1) brand name of product;
- (2) class and type, in conformity with Section .0400 of this Subchapter;
- (3) name and address of manufacturer, or bottler, except as otherwise provided in these Rules;
- (4) on blends consisting of foreign and domestic wine, if any reference is made to the presence of foreign wine, the exact percentage by volume the foreign wine;
- (5) net contents (unless blown or otherwise permanently inscribed in the container); and
- (6) the alcoholic beverage health warning statement as required by the Federal Alcohol Administration Act, 27 C.F.R. Sections 16.20 through 16.22.

(b) Exception for Retailer's Private Brand. In the case of wine bottles packaged for a retailer or other person under the person's private brand, the name and address of the bottler may be stated on another label affixed to the container, if the name and address of the person for whom the wine was bottled or packed appears on the label. The net contents shall be stated on the brand label or on a separate label affixed thereto on the same side of the container in legible form, unless blown or otherwise permanently inscribed in the container.

(c) Imported Wines. The name and address of the importer of a foreign wine need not be stated on the brand label if it is stated upon another label affixed to the container.

(d) Growlers that are filled or refilled on demand with unfortified wine pursuant to Rule .0308 of this Section shall be affixed with a label or a tag containing the following information in type not smaller than 3 millimeters in height and not more than 12 characters per inch:

- (1) brand name of the product dispensed;
- (2) name of manufacturer or bottler;
- (3) class and type of product;
- (4) net contents;
- (5) name and address of business that filled or refilled the growler;
- (6) date of fill or refill; and
- (7) the following statement: "This product may be unfiltered and unpasteurized. Keep refrigerated at all times."

(e) Growlers that are filled or refilled on demand pursuant to Rule .0308 of this Section shall be affixed with the alcoholic beverage health warning statement as required by the Federal Alcohol Administration Act, 27 C.F.R. Sections 16.20 through 16.22.

History Note: Authority G.S. 18B-100; 18B-206(a); 18A-207; 18B-1001;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0304 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
Temporary Amendment Eff. November 28, 2017;
Amended Eff. August 1, 2018.

14B NCAC 15C .0305 ALL CONTAINERS TO HAVE LABEL

Every container of wine or malt beverages, including bottles, barrels, casks, kegs, cans or other closed receptacles, irrespective of size or of the material from which made, that is sold or offered for sale in this State or that is used for the transportation, importation or sale of malt beverages or wine shall bear a brand label (or a brand label and other permitted labels) containing the information required by Rules .0303 and .0304 of this Section.

History Note: Authority G.S. 18B-100; 18B-206(a); 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0305 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .0306 LABEL ALTERATION

No permittee nor his employee shall alter, mutilate, destroy, obliterate or remove any mark, brand or label on wine or malt beverages kept for sale in this State, except for additional labeling or relabeling to comply with the requirements of this Section or of federal or state laws and regulations.

History Note: Authority G.S. 18B-100; 18B-206(a); 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0306 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .0307 GROWLERS

(a) As used in this Section, a "growler" is a rigid glass, ceramic, plastic, aluminum, or stainless steel container with a closure or cap with a secure sealing that is no larger than 2 liters (0.5283 gallons) into which a malt beverage or unfortified wine is pre-filled, filled, or refilled for off-premises consumption.

(b) Malt beverages may be sold in growlers as follows:

- (1) Holders of only a brewery permit may sell, deliver, and ship growlers pre-filled with the brewery's malt beverage for off-premises consumption provided a label is affixed to the growler that provides the information as required by Rules .0303(a) and .0305 of this Section.
- (2) Holders of retail permits pursuant to G.S. 18B-1001(1), (2), or (16) who do not hold a brewery permit shall not prefill growlers with malt beverage.
- (3) Holders of a brewery permit who also have retail permits pursuant to G.S. 18B-1001(1) may fill or refill growlers on demand with the brewery's malt beverage for off-premises consumption, provided the label as required by Rules .0303(b) and (c) and .0305 of this Section is affixed to the growler.
- (4) Holders of retail permits pursuant to G.S. 18B-1001(1), (2), or (16) may fill or refill growlers on demand with draft malt beverage for off-premises consumption, provided the label as required by Rules .0303(b) and (c) and .0305 of this Section is affixed to the growler.

(c) Unfortified wine may be sold in growlers as follows:

- (1) Holders of only an unfortified winery permit may sell, deliver, and ship growlers prefilled with the winery's unfortified wine for off-premises consumption provided a label is affixed to the growler that provides the information as required by Rules .0304(a), (b), and (c), and .0305 of this Section.
 - (2) Holders of retail permits pursuant to G.S. 18B-1001(3), (4), or (16) who do not hold an unfortified winery permit shall not refill growlers with unfortified wine.
 - (3) Holders of an unfortified winery permit who also have retail permits pursuant to G.S. 18B-1001(3) may fill or refill growlers on demand with the winery's unfortified wine for off-premises consumption, provided the label as required by Rules .0304(d) and (e) and .0305 of this Section is affixed to the growler.
 - (4) Holders of retail permits pursuant to G.S. 18B-1001(3), (4), or (16) may fill or refill growlers on demand with unfortified wine for off-premises consumption, provided the label as required by Rules .0304(d) and (e) and .0305 of this Section is affixed to the growler.
- (d) Holders of retail permits pursuant to G.S. 18B-1001(1), (2), (3), (4), or (16) shall affix a label as required by Rules .0303(b) and (c), .0304(d) and (e), and .0305 of this Section to the growler when filling or refilling a growler.
- (e) Holders of retail permits pursuant to G.S. 18B-1001(1), (2), (3), (4), or (16), may, in their discretion, refuse to fill or refill a growler, except in matters of discrimination pursuant to G.S. 18B-305(c).

History Note: Authority G.S. 18B-100; 18B-206(a); 18B-207; 18B-305; 18B-1001; Eff. April 1, 2011; Temporary Amendment Eff. October 25, 2013; Amended Eff. September 1, 2014; Transferred and Recodified from 04 NCAC 02T .0308 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017; Temporary Amendment Eff. November 28, 2017; Amended Eff. August 1, 2018.

14B NCAC 15C .0308 GROWLERS: CLEANING, SANITIZING, FILLING AND SEALING

- (a) Except as permitted pursuant to Rules .0307(b) and (c) of this Section, filling and refilling growlers shall only occur on demand by a consumer.
- (b) Growlers shall only be filled or refilled by a permittee or the permittee's employee.
- (c) Prior to filling or refilling a growler, the growler and its cap shall be cleaned and sanitized by the permittee or the permittee's employee using one of the following methods:
 - (1) Manual washing in a three compartment sink:
 - (A) prior to starting, clean sinks and work area to remove any chemicals, oils, or grease from other cleaning activities;
 - (B) empty residual liquid from the growler to a drain. Growlers shall not be emptied into the cleaning water;
 - (C) clean the growler and cap in water and detergent. Water temperature shall be at a minimum 110°F or the temperature specified on the cleaning agent manufacturer's label instructions. Detergent shall not be fat or oil based;
 - (D) remove any residues on the interior and exterior of the growler and cap;
 - (E) rinse the growler and cap in the middle compartment with water. Rinsing may be from the spigot with a spray arm, from a spigot, or from the tub as long as the water for rinsing is not stagnant and continually refreshed;
 - (F) sanitize the growler and cap in the third compartment. Chemical sanitizer shall be used in accordance with the EPA-registered label use instructions and shall meet the minimum water temperature requirements of that chemical; and
 - (G) a test kit or other device that accurately measures the concentration in mg/L of chemical sanitizing solutions shall be provided and be accessible for use; or
 - (2) Mechanical washing and sanitizing machine:
 - (A) mechanical washing and sanitizing machines shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer and shall be used according to the machine's design and operation specifications;
 - (B) mechanical washing and sanitizing machines shall be equipped with chemical or hot water sanitization;

- (C) concentration of the sanitizing solution or the water temperature shall be accurately determined by using a test kit or other device; and
 - (D) the machine shall be regularly serviced based upon the manufacturer's or installer's guidelines.
- (d) Notwithstanding Paragraph (c) of this Rule, a growler may be filled or refilled without cleaning and sanitizing the growler, as follows:
- (1) Filling or refilling a growler with a tube as referenced by Paragraph (e) of this Rule:
 - (A) food grade sanitizer shall be used in accordance with the EPA-registered label use instructions;
 - (B) a container of liquid food grade sanitizer shall be maintained for no more than 10 malt beverage taps that will be used for filling and refilling growlers;
 - (C) each container shall contain no fewer than five tubes that will be used only for filling and refilling growlers;
 - (D) the growler is inspected visually for contamination;
 - (E) after each filling or refilling of a growler, the tube shall be immersed in the container with the liquid food grade sanitizer; and
 - (F) a different tube from the container shall be used for each fill or refill of a growler; or
 - (2) Filling a growler with a contamination-free process:
 - (A) the growler shall be inspected visually for contamination;
 - (B) for growlers that can be refilled, the process shall be otherwise in compliance with the FDA Food Code 2009, Section 3-304.17(C); and
 - (C) for growlers that are for single use, the process shall be otherwise in compliance with the FDA Food Code 2009, Sections 4-903.11 and 4-903.12.
- (e) Growlers shall be filled or refilled from the bottom of the growler to the top with a tube that is attached to the malt beverage or unfortified wine faucet and extends to the bottom of the growler or with a commercial filling machine.
- (f) When not in use, tubes to fill or refill growlers shall be immersed and stored in a container with liquid food grade sanitizer.
- (g) After filling or refilling a growler, the growler shall be sealed with a closure or cap.

History Note: Authority G.S. 18B-100; 18B-206(a); 18B-207; 18B-1001; Temporary Adoption Eff. October 25, 2013; Eff. September 1, 2014; Transferred and Recodified from 04 NCAC 02T .0309 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017; Temporary Amendment Eff. November 28, 2017; Amended Eff. August 1, 2018.

SECTION .0400 - STANDARDS OF IDENTITY FOR WINE: CONTAINERS

14B NCAC 15C .0401 APPLICATION OF STANDARDS

All wines produced, imported, bottled, or offered for sale in this State shall meet the standards of identity prescribed as of April 1, 1986, in Subpart C, Part 4, Chapter 1, Title 27 of the Code of Federal Regulations which is incorporated herein by reference and includes subsequent amendments.

The Commission has a copy of those regulations available for inspection at the Commission's principal office. Copies are available at the "actual cost" as defined in G.S. 132-6.2(b) for making the copies and the mailing cost if applicable. The Commission shall provide its "actual cost" on the Commission's website. Persons requesting copies of the above documents shall make payment by certified check, cashier's check or money order to the Commission prior to receiving any copies of the above documents.

History Note: Authority G.S. 18B-100; 18B-206(a); 18B-207; Eff. January 1, 1982; Amended Eff. April 1, 2011; July 1, 1992; May 1, 1984; Transferred and Recodified from 04 NCAC 02T .0401 Eff. August 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .0402 PROHIBITED PRACTICES

(a) The production, importation or sale within this State of any product as or under the designation of wine that fails to conform to the standards prescribed in these Rules, or of any imitation or substandard wine is prohibited.

(b) Imitation Wine. Imitation wine includes:

- (1) any wine containing synthetic materials;
- (2) any wine made from a mixture of water with residues remaining after thorough pressing of grapes, fruit or other agricultural products;
- (3) any class or type of wine, the taste, aroma, color or other characteristics of which have been acquired in whole or in part by treatment with methods or materials of any kind, if the taste, aroma, color or other characteristics of normal wines of any such class or type are acquired without that treatment; or
- (4) any wine made from must concentrated at any time to more than 80 degrees (Balling).

(c) Substandard wine includes:

- (1) any wine having a volatile acidity in excess of the maximum prescribed therefor in these Rules;
- (2) any wine for which no maximum volatile acidity is prescribed in these Rules having a volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, in excess of 0.14 gram per 100 cubic centimeters (20 degrees Centigrade);
- (3) any wine for which a standard of identity is prescribed in these Rules that through disease, decomposition or otherwise fails to have the composition, color and clean vinous taste and aroma of normal wines conforming to that standard;
- (4) wine of any class or type containing added water or a sugar and water solution in excess of the quantities expressly authorized for standard wine made from the same kind or kinds of materials as prescribed in these Rules;
- (5) any wine containing monochloroacetic acid or any other substance or preservative prohibited by the United States Food and Drug Administration or the Federal Alcoholic Tax Unit; or
- (6) any wine containing deleterious, harmful or impure substances or elements or an improper balance of elements.

(d) Coined Names

- (1) Mixture of Wines. The sale in this State of wines identified on labels or in advertisements by a type or brand designation that implies mixtures of wines for which standards of identity are established in these Rules, or which identifying type or brand designation resembles an established wine type name such as "Angelica," "Madeira," "Muscatel," "Claret," "Burgundy," etc., is prohibited.
- (2) Combinations of Alcoholic Beverages. The sale in this State of wines or combinations of wine and other alcoholic beverages that contain on the labels statements such as "whiskey wine," "rum and wine," "gin and wine," "beer and wine" or similar combinations is prohibited.

*History Note: Authority G.S. 18B-100; 18B-206(a); 18B-207;
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0409 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

14B NCAC 15C .0403 CONTAINERS

(a) Unsealed Container Prohibited. Except as permitted by Rule .0307 of this Subchapter, the sale of wine in any unsealed container, any container originally designed for a product other than wine, or in any container the design or shape of which would tend to mislead the consumer as to the nature of the contents is prohibited.

(b) Distinguishing Mark Different from Retailer. The sale of wine in containers that have the blown, branded, or burned name or other distinguishing mark of any person engaged in business as a wine producer, importer, wholesaler, or bottler or any other person different from the person whose name is required to appear on the brand label by Rule .0304 of this Subchapter is prohibited.

History Note: Authority G.S. 18B-206; 18B-207; 18B-1001;
Eff. January 1, 1982;
Amended Eff. June 1, 1986; May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0410 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
Temporary Amendment Eff. November 28, 2017;
Amended Eff. August 1, 2018.

14B NCAC 15C .0404 SEIZURE OF SUBSTANDARD WINE

Imitation, substandard or misbranded wine offered for sale in violation of the ABC laws may be seized and disposed of.

History Note: Authority G.S. 18B-100; 18B-206(a); 18B-207; 18B-503;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0411 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

SECTION .0500 - INDUSTRY MEMBERS: GENERAL PROVISIONS

14B NCAC 15C .0501 INSPECTION OF PREMISES

Any storage facility, warehouse or office area where malt beverages or wine are stored or manufactured or where records of purchases, sales or deliveries are maintained shall be considered the licensed premises and shall be made available for inspection as provided in G.S. 18B-502.

History Note: Authority G.S. 18B-100; 18B-207; 18B-502;
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0501 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .0502 RECORD KEEPING REQUIREMENTS: SALES TICKETS

(a) In addition to records required to be kept by the North Carolina Department of Revenue, all industry members shall maintain on the licensed premises a copy of every original sales ticket or receipt that relates to sales of alcoholic beverage products, equipment, advertising specialty items, or advertising novelties. Copies shall be in the following form:

- (1) paper; or
- (2) electronic, so long as it can be printed on paper.

(b) Sales Ticket Required. Wholesalers or their salesmen shall, at the time of each sale and delivery of malt beverages or wine to a retailer, provide on every retail sales ticket the following information:

- (1) date of sale;
- (2) name of establishment;
- (3) location;
- (4) quantity of each brand of malt beverages or wine sold;
- (5) unit price;
- (6) total price;
- (7) amount received;
- (8) invoice number; and
- (9) route, if applicable.

(c) All sales tickets shall be endorsed at the time of sale by the retailer or authorized agent and by the wholesaler with the usual signature of each.

(d) All sales tickets shall be retained by the wholesaler for a period of three years and shall be filed alphabetically, by sales route, or chronologically by date of sale.

History Note: Authority G.S. 18B-100; 18B-207;
Eff. January 1, 1982;
Amended Eff. April 1, 2011; July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0502 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .0503 SANITATION

All industry members shall maintain the premises and surroundings in an orderly, sanitary manner.

History Note: Authority G.S. 18B-100; 18B-206(a); 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0503 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .0504 OPERATION OF LICENSED PREMISES: EMPLOYEES

No industry member shall do any of the following:

- (1) employ a person under the age of 18 years or permit or allow such a person to work in, about or in connection with the premises unless it has been approved by the Commission;
- (2) permit intoxicated persons to loiter or be employed on the licensed premises;
- (3) fail to keep the premises clean, well-lighted and in an orderly manner; or
- (4) operate any establishment where there are living quarters connected directly thereto.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1003; 18B-1005;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0504 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .0505 OFF-SITE STORAGE LOCATION

(a) The holder of a brewery, winery, or distillery permit shall notify the Commission in advance of storing any alcoholic beverages that the permittee manufactures under its permit in a noncontiguous storage location as authorized pursuant to G.S. 18B-1120. This notification shall be deemed a part of the original permit application.

(b) Notification shall be made on a form approved by the Commission that requires:

- (1) the permittee's name;
- (2) the business mailing address;
- (3) the permit number;
- (4) the principal location address;
- (5) the noncontiguous storage location address;
- (6) a diagram of the premises showing the exact locations of entrances, exits, storage areas for alcoholic beverages, and separate storage areas for any other property or merchandise;
- (7) a copy of the Alcohol and Tobacco Tax and Trade Bureau approval of the noncontiguous storage location; and
- (8) a copy of the Commission's Zoning and Compliance form applicable to the noncontiguous storage location, completed pursuant to G.S. 18B-901(c).

(c) The noncontiguous storage location shall only be used by the permittee for storage of alcoholic beverages manufactured by the permittee and non-alcoholic items owned by the permittee. No alcoholic beverages of the permittee shall be stored in the same storage area with other property or merchandise of the permittee or any other person. The noncontiguous storage location shall be subject to inspection pursuant to G.S. 18B-502 and Rule .0501 of this Section.

History Note: Authority G.S. 18B-100; 18B-207; 18B-502; 18B-901; 18B-1120;

Eff. March 1, 2018.

SECTION .0600 - SALES AND DELIVERIES OF MALT BEVERAGES AND WINE

14B NCAC 15C .0601 APPROVED BRANDS ONLY

Except as provided in Subchapter 15B, Rule .0216, no wholesaler shall sell any product that has not been approved by the Commission for sale in this State.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1005;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0601 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

14B NCAC 15C .0602 SALES AND PURCHASE RESTRICTIONS: RECORDS

(a) No wholesaler of malt beverages shall sell malt beverages to any person who does not hold a retail or wholesale Malt Beverage permit, and no wholesaler of wine shall sell any fortified wine or unfortified wine to any person who does not hold the appropriate retail or wholesale Fortified or Unfortified Wine Permit; except, that a wholesaler may furnish or sell wine or malt beverages to his employees for the sole use of the employees.

(b) No retail malt beverage or wine permittee shall purchase those alcoholic beverages from anyone other than a licensed wholesaler.

(c) No malt beverage wholesaler shall sell, ship, or distribute any brand of malt beverages to any retail permittee located outside the territory described in that wholesaler's distribution agreement for the product filed pursuant to G.S. 18B-1303(a).

(d) All persons holding retail Malt Beverage or Wine Permits shall keep the sales tickets and delivery receipts furnished by the wholesaler, pursuant to Rule .0502 of this Subchapter, as well as all other records of purchases of malt beverages and wine, filed separate and apart from all other records. Delivery receipts shall set forth terms of sale for each separate transaction between the retailer and the wholesaler and shall include for each separate sale:

- (1) date of sale;
- (2) trade name of retail establishment;
- (3) location;
- (4) quantity of each brand of alcoholic beverage sold;
- (5) unit price;
- (6) total price;
- (7) amount paid; and
- (8) invoice or receipt number.

(e) The retailer shall retain for inspection copies of all tickets and receipts on the premises for three years.

(f) A retail permittee who operates multiple locations may maintain beer and wine invoices at one central location upon written application to and approval by the Commission.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1107; 18B-1109; 18B-1303(a);
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0602 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

14B NCAC 15C .0603 HOLDING OF CHECKS PROHIBITED

No wholesaler or his agents or employee shall enter into an agreement or understanding with a retailer to retain checks issued to the wholesaler for alcoholic beverages delivered to the retailer. Checks issued by the retailer to the wholesaler for payment of alcoholic beverages received shall be deposited by the wholesaler promptly in the ordinary course of business. A check issued to the wholesaler by the retailer and returned by the bank due to non-sufficient funds shall be redeposited promptly for collection by the wholesaler. If the check is returned to the wholesaler a second time due to non-sufficient funds, the wholesaler shall report the matter to the Commission within 10 days.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1116(a)(3);
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0603 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

14B NCAC 15C .0604 COLLECTION OF AMOUNT OF SALE

(a) Each wholesaler shall collect the full amount of the sale price in cash or bona fide check at the time of or prior to delivery of alcoholic beverages to a retailer except as provided in this Rule. No wholesaler shall extend credit for any period of time to any retailer who purchases malt beverages or wine from him.

Note: For purposes of this Section, the term "check" shall include the electronic transfer of funds from a retailer to a wholesaler. Prior to an electronic fund transfer, the retailer shall enter into a written agreement with the wholesaler specifying the terms and conditions for the electronic fund transfer as payment for alcoholic beverages. All such agreements shall provide that the wholesaler may initiate the electronic fund transfer at any time after delivery of alcoholic beverages. The electronic fund transfer must be initiated before the end of the business day following delivery. Any agreement authorizing electronic fund transfers shall be voluntary on the part of all parties. The wholesaler may not bear any share of the retailer's cost related to electronic fund transfers, including costs of information generated by third parties related to such transfers. Nothing in this Rule shall operate to suspend any of the requirements concerning sales tickets and record keeping as provided in Rule .0502 of this Subchapter.

(b) Collections for sales and deliveries upon military reservations, however, shall not be required at the time of the transaction.

(c) A route salesman may accept one payment for all deliveries made by him on the same day to the same permittee if deliveries are made to two or more of the permittee's retail premises on the same route. Payment in such cases shall be collected by the salesman for all such deliveries no later than at the last store account on the route. Nothing in this Rule shall be construed to authorize a route salesman to collect payment from a permittee at an office location unless the office is located on the premises where a delivery is made.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1116;
Eff. January 1, 1982;
Amended Eff. June 1, 1996; July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0604 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

14B NCAC 15C .0605 PLATFORM SALES

Wholesalers may sell malt beverages or wine to any person holding the appropriate retail permits at the wholesaler's place of business. Such a transaction shall be known as a platform sale.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1107; 18B-1109;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0606 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

14B NCAC 15C .0606 DRAUGHT MALT BEVERAGE SALES: ACCESSORIES: DELIVERIES

(a) Delivery to Retailer; Consumer. For each sale of draught beer, the wholesaler shall transport the beer to the premises of a licensed retailer. There the wholesaler shall collect for the sale, and the retailer shall complete and sign his sales ticket, writing on it the name of the purchaser and the address to which the beer is to be delivered. If the purchaser of the draught beer can not transport the beer or does not know how to set up and tap the beer, he may request that the wholesaler assist him. Upon receiving such a request, the wholesaler may deliver the beer from the retailer's premises to the person and place designated and may set it up.

(b) Assisting Consumer. Upon arrival at the designated place of delivery, the wholesaler may set up the equipment, tap the keg and test to see that it is working properly. The wholesaler may pick up his kegs and equipment at any time.

(c) Tapping Accessories. Hand pumps, carbon dioxide cylinders, related gauges, tubs, ice and cups may be delivered with the kegs by a wholesaler to a consumer. Such accessories may be left with a retailer only upon the filling of an order from a retailer who has a specific and current order from a consumer, and the kegs and accessories are to be delivered by the retailer or picked up by the consumer. Nothing in this Rule shall be construed to allow a wholesaler to loan or rent tubs or tapping accessories to a retailer for any period of time.

(d) Keg Deposits. Any deposit charged by a brewer to a wholesaler for a draught malt beverage keg shall be charged to and collected from the retailer upon delivery of the keg to the retailer.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1116;
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0607 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

14B NCAC 15C .0607 MALT BEVERAGE AND WINE SHIPMENTS TO MILITARY BASES

No industry member except a wholesaler shall ship malt beverages or wine directly to a United States military or naval reservation within North Carolina. All malt beverages and wine intended for that purpose shall be shipped to wholesalers and these beverages shall come to rest upon the warehouse floor of the wholesalers who may then deliver them to United States military or naval reservations within North Carolina.

*History Note: Authority G.S. 18B-109(b); 18B-100; 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0609 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

14B NCAC 15C .0608 REFUSAL TO SELL; PRICING; SERVICING ACCOUNTS

(a) Refusal to Sell to Retailer. A wholesaler of malt beverages or wine may refuse to sell alcoholic beverages to a retailer for legitimate business reasons so long as the decision not to sell is not related to the size of the account, the distance of the retailer's premises from the wholesaler's warehouse, or the sex, race, age, religion or national origin of the permittee.

(b) Pricing. As used in G.S. 18B-1303(b), the term "service" shall not be construed to prohibit a malt beverage wholesaler from reducing the price of a product in a portion of his assigned territory if the price reduction is made in order to meet a competitor's lower prices offered on similar categories of malt beverage products (e.g. "premium" or "low end" products) in that same portion of the territory.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1303(b);
Eff. July 1, 1992;
Transferred and Recodified from 04 NCAC 02T .0610 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

SECTION .0700 - ALCOHOLIC BEVERAGES: RETAILER/INDUSTRY MEMBER RELATIONSHIP: TRADE PRACTICES

14B NCAC 15C .0701 DEFINITIONS

For the purposes of this Section, the following definitions shall apply:

- (1) "Equipment" shall include draft beer boxes, wine dispensing machines, refrigeration devices, sinks, dishwashers, dispensing trucks, trailers, caddies, and any other item useful or suitable for the preparation, serving, dispensing or cleaning of food or beverages or food and beverage containers.

- (2) "Point-of-Sale advertising" shall mean advertising material such as signs, posters, banners, and decorations that bears conspicuous and substantial product advertising matter, that has no secondary value to the retailer, and that is designed and intended to be used inside a retailer's licensed premises where alcoholic beverage products are displayed and sold.
- (3) "Promotion" shall include any advertising publicity or sponsorship activity in connection with any special event, function or holiday that is outside the scope of routine sales and marketing, and shall include fundraisers, concerts, sporting events, festivals, celebrations, anniversaries, ceremonies, operations, observances, sweepstakes or contests.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1116;
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0702 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .0702 MALT BEVERAGES: ALLOWANCES FOR DAMAGE

No allowance shall be made by any malt beverage industry member to any retailer for flat beer or chipped or broken bottles, except in instances where the retailer returns the tops of the bottles with glass attached to the industry member. No refund shall be made by any industry member on canned malt beverages that have been opened by can opener or pull tab. Refunds may be made on canned malt beverages if it is obvious the malt beverages have been damaged in shipment to the wholesaler or retailer.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1116;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0703 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .0703 REMOVAL OR DISTURBANCE OF OTHER BRANDS PROHIBITED

No wholesaler shall remove from a retailer's premises any bottles, cartons or kegs bearing brand identification except brands that are distributed by that wholesaler. No wholesaler shall remove, rearrange or otherwise disturb any malt beverages or wine displayed on a retail licensed premises by another wholesaler, except:

- (1) to return merchandise to its properly assigned shelf space when it has been inadvertently placed in the wholesaler's assigned space; or
- (2) to remove a competitor's product from a promotional display area that has been assigned to the wholesaler, and the competitor's personnel are not available to move their own product from the area at the time the wholesaler's product is scheduled to go on promotion.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1116(b);
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0704 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .0704 QUANTITY DISCOUNTS PROHIBITED

No wholesaler or his employee shall give any retailer a quantity discount on the price of malt beverages or wine, nor shall a retailer require a wholesaler to provide these quantity discounts.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1116(a);
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0705 Eff. August 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .0705 EXCLUSIVE OUTLETS

No industry member shall require, by agreement or otherwise, directly or indirectly, that any retailer engaged in the sale of malt beverages, wine or mixed beverages purchase any alcoholic beverages from that person pursuant to any of the following practices:

- (1) written or unwritten contractual purchase agreements;
- (2) threat of loss of supply;
- (3) purchases made as a prerequisite for the purchase of short supply items; or
- (4) any form of coercion by the industry member, including threats of physical or economic harm.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1116(a);
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0706 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

14B NCAC 15C .0706 INDUCEMENTS (TIED HOUSE)

No industry member shall:

- (1) acquire or hold any interest in any license or permit with respect to the premises of a retail permittee;
- (2) acquire any interest in real or personal property owned, occupied, or used by a retail permittee in the conduct of his business;
- (3) furnish, give, rent, lend, or sell to a retail permittee any equipment, fixtures, signs, supplies, money, services, or other things of value except as otherwise provided in these Rules;
- (4) pay or credit a retail permittee for any advertising, display, or distribution service;
- (5) guarantee any loan or the repayment of any financial obligation of a retail permittee;
- (6) extend credit to a retail permittee, except as otherwise provided in these Rules;
- (7) require a retail permittee to take and dispose of a certain quota of any alcoholic beverages;
- (8) acquire any interest in a mortgage or deed of trust on the retailer's business or property;
- (9) pay for the display of advertising on any signs or scorecards manufactured by a third party for a retailer;
- (10) furnish free warehousing by delaying delivery of alcoholic beverage product or by providing refrigerated vehicles for a retailer; or
- (11) purchase advertising on signs, scoreboards and programs at ballparks, racetracks, and coliseums from the retail concessionaire, unless the retailer is a city or county, and an exemption has been granted pursuant to G.S. 18B-1116(b).

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1116(a);
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0707 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

14B NCAC 15C .0707 COMMERCIAL BRIBERY

(a) No industry member shall make gifts or payoffs to purchasing agents, clerks, bartenders, salesmen or other employees of retail permittees.

(b) No industry member shall give any bonus, premium or compensation to any retailer or an officer, employee or agent of the retailer. Prohibited acts include:

- (1) monetary inducements ("push money") given to retailers or their employees;
- (2) total or partial payment of a retailer's employee's salary;
- (3) sales promotion contests in which a retailer's employees are offered or awarded prizes, such as trips abroad, cash, or automobiles that are totally or partially financed by an industry member;

- (4) payments or gratuities to groups or associations of retailer's employees;
- (5) other gifts such as trips, appliances, or other items given to retail corporate officers; or
- (6) participation in a retailer's sales or management meetings, conventions or outings by sponsoring or underwriting any events in connection with the meeting, convention or outing, unless such participation is limited to the providing of a hospitality suite with light hors d'oeuvres and beverages, and the price paid for the suite is not greater than that paid by any other participant in the meeting, convention or outing.

(c) Notwithstanding Paragraphs (a) and (b) of this Rule, an industry member may invite up to two employees or representatives of a retail permittee who is permitted under G.S. 18B-1001, to, and pay for, a business meal to discuss sales and promotions in person, provided that:

- (1) the business meal, including beverages consumed with the meal, shall take place within North Carolina and shall not take place at any entertainment venue or in conjunction with entertainment;
- (2) if the industry member provides transportation, that it shall be by personal vehicle only;
- (3) the industry member must accompany the employees or representatives of a retail permittee for the duration of the business meal;
- (4) such business meal shall be provided without a corresponding obligation on the part of the retailer to purchase alcoholic beverages or to provide any other benefit to such industry member;
- (5) such business meal shall be provided without a corresponding obligation on the part of the retailer to exclude from sale the products of any other industry member;
- (6) the cost of the business meal shall not exceed the cost of a business meal in the food and non-alcoholic beverage industry provided in the ordinary course of business; and
- (7) an industry member shall pay for no more than two business meals per retail permittee per calendar year.

This Paragraph does not apply to any industry member that has a bona fide, pre-existing relationship with any retail permittee separate from the beverage alcohol industry.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1116(a); Eff. January 1, 1982; Amended Eff. April 1, 2011; July 1, 1992; May 1, 1984; Transferred and Recodified from 04 NCAC 02T .0708 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .0708 CONSIGNMENT SALES: CONDITIONAL SALES: RETURNS

(a) Consignment Sales Prohibited. No industry member shall sell, offer for sale, or contract to sell to any retail permittee, nor shall any retail permittee purchase, offer to purchase, or contract to purchase from any industry member any alcoholic beverages on consignment or under conditional sale, or with the privilege of return, or on any basis other than a bona fide cash sale. For the purposes of this Rule, a consignment sale is any transaction in which title to the merchandise is not transferred at the time of shipment or delivery and which does not involve some form of full cash settlement. No industry member shall contract or agree with a retailer to retain title to alcoholic beverages until those products are sold.

(b) Privilege of Return. No industry member and retailer shall enter into any agreement whereby the retailer has an expressed or implied right to return alcoholic beverages that he cannot sell. Any acceptance of returned merchandise is considered a strong indication that the "privilege of return" existed at the time of sale, and a repeated practice of accepting returned merchandise from a retailer would establish an implied privilege of return, even though no formal agreement has been made.

(c) Sales Conditioned on the Acquisition of Other Merchandise. No industry member shall make any agreement with any retailer with terms that allow the industry member to remove the retailer's inventory conditioned upon present or future sales. The exchange of alcoholic beverages for equal quantities of the same type and brand in containers of another size and style is not considered an acquisition of "other" alcoholic beverages and, therefore, is not prohibited where the return is otherwise permissible.

(d) Exceptions. This Rule does not apply to the following transactions:

- (1) returns of malt beverages or wine for ordinary and usual commercial reasons arising after the alcoholic beverages have been sold, such as mutilated or damaged labels or containers, error in delivery, product deterioration, products have been deemed unsafe by State or federal authorities,

- the product approval has been withdrawn as referenced by 14B NCAC 15C .0201 and .0202, or a bona fide discontinuance of the retailer's business;
- (2) exchanges of malt beverage products for equal quantities of the same brand and type, so long as the manufacturer's code date on the products will expire within 30 calendar days of the date of exchange, and the quantity exchanged does not exceed 50 cases of each brand per 30 day period per retail permittee. For the purposes of this Rule, the term "exchange" means to replace product for product and does not authorize the wholesaler to accept returned malt beverage products for cash or credit; and
 - (3) returns of wine or malt beverage products from a seasonal retailer who is open only a portion of the year if the products are likely to spoil during the off-season. For purposes of this Rule, a "seasonal retailer" is defined as one that closes its business completely for a period of at least eight weeks during the summer or winter months. Returns from a seasonal retailer may be for cash or credit.

Note: The return or exchange of wine products is governed by this Rule and the regulations under the Federal Alcohol Administration Act found in Title 27 of the United States Code of Federal Regulations, Part 11 (27 CFR Sec. 11.1 through 11.46), and nothing in these Rules shall be construed to authorize the return or exchange of wine products if the transaction is prohibited by federal law.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1116;
Eff. January 1, 1982;
Amended Eff. April 1, 2011; July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0709 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

14B NCAC 15C .0709 PROHIBITED TRADE PRACTICES

(a) General. It shall be a violation of this Rule for any alcoholic beverage (including malt beverages, wines and spirituous liquors) industry member, whether or not licensed in this state, or any officer, director, employee or affiliate, to either directly or indirectly lend, give, furnish or offer to any retail permittee or his employee, or to the owner of the premises on which the business of a retailer is conducted, or for any retail permittee, employee, or owner to demand, require or accept from any industry member, any money, services, furniture, fixture, equipment, sign, glasses, barware, supplies or other thing of value, except as provided in this Rule.

(b) Prohibited Services. By way of illustration, the following services shall not be furnished, given, provided or made available to a retail permittee by an industry member, even if the retailer is charged or billed for the services for their market value:

- (1) installing, repairing or maintaining equipment, outdoor signs or other fixtures;
- (2) promoting a retailer in advertising;
- (3) reconciling inventory for a retailer;
- (4) providing labor or employees to assist a retailer in the retailer's promotional events unless otherwise allowed in the rules of the Commission;
- (5) loaning or renting aerial displays or outdoor inflatables to a retailer for use, whether on or off the retailer's licensed premises;
- (6) pricing or repricing a product without the retailer's consent;
- (7) warehousing, by:
 - (A) making refrigerated vehicles available to the retailer; or
 - (B) delaying delivery from a manufacturer, importer, nonresident vendor or warehouse in order to enable the retailer to take advantage of promotional prices or for any other reason;
- (8) affixing special retailer stamps or stickers to beer or wine packaging, but a wholesaler may affix signs, stickers, stamps, or tags indicating the product's price to a container, shelf or display of its products;
- (9) entering delivery data on a retailer's in-store computer;
- (10) providing data processing services;
- (11) sponsoring sports leagues that are also sponsored by a retailer, or that use the facilities of a retailer for sporting events;
- (12) guaranteeing the loan of a retailer;

- (13) extending credit to a retailer;
 - (14) failing to require a deposit equal to that charged by the supplier on kegs and returnable bottles; or
 - (15) negotiating special prices for or financing of equipment.
- (c) Prohibited Things of Value. By way of illustration, the following things of value shall not be furnished, given, loaned, rented or sold to a retail permittee by any industry member:
- (1) aerial displays or tethered inflatables;
 - (2) parties given for retailers or groups of retailers' employees, unless otherwise allowed by the rules of the Commission;
 - (3) prizes at retailer conventions;
 - (4) advertising in a retailer periodical or advertising in a retailer publication designed for distribution to consumers;
 - (5) outside signs;
 - (6) cooperative advertising, including:
 - (A) providing or assisting retailer promotions, whether on or off the retailer's premises;
 - (B) participation with a retailer in the advertising of alcoholic beverages, the retailer's business or special events unless specifically approved by the Commission in the case of fundraisers for non-profit charitable organizations after consideration of the factors listed in G.S. 18B-1116(b);
 - (C) underwriting the cost of T-markers, scorecards or scoreboards by the purchase of advertising from a third party; or
 - (D) customizing point-of-sale advertising materials, novelties, glassware, consumer specialties or product displays by printing or having printed the retailer's name, slogan or logo on the item, unless otherwise specifically allowed in the rules of the Commission;
 - (7) making discounts, rebates or refunds to a retailer on the condition that the retailer use the discount, rebate or refund to pay off a loan;
 - (8) equipment, fixtures or furnishings; or
 - (9) clothing, except as provided in Rule .0711 of this Section.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1116; Eff. July 1, 1992; Amended Eff. April 1, 2011; Transferred and Recodified from 04 NCAC 02T .0711 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .0710 ACCEPTED TRADE PRACTICES; SERVICES

The following service activities are specifically allowed in transactions between alcoholic beverage (which includes malt beverages, wines and spirituous liquors) industry member and retailers:

- (1) Shelving and Pricing for Malt Beverage and Wine Wholesalers.
 - (a) Malt beverage and wine wholesalers who have been assigned space in retail permittee outlets may price or re-price their stock as designated by the retail permittee.
 - (b) Malt beverage and wine wholesalers may rearrange and place their brand or brands in their assigned shelf space so as to rotate their stock and keep their assigned space clean and neat.
 - (c) Malt beverage and wine wholesalers may rearrange or reset a retail permittee's alcoholic beverage shelf space, display area, or department pursuant to that retail permittee's plan and direction, but that industry member shall not move or disturb brands sold by other industry members.
- (2) Coil Cleaning Service. An industry member may render coil cleaning services to a retailer.
- (3) Shelf Management Plans; Notice Prior to Reset.
 - (a) An industry member may discuss with a retailer shelf-management concepts and programs and may provide, publish, and make available data on market sales and analysis.
 - (b) An industry member may provide and suggest shelf-management plans which are customized for a specific retail permittee or group of retail permittees. The retail permittee shall remain solely responsible for implementing any suggested shelf-

management plan. If an industry member provides a suggested shelf-management plan to a retail permittee or group of retail permittees, he must provide a suggested plan to any other retail permittee upon request. Shelf-management plans shall meet the following conditions:

- (i) no retail permittee or person acting on its behalf shall implement a shelf-management plan unless the retail permittee sends notice of the plan to all wholesalers that service that location who have provided a request to the retail permittee to receive such notice;
 - (ii) the notice to wholesalers required under this Sub-item shall include the date and time of the contemplated plan implementation and shall be provided at least two weeks before such time. In the event of an exigent or other unforeseen circumstance in which such notice cannot be provided within the two week period, the retail permittee shall provide such notice within a reasonable period of time as referenced by G.S. 25-1-205(a);
 - (iii) if an industry member assists in the creation of a proposed plan, the notice provided by the retail permittee shall also include the proposal; and
 - (iv) the notice to wholesalers required under this Sub-item does not apply to a retail permittee that independently develops or designs his own shelf-management plan without the assistance of an industry member, or who makes adjustments to less than 15 percent of the current self-management plan.
- (c) A wholesaler may provide physical labor to implement a shelf-management plan.
 - (d) For purposes of this Rule, a shelf-management plan includes shelf resets.
 - (e) For purposes of this Rule, notice from either a retail permittee or an industry member shall be provided by verifiable electronic mail, certified mail, or other delivery service which requires written verification of delivery, and shall include a designated person and contact information for return correspondence.
- (4) Participation in Retailer Association Activities. An industry member may participate in retailer association activities by:
- (a) displaying product at association conventions or trade shows;
 - (b) renting display or booth space so long as the rental fee is the same as the fee paid by all exhibitors;
 - (c) providing hospitality events which are independent from association sponsored activities;
 - (d) purchasing tickets to functions and paying registration fees if such fees are the same as paid by all exhibitors; and
 - (e) making payments for advertisements in programs or brochures at association shows within the dollar limits established by 27 C.F.R. 6.100 and the Bureau of Alcohol, Tobacco and Firearms which is incorporated herein by reference. Cost adjustment increases authorized by 27 C.F.R. 6.83 are also incorporated herein by reference but subsequent amendments to 27 C.F.R. 6.100 are not incorporated. Copies of these regulations are available for inspection and copying as provided by 14B NCAC 15C .0401.
- (5) Educational Seminars. An industry member may provide or sponsor seminars for retailers and their employees in the following areas:
- (a) the proper use of equipment;
 - (b) the proper storage, handling and service of alcoholic beverages;
 - (c) safe driving programs;
 - (d) recognizing underage and intoxicated customers; and
 - (e) the history or aspects of a product's manufacturing process.
- Seminars may be conducted at the premises of either the retailer or industry member. Nothing in this Rule shall be construed to authorize an industry member to pay the retailer's expenses in attending the seminar.
- (6) Tastings. Beer and wine tastings may be conducted in accordance with 14B NCAC 15B .0901 and .0902.
 - (7) Labor for Displays. An industry member may provide personnel to construct a promotional product display on the premises of a retailer, and may move other products from the display area in accordance with 14B NCAC 15C .0703.

- (8) Installations. The following items may be installed by an industry member at no charge to a retailer:
 - (a) point of sale advertising materials; and
 - (b) tapping accessories.
- (9) Bar Spending. An industry member may visit the premises of an on-premise retail account for the purpose of promoting its brands so long as:
 - (a) the visit is unannounced and not advertised; and
 - (b) a patron who refuses the industry member's offer to consume a product is offered a comparable beverage of his choice, either alcoholic or non-alcoholic.
- (10) Non-alcoholic Beverages. A malt beverage wholesaler who is also engaged in the business of selling non-alcoholic beverage products may engage in the accepted trade practices of the soft drink and snack food industries, so long as the sales and practices surrounding the non-alcoholic beverage merchandise are not used as an unlawful inducement to purchase malt beverages.

Note: Wine wholesalers selling non-alcoholic beverage merchandise are governed by the provisions of 27 C.F.R. 6.101.

History Note: Authority G.S. 18B-100; 18B-203(b); 18B-207; 18B-1116(b); Eff. July 1, 1992; Amended Eff. April 1, 2011; Transferred and Recodified from 04 NCAC 02T .0712 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .0711 ACCEPTED TRADE PRACTICES; THINGS OF VALUE; RETAIL PERMITTEES

- (a) Items That Must Be Sold. The following things of value shall not be given, loaned or rented by any alcoholic beverage (which includes malt beverages, wines and spirituous liquors) industry member to a retail permittee, but may be sold to the retail permittee at the price paid for the item by the first industry member who acquires the item:
 - (1) novelties, such as coolers, umbrellas, ice chests, beach towels, towels, and sports equipment, so long as the novelty item has not been customized for a retail permittee with the retail permittee's name or logo;
 - (2) glassware and cups, so long as the items have not been customized for a retail permittee with the retail permittee's name or logo;
 - (3) carbon dioxide;
 - (4) ice;
 - (5) beer tapping accessories, including faucets, rods, vents, taps, hoses, washers, couplings, gas gauges, vent tongues, shanks, and check valves; and
 - (6) menus that exceed the number of food items provided in 14B NCAC 15B .1006(a)(3).
- (b) Items That May Be Provided at No Charge. The following things of value may be given, furnished, loaned, rented or sold by an industry member to a retail permittee:
 - (1) samples of malt beverage, wine and spirituous liquor products in the following quantities:
 - (A) no more than three gallons of any brand of malt beverages;
 - (B) no more than three liters of any brand of wine; and
 - (C) no more than 50 milliliters of any brand of spirituous liquor.

Samples may be given only to a retail permittee who has not previously purchased those brands from the industry member within the previous calendar year.

- (2) recipes, booklets and brochures for cooking with wine, malt beverages or spirituous liquors as described in 14B NCAC 15B .1006(a)(3).
- (3) malt beverage, wine and mixed beverage lists, in accordance with 14B NCAC 15B .1006(a)(3).
- (4) combination packaging, as provided in 27 C.F.R. 6.93;
- (5) consumer specialty items such as bottle or can openers, cork screws, ash trays, shopping bags, individual can coolers, hats, caps, visors, t-shirts (without collars or buttons), or key chains. Such items may be given to retail permittees for distribution to consumers, or may be provided by industry member personnel directly to consumers at the retail permittee's place of business during visits that are not announced or advertised to consumers. Consumer specialty items shall not be customized for a retail permittee with the retail permittee's name or logo;

- (6) product displays, to include wine racks, bins, barrels, casks and shelving from which malt beverage, wine or spirituous liquor are displayed and sold, so long as:
 - (A) each display bears conspicuous and substantial advertising matter; and
 - (B) the dollar limitations per brand do not exceed one hundred sixty dollars (\$160.00);
 - (7) point of sale advertising materials which have value only as advertising, so long as the pieces have not been customized for any individual retail permittee; and
 - (8) retail permittee advertising specialty items as described in 14B NCAC 15B .1006(a)(4), so long as the items have not been customized for an individual retail permittee, and so long as the dollar limitations per brand do not exceed three hundred dollars (\$300.00) per year.
- (c) Point-Of-Sale Advertising Materials. Notwithstanding having a secondary value, the following items are considered to be point-of-sale materials and need not be submitted by an industry member for approval prior to use, so long as the items bear conspicuous advertising matter:
- (1) clocks;
 - (2) lamps;
 - (3) lighted displays;
 - (4) blackboards;
 - (5) bulletin boards;
 - (6) dart board backgrounds;
 - (7) menu and price boards;
 - (8) tap standards;
 - (9) calendars;
 - (10) mirrors; and
 - (11) prizes offered in a consumer sweepstakes or contest pursuant to 14B NCAC 15C .0714(b). The prizes shall bear a sticker that shows it is the property of the industry member. The prizes shall be picked up by the industry member at the conclusion of the sweepstakes or contest.
- (d) The provisions of 27 C.F.R. 6.93 referenced in this Rule are incorporated by reference, but such incorporation does not include subsequent amendments. Copies of this regulation are available for inspection and copying as provided in 14B NCAC 15C .0401.
- (e) Nothing within this Rule applies to ABC boards.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1116(b); Eff. July 1, 1992; Amended Eff. April 1, 2011; Transferred and Recodified from 04 NCAC 02T .0713 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .0712 TRANSACTIONS WITH GOVERNMENT AND SPECIAL ONE-TIME PERMITTEES

- (a) Permitted Activities. Notwithstanding the restrictions contained in 14B NCAC 15C .0709, the following activities by alcoholic beverage (which includes malt beverages, wines and spirituous liquors) industry members are allowed, as described in this Rule, in transactions with cities, counties, the state, or in transactions with nonprofit or political organizations that have obtained a Special One-Time permit under the provisions of G.S. 18B-1002(a)(2) or (5), or nonprofit organizations that do not hold an ABC permit:
- (1) sponsorships of festivals, concerts, fundraisers or special events cosponsored by the local government, the state or nonprofit or political organizations, including payments of advertising fees;
 - (2) loaning or renting portable equipment to a local government, the state or a nonprofit or political organization so long as the equipment loaned or rented is for a single event of limited duration;
 - (3) contracts to provide payment for permanent advertising on signs or scoreboards when the industry member has submitted a request for and received an exemption pursuant to G.S. 18B-1116(b);
 - (4) providing labor or employees to assist in the setting up or changing of draft beer kegs and equipment which has been loaned or rented pursuant to Subparagraph (a)(2) of this Rule;
 - (5) loaning or renting previously approved aerial displays or outdoor inflatables for the duration of a special event;
 - (6) loaning or allowing the use of refrigerated vehicles;

- (7) providing novelties, prizes or prize money to nonprofit organizations that have obtained a Special One-Time Permit;
 - (8) providing cash contributions, product donations and other consumer goods, provided that any donated product remaining after the event is not supplied by the Special One-Time Permittee to a regular retail permittee;
 - (9) participation with a local government or the state in the advertising of events cosponsored by the local government or state; and
 - (10) accepting the return of alcoholic beverages not sold, for cash or credit, after the event is over.
- (b) Sponsorship/Advertising Agreements Restricted. No sponsorship agreement or advertising contract between an industry member and a city, county, the state, or a Special One-Time permittee shall contain any agreement, either express or implied, that the industry member's products will be sold to the exclusion, in whole or in part, of other brands of alcoholic beverages offered by competitors.
- (c) Cosponsorship with Retail Permittee. In any promotion by an industry member with a local government, the state, or a nonprofit organization in which there is cosponsorship by a retailer other than the local government or the state, the industry member shall obtain prior written approval from the Commission as provided in 14B NCAC 15C .0715.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1116(b);
Eff. July 1, 1992;
Amended Eff. November 1, 2012; April 1, 2011;
Transferred and Recodified from 04 NCAC 02T .0714 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

14B NCAC 15C .0713 TOURNAMENTS

- (a) General. Sponsorship by an industry member of a regional, statewide or national sports tournament, when the tournament is held on the property or premises of a retail permittee, is permissible only if all of the following conditions are met:
- (1) The tournament is promoted or sanctioned by the official governing body of the sport, or is promoted and sponsored by a bona fide nonprofit organization for the purpose of raising funds for a civic, scientific, charitable or educational cause;
 - (2) No money, novelty items or other prohibited services or things of value are given, rented or loaned by an industry member to the retailer; and
 - (3) All sponsorship money or fees and other things of value from the industry member are given to the official governing body of the sport or the nonprofit organization.
- (b) Advertising. An industry member may advertise via mass media or pay for the advertising of a tournament when the primary theme of the advertisement is the tournament and its purpose. The naming of the retailer's premises as the location of a tournament shall not be construed to be cooperative advertising in violation of 14B NCAC 15B .1005 of this Chapter when the retailer's tradename is stated in substantially smaller typeface.
- (c) Sponsorship/Advertising Agreements Restricted. No industry member agreeing to sponsor a tournament shall enter into any agreement or contract, either express or implied, that a retailer or special one-time permittee will sell that industry member's products to the exclusion, in whole or in part, of other brands of alcoholic beverages offered by competitors.
- (d) Joint Sponsorships. An industry member shall not agree to cosponsor any tournament with any retail permittee unless the proceeds from the tournament are paid to a nonprofit civic, scientific, charitable or educational organization.
- (e) Prohibited Sponsorships. An industry member shall not sponsor or aid a retailer in the promotion of any tournament held primarily to benefit the retailer, its employees, members or guests.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1116(b);
Eff. July 1, 1992;
Amended Eff. November 1, 2012;
Transferred and Recodified from 04 NCAC 02T .0715 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

14B NCAC 15C .0714 CONSUMER CONTESTS; SWEEPSTAKES

(a) General. Consumer contests or sweepstakes may be offered by an alcoholic beverage (which includes malt beverages, wines and spirituous liquors) industry member so long as no purchase is required. Entry forms may be attached to or part of an alcoholic beverage label or package so long as alternative methods of entry are available to the consumer by means of a tear pad of entry forms available at the point of purchase or by means of electronic entry forms available on the internet.

(b) Point-of-Sale Permissible; Restriction on Retailer Involvement. An industry member may provide to a retailer point-of-sale advertising materials promoting a sweepstakes or contest. An industry member shall not offer or promote any sweepstakes or contest in conjunction with any retailer as a cosponsor or as the provider of any prize. No prizes may be drawn or awarded on the premises of any retailer. Officers, employees and representatives of industry members and retailers are excluded from participating in a consumer sweepstakes or contest offered under this Rule.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1116(b);
Eff. July 1, 1992;
Amended Eff. April 1, 2011;
Transferred and Recodified from 04 NCAC 02T .0716 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

14B NCAC 15C .0715 CONDITIONS WHEN COMMISSION APPROVAL REQUIRED FOR PROMOTIONS

(a) Prior Approval Required; Exceptions. An alcoholic beverage (which includes malt beverages, wines and spirituous liquors) industry member shall obtain written approval from the Commission prior to entering into any agreement to engage in activities as a sponsor for any promotion, as that term is defined in 14B NCAC 15C .0701(3), unless the activity involves the following:

- (1) sponsorships of nonprofit organizations that are not special one-time permittees, and the sponsored activity is neither held on the premises of a retailer nor cosponsored by a retailer;
- (2) printing and distribution of items that are classified as point-of-sale advertising material, consumer specialty items, retailer specialty items or novelty items, so long as the items are displayed and distributed in compliance with 14B NCAC 15B .1006, 14B NCAC 15C .0709(c)(6)(B) and 14B NCAC 15C .0711;
- (3) promotions that occur on an annual or regular basis and that have received written approval by the Commission in previous years, so long as the sponsorship activities engaged in by the industry member have not changed; and
- (4) sponsorships of individual amateur sports teams, when:
 - (A) the services or things of value provided by the industry member are given to benefit the individual team and its members;
 - (B) the team is not comprised of retailers or employees of retailers; and
 - (C) the team is not jointly sponsored by a retailer.

(b) The Commission shall approve a promotion if:

- (1) the procedure for approval is complied with as required by Paragraph (c) of this Rule;
- (2) the information provided as required by Paragraph (c) of this Rule is accurate; and
- (3) the promotion is a bona fide promotional event.

(c) Procedure for Approval. To receive consideration for approval by the Commission for a promotional activity, an industry member shall comply with the following procedures:

- (1) submit a completed Industry Promotion Approval form;
- (2) submit copies of broadcast and print advertisements; and
- (3) submit samples of advertising pieces and costs of items.

(d) Notification to Wholesaler. A manufacturer, importer or nonresident vendor of beer or wine that receives approval for promotional activity under this Rule shall provide a copy of the Commission's approval to each of its wholesalers in this state if that wholesaler is or will be participating in the promotion in any manner, including the distribution of promotional materials.

(e) Approvals Restricted to Industry Members. No approval for any promotional activity by an industry member shall be granted to a special one-time permittee, retailer, advertising agency, broadcaster or publisher.

(f) Approvals Granted Only Upon Written Request. The Commission shall not approve any verbal requests or hypothetical fact presentations describing promotional activities requiring prior written approval under this Rule.

(g) Timing of Requests. Industry members shall submit promotions for approval at least two months in advance of the promotion to allow adequate review by the Commission, and to allow for the mailing of written approvals to the industry member.

(h) Promotion Agreements Restricted. Commission approval of a promotion under this Rule shall not be construed as approval for the industry member to enter into any agreement, either express or implied, that its products will be sold or distributed by a retailer or special one-time permittee to the exclusion, in whole or in part, of other brands of alcoholic beverages offered by competitors.

*History Note: Authority G.S. 18B-100; 18B-105; 18B-207; 18B-1116;
Eff. July 1, 1992;
Amended Eff. April 1, 2011;
Transferred and Recodified from 04 NCAC 02T .0717 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

SECTION .0800 - SHIP CHANDLER'S PERMIT

14B NCAC 15C .0801 DEFINITIONS

As used in this Section:

- (1) "Export Warehouse" or "Internal Revenue Warehouse" means any warehouse under an Internal Revenue Bond and conforming to all Internal Revenue Service rules and regulations.
- (2) "Ocean-going vessel" means any ship or vessel that plies the high seas in interstate or foreign commerce in the transport of freight, passengers, or both for hire exclusively.
- (3) "Ship chandler" means any retail or wholesale agent regularly engaging in the storage and sale to ocean-going vessels of stock and supplies.
- (4) "United States Customs Bonded Warehouse" means a private bonded warehouse used exclusively for the storage of imported merchandise belonging or consigned to the proprietor thereof or a public bonded warehouse used exclusively for the storage of imported merchandise.

*History Note: Authority G.S. 18B-100; 18B-106; 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0801 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

14B NCAC 15C .0802 IMPORTATION AND TRANSPORTATION UNDER CUSTOMS BONDS

(a) Alcoholic beverages may be imported into North Carolina under United States Customs Bonds or United States Internal Revenue Bonds and held in North Carolina in United States Customs or Internal Revenue Bonded Warehouses and those alcoholic beverages may be removed from such a warehouse and transferred to any other similarly bonded warehouse, wherever situated.

(b) Alcoholic beverages so imported or removed to these warehouses in North Carolina shall be released from Customs or Internal Revenue Bonds in North Carolina only on a Ship Chandler's Permit issued by the Commission for transfer to another United States Customs or Internal Revenue Bonded Warehouse or delivery by a ship chandler to officers or agents of ocean-going vessels for use or consumption on those vessels.

(c) A ship chandler holding a Ship Chandler's Permit may make withdrawals of alcoholic beverages from United States Customs or Internal Revenue Warehouses for sale or transfer in reasonable quantities. If an unreasonable quantity is sold, the Commission may limit sales.

*History Note: Authority G.S. 18B-100; 18B-106; 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0802 Eff. August 1, 2015;*

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .0803 TAXES

*History Note: Authority G.S. 18B-106; 105-113.81(b);
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0803 Eff. August 1, 2015;
Expired Eff. September 1, 2017 pursuant to G.S. 150B-21.3A.*

14B NCAC 15C .0804 APPLICATION FOR PERMIT

Every person desiring to obtain a Ship Chandler's Permit shall file application on a form provided by the Commission and comply with the procedures set forth in Rule .0102 of this Subchapter.

*History Note: Authority G.S. 18B-100; 18B-106; 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0804 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

14B NCAC 15C .0805 COMPLIANCE: INSPECTION

- (a) Holders of Ship Chandler's Permits shall comply with all regulations promulgated by the United States Customs Service, the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury, and the Commission.
- (b) All documents that the United States Customs Service, the Bureau of Alcohol, Tobacco and Firearms and the Internal Revenue Service require a ship chandler to maintain shall be retained for inspection for a period of three years.
- (c) Delivery of alcoholic beverages will be under the supervision of a United States Customs officer to ocean-going vessels under seal that shall not be broken until the ship is outside the territorial waters of the United States. Consumption of tax-exempt alcoholic beverages is forbidden within the territorial waters of the United States except as authorized by United States Customs in release of sea stores from under seal for immediate consumption on board a vessel by the officers and crew thereof.
- (d) A ship chandler holding a Ship Chandler's Permit shall report all losses of alcoholic beverages held under United States Customs or Internal Revenue Bond to the Commission within five days of the loss and pay state taxes on any loss within 10 days of the loss.

*History Note: Authority G.S. 18B-100; 18B-106; 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0805 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

SECTION .0900 - DISTILLERS: REPRESENTATIVES

14B NCAC 15C .0901 DISTILLER, SUPPLIER AND BROKERAGE REPRESENTATIVES: PROHIBITED ACTS

- (a) Representatives Prohibited from Entering Store. Distiller representatives, supplier representatives, or brokerage representatives shall not enter any ABC store except for the purpose of calling on the buyer if the buyer's office is maintained in the store, for the purpose of making a purchase, or for the purpose of visiting a store to market product, build displays, or attach added value items in accordance with written permission from the local Board. An initial request for permission to visit a store pursuant to this Paragraph shall be made in writing by the representative to the general manager of the local Board in a form acceptable to the local Board. The local Board may adopt policies regulating when a representative may visit the local Board's ABC store, which may include the times, frequency, purpose, method of requesting and approving permission, and any advance notice requirements.

Permission granted by the general manager, or other persons designated by the local Board, to the representative to visit the local Board's ABC stores shall initially be made in writing and in accordance with any policies adopted by the local Board. The duration of the permission may be for an indefinite time. The local Board's policies may authorize the general manager, or his or her designee, to verbally authorize subsequent specific visits after written permission has been given.

(b) Representatives Prohibited from Contacting Store Personnel. Distiller representatives, supplier representatives, or brokerage representatives shall not contact store personnel for the purpose of promoting their merchandise while store personnel are off-duty. Store personnel shall not allow distiller representatives, supplier representatives, or brokerage representatives to contact them in any manner for the purpose of promoting their merchandise while store personnel are off-duty.

(c) Gifts Prohibited. Distiller representatives, supplier representatives, or brokerage representatives shall not give liquor, including samples, or anything of value to local ABC board members or employees, including store managers and general managers, at any time. Local ABC board members or employees, which includes store managers and general managers, shall not accept gifts, either directly or through a third person, from any distiller representative, supplier representative, or brokerage representative.

(d) Soliciting and Advertising Prohibited. Except for contact with the Commission, local ABC boards, and retail permittees, with regards to the promotion and purchase of spirituous liquor, no distiller representative, supplier representative, or brokerage representative shall:

- (1) solicit any order, agreement, or other commitment to purchase liquor, whether or not it is legally enforceable; or
- (2) advertise, promote, or encourage purchases by any means or method or furnish any means by which spirituous liquor may be obtained, except as provided in 14B NCAC 15B .1008.

This Paragraph shall not apply to a distiller representative, supplier representative, or brokerage representative who has been granted an exception by the Commission to make presentations of pictorial artwork or renderings of the design of the decanter and solicitation of a special order of these decanters at the request of a local ABC board and non-profit, charitable corporation related to orders and sales of commemorative bottles pursuant to 14B NCAC 15A .1404. Requests for an exception under this Paragraph shall be made in writing to the Commission.

(e) Relationship With Mixed Beverages Permittee. No employee or representative of any distiller, importer, rectifier, or bottler may promote or solicit orders by a mixed beverages permittee or aid the permittee in placing orders for any spirituous liquor or for any other alcoholic beverages.

(f) Gifts and Inducements Prohibited. Except as permitted pursuant to Rules .0710 and .0711 of this Subchapter, no employee or representative of any industry member may give or lend to any mixed beverage permittee or the permittee's employee any gift, money, services, equipment, furniture, fixture, or other thing of value.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-704; 18B-807; 18B-1116;
Eff. January 1, 1982;
Amended Eff. April 1, 2011; July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0901 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
Amended Eff. April 1, 2019.*

14B NCAC 15C .0902 REVOCATION OR SUSPENSION OF PERMITS

(a) The suspension or revocation of the permit of any representative for a violation of these Rules shall raise a rebuttable presumption that the unlawful activity by the representative was done with the knowledge and consent of his employer.

(b) Upon a hearing and finding that the employer or distiller had knowledge of the employee's violation of any of these Rules and that the employer failed to take appropriate disciplinary action, the permit of the employer or distiller to do business in North Carolina may be suspended or revoked or any alcoholic beverages listed by the Commission may be put on embargo by the Commission for a specific period of time.

(c) For purposes of this Rule, an order of embargo issued by the Commission shall have the effect of barring the particular code from shipment by the distiller to the state ABC warehouse and from the warehouse to local systems. Therefore items affected by an order of embargo shall not be available to fill orders placed by local boards with the State ABC warehouse.

Notice of the embargo order shall be sent to the representative, his employer and to the State ABC warehouse.

*History Note: Authority G.S. 18B-100; 18B-104; 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0902 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

SECTION .1000 - AIR CARRIERS

14B NCAC 15C .1001 APPLICATION FOR PERMIT

An air carrier desiring to purchase malt beverages, wine or spirituous liquor for resale to its passengers while those passengers are in transit aboard an aircraft shall apply for and obtain an Air Carrier Permit. Application shall be on a form provided by the Commission and shall be made by the air carrier's employee responsible for purchases of food and beverages for service to passengers. The food and beverage service manager, by whatever title called, shall provide, and certify under oath the following information to the Commission:

- (1) name of air carrier;
- (2) name of airport where permit will apply;
- (3) address of airport;
- (4) mailing address of carrier at airport;
- (5) state in which air carrier corporation is incorporated; and
- (6) residence of food and beverage manager.

The applicant shall also include a diagram of the location where the malt beverages, wine and spirituous liquor will be stored.

*History Note: Authority G.S. 18B-100; 18B-107; 18B-207;
Eff. January 1, 1982;
Amended Eff. April 1, 2011; May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .1001 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

14B NCAC 15C .1002 SEPARATE PERMITS REQUIRED

An air carrier shall obtain a separate Air Carrier Permit for each airport in this State at which the carrier operates when malt beverages or wines will be purchased, transported and stored for later service or sale to the air carrier's passengers.

*History Note: Authority G.S. 18B-100; 18B-107; 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .1002 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*

14B NCAC 15C .1003 SALES OF ALCOHOLIC BEVERAGES IN TERMINAL

(a) Malt Beverages and Wine. An air carrier offering service at airports boarding at least 150,000 passengers annually may sell malt beverages or wine in passenger rooms approved by the Commission upon obtaining the appropriate retail on-premises Malt Beverage or Wine Permits and following the application procedures set forth in 14B NCAC 15B .0102 of the Commission's Rules.

(b) Providing Complimentary Alcoholic Beverages. An air carrier offering service at airports boarding at least 150,000 passengers annually may serve complimentary alcoholic beverages to passengers in passenger rooms under the following conditions:

- (1) the carrier submits a detailed diagram of the carrier's passenger room, showing its exact location in the airport; and
- (2) the carrier obtains written authorization from the Commission to serve complimentary alcoholic beverages, which document is maintained by the carrier in its principal office at the airport.

History Note: Authority G.S. 18B-100; 18B-107; 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .1003 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

SECTION .1100 - FUEL ALCOHOL PERMITS

14B NCAC 15C .1101 APPLICATION FOR FUEL ALCOHOL PERMIT: OPERATION

(a) Required Information. In addition to the information required by G.S. 18B-900 and G.S. 18B-902, an applicant for a Fuel Alcohol Permit shall furnish the following information to the Commission:

- (1) Federal Operating Permit number and a photocopy of the Federal Operating Permit; and
- (2) detailed diagram of fuel alcohol plant premises, identifying roads, streams, lakes, buildings, and other structures on or features of the land that will locate exactly the place where plant operations will occur.

(b) No person shall commence the operation of a fuel alcohol plant without first applying for and obtaining a Fuel Alcohol Permit from the Commission.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1105(b);
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .1101 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .1102 CHANGE OF PLANT LOCATION

(a) Change of Less Than 100 Yards. Whenever any facility for the manufacture of fuel alcohol is moved less than 100 yards from the original site, the permittee shall amend his original application by submitting to the Commission a new diagram, providing the information required by Rule .1101 of this Section.

(b) Change of More Than 100 Yards; Change of Location. Any move of a plant facility of 100 yards or more shall be considered a change of location requiring a new application and new application fee and compliance with the provisions of G.S. 18B-900 and Rule .1101 of this Section.

History Note: Authority G.S. 18B-100; 18B-207; 18B-900; 18B-903(e);
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .1102 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

14B NCAC 15C .1103 INSPECTION OF PREMISES: AVAILABILITY OF PERMIT

(a) The premises of a fuel alcohol plant shall be open to inspection by law enforcement officers as provided by law.

(b) A permittee holding a permit for the manufacture of fuel alcohol shall produce his permit and make it available for inspection upon request of any law enforcement officer under Article 5 of Chapter 18B of the General Statutes or any representative of the Commission.

History Note: Authority G.S. 18B-100; 18B-207; 18B-502;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .1103 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

SECTION .1200 - ADMINISTRATIVE ACTION BY COMMISSION

14B NCAC 15C .1201 EFFECT OF ADMINISTRATIVE ACTION

The provisions of Rules .1101, .1104, and .1105 of Subchapter 15B of these Rules apply to all permittees covered by this Subchapter.

History Note: Authority G.S. 18B-100; 18B-104; 18B-207; Eff. January 1, 1982; Amended Eff. May 1, 1984; Transferred and Recodified from 04 NCAC 02T .1201 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.

SECTION .1300 – SPECIAL EVENT PERMITS

14B NCAC 15C .1301 DEFINITIONS

As used in G.S. 18B-1114.7 and in this Section:

- (1) "Charitable, nonprofit organization" means a nonprofit organization that is a charitable organization as defined in G.S. 1-539.11(1).
- (2) "Local fund-raiser" means a special event sponsored or cosponsored by a local government, a local charitable, nonprofit organization, or a local political organization for the purpose of raising funds for a governmental, charitable, or political purpose.
- (3) "Special event" means either:
 - (a) an event the spirituous liquor special event permittee participates in that is a trade show, convention, street festival, holiday festival, agricultural festival, balloon race, local fund-raisers, or other similar events approved pursuant to Rule .1302 of this Section, that is for a limited duration of no more than 10 days and organized or sponsored by a person other than the spirituous liquor special event permittee; or
 - (b) an event of limited duration of no more than 60 days at a shopping mall that is organized and sponsored by the shopping mall or an association of shopping mall merchants as part of a promotion or sale for all merchants in the shopping mall.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1114.7; Eff. April 1, 2019.

14B NCAC 15C .1302 OTHER SIMILAR EVENTS APPROVAL

(a) For other events not specifically listed in G.S. 18B-1114.7, the holder of a spirituous liquor special event permit issued pursuant to G.S. 18B-1114.7 shall obtain approval of that other similar event from the Commission prior to the permit holder participating in the event. The Commission's approval of other events under this Rule shall be in writing.

(b) The holder of the permit shall submit a written application for approval to the Commission no less than seven business days prior to the date of the event. The application, available on the Commission's website, includes:

- (1) the permit holder's name, business name, spirituous liquor special event permit number, email address, and telephone and fax numbers;
- (2) the name, dates, time, location, address, and county of the event;
- (3) whether an admission fee will be charged of the attendees by the event sponsor;
- (4) the event sponsor's name, address, contact information, event or sponsor's social media link or webpage, and whether the event sponsor is a non-profit organization;
- (5) whether the event sponsor holds a special one-time ABC permit pursuant to G.S. 18B-1002(a)(2) or (5) and whether alcohol will otherwise be sold or given away at the event; and
- (6) the names of other co-sponsors, supporters, vendors, or exhibitors who are expected to participate in the event, and whether those persons hold ABC permits.

(c) The Commission shall not approve events sponsored exclusively by the holder of the permit. Tastings of spirituous liquor shall not be allowed pursuant to a spirituous liquor special event permit on the premises of a retail permittee or an ABC store.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1114.7; Eff. April 1, 2019.

14B NCAC 15C .1303 TASTINGS HELD FOR CONSUMERS

(a) Tasting Area Designation. Tastings permitted pursuant to a spirituous liquor special event permit shall only be conducted within a designated tasting area, delineated by vertical markings no less than 24 inches in height that the consumer would recognize as indicating the boundaries that physically separate the tasting area from the remainder of the special event. Consumers shall not be permitted to take tasting samples outside the designated tasting area. The permittee shall ensure that designated tasting area signs are displayed at the permittee's tastings serving tables and at the entrances and exits to the designated tasting area, with lettering of at least two inches in height, informing consumers that they must be 21 years of age to participate in the tastings and that no tasting samples are allowed to be taken out of the designated tasting area. A designated tasting area may include one or more permittees. A special event may have multiple designated tasting areas.

(b) Each permittee conducting a tasting may give each consumer tasting samples up to the limits set forth in G.S. 18B-1114.7(b)(3).

(c) Training. Any employee of a permittee who will be conducting or supervising any tasting conducted pursuant to a spirituous liquor special event permit shall be given training, including:

- (1) identification of potential underage consumers;
- (2) recognition of fictitious identification;
- (3) identification of consumers who are visibly intoxicated;
- (4) service of correct sample sizes; and
- (5) methods to ensure compliance with G.S. 18B-1114.7 in accordance with Rule .1304 of this Section.

(d) Consumption prohibited. The permittee, the permittee's agent, or employee shall not be in the designated tasting area after consuming alcoholic beverages except under the following conditions:

- (1) the permittee, agent, or employee is off duty for the remainder of that day or night during which the individual consumes any alcoholic beverage;
- (2) the permittee, agent, or employee is out of uniform when uniforms are required to be worn while performing any on duty services; and
- (3) the permittee, agent, or employee shall not perform any on duty services of any nature while or after consuming alcoholic beverages.

(e) Limitations. Spirituous liquors provided as tastings pursuant to a spirituous liquor special event permit shall not be mixed with any other alcoholic or non-alcoholic beverage. No non-alcoholic beverages, other than water, shall be made available to the consumer in the designated tasting area.

(f) Source of spirituous liquor. All spirituous liquor used for tasting samples given in accordance with this Rule shall be purchased by the permittee from an ABC store.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1114.7;
Eff. April 1, 2019.*

14B NCAC 15C .1304 SPECIAL EVENT COMPLIANCE PROCEDURE

(a) The permittee to whom the spirituous liquor special event permit was issued must be present in the designated tasting area at the time the tastings occur. A copy of the spirituous liquor special event permit shall be on display in the designated tasting area and shall be made available to law enforcement agents upon request.

(b) For other special events approved by the Commission pursuant to Rule .1302 of this Section, a copy of the Commission's approval shall be kept in the designated tasting area during the duration of the tastings and made available to law enforcement upon request.

(c) A spirituous liquor special event permit holder shall maintain a written procedure establishing the method to be used by the permit holder and the permit holder's employees or agents to ensure compliance with the requirements of G.S. 18B-1114.7(b)(3), (4), and (5). A copy of the written procedure shall be available in the designated tasting area to the permit holder's employees and designated agents and shall be made available in the designated tasting area to law enforcement agents upon request.

(d) A copy of the written procedure required pursuant to Paragraph (c) of this Rule shall be:

- (1) maintained for one year following the tasting;
- (2) included as part of the consumer tasting record maintained in accordance with G.S. 18B-1114.7(b)(10); and
- (3) made available upon request to the Commission and law enforcement agents pursuant to G.S. 18B-502.

*History Note: Authority G.S. 18B-100; 18B-201; 18B-1114.7;
Eff. April 1, 2019.*

**14B NCAC 15C .1305 SPECIAL EVENT SALE OF BRANDED MERCHANDISE, POINT-OF-SALE
ADVERTISING MATERIALS AND ADVERTISING SPECIALTIES**

(a) In addition to the tastings permitted under this Section, a spirituous liquor special event permit holder may sell branded merchandise and provide point-of-sale advertising materials and advertising specialties to consumers at consumer tastings only within the designated tasting area. No unrelated activities shall be conducted within the designated tasting area.

(b) For purposes of this Rule:

- (1) "Point-of-sale advertising materials" means advertising that is located inside the designated tasting area established in accordance with Rule .1303 of this Section where the product is displayed or sampled. Advertising materials may include signs, posters, banners, and decorations that bear product advertising matter. Point-of-sale advertising materials as used in this Section shall not include items listed in 14B NCAC 15C .0711(c).
- (2) "Advertising specialties" means coasters, shot glasses, bottle or can openers, cork screws, ash trays, shopping bags, individual can coolers, hats, caps, visors, t-shirts (without collars or buttons), and key chains.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1114.7;
Eff. April 1, 2019.*

14B NCAC 15C .1306 SPECIAL EVENT PARTICIPATION LIMITATIONS

(a) For special events in shopping malls, the spirituous liquor special event permittee shall not participate in any single mall more than 10 days cumulatively in any three-month period.

(b) A spirituous liquor special event permittee shall not participate more than 10 days cumulatively during a three-month period in a special event sponsored or arranged by the same person or business.

(c) A spirituous liquor special event permittee shall not participate in a special event for which the permittee was the only spirituous liquor special event permittee invited or allowed to participate in the special event.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1114.7; 18B-1116;
Eff. April 1, 2019.*