

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 August 19, 2017; Repealed Eff.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;
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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 prefilled, 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 prefilled 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 refill 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;
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 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 NCAC15B .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.*