

## CHAPTER 15 – ALCOHOLIC BEVERAGE CONTROL COMMISSION

### SUBCHAPTER 15A - ORGANIZATIONAL RULES: POLICIES AND PROCEDURES

#### SECTION .0100 - GENERAL PROVISIONS

##### 14B NCAC 15A .0101 PURPOSE

The purpose of the Alcoholic Beverage Control System is to provide regulation and control of the manufacture, distribution, advertisement, sale, possession and consumption of alcoholic beverages to serve the public welfare. It is the objective of the North Carolina Alcoholic Beverage Control Commission at all times to conform to that purpose.

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

##### 14B NCAC 15A .0102 LOCATION AND ADDRESS

The principal office of the North Carolina Alcoholic Beverage Control Commission is located at 400 East Tryon Road, Raleigh, North Carolina 27610. The mailing address is 4307 Mail Service Center, Raleigh, North Carolina 27699-4307. The telephone number is (919) 779-0700. The Commission's email address is [contact@abc.nc.gov](mailto:contact@abc.nc.gov). The Commission's website address is <https://abc.nc.gov>. This office is open to the public during regular business hours, from 8:00 a.m. to 5:00 p.m., Monday through Friday.

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

##### 14B NCAC 15A .0103 DEFINITIONS

(a) As used throughout this Chapter:

- (1) "Administrator" means the principal administrative officer of the Commission;
- (2) "Agent," "alcohol law enforcement agent," or "ALE agent" means an enforcement agent of the Alcohol Law Enforcement Division, North Carolina Department of Crime Control and Public Safety;
- (3) "Applicant" means any person who requests the issuance of a permit from the Commission;
- (4) "Chairman" means the chairman of the Commission;
- (5) "Contract carrier" means the carriers operated by the contractor on behalf of the state for the purpose of distributing spirituous liquors;
- (6) "Distressed liquor" means liquor which is not saleable due to adulteration or damage to the bottle, label or tax seal;
- (7) "Industry Member" means any manufacturer, bottler, importer, vendor, representative or wholesaler of alcoholic beverages;
- (8) "Operator" or "Contractor" means the person or persons responsible for carrying out the storage and distribution of spirituous liquors at the state ABC warehouse;
- (9) "Permit" means a written or printed authorization to engage in some phase of the alcoholic beverage industry that is issued by the Commission;
- (10) "Permittee" means a person to whom a permit has been issued by the Commission; and
- (11) "State ABC warehouse" means the contractor-operated facility or facilities storing spirituous liquors on behalf of the Commission pursuant to G.S. 18B-204, or, in cases of emergency, the facility or facilities operated by the state for the purpose of storing spirituous liquors.

(b) The definitions in Chapter 18B apply to the rules in this Chapter.

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

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

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

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

### **SECTION .0200 - STRUCTURE**

#### **14B NCAC 15A .0201 COMMISSION**

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

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

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

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

#### **14B NCAC 15A .0202 COMMISSION MEETINGS**

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

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

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

Minutes of all Commission meetings shall be kept on file.

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

#### **14B NCAC 15A .0203 ADMINISTRATIVE FUNCTIONS**

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

*History Note:* Authority G.S. 18B-100; 18B-200(d); 18B-207;  
Eff. January 1, 1982;

*Amended Eff. July 1, 1992; May 1, 1984;*  
*Transferred and Recodified from 04 NCAC 02R .0204 Eff. August 1, 2015;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.*

#### **14B NCAC 15A .0204 LEGAL FUNCTIONS**

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

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

### **SECTION .0300 - PUBLICATIONS: RECORDS: COPIES**

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

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

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

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

Copies of the above documents are available at the "actual cost" as defined in G.S. 132-6.2(b) for making the copies and the mailing cost if applicable. The Commission shall provide its "actual cost" 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. 12-3.1; 18B-100; 18B-207; 132-6.2;*  
*Eff. July 1, 1992;*  
*Amended Eff. November 1, 2010;*  
*Transferred and Recodified from 04 NCAC 02R .0303 Eff. August 1, 2015;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.*

#### **14B NCAC 15A .0302 FEE FOR COMPUTER SERVICES**

Upon request, the Commission shall provide data processing services related to the public information maintained by the Commission, if feasible. Fees for such services are based on the actual cost to the Commission and shall be paid in advance by certified check, cashier's check or money order. The requester shall request and receive a quote from the Commission prior to payment of requested services.

*History Note: Authority 18B-100; 18B-207; 150B-19(5)(e); 132-6.2;*  
*Eff. July 1, 1992;*  
*Amended Eff. November 1, 2010;*  
*Transferred and Recodified from 04 NCAC 02R .0304 Eff. August 1, 2015;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.*

### **SECTION .0400 - RULE-MAKING**

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

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

(b) Contents. The petition shall contain the following information:

- (1) Drafts of proposed rule or amendment, or summary of its contents;
- (2) reasons for the adoption, amendment or repeal of rule;
- (3) citation of authorities showing the legality of the proposed adoption, amendment or repeal of the rule;
- (4) effect of existing rules or orders;
- (5) any data supporting proposal;
- (6) effect of existing rules on existing practices in the area involved, including case factors;
- (7) names and addresses of persons most likely to be affected by the proposal; and
- (8) name and address of each petitioner.

*History Note:* Authority G.S. 18B-100; 18B-207; 150B-20(a);  
Filed November 24, 1981;  
Legislative Delay Eff. December 31, 1981;  
Eff. January 12, 1982;  
Amended Eff. August 1, 2010; May 1, 1984;  
Transferred and Recodified from 04 NCAC 02R .0402 Eff. August 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

#### **14B NCAC 15A .0402 ADMINISTRATIVE ACTION**

Based on a study of the petition and other relevant supporting material, the Commission shall deny the petition or initiate rule-making proceedings within a reasonable time following submission of the petition.

- (1) If the Commission determines that the adoption, amendment or repeal of a rule will serve no public interest, it may deny the petition; the Commission shall notify the petitioner in writing of its decision to deny the petition, stating the reasons for the denial.
- (2) If the Commission determines that the proposed adoption, amendment or repeal of a rule will serve the public interest, it shall initiate rule-making proceedings by issuing a rule-making notice, as provided in this Section.

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

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

(a) Upon a determination to hold a rule-making proceeding, either in response to a petition or otherwise, the Commission shall give notice to all interested parties of the proceedings in accordance with the requirements of Chapter 150B of the General Statutes.

(b) Mailing List. Any person desiring to be placed on the mailing list for the rule-making notices may file a request in writing, furnishing his name and mailing address to the Commission. The request shall state the subject areas within the authority of the Commission for which notice is requested.

(c) Fee Charged. The cost to be on the mailing list for rule-making notices shall be fifteen dollars (\$15.00) per year. A notice and invoice will be mailed in February of each year to persons on the mailing list. Persons who do not renew their request to remain on the mailing list by remitting the fee by March 1 of each year will be deleted from the list.

*History Note:* Authority G.S. 18B-100; 18B-207; 150B-21.2;  
Eff. January 1, 1982;  
Amended Eff. July 1, 1992; August 1, 1988; May 1, 1984;  
Transferred and Recodified from 04 NCAC 02R .0404 Eff. August 1, 2015;

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

#### **14B NCAC 15A .0404 RULE-MAKING HEARING**

(a) Location. Unless otherwise stated in a particular rule-making notice, rule-making hearings shall be held in the administrative hearing room of the Commission's Raleigh office.

(b) Oral Presentations. Any person desiring to present oral data, views or arguments on the proposed rule is encouraged to file a written notice of that desire with the Chairman. The notice of the oral presentation should contain a brief summary of the individual's or organization's views with respect to the proposed adoption, amendment or repeal of a rule, and a statement of the length of time the speaker intends to speak.

(c) The Chairman shall preside at the rule-making hearing, and shall ensure that each person participating is given a fair opportunity to present oral arguments, comments and data supporting his position.

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

### **SECTION .0500 - EMERGENCY RULES**

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

When the sale of alcoholic beverages is suspended in any area of the state pursuant to a state of emergency as declared by the Governor in accordance with Article 36A of Chapter 14 of the General Statutes, the Commission may revoke or suspend the permit of any person violating any order or rule issued pursuant to that action.

*History Note: Authority G.S. 18B-100; 18B-110; 18B-207; 166, Article 1A;  
Eff. January 1, 1982;  
Amended Eff. May 1, 1984;  
Transferred and Recodified from 04 NCAC 02R .0502 Eff. August 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.*

### **SECTION .0600 - DECLARATORY RULINGS**

#### **14B NCAC 15A .0601 ISSUANCE: GROUNDS**

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

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

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

#### **14B NCAC 15A .0602 REQUEST FOR DECLARATORY RULING**

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

- (1) name and address of person aggrieved;
- (2) statute or rule to which the request relates;

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

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

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

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

- (1) the request does not comply with the procedural guidelines within Paragraphs (a) and (b) of this Rule;
- (2) the Commission has previously issued a declaratory ruling on substantially similar facts;
- (3) the Commission has previously issued a final agency decision in a contested case on substantially similar facts;
- (4) the facts underlying the request for a declaratory ruling were considered at the time of the adoption of the rule in question;
- (5) the subject matter is one concerning which the Commission is without authority to make a decision binding the Commission or the petitioner;
- (6) the petitioner is not aggrieved by the rule or statute in question or otherwise has no interest in the subject matter of the request;
- (7) there is reason to believe that the petitioner or some other person or entity materially connected to the subject matter of the request is acting in violation of the G.S. 18B or the rules adopted by the Commission; or
- (8) the subject matter of the request is involved in pending litigation, legislation, or rulemaking.

(d) The Commission shall not issue a declaratory ruling when the petitioner or his or her request is the subject of, or materially related to, an investigation by the Commission or contested case before the Commission.

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

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

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

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

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

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

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

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

At any time prior to issuance, the Commission in its discretion may permit an aggrieved party to withdraw the request for a declaratory ruling, any such request for withdrawal to be in writing.

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

#### **14B NCAC 15A .0606 EFFECT OF DECLARATORY RULING**

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

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

#### **14B NCAC 15A .0607 ALTERATION OF DECLARATORY RULING**

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

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

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

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

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

### **SECTION .0700 - PERSONNEL POLICIES: COMMISSION**

#### **14B NCAC 15A .0701 DISCIPLINARY ACTION OF EMPLOYEE**

All employees of the Commission shall be subject to the policies established by the Office of State Personnel pertaining to disciplinary action, suspension and dismissal.

In addition to the grounds for disciplinary action provided by the Office of State Personnel, the following shall be additional grounds for disciplinary action:

- (1) willful disregard of the published policies of the North Carolina Alcoholic Beverage Control Commission, or
- (2) violation of any law pertaining to alcoholic beverages.

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

## **SECTION .0800 - ADJUDICATION: CONTESTED CASES**

### **14B NCAC 15A .0801 NOTICE OF ALLEGED VIOLATION**

If facts reported by a law enforcement officer indicate a violation of the ABC laws, the Commission shall send a Notice of Alleged Violation to the permittee. The permittee is deemed notified if the notice is delivered to the permittee's address as stated on the permit.

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

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

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

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

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

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

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

(d) Rules of Procedure. Hearings conducted under Article 12 of Chapter 18B of the General Statutes will be conducted in accordance with the Rules of Civil Procedure as contained in G.S. 1A-1, and the General Rules of Practice for the



Superior and District Courts as authorized by G.S. 7A-34 and found in the Rules Volume of the North Carolina General Statutes.

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

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

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

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

#### **14B NCAC 15A .0805 FINAL ADMINISTRATIVE DECISION; ORDER**

- (a) Right to Submit Proposed Findings. The parties in a hearing conducted under Article 12 shall have an opportunity to file proposed findings of fact and conclusions of law within 30 days of the conclusion of the initial hearing.
- (b) Recommended Decision. If a hearing conducted under Article 12 is presided over by a hearing officer, the hearing officer shall issue a recommended decision that contains proposed findings of fact and conclusions of law. The hearing officer shall serve a copy of the recommended decision upon all parties and the members of the Commission who will make the final administrative decision. Service shall be in the manner prescribed in Rule .0821(c) of this Section.
- (c) Exceptions. The parties to a case heard under Article 12 shall have the right to file written exceptions to a recommended decision by the hearing officer. Exceptions shall be filed with the Commission within 30 days of receipt of the recommended decision.
- (d) Hearing Conducted by Commission. In lieu of assigning a hearing officer to preside over the initial hearing, the Commission may conduct the initial hearing. After the time for the filing of proposed findings of fact and conclusions of law by the parties has expired, the Commission will issue a final administrative decision and order that determines the issues set forth in any prior pre-hearing order.
- (e) Petition to Office of Administrative Hearings. In any case heard by the Commission under Article 12 of Chapter 18B of the General Statutes, if the Commission finds evidence of violations of Article 12 of Chapter 18B, or any other ABC law, it may commence proceedings in accordance with the provisions of Rule .0802 of this Section.

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

### **SECTION .0900 - FISCAL RULES FOR LOCAL BOARDS**

#### **14B NCAC 15A .0901 BORROWING MONEY**

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

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

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

#### **14B NCAC 15A .0902 MAINTENANCE OF WORKING CAPITAL**

(a) As used in this Rule, "working capital" means the total of cash, investments and inventory less all unsecured liabilities.

(b) A local board shall set its working capital requirements at not less than two weeks' average gross sales of the latest fiscal year nor greater than:

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

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

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

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

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

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

#### **14B NCAC 15A .0903 DEPOSITS**

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

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

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

#### **14B NCAC 15A .0904 INVESTMENTS**

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

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

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

#### **14B NCAC 15A .0905 DAILY DEPOSITS**

- (a) Each officer whose duty it is to collect or receive moneys of the local board shall deposit into an official depository the collections and receipts daily. If the local board gives its approval, deposits shall be required only when the moneys on hand are equal to or are greater than two hundred fifty dollars (\$250.00), but in any event a deposit shall be made on the last business day of the month. All deposits shall be made in an official depository. Deposits in an official depository shall be reported to the finance officer by means of a duplicate deposit ticket.
- (b) A change fund necessary for daily operation of an ABC store shall be established by each local board and maintained in a secure place on the store's premises and shall not be subject to the daily deposit rule. Each change fund shall be maintained in the amount and place established by the local board.
- (c) The finance officer may at any time audit the records maintained by any employee collecting sales revenue and may prescribe the form and detail of these records.
- (d) The Commission shall waive or alter the daily deposit requirement for any local board where adequate security for the funds involved is demonstrated.

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

#### **14B NCAC 15A .0906 FINANCE OFFICER: DUTIES**

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

#### **14B NCAC 15A .0907 ANNUAL INDEPENDENT FINANCIAL AUDIT**

- (a) Each local board shall have its accounts audited after the close of each fiscal year by an independent certified public accountant. The auditor shall be selected by and report to the local board. The audit contract shall be on a form provided by the Commission. The audit report is due to the Commission ninety days after the end of the fiscal year. The financial officer shall file one unbound copy of the audit report and management letter with the Commission.
- (b) Each officer and employee of the local board having custody of public money or responsibility for keeping records of financial or fiscal affairs shall produce books and records requested by the auditor or the Commission and shall divulge any information relating to fiscal affairs that they request. If any member of the local board or any employee conceals, falsifies or refuses to deliver or divulge any books, records, or information with intent to mislead the auditor or impede or interfere with the audit, he is subject to removal for cause pursuant to G.S. 18B-203(a)(8).
- (c) Disclosure of the distribution of profits shall include every element that is applicable under G.S. 18B-805 in a schedule prepared for inclusion with the annual audited financial statements. In addition the schedule shall be supported by a listing of each person who receives moneys from the local board, the date of payment and, if applicable, the purpose for which the payment was made and restrictions on use of the payment. The listing shall be so designated to provide the same totals as were used in the schedule for each type of distribution.

*History Note:* Authority G.S. 18B-100; 18B-203(a)(8); 18B-207; 18B-702(s),(u);  
Eff. May 1, 1984;  
Amended Eff. November 1, 2010;  
Transferred and Recodified from 04 NCAC 02R .0907 Eff. August 1, 2015;

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

#### **14B NCAC 15A .0908 ACCOUNTING SYSTEM**

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

#### **14B NCAC 15A .0909 TRAVEL POLICIES**

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

### **SECTION .1000 - LOCAL ABC BOARD: PERSONNEL POLICIES**

#### **14B NCAC 15A .1001 USE OF ABC PROPERTY**

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

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

#### **14B NCAC 15A .1002 CONSUMPTION OF ALCOHOLIC BEVERAGES**

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

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

#### **14B NCAC 15A .1003 EMPLOYMENT AGE REQUIREMENT**

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

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

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

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

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

*History Note:* Authority G.S. 18B-100; 18B-207; 18B-807;  
Eff. January 1, 1982;  
Amended Eff. November 1, 2010;  
Transferred and Recodified from 04 NCAC 02R .1005 Eff. August 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

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

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

#### **14B NCAC 15A .1006 PERSONNEL MANUAL**

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

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

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

#### **14B NCAC 15A .1101 COMMON INTEREST**

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

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

#### **14B NCAC 15A .1102 LOCAL RULES**

(a) Submitted to Commission. A copy of all rules or amendments thereto that may be adopted by a local board to govern the operation of ABC stores or the enforcement of the ABC laws shall be submitted to the Commission at least 15 days prior to the date on which it is proposed that those rules or amendments are to become effective.

(b) Power to Approve. In the absence of notice from the Commission to the contrary, those rules or amendments thereto shall stand approved.

*History Note:* Authority G.S. 18B-100; 18B-203(a)(10); 18B-207; 18B-807;  
Eff. January 1, 1982;  
Amended Eff. May 1, 1984;  
Transferred and Recodified from 04 NCAC 02R .1102 Eff. August 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

#### **14B NCAC 15A .1103 COST OF AUDIT**

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

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

### **SECTION .1200 - OPENING AND DISCONTINUANCE OF STORES**

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

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

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

#### **14B NCAC 15A .1202 COMMISSION TO CONSIDER OBJECTIONS**

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

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

#### **14B NCAC 15A .1203 APPROVAL OF NEW STORES**

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

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

- (1) Dimensions of the sign shall total at least nine square feet;
- (2) The board shall state on the sign its intention to open an ABC store on the site and shall state the entity and its phone number to provide public comments;

- (3) Lettering shall be at least four inches in height and background colors shall be of sufficient contrast so that the notice shall be legible to passersby; and
- (4) The sign shall be posted within 10 feet of the property line that is parallel to the public road or sidewalk that will be in front of the proposed store, or if the proposed store will be in an existing shopping center, the sign shall be posted on the front exterior of the existing storefront or building. Lettering on the sign shall face the public road or sidewalk, or if within an existing shopping center, the lettering shall face the exterior of the existing storefront or building.

*History Note:* Authority G.S. 18B-100; 18B-207; 18B-801;  
 Eff. January 1, 1982;  
 Amended Eff. November 1, 2010; July 1, 1992;  
 Transferred and Recodified from 04 NCAC 02R .1203 Eff. August 1, 2015;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

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

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

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

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

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

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

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

*History Note: Authority G.S. 18B-100; 18B-204; 18B-207; 18B-701(a)(1);  
Eff. January 1, 1982;  
Amended Eff. January 1, 2011; May 1, 1984;  
Transferred and Recodified from 04 NCAC 02R .1302 Eff. August 1, 2015;*



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

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

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

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

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

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

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

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

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

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

#### **14B NCAC 15A .1304 DIRECT SHIPMENTS**

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

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

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

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

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

*Amended Eff. January 1, 2018.*

## **SECTION .1400 - PURCHASE OF ALCOHOLIC BEVERAGES BY LOCAL BOARDS**

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

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

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

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

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

### **14B NCAC 15A .1403 SPECIAL ORDERS**

- (a) Spirituous liquor products shall be approved for purchase from the Special Orders Price List as follows:
- (1) When requested by a customer, a local board shall request that the Commission consider approval for inclusion on the Special Orders Price List any spirituous liquor brand or container size that is not otherwise approved.
  - (2) The Commission shall consider the local board's request, and approve, in accordance with 14B NCAC 15C .0203 and .0204, any brand or product for special order and the addition to the Special Orders Price List, including the minimum order size requirement as required by the vendor of at least one case.
- (b) When requested by a customer, a local board may place an order with the Commission for any product on the Special Orders Price List. All customer orders shall be prepaid by the customer prior to the order being placed with the Commission. Any order must meet the minimum order quantity requirements set by the Commission.
- (c) Upon receipt of the special order from the local board, the Commission shall place the order with the vendor for shipment to the State ABC warehouse for delivery to the local board by the State ABC warehouse with the next regularly scheduled shipment to the local board.
- (d) After completing the special order transaction with the customer, the local board shall report the sale of merchandise sold pursuant to this Rule on its next monthly report to the Commission.
- (e) In addition to the provisions set forth in Paragraph (a) of this Rule, antique spirituous liquor products shall be approved for purchase from the Special Orders Price List as follows:
- (1) Upon receipt of a request for inclusion of an antique spirituous liquor on the Special Orders Price List from either a local board at the request of the owner of antique spirituous liquor, the owner of antique spirituous liquor, or a mixed beverages permittee, the Commission shall consider the request. Any antique spirituous liquor brand or product approved by the Commission for sale pursuant to 14B NCAC 15C .0203 and .0204 shall be added to the Special Orders Price List. The Commission shall determine the retail price for each product based on the markup formula pursuant to G.S. 18B-804, set up each product in its pricing system, assign code numbers for each product, and notify the local board and the State ABC warehouse of the price and product code number of each product.

- (2) The seller of the antique spirituous liquor shall provide to the Commission an inventory of each product to be sold, the seller's selling price per bottle, and a picture or copy of the label of each product legible to the Commission sufficient to identify the product to be sold.
- (f) An owner of antique spirituous liquor who desires to sell antique spirituous liquor shall obtain a special one-time permit pursuant to G.S. 18B-1002(a)(4) prior to the sale.
- (g) A mixed beverages permittee who wants to order antique spirituous liquor from the Special Orders Price List from a permittee authorized to sell antique spirituous liquor pursuant to G.S. 18B-1002(a)(4) shall first obtain an antique spirituous liquor permit pursuant to G.S. 18B-1001(20).
- (h) When requested by an antique spirituous liquor permittee, a local board shall place an order from the special one-time permittee selling the antique spirituous liquor on the Special Orders Price list. All orders shall be prepaid by the antique spirituous liquor permittee to the local board prior to the order being placed with the special one-time permittee.
- (i) Upon delivery of the antique spirituous liquor to the local board by the special one-time permittee, the local board shall pay the seller's price to the special one-time permittee and notify the antique spirituous liquor permittee the order is available for pick up, and the location where it may be picked up.
- (j) Once the local board has possession of the antique spirituous liquor to be sold, the local board shall notify the Commission and the State ABC warehouse, and forward the invoice bill of lading for the product to the State ABC warehouse. The State ABC warehouse shall bill the local board for the bailment and bailment surcharge for the product. The local board shall pay the bailment and bailment surcharge to the Commission.

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

#### **14B NCAC 15A .1404 COMMEMORATIVE BOTTLES**

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

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

#### **14B NCAC 15A .1405 RECORDS REQUIRED**

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

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

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

*History Note:* Authority G.S. 18B-100; 18B-203(a)(4); 18B-205; 18B-207; 18B-702(s)(u);  
Eff. January 1, 1982;

*Amended Eff. May 1, 1984;  
Transferred and Recodified from 04 NCAC 02R .1406 Eff. August 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.*

#### **14B NCAC 15A .1406 PAYMENT**

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

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

### **SECTION .1500 - PRICING OF SPIRITUOUS LIQUOR**

#### **14B NCAC 15A .1501 PRICE INCREASES**

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

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

#### **14B NCAC 15A .1502 MARKUP FORMULA**

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

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

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

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

*History Note: Authority G.S. 18B-100; 18B-203(a)(3); 18B-207; 18B-804;  
Eff. January 1, 1982;  
Amended Eff. November 1, 2010; November 1, 1993; August 1, 1991; November 1, 1988; June 1, 1986;*

*Transferred and Recodified from 04 NCAC 02R .1502 Eff. August 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.*

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

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

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

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

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

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

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

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

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

**SECTION .1600 - WAREHOUSE STORAGE OF SPIRITUOUS LIQUORS**

**14B NCAC 15A .1601 PERMIT REQUIRED**

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

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

**14B NCAC 15A .1602 INSPECTION UPON APPLICATION**

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

*History Note: Authority G.S. 18B-100; 18B-204; 18B-207;  
Eff. January 1, 1982;  
Amended Eff. May 1, 1984;*

*Transferred and Recodified from 04 NCAC 02R .1602 Eff. August 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,  
2015.*

#### **14B NCAC 15A .1603 REQUIREMENTS FOR STORAGE**

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

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

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

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

#### **14B NCAC 15A .1604 PROHIBITED PRACTICES**

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

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

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

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

*History Note: Authority G.S. 18B-100; 18B-204; 18B-207;*

*Eff. January 1, 1982;*  
*Amended Eff. May 1, 1984;*  
*Transferred and Recodified from 04 NCAC 02R .1605 Eff. August 1, 2015;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.*

#### **14B NCAC 15A .1606 SUSPENSION OF PERMIT**

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

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

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

### **SECTION .1700 - RETAIL SALES OF ALCOHOLIC BEVERAGES**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **14B NCAC 15A .1704 HOURS OF SALE**

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

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

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



*History Note:* Authority G.S. 18B-100; 18B-207; 18B-802; 18B-807;  
Eff. January 1, 1982;  
Amended Eff. May 1, 1984;  
Transferred and Recodified from 04 NCAC 02R .1705 Eff. August 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.

#### **14B NCAC 15A .1705 CUSTOMER SERVICE**

(a) The manager and the employees in every store shall see that customers are waited on professionally and as soon as possible to reduce customers' wait time. The manager and the employees shall not allow people without the intent to purchase to loiter.

(b) If a local board has a price discrepancy between the price on the shelf or bottle and the cash register, and the price on the shelf or bottle is lower, the local board shall sell the item at the shelf or bottle price and correct the shelf or bottle price to match the Commission's published price.

(c) If a customer inquires about a product that a local board does not carry, the local board's manager or employee shall inform the customer that a case of the product can be special ordered. The manager or employee shall also inform the customer what guidelines must be followed to place the special order.

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

#### **14B NCAC 15A .1706 PURCHASE-TRANSPORTATION PERMITS**

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

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

#### **14B NCAC 15A .1707 ALCOHOL REHABILITATION COLLECTIONS PERMITTED**

(a) Local boards may provide containers for the collection of voluntary contributions to alcohol rehabilitation programs approved by the Commission.

(b) Collection or solicitation of contributions for any other purpose is prohibited.

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

#### **14B NCAC 15A .1708 SHELF MANAGEMENT**

(a) Each local board shall establish and maintain a shelf management plan. The local board shall establish policies within its plan that incorporates the following concepts:

- (1) set the higher priced items on the upper shelves at eye level and set the lower priced items on the bottom shelves;
- (2) block categories in vertical sets per their category;
- (3) arrange bottle sizes so they increase left to right of the same item;
- (4) create brand billboard by stacking all brand sizes together;

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

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

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

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

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

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

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

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

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

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

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

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

*History Note: Authority G.S. 18B-100; 18B-205; 18B-207; 18B-404(b); 18B-807;*

*Eff. January 1, 1982;*  
*Amended Eff. November 1, 2010; May 1, 1984;*  
*Transferred and Recodified from 04 NCAC 02R .1802 Eff. August 1, 2015;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015.*

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

(a) Approved Container Sizes. Local ABC Boards may sell 50 milliliter, 100 milliliter, 200 milliliter, 355 milliliter, and 375 milliliter containers of liquor to a hotel that has been issued a Guest Room Cabinet Permit.

(b) Purchase-Transportation Permits. A local board receiving an order from a guest room cabinet permittee for liquor intended for resale from guest room cabinets shall provide a separate Purchase-Transportation Permit/Invoice form for the permittee in the same manner as for sales of liquor for mixed beverages permittees, as specified in Rule .1802 of this Section. The Purchase-Transportation Permit/Invoice shall contain all the information required by 14B NCAC 15B .0501(b), and in addition, shall show on the face of the form the permittee's Guest Room Cabinet Permit number. One copy of the Purchase-Transportation Permit/Invoice form for guest room cabinet permittees shall be retained by the local board for a period of three years.

(c) Minimum Orders. A local board may require a guest room cabinet permittee to make a minimum purchase of multi-bottle packages or "sleeves" packaged by the manufacturer or bottler, but may not require minimum purchases in case quantities except as authorized by Rule .1404 of this Subchapter.

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

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

(a) A local board selling liquor for resale in guest room cabinets shall either affix the mixed beverages tax stamp to each individual container of liquor sold to a guest room cabinet permittee, or shall give the permittee one tax stamp for each container purchased so the permittee may affix the stamps to the containers so long as the unaffixed stamps conform to the requirements in Paragraph (b) of this Rule.

(b) A local board choosing to give unaffixed mixed beverages tax stamps to a guest room cabinet permittee shall use a stamp substantially different in size and color from the mixed beverages tax stamp used for regular mixed beverages sales.

(c) Each mixed beverages tax stamp for liquor sold to a guest room cabinet permittee shall contain the same information required by Rule .1901 of this Subchapter, except that the permittee's Guest Room Cabinet Permit number shall appear on the stamp in lieu of the permittee's Mixed Beverages Permit number.

(d) Nothing in this Rule shall be construed to allow a local board to give unaffixed mixed beverages tax stamps to a mixed beverages permittee for liquor containers purchased for resale in mixed beverages.

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

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

(a) Each local board selling liquor to a hotel with a Guest Room Cabinet Permit shall adopt rules governing purchases of liquor by guest room cabinet permittees and shall submit those rules to the Commission for approval as required by Rule .1102 of this Subchapter.

(b) Areas to be regulated shall include:

- (1) minimum purchase requirements;
- (2) responsibility for affixing tax stamps;
- (3) pre-ordering requirements;
- (4) special orders; and

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

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

## **SECTION .1900 - SALES OF LIQUOR TO MIXED BEVERAGES PERMITTEES**

### **14B NCAC 15A .1901 MIXED BEVERAGES TAX STAMP**

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

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

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

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

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

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

### **14B NCAC 15A .1902 LOCAL BOARD PRODUCT IDENTIFICATION**

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

## **SECTION .2000 – LOCAL BOARD TRAINING**

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

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

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

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

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

#### **14B NCAC 15A .2002 LOCAL BOARD TRAINING COURSES**

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

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

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

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

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

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

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

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

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

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

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

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

**14B NCAC 15A .2103 DISTILLERY RECORD-KEEPING**

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

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

**SECTION .2200 – SPECIAL ONE-TIME PERMITS**

**14B NCAC 15A .2201 DEFINITIONS**

The following definitions apply to this Section:

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

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

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

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

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

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

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

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

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

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

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

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

#### **14B NCAC 15A .2204 SPECIAL AUCTION PERMITS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **SECTION .2300 – HOMEMADE WINE AND MALT BEVERAGE EVENTS**

#### **14B NCAC 15A .2301 DEFINITIONS**

As used in this Section:

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

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



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

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

#### **14B NCAC 15A .2302 COMPETITIONS**

- (a) Consumption of homemade products at a competition, other than at a private residence, shall be limited to judges and stewards of the competition, as defined by a national or international beer or wine judging program, who are identified in advance of the competition by the competition organizer. Judges may enter their homemade product in competitions in which they judge provided they do not judge any competition category in which they have entries. A competition may be limited to invitees or open to the general public, except as prohibited in Paragraph (c) of this Rule.
- (b) A competition may be held on a premise holding a retail ABC permit if the following conditions are met:
  - (1) the competition shall be segregated from the remainder of the premises in a separate space with closable doors, or by a barrier that may include curtains, partitions or other structures, that separates the competition area and makes the competition not visible from the portion of the premises where food or beverages are served to the general public during the time of the event;
  - (2) no homemade product shall be consumed outside of the homemade product consumption area designated pursuant to Subparagraph (1) of this Paragraph during the times any portion of the retail premises is open to the general public;
  - (3) the retail permittee shall only provide or offer commercial alcoholic products to participants in the competition at the same rate and method as offered to the general public at any other times of that business day that the permittee is authorized to sell; and
  - (4) homemade product for the competition shall not be stored on permitted premises for more than 48 hours prior to the competition, provided the homemade product is sealed, labeled as "homemade product for competition entry," and segregated from other alcoholic beverages located on the premises. No homemade product shall remain on the permitted premises the day after the conclusion of the competition. All containers of homemade product left on the permitted premises contrary to the provisions of this Rule shall be disposed of by the permittee or the permittee's employee by making the homemade product unsuitable for, or incapable of, being consumed.

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

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

#### **14B NCAC 15A .2303 EXHIBITIONS**

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

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

#### **14B NCAC 15A .2304 ORGANIZED AFFAIRS**

- (a) Homemade product may be consumed at organized affairs provided that, if the affair is a contest, it is not sanctioned by a national or international beer or wine judging program and no fee is charged to attend or participate, except for fees as authorized pursuant to Rule .2305 of this Section. Consumption at organized affairs shall be limited to homemakers, their families, and their guests.
- (b) All judges of a contest shall be members of the homemaker club or their guests. Prizes shall not be awarded as a result of the contest, but homemakers may be recognized for their homemade products.
- (c) An organized affair may be held on a premise holding a retail ABC permit if the following conditions are met:
- (1) the area for consumption of homemade product during an organized affair shall be segregated from the portion of the premises open to the general public during the time of the event by vertical boundaries that separate the private event from areas open for public consumption;
  - (2) no homemade product shall be consumed outside of the homemade product consumption area designated pursuant to Subparagraph (1) of this Paragraph during the times any portion of the retail premises is open to the general public;
  - (3) the retail permittee may sell or offer commercial alcoholic products the permittee is authorized to sell to persons attending the organized affair on the retail permittee's premises, provided that all alcoholic beverages offered to participants in the organized affair shall be at the same price and method as offered to the general public at any other times of that business day; and
  - (4) for an organized affair, homemade product may be stored on permitted premises for no more than 48 hours prior to the organized affair, provided that the homemade product shall be sealed, labeled as "homemade product for contest entry," and segregated from other alcoholic beverages located on the premises. No homemade product shall remain on the permitted premises the day after the conclusion of the organized affair. All containers of homemade product left on the permitted premises contrary to the provisions of this Rule shall be disposed of by the permittee or the permittee's employee, by making the homemade product unsuitable for, or incapable of, being consumed.
- (d) An organized affair may not be held on a premise holding a commercial ABC permit.
- (e) There shall be no admission or entrance fee charged for an organized affair occurring at a private residence.

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

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

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

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

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

- (a) Possession and consumption of homemade product shall be limited to persons who are 21 years of age or older. Homemade product shall not be offered, given to, or consumed by the general public.
- (b) Except as limited by this Section, events may be held at locations where possession and consumption of malt beverages and unfortified wine are otherwise authorized by law.
- (c) Homemade product shall remain in possession of the homemaker, except:
  - (1) at an exhibition;
  - (2) when the homemade product is under the control of a retail permittee or a commercial permittee in accordance with Rules .2302 and .2304 of this Section; or
  - (3) when transfer of possession is acknowledged and custody, control and liability is assumed in writing by an individual acting on behalf of the organizer or sponsor of a competition held in accordance with Rule .2302 of this Section.

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

- (d) A homemaker may transport quantities of homemade product up to the limits set forth in G.S. 18B-303(a), provided that the maximum aggregate amount of all homemade product transported by an individual homemaker at any one time for any one event shall not exceed 80 liters.
- (e) All containers of homemade product remaining on non-permitted premises after the conclusion of an event, other than events held at a private residence, shall be removed from the premises or the contents of the container shall be disposed of by being made unsuitable for, or incapable of, being consumed at the conclusion of the event.

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

#### **14B NCAC 15A .2307 ALLOWABLE FEES**

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

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