

1 **DISTILLERY RETAIL SALES – S.L. 2019-182, (SB 290) Sec. 2**

2
3 14B NCAC 15A .2101 is proposed for amendment as follows:

4
5 **SECTION .2100 – DISTILLERY PERMIT HOLDERS' RETAIL SALE OF SPIRITUOUS LIQUOR**
6 **~~DISTILLED ON PREMISES TO VISITORS OF THE DISTILLERY FOR CONSUMPTION OFF THE~~**
7 **~~PREMISES LIQUOR, MIXED BEVERAGES, MALT BEVERAGES, AND WINE AT THE DISTILLERY~~**
8

9 **14B NCAC 15A .2101 ~~PRIOR APPROVAL FROM ABC COMMISSIONS~~ SPIRITUOUS LIQUOR**
10 **BOTTLE SALES**

11 (a) ~~Prior to selling spirituous liquor distilled at the distillery~~ spirituous liquor in closed containers on the premises to
12 consumers pursuant to G.S. 18B-1105(4), a distillery permittee shall submit a ~~written request~~ request for approval to
13 sell distillery spirituous liquor directly to consumers as part of an original permit application or by an amendment to
14 the original approved diagram pursuant to Rule 15B .0222 of this Chapter, for approval to the Commission regarding
15 ~~its the permittee's intent to sell distillery spirituous liquor direct to consumers.~~

16 (b) ~~The Commission shall verify compliance with G.S. 18B-1105(a)(4).~~

17 (c) ~~Within 15 days of receipt of the request, the Commission shall send written notice to the permittee of approval~~
18 ~~based on satisfying the requirements in Paragraph (b) of this Rule, or of disapproval and the reasons for disapproval.~~

19 (b) All sales made pursuant to this Section shall be conducted in a separate designated part of the distillery premises
20 approved by the Commission outside of the distilled spirits plant premises and outside of any part of the premises
21 designated and approved by the Commission for the sale of alcoholic beverages for on-premise consumption. The
22 area approved by the Commission for sales pursuant to this section shall be separated by a solid or glass wall from
23 any other part of the premises.

24 (c) A distillery permittee shall submit with its application or amendment for approval pursuant to Paragraph (a) of
25 this Rule an actual diagram of the licensed premises delineating the parts of the premises to be used for bottle sales
26 separate from parts of the licensed premises approved as the distilled spirits plant and approved by the Commission
27 for the sale of alcoholic beverages for on-premise consumption. The diagram shall include the following:

28 (1) the entrances and exits;

29 (2) the separate storage areas for alcoholic beverages as required pursuant to Paragraph (f) of this Rule;

30 (3) the locations where distillery spirituous liquor will be sold and where alcoholic beverages will be
31 sold, served or consumed for on-premise consumption;

32 (4) the part of the premises designated as the distilled spirits plant, including the parts of the distilled
33 spirits plant identified as bonded premises and general premises; and

34 (5) the exterior areas under lease, authority, or control of the permittee used for retail purposes separated
35 from the areas used for commercial distillery production purposes.

36 (d) No bottle shall be sold on the distillery's permitted premises pursuant to G.S. 18B-1105(a)(4) on:

37 (1) New Year's Day;

- 1 (2) Fourth of July;
- 2 (3) Labor Day;
- 3 (4) Thanksgiving Day;
- 4 (5) Christmas Day;
- 5 (6) Any Sunday; or
- 6 (7) Any other day between the hours of 9:00 p.m. and 9:00 a.m.

7 (e) Any distillery employee involved with the sale of distillery spirituous liquor to the consumer shall be at least 18
8 years of age.

9 (f) Distillery spirituous liquor to be sold to consumers pursuant to G.S. 18B-1105(a)(4) shall be stored in a designated
10 non-bonded part of the permitted premises approved by the Commission separate from distillery products to be sold,
11 delivered, or shipped pursuant to G.S 18B-1105(2).

12 (g) No bottle of spirituous liquor shall be sold to a consumer until after the consumer has completed a tour of the
13 distillery. Proof of completion of a tour by the consumer shall be a written record maintained by the permittee available
14 to law enforcement upon request which includes the consumer's name, drivers license or personal identification
15 number, and the date and time the tour was completed. The date of the consumer's tour may be prior to the date of
16 the bottle sale.

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

21
22
23 14B NCAC 15A .2102 is proposed for repeal as follows: **[Recodified in 15A .2101 above]**

24
25 **~~14B NCAC 15A .2102 — RETAIL SALES AT DISTILLERY'S PERMITTED PREMISES~~**

26 ~~(a) No retail sales shall be made on the distillery's permitted premises on:~~

- 27 ~~(1) — New Year's Day;~~
- 28 ~~(2) — Fourth of July;~~
- 29 ~~(3) — Labor Day;~~
- 30 ~~(4) — Thanksgiving Day;~~
- 31 ~~(5) — Christmas Day;~~
- 32 ~~(6) — Any Sunday; or~~
- 33 ~~(7) — Any other day between the hours of 9:00 p.m. and 9:00 a.m.~~

34 ~~(b) Any distillery employee involved with the sale of spirituous liquor to the consumer shall be at least 18 years of~~
35 ~~age.~~

36 ~~(c) Distillery products to be sold directly to consumers shall be stored in a retail area in the permitted premises separate~~
37 ~~from distillery products to be shipped to the State ABC warehouse for sale to local boards.~~

1 ~~(d) The distillery permittee shall not sell any bottle of spirituous liquor to a consumer until after the consumer has~~
2 ~~completed a tour of the distillery.~~

3
4 *History Note: Authority G.S. 18B-100; 18B-207; 18B-802; 18B-1105;*
5 *Eff. January 1, 2018.*

6
7 14B NCAC 15A .2104 is proposed for adoption as follows:

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9 **14B NCAC 15A .2104 SALE OF MIXED BEVERAGES, MALT BEVERAGES, AND WINE FOR ON-**
10 **PREMISE CONSUMPTION**

11
12 (a) Prior to selling distillery mixed beverages, a distillery permittee shall submit a request for approval to sell distillery
13 mixed beverages as part of an original permit application or by amendment to the original approved diagram to the
14 Commission regarding permittee's intent to sell distillery mixed beverages for approval pursuant to 14B NCAC 15B
15 .0222.

16 (b) The part of the permitted premises approved by the Commission for sales, possession, and consumption of
17 distillery mixed beverages shall be outside the part of the licensed premises covered by the distilled spirits plant permit
18 and shall be separated by delineated vertical boundaries that the consumer would recognize as indicating the
19 boundaries that physically separate areas where consumption is allowed from areas open to the general public other
20 than patrons, or other uses of the premises.

21 (c) All sales, possession, and consumption of alcoholic beverages for on-premise consumption pursuant G.S. 18B-
22 1105 shall be conducted in a separate part of the distillery premises outside the boundaries of the distilled spirits plant
23 and separated by delineated vertical boundaries from any part of the premises designated and approved for the sale of
24 distillery spirituous liquor to be sold to consumers pursuant to G.S. 18B-1105(a)(4).

25 (d) If a distillery that sells distillery mixed beverages also sells alcoholic beverages pursuant to permits allowing for
26 on-premise consumption, the part of the premises approved for the sale of distillery mixed beverages shall be the same
27 as the part of the premises where other alcoholic beverages are sold and consumed.

28 (e) All mixed beverages, including distillery mixed beverages, sold by a distillery holding a mixed beverages permit
29 shall be considered a mixed beverage sold pursuant to a mixed beverages permit.

30 (f) Recycling Plan Required. – [18B-902(h) and 903(b2), on-premise consumption including MB]. Before
31 approving an original permit application or an amendment to an original approved diagram to allow the permittee to
32 sell distillery mixed beverages, and annually thereafter on or before April 30, the applicant shall submit to the
33 Commission either a current plan for the collection and recycling of all recyclable beverage containers of all beverages
34 sold at retail on the premises, or an application for a waiver pursuant to G.S. 18B-902(h).

35 (g) Recycle requirements. – [18B-1006.1, on-premises, including MB permit]. A distillery permittee approved to
36 sell distillery mixed beverages shall separate, store, and provide for the collection for recycling of all recyclable
37 beverage containers of all beverages sold at retail on the premises. A permittee has satisfied the requirements of this

1 section if it implements a recycling program that meets the minimum standards of the model recycling program
2 developed by the Commission pursuant to G.S. 130A-309.14(m). Failure to comply with the requirements of this
3 section shall not be grounds for revocation of a distillery permit. A conviction for violation of this section shall not
4 constitute an alcoholic beverage offense within the meaning of G.S. 18B-900(a)(4).

5 (h) Hours. – [18B-1004, retail sales – only applies to permits under 18B-1001]. Except as otherwise provided in
6 G.S. 18B-1004, it shall be unlawful for a distillery permittee to sell distillery mixed beverages, between the hours of
7 2:00 A.M. and 7:00 A.M., or to allow consumption of any distillery mixed beverages between the hours of 2:30 A.M.
8 and 7:00 A.M.

9 (i) Sale of more than one drink at a time. [18B-1010, on-premises, including MB permit]. A distillery permittee
10 approved to sell distillery mixed beverages may sell and deliver not more than one mixed beverage to a single patron
11 at one time if the drink contains spirituous liquor.

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13 History Note: Authority G.S 18B-100; 18B-207, 18B-1001(19); 18B-1105;

14 Eff. _____.

15
16 14B NCAC 15A .2105 is proposed for amendment as follows:

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18 **14B NCAC 15A .2105 LOCAL GOVERNMENT REQUIREMENTS**

19 (a) Notice to local government. - [18B-901(b) - Retail permits]. Before approving an original permit application or
20 an amendment to an original approved diagram to allow a distillery to sell distillery spirituous liquor or distillery
21 mixed beverages, notice of the permit or amendment application shall be given to the governing body of the city in
22 which the establishment is located. If the establishment is not inside a city, notice shall be given to the governing body
23 of the county. The local governing body shall have 15 days from the time the notice was mailed or delivered to the
24 local governing body to file written objection to the issuance or amendment of the permit. To be considered by the
25 Commission, the objection shall state the facts upon which it is based. The distillery shall submit a Local Government
26 Opinion form signed by the appropriate officials in conformity with G.S. 18B-901(b) with the distillery's request for
27 approval to sell distillery spirituous liquor or distillery mixed beverages.

28 (b) Zoning and Compliance Form. – [18B-901(c) – permit approval condition.] Before approving an amendment
29 to an original approved diagram to allow a distillery to sell distillery spirituous liquor or distillery mixed beverages,
30 the Commission shall be satisfied that the location is a suitable place to allow the sale of distillery spirituous liquor to
31 visitors and the sale and consumption of distillery mixed beverages. To be a suitable place, the local governing body
32 shall return a Zoning and Compliance form to the Commission on a form provided by the Commission to show the
33 establishment is in compliance with all applicable zoning ordinances and building and fire codes. The distillery shall
34 submit a Zoning and Compliance form signed by the appropriate officials in conformity with G.S. 18B-901(c) with
35 the distillery's request for approval to sell distillery spirituous liquor or distillery mixed beverages.

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37 History Note: Authority G.S 18B-100; 18B-207, 18B-1001(19); 18B-1105;

1 Eff. _____.

2
3 14B NCAC 15A .2106 is proposed for adoption as follows:
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5 **14B NCAC 15A .2106 DISTILLERY TASTING**

6 (a) Consumer tasting events conducted by the distillery pursuant to a spirituous liquor tasting permit issued pursuant
7 to G.S. 18B-1001(19) shall be conducted in the part of distillery premises designated by the permittee and approved
8 by the Commission. The pouring of samples and the consumption of samples at a consumer tasting event shall be
9 limited to the part of licensed premises designated and approved by the Commission for consumer tasting events.

10 (b) All consumer tasting events shall be conducted in a separate designated part of the distillery premises approved
11 by the Commission outside of the bonded premises and outside of any part of the premises designated and approved
12 by the Commission for the sale of alcoholic beverages for on-premise consumption. The part of the premises approved
13 for tasting events may include the part of the premises approved for bottle sales pursuant to Rule .2101 of this Section.

14 (c) A spirituous liquor tasting permittee shall submit with its application or an amendment to the original approved
15 diagram for approval pursuant to Paragraph (a) of this Rule an actual diagram of the licensed premises delineating the
16 parts of the premises to be used for consumer tasting events. The diagram shall include the following:

17 (1) the entrances and exits;

18 (2) the part of the premises designated as the distilled spirits plant, including the parts of the distilled
19 spirits plant identified as bonded premises and general premises;

20 (3) the part of the premises where consumer tasting events will be conducted;

21 (4) the part of the premises where retail sales of alcoholic beverages for on-premise consumption will
22 be conducted; and

23 (5) the separate storage areas for spirituous liquor used for consumer tasting events as required pursuant
24 to Paragraph (d) of this Rule.

25 (d) Spirituous liquor used for consumer tasting events pursuant to G.S. 18B-1001(19) shall be stored in a designated
26 part of the licensed premises approved by the Commission separate from distillery products to be sold, delivered, or
27 shipped pursuant to G.S 18B-1105(2) or spirituous liquor used to make mixed beverages.

28 (e) The cumulative total of tasting event samples pursuant to G.S. 18B-1001(19) and free samples or free drinks of
29 mixed beverages given to a consumer pursuant to Rule 15B .0223 of this Chapter shall not exceed 1.5 ounces of
30 spirituous liquor per calendar day.

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32 History Note: Authority G.S 18B-100; 18B-207, 18B-1105;

33 Eff. _____.

34
35 14B NCAC 15A .0103 is proposed for amendment as follows:
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37 **14B NCAC 15A .0103 DEFINITIONS**

1 (a) The following definitions apply in this Chapter:

2 (1) "Administrator" means the principal administrative officer of the Commission.

3 (2) "Alcohol law enforcement agent" or "ALE agent" means an enforcement agent of the Alcohol Law
4 Enforcement Branch, North Carolina Department of Public Safety.

5 (3) "Applicant" means any person who requests the issuance of a permit from the Commission, unless
6 the context clearly means otherwise.

7 ~~(4)~~ "Bonded premises" means the part of the distillery premises designated as bonded premises pursuant
8 to 26 U.S.C § 5002(a)(3) and 27 C.F.R. § 19.1.

9 ~~(4)(5)~~ "Brand," in relation to wines, means the name under which a wine is produced. A brand shall not be
10 construed to mean a class or type of wine, but all classes and types of wines sold under the same
11 brand label shall be considered a single brand. Differences in packaging such as a different style,
12 type, or size of container shall not be considered different brands.

13 ~~(5)(6)~~ "Branded merchandise" means items, including glassware, cups, signs, t-shirts, hats, and other
14 apparel, which bear the brand of the alcoholic beverage being served, or the brand of the brewery,
15 winery, or distiller whose alcoholic beverages is being served, at a tasting conducted pursuant to
16 G.S. 18B-1114.1, 18B-1114.5 or 18B-1114.7.

17 ~~(6)(7)~~ "Brokerage" means a business that brokers in the State the sale of spirituous liquor on behalf of a
18 spirituous liquor supplier.

19 ~~(7)(8)~~ "Brokerage representative" means an individual who promotes spirituous liquor on behalf of a
20 brokerage.

21 ~~(8)(9)~~ "Chairman" means the chairman of the Commission.

22 ~~(9)(10)~~ "Closed container" means, as the term is used in Chapter 18B of the General Statutes and in this
23 Chapter, a bottle or other container having a closure or other device as required by 27 C.F.R.
24 §19.523.

25 ~~(11)~~ "Contractor" means the person or persons responsible for carrying out the storage and distribution
26 of spirituous liquors at the State ABC warehouse.

27 ~~(12)~~ "Distilled spirits plant" means the part of the distillery premises designated as the distilled spirits
28 plant pursuant to 26 U.S.C § 5002(a)(1) and 27 C.F.R. § 19.1.

29 ~~(10)(13)~~ "Distiller representative" means an individual who promotes spirituous liquor on behalf of a distiller,
30 or otherwise represents a distiller.

31 ~~(14)~~ "Distillery mixed beverages" means mixed beverages made by a distillery containing only spirituous
32 liquor produced by the distillery pursuant to G.S. 18B-1105(a)(4a).

33 ~~(15)~~ "Distillery spirituous liquor" means spirituous liquor distilled at the distillery for sale pursuant to
34 G.S. 18B-1105(a)(4).

35 ~~(14)(16)~~ "Distressed liquor" means liquor which is not saleable due to adulteration or damage to the bottle,
36 label, or tax seal.

1 (17) "General premises" means the part of the distillery premises designated as general premises pursuant
2 to 27 C.F.R. § 19.1.

3 ~~(12)~~(18) "Industry Member" means any wholesaler, salesman, brewery, winery, bottler, importer, liquor
4 importer/bottler, distiller, distiller representative, brokerage, brokerage representative, supplier
5 representative, rectifier, nonresident vendor, vendor representative, or affiliate thereof, that sells or
6 solicits orders for alcoholic beverages, whether or not licensed in this State.

7 ~~(13)~~(19) "Permittee" means a person to whom a permit has been issued by the Commission.

8 ~~(14)~~(20) "Premises" means the same as defined in G.S. 18B-101(12a). A diagram attached to the investigative
9 report and kept in the permittee's file is prima facie evidence of the premises covered by that permit
10 and for which the permittee and the permittee's employees are responsible. Permits shall authorize
11 the sale and possession or consumption of alcoholic beverages only on the parts of the premises
12 described in the investigative report and shown on the diagram certified by the investigating agent.

13 (21) "Rectifier" means a permittee that processes spirituous liquor by cutting, blending, mixing, or
14 infusing the spirituous liquor with any ingredient that reacts with the constituents of the distilled
15 spirits and changes the character and nature, or standards of identity, of the distilled spirits.
16 "Rectifier" does not include a person who extracts spirituous liquor by original or continuous
17 distillation, or who mixes spirituous liquor with other ingredients for immediate consumption.

18 ~~(15)~~(22) "Retail permittee" or "retailer" means any permittee holding a retail alcoholic beverage permit
19 issued pursuant to the authority of ~~G.S. 18B-1004~~G.S. 18B-1001, or a distillery permittee selling
20 distillery mixed beverages, but does not include a non-profit or political organization that has been
21 issued a special one-time permit pursuant to the provisions of G.S. 18B-1002(a)(2) or (5).

22 ~~(16)~~(23) "State ABC warehouse" means the contractor-operated facility or facilities storing spirituous liquors
23 on behalf of the Commission pursuant to G.S. 18B-204, or, in cases of emergency, the facility or
24 facilities operated by the State for the purpose of storing spirituous liquors.

25 ~~(17)~~(24) "Spirituous liquor supplier" means a distiller, liquor importer/bottler, or rectifier.

26 ~~(18)~~(25) "Supplier representative" means, as the term is used in G.S. 18B-1114.7, an individual who
27 promotes on behalf of a spirituous liquor supplier, or otherwise represents a spirituous liquor
28 supplier.

29 ~~(19)~~(26) "Vendor" means any brewery, winery, bottler, malt beverage or wine importer, or nonresident malt
30 beverage vendor or nonresident wine vendor as those terms are used in G.S. 18B-1113 and 18B-
31 1114.

32 ~~(20)~~(27) "Vendor representative" means any person who holds a permit issued pursuant to G.S. 18B-1112.

33 ~~(21)~~(28) "Wine" means both fortified wine and unfortified wine.

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

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

37 *Eff. January 1, 1982;*

1 *Amended Eff. November 1, 2010; May 1, 1984;*
2 *Transferred and Recodified from 04 NCAC 02R .0103 Eff. August 1, 2015;*
3 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
4 *2015;*
5 *Amended Eff. _____; September 1, 2019.*

7 14B NCAC 15B .0101 is proposed for amendment as follows:

8
9 **SUBCHAPTER 15B - RETAIL BEER: WINE: MIXED BEVERAGES: BROWNBAGGING:**
10 **ADVERTISING: SPECIAL PERMITS**

11
12 **SECTION .0100 - DEFINITIONS: PERMIT APPLICATION PROCEDURES**

13
14 **14B NCAC 15B .0101 DEFINITIONS**

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

- 17 (1) "Employee" means any person who performs a service for any person holding an ABC permit,
18 regardless of whether that person is compensated for the performance of those services.
- 19 (2) "Intoxicated" means the condition of a person whose mental or physical functioning appears to be
20 presently substantially impaired as a result of the use of alcohol or other substance, as set forth in
21 G.S. 122C-3(18), and shall be when the person appears to a reasonable observer to be so far under
22 such influence that:
- 23 (A) the person's emotions are conspicuously uncontrolled; or
24 (B) the person's intelligence, sense-perceptions, judgment, continuity of thought or of ideas,
25 speech and coordination of volition with muscular action, or some of these faculties or
26 processes are materially impaired.
- 27 (3) "Modified Plan Permits," as used in Rules .0105 and .0106 of this Section, mean on-premise malt
28 beverage permits authorized by elections held pursuant to G.S. 18B-602(a)(4).
- 29 (4) "Original container" means a bottle, can, or other alcoholic beverage product container filled by a
30 manufacturer or bottler that has been approved for sale within this State.
- 31 (5) ~~"Premises" means the same as defined in G.S. 18B-101(12a). A diagram attached to the investigative~~
32 ~~report and kept in the permittee's file is prima facie evidence of the premises covered by that permit~~
33 ~~and for which the permittee and the permittee's employees are responsible. Permits shall authorize~~
34 ~~the sale and possession or consumption of alcoholic beverages only on the premises described in~~
35 ~~the investigative report and diagram furnished by the investigating agent. [Recodified in 15A~~
36 ~~.0103(20)]~~

1 ~~(6)~~(5) "Private dining area" means any area of a restaurant or hotel that is or can be closed off from public
2 view.

3 ~~(7)~~(6) "Sports and entertainment venue," as used in G.S. 18B-1000(7a) and in this Subchapter, shall
4 include a building, structure, or place in which sporting competitions or contests are held, or shows,
5 performances, or other entertainment is provided.
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7 *History Note: Authority G.S. 18B-100; 18B-207; 18B-1000; 18B-1008;*
8 *Eff. January 1, 1982;*
9 *Amended Eff. January 1, 2011; July 1, 1992; May 1, 1984;*
10 *Transferred and Recodified from 04 NCAC 02S .0101 Eff. August 1, 2015;*
11 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,*
12 *2016;*
13 *Amended Eff. _____; April 1, 2019.*
14
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16 14B NCAC 15B .0102 is proposed for amendment as follows:
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18 **14B NCAC 15B .0102 APPLICATIONS FOR PERMITS: GENERAL PROVISIONS**

19 (a) Application forms for all ABC permits may be obtained from the North Carolina Alcoholic Beverage Control
20 Commission's office or website as set forth in 14B NCAC 15A .0102.

21 (b) An applicant operating noncontiguous buildings or structures, except as permitted pursuant to G.S. 18B-1120, or
22 businesses with separate trade names, shall obtain and hold separate permits for each building or business for which
23 he or she wants permits, and shall pay the application fees as set forth in G.S. 18B-902(d). If the applicant requests a
24 single permit for a business that is operated in contiguous buildings or structures over which the applicant has
25 exclusive control over the buildings and the space between buildings, the Commission shall determine if the business
26 is operating as a single business with the same operating scheme and purpose. If so, the Commission shall issue a
27 single permit for the business.

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

- 30 (1) the name, address, email address, last four digits of social security number, and telephone number(s)
31 of the applicant;
- 32 (2) the name of the business and whether the business is a sole proprietorship, corporation, limited
33 liability company, or partnership;
- 34 (3) the mailing address and location address of the business for which a permit is desired, and the
35 county, and city if applicable, where the business is located;
- 36 (4) the trade name of business;
- 37 (5) the applicant's date of birth;

- 1 (6) if the business is a corporation or limited liability company, the name and address of the person
2 authorized to accept service of process under G.S. 1A, Rule 4(j) of Commission notices or orders;
- 3 (7) if the applicant is a non-resident, the name and address of a resident of this State appointed as the
4 applicant's attorney-in-fact in accordance with Chapter 32C of the General Statutes for purposes of
5 G.S. 18B-900(a)(2)b.;
- 6 (8) an actual diagram of the premises showing:
- 7 (A) the entrances and exits;
- 8 (B) the storage area for alcoholic beverages;
- 9 (C) the locations where alcoholic beverages will be ~~serve~~sold, served, or consumed; ~~and~~
- 10 (D) the exterior areas under lease, authority, or control of the applicant; and
- 11 (E) if applicable, the part of the premises designated as the distilled spirits plant, including the
12 parts of the distilled spirits plant identified as bonded premises and general premises;
- 13 (9) that the applicant is the actual owner or lessee of the premises, or controls the premises pursuant to
14 a management agreement to operate the premises with the actual owner or lessee, where a permit is
15 sought;
- 16 (10) that the applicant is an actual resident of the State of North Carolina or, as a non-resident, has
17 appointed, by a power of attorney, a resident manager, who is an actual resident of this State, to
18 serve as attorney-in-fact who will manage the business and accept service of process and official
19 Commission notices or orders; and
- 20 (11) that the applicant is in compliance with G.S. 18B-900(a)(3) through (8).
- 21 (d) The following documents completed, signed, notarized, and recorded, as applicable, shall be attached to and
22 submitted with an application, and shall be incorporated as part of the application:
- 23 (1) a Zoning and Compliance Form signed by the appropriate officials pursuant to G.S. 18B-901(c);
- 24 (2) for applicants for retail permits, and distillery permittees requesting approval to sell distillery mixed
25 beverages, a Proof of Alcohol Seller/Server Training Form containing the applicant's name, business
26 name, address, and telephone number, and a certification of completion of an approved Alcohol
27 Seller/Server training class with training date issued by the approved course provider unique to the
28 applicant;
- 29 (3) the fingerprint card, Authority for Release of Information Form, and certified check, cashier's check,
30 money order, electronic payment, or credit card payment made payable to the North Carolina ABC
31 Commission in the amount of thirty-eight dollars (\$38.00) for payment of a state and national
32 fingerprint based check pursuant to 14B NCAC 18B .0405, which is incorporated herein by
33 reference, including subsequent amendments and editions;
- 34 (4) payment of applicable permit fees as authorized in 14B NCAC 15A .0104;
- 35 (5) a certified copy of any recorded power of attorney registered in the county where the proposed
36 licensed premises is located;

- 1 (6) a Recycling Compliance Form for on-premise malt beverage, fortified wine, unfortified wine, and
2 mixed beverage permits only;
- 3 (7) for corporations not already holding a permit in this State, a copy of the Articles of Incorporation
4 and notarized corporate certification of shareholders holding 25 percent or more of the shares of the
5 corporation;
- 6 (8) for limited liability companies not already holding a permit in this State, a copy of Articles of
7 Organization and notarized organizational certification of members owning 25 percent or more
8 interest in the company. Additionally, if manager managed, a copy of the Operating Agreement;
- 9 (9) a black and white copy of applicant's current photo identification;
- 10 (10) a copy or memorandum of the lease showing the applicant as tenant, a copy of the deed showing the
11 applicant as the grantee or owner, or a copy of a management agreement with the owner or lessee
12 of the permitted property showing the applicant has the authority to operate the business at the
13 permitted location;
- 14 (11) a diagram of the premises including the details required pursuant to Subparagraph (c)(8) of this
15 Rule; and
- 16 (12) a Federal Employer Identification/Social Security Number Verification Form.

17
18 *History Note: Authority 18B-100; 18B-207; 18B-900; 18B-901; 18B-902; 18B-903;*
19 *Eff. January 1, 1982;*
20 *Amended Eff. January 1, 2011; July 1, 1992; May 1, 1984;*
21 *Temporary Amendment Eff. October 25, 2013;*
22 *Amended Eff. September 1, 2014;*
23 *Transferred and Recodified from 04 NCAC 02S .0102 Eff. August 1, 2015;*
24 *Recodified Paragraphs (c)-(l) to 14B NCAC 15B .0103 Eff. July 1, 2018;*
25 *Readopted Eff. July 1, 2018.*

26
27 14B NCAC 15B .0113 is proposed for amendment as follows:

28
29 **14B NCAC 15B .0113 ALCOHOL SELLER/SERVER TRAINING**

30 (a) All applicants applying for retail ABC ~~permits~~ permits, and distillery permittees seeking approval to sell distillery
31 mixed beverages, shall submit as part of the application or approval of an amendment to an original approved diagram
32 to allow the sale of alcoholic beverages proof of responsible alcohol seller/server training prior to obtaining either an
33 ABC ~~permit~~ permit or approval of an amended diagram allowing the sale of alcoholic beverages.

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

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

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

22 (d) Responsible alcohol seller/server training courses and providers shall be approved by the Commission before a
23 certificate of training or transcript will be accepted by the Commission for purposes of this Rule. A person seeking to
24 become an approved vendor for alcohol education in North Carolina and a business permittee that provides training
25 for its own employees shall submit the course provider's name, mailing, physical and email addresses, telephone
26 numbers and the contract person's name and contact information, together with a copy of its responsible alcohol
27 seller/server training program course content, to the Commission for approval. The Commission shall approve courses
28 and providers that meet the minimum course content requirements set forth in Paragraph (c) of this Rule. Course
29 approval shall be valid for three years. A course provider's course content shall be submitted to the Commission for
30 approval at least once every three years in order to maintain approved status.

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

34
35 *History Note: Authority G.S. 18B-100; 18B-122; 18B-207;*
36 *Eff. July 1, 2018.*
37

1 14B NCAC 15B .0203 is proposed for amendment as follows:

2

3 **14B NCAC 15B .0203 EMPLOYEE AGE REQUIREMENT**

4 (a) Age Requirement: Brownbagging, Mixed Beverages and Special Occasions Permits. Persons holding
5 Brownbagging, Mixed Beverages or Special Occasions ~~Permits~~ Permits, or a distillery permittee approved to sell
6 distillery mixed beverages, shall have an employee who is at least 21 years of age in charge of the licensed premises
7 at all times.

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

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

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

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

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

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

24

25 *History Note: Authority G.S. 18B-100; 18B-207; 18B-900; 95-25.5(j);*

26 *Eff. January 1, 1982;*

27 *Amended Eff. July 1, 1992; May 1, 1984;*

28 *Transferred and Recodified from 04 NCAC 02S .0205 Eff. August 1, 2015;*

29 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,*
30 *2016.*

31

32 14B NCAC 15B .0208 is proposed for amendment as follows:

33

34 **14B NCAC 15B .0208 UNLAWFUL POSSESSION OR CONSUMPTION OF ALCOHOLIC**
35 **BEVERAGES**

1 ~~(a) No~~ Except as permitted under Paragraph (b) of this Rule, no permittee or his permittee's employee shall sell, offer
2 for sale, possess or knowingly permit the possession or consumption on the licensed premises of any kind of alcoholic
3 beverages, the sale or possession of which is not authorized by the ABC laws or by the permits issued to that permittee.

4 (b) In the part of a distillery's permitted premises designated as bonded premises, in addition to possessing spirituous
5 liquor distilled at the distillery, a distillery may possess spirituous liquor not distilled at the distillery if used exclusively
6 for distillery's spirituous liquor production purposes, including comparison, tasting, flavoring, sensory analysis,
7 quality control, and education.

8
9 *History Note: Authority G.S. 18B-100; 18B-102(a); 18B-207; 18B-301(f)(4),(6); 18B-1006(c),(d);*
10 *Eff. January 1, 1982;*
11 *Amended Eff. May 1, 1984;*
12 *Transferred and Recodified from 04 NCAC 02S .0211 Eff. August 1, 2015;*
13 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,*
14 *2016.*
15 *Amended Eff. _____*

16
17 14B NCAC 15B .0209 is proposed for amendment as follows:

18
19 **14B NCAC 15B .0209 CONSUMPTION: INTOXICATION BY PERMITTEE PROHIBITED**

20 (a) No permittee or permittee's employees shall be on licensed premises permitted under G.S. 18B-1001, 18B-1002,
21 18B-1114.1 or ~~18B-1114.5~~ 18B-1114.5, or while selling alcoholic beverages pursuant G.S. 18B-1105(a)(4) and (4a),
22 after consuming alcoholic beverages except under the following conditions:

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

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

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

34 (d) Notwithstanding Paragraph (a) of this Rule, a permittee or the permittee's employees may be on licensed premises
35 after consuming alcoholic beverages pursuant to G.S. 18B-1121(3) and (4) and may serve or pour alcoholic beverages
36 for other persons for the remainder of the day provided the alcohol concentration of the permittee or the permittee's
37 employees who serve or pour remains less than 0.03. The serving or pouring of alcoholic beverages for other persons

1 pursuant to this Paragraph constitutes implied-consent to a chemical analysis of the person's alcohol concentration
2 consistent with G.S. 20-16.2 and G.S. 20-139.1. The failure to submit to a chemical analysis pursuant to this Paragraph
3 shall constitute a violation of the ABC laws.

4
5 *History Note: Authority G.S. 18B-100; 18B-207; 18B-1005(b); 18B-1006(d); 18B-1121;*
6 *Eff. January 1, 1982;*
7 *Amended Eff. May 1, 1984;*
8 *Pursuant to G.S. 150B-33(b)(9), Administrative Law Judge James L. Conner, II declared Rule 04*
9 *NCAC 02S .0212(b) void as applied in North Carolina Alcoholic Beverage Control Commission v.*
10 *Midnight Sun Investments, Inc. t/a Tiki Cabaret (03 ABC 1732);*
11 *Amended Eff. January 1, 2011;*
12 *Transferred and Recodified from 04 NCAC 02S .0212 Eff. August 1, 2015;*
13 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,*
14 *2016;*
15 *Amended Eff. April 1, 2019.*

16
17 14B NCAC 15B .0222 is proposed for amendment as follows:

18
19 **14B NCAC 15B .0222 SALES ON APPROVED PREMISES ONLY: ALTERATION**

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

23 (b) Any parts of the premises not previously approved by the Commission for the sale, possession, storage or
24 consumption of alcoholic beverages, or any structural renovation or expansion of the premises that significantly alters
25 or expands the ~~areas~~parts of the premises where alcoholic beverages are to be sold, possessed, stored, or
26 ~~consumed~~consumed, shall be submitted as a ~~proposal~~ in an amended diagram form to the Commission for approval.
27 Upon submission of such a ~~proposal~~ an amended diagram, the Commission may modify the ~~areas~~parts of the premises
28 previously approved for sale, possession, consumption, and ~~storage~~ storage of alcoholic beverages.

29 (c) Upon determination by the Commission that the permittee has complied with the statutory requirements and the
30 rules of this Chapter, the Commission shall approve an amended diagram that modifies what type and where alcoholic
31 beverages may be sold, possessed, stored, or consumed on the licensed premises.

32
33 *History Note: Authority G.S. 18B-100; 18B-207; 18B-901(d);*
34 *Eff. May 1, 1984;*
35 *Transferred and Recodified from 04 NCAC 02S .0231 Eff. August 1, 2015;*
36 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,*
37 *2016.*

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14B NCAC 15B .0223 is proposed for amendment as follows:

14B NCAC 15B .0223 HAPPY HOURS REGULATED

(a) An on-premise permittee or ~~his agent~~ an on-premise permittee’s agent, or a distillery or a distillery permittee’s employee selling distillery mixed beverages, shall not:

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

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

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

(c) For purposes of this Rule, a "drink" contains the amount of alcoholic beverages usually and customarily served to a single patron as a single serving by the permittee.

A "drink" may also include two different alcoholic beverages served separately at the same time to a single patron if ~~such~~ the "drink" is a customary combination, such as a "boilermaker" consisting of a shot of spirituous liquor with a malt beverage. A "drink" may also a group of samples of alcoholic beverages served in multiple containers and may be referred to as "a flight", provided the total amount of the alcoholic beverages in the samples does not exceed 12 oz. of malt beverages, 5 oz. of unfortified wine, 3 oz. of fortified wine, or 1.5 oz. of spirituous liquor.

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

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

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

14B NCAC 15B .0507 is proposed for amendment as follows:

1 **14B NCAC 15B .0507 PRE-MIXING DRINKS**

2 (a) Except as provided in this Rule, ~~neither a~~ no mixed beverage permittee nor his employee or a mixed beverage
3 permittee's employee, or a distillery or a distillery permittee's employee selling distillery mixed beverages, shall
4 pre-mix mixed beverages or prepare any mixed beverage before receiving an order for the beverage from a customer.

5 (b) A mixed beverages permittee or a distillery selling distillery mixed beverages may pre-mix mixed beverages upon
6 receiving Commission approval provided the following conditions are complied with:

- 7 (1) ~~No~~ For a mixed beverages permittee, no spirituous liquor may be used in the pre-mixing of mixed
8 beverages except spirituous liquor on which the mixed beverages charge imposed by G.S.
9 18B-804(b)(8) has been paid. All spirituous liquor used for pre-mixing of mixed beverages shall be
10 dispensed into the approved pre-mixing system from a container to which a mixed beverages tax
11 stamp is affixed;
- 12 (2) All pre-mixing shall be done pursuant to a recipe that has been approved by the Commission. That
13 recipe shall state the exact percentage and type or types of spirituous liquors and other alcoholic
14 beverages used in the mixture;
- 15 (3) Pre-mixing shall be limited to those approved recipes for which the permittee prepares and sells at
16 least five gallons per week. The Commission shall withdraw its approval for pre-mixing of any
17 recipe for which this minimum standard is not maintained;
- 18 (4) Only equipment and systems approved by the Commission shall be employed in the pre-mixing and
19 dispensing of mixed beverages;
- 20 (5) A permittee that is authorized to pre-mix mixed beverages shall maintain at all times an accurate
21 inventory reflecting withdrawals from ~~his~~ the permittee's spirituous liquor stock for purposes of
22 pre-mixing that specifies:
 - 23 (A) the brand and container size of each item withdrawn;
 - 24 (B) the date and time of withdrawal; and
 - 25 (C) the date and time partially used containers are returned to storage.

26
27 *History Note: Authority G.S. 18B-100; 18B-207;*
28 *Eff. January 1, 1982;*
29 *Amended Eff. May 1, 1984;*
30 *Transferred and Recodified from 04 NCAC 02S .0511 Eff. August 1, 2015;*
31 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,*
32 *2016.*

33
34 14B NCAC 15B .0509 is proposed for amendment as follows:

35
36 **14B NCAC 15B .0509 PROHIBITED ACTS: HANDLING AND STORAGE OF LIQUOR**

1 Neither a mixed beverages ~~permittee nor his~~ permittee, a mixed beverages permittee's employee, a distillery selling
2 distillery mixed beverages, nor the distillery's employee whether on or off the premises, shall:

- 3 (1) add any alcoholic beverage to any container of spirituous liquor purchased for resale in mixed
4 beverages;
- 5 (2) transfer from one spirituous liquor container to another or remove from any liquor container the
6 mixed beverages tax stamp or any other stamp, label, seal or device required by law to be affixed to
7 the container;
- 8 (3) destroy, alter or deface the mixed beverages tax stamp or any other stamp, label, seal or device
9 required by law to be affixed to a liquor container before the container has been emptied;
- 10 (4) possess a counterfeit mixed beverages stamp, place a counterfeit mixed beverages stamp on any
11 liquor container, or knowingly possess any container with a counterfeit stamp;
- 12 (5) store any spirituous liquor purchased for resale in mixed beverages in any place other than the
13 approved storage area of the premises specified in the purchase-transportation
14 ~~permit;~~ permit/invoice;
- 15 (6) place or have in the approved storage area or possess elsewhere on the licensed premises any
16 container of spirituous liquor not bearing a mixed beverages tax ~~stamp;~~ stamp, except spirituous
17 liquor distilled at the distillery of the mixed beverages permittee approved by the Commission for
18 sale in this State;
- 19 (7) dilute or otherwise tamper with the contents of any container of alcoholic beverages;
- 20 (8) give or sell to any patron any container of spirituous liquor that was purchased for resale as mixed
21 beverages, whether the container is full or partially full; provided, however, this prohibition shall
22 not be construed to prohibit a room guest from removing from the hotel a container of alcoholic
23 beverages purchased from a guest room cabinet;
- 24 (9) possess any empty container of spirituous liquor purchased for resale in mixed beverages if the
25 mixed beverages tax stamp on that container has not been permanently defaced;
- 26 (10) possess or sell on the premises any brand of spirituous liquor that has not been approved by the
27 Commission for sale in North Carolina or that was not purchased by the permittee pursuant to an
28 approved special order;
- 29 (11) purchase any spirituous liquor for resale in mixed beverages other than as authorized by a valid
30 purchase-transportation ~~permit;~~ permit/invoice form issued by a local board.
- 31 (12) conceal or otherwise fail to indicate truthfully and accurately in any records required to be kept by
32 the permittee the sale of any alcoholic beverages on the licensed premises; or
- 33 (13) make any other incomplete, inaccurate, false or misleading statements in any report or record
34 required by these Rules.

1 **Editor's Note:** *Beecher R. Gray, Administrative Law Judge with the Office of Administrative Hearings, declared Rule*
2 *04 NCAC 02S .0513(3) void as applied in North Carolina Alcoholic Beverage Control Commission v. Keven Scott*
3 *Heath, Robinhood Grille, LLC, T/A Robinhood Grille (00 ABC 1026).*

4
5 *History Note: Authority G.S. 18B-100; 18B-207; 18B-404; 18B-1001(13); 18B-1007; 18B-1008;*
6 *Eff. January 1, 1982;*
7 *Amended Eff. July 1, 1992; May 1, 1984;*
8 *Transferred and Recodified from 04 NCAC 02S .0513 Eff. August 1, 2015;*
9 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,*
10 *2016.*
11 *Amended Eff. _____.*
12

13 14B NCAC 15B .1004 is proposed for amendment as follows:

14
15 **14B NCAC 15B .1004 GENERAL PROHIBITIONS**

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

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

26 (b) Advertising for an alcoholic beverage shall not include a coupon or an offer for a free alcoholic beverage. No
27 person shall advertise by means of a coupon, a rebate or a permittee's loyalty card, discount card or membership card
28 offering a discount off the purchase of a malt beverage or wine, except as provided in this Section. A combination of
29 the use of a coupon, a rebate or a permittee's loyalty card, discount card or membership card shall not exceed a total
30 of 35 percent of the advertised retail price of the item. Permittees may advertise by means of a coupon, a rebate or a
31 permittee's loyalty card, discount card or membership card under the following conditions:

- 32 (1) A permittee who holds an on-premises or off-premises malt beverage or wine permit under G.S.
33 18B-1001(1) through (6) or a wine shop permit under G.S. 18B-1001(16) may advertise by means
34 of a coupon or a rebate in the following circumstances:
- 35 (A) The permittee may provide a coupon or a rebate for use by a customer when purchasing a
36 malt beverage or wine sold at the permittee's retail location for off-premises consumption;

- 1 (B) The permittee may require a customer to use the permittee's loyalty card, discount card, or
2 membership card with the use of a coupon or rebate when purchasing a malt beverage or
3 wine sold at the permittee's retail location for off-premises consumption;
- 4 (C) No coupons or rebates shall be honored for the purchase of alcohol for any individual below
5 the legal age for purchase of alcohol;
- 6 (D) A coupon or rebate shall not provide a discount exceeding 35 percent of the advertised
7 retail price of the item;
- 8 (E) A permittee shall not advertise or distribute coupons or rebates in a publication produced
9 for or by a higher education institution; and
- 10 (F) In any advertisement displaying a discount coupon or rebate, the permittee shall include
11 the following statement on or about the discount coupon or rebate in a similar font to the
12 discount coupon or rebate, "Drink Responsibly – Be 21;" and
- 13 (2) A permittee who holds an on-premises or off-premises malt beverage or wine permit under G.S.
14 18B-1001(1) through (6) or a wine shop permit under G.S. 18B-1001(16) may advertise discounts,
15 coupons and rebates with the requirement of the use of the permittee's loyalty card, discount card or
16 membership card in the following circumstances;
- 17 (A) The permittee shall require customers to present a loyalty card, discount card or
18 membership card to receive the advertised loyalty card, discount card or membership card
19 discount when purchasing a malt beverage or wine sold at the permittee's retail location for
20 off-premises consumption;
- 21 (B) No loyalty card, discount card or membership card shall be honored for the purchase of
22 alcohol for any individual below the legal age for purchase of alcohol;
- 23 (C) A loyalty card, discount card or membership card shall not provide a discount exceeding
24 35 percent of the advertised retail price of the item;
- 25 (D) A permittee shall not advertise permittee loyalty card, discount card or membership card
26 discounts in a publication produced for or by a higher education institution; and
- 27 (E) In any advertisement displaying a permittee loyalty card, discount card or membership card
28 discount, the permittee shall include the following statement on or about the discount
29 coupon or rebate in a similar font to the discount, "Drink Responsibly – Be 21."

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

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

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

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

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

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

10

11 *History Note: Authority G.S. 18B-100; 18B-105(b); 18B-207; 18B-1116(a)(3); S.L. 2019-182, s. 11;*
12 *Eff. January 1, 1982;*
13 *Amended Eff. January 1, 2011; July 1, 1992; August 1, 1985; May 1, 1984;*
14 *Transferred and Recodified from 04 NCAC 02S .1006 Eff. August 1, 2015;*
15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,*
16 *2016;*
17 *Amended Eff. _____; February 1, 2020.*

18