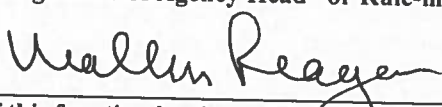


SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: Alcoholic Beverage Control Commission	
2. Rule citation & name (name not required for repeal): 14B NCAC 15B .1003 Prohibited Statements in Advertising or on Labels	
3. Action: <input type="checkbox"/> ADOPTION <input type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input checked="" type="checkbox"/> READOPTIO N	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
6. Notice for Proposed Rule: <input checked="" type="checkbox"/> Notice Required Notice of Text published on: March 15, 2018 Link to Agency notice: www.abc.nc.gov Hearing on: April 18, 2018 Adoption by Agency on: May 16, 2018 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact (check all that apply): <input type="checkbox"/> State funds affected <input type="checkbox"/> Environmental permitting of DOT affected and analysis submitted to Board of Transportation <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
9. REASON FOR ACTION	
9A. What prompted this action? Check all that apply: <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: </div> <div style="width: 45%;"> <input type="checkbox"/> Legislation enacted by the General Assembly Cite Session Law: <input type="checkbox"/> Petition for rule-making <input checked="" type="checkbox"/> Other: G.S. 150B-21.3A </div> </div>	
9B. Explain: As part of the period review of existing rules under G.S. 150B-21.3A, this rule was determined by the ABC Commission to be necessary with substantial public interest. The Rules Review Commission established that this rule should be readopted by May 31, 2018.	
10. Rule-making Coordinator: Walker Reagan Address: 400 East Tryon Road Raleigh, NC 27610 Phone: 919-779-8367 E-Mail: walker.reagan@abc.nc.gov Agency Contact, if any: Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator: <div style="text-align: center; margin-top: 10px;">  </div> <hr style="width: 80%; margin: 0 auto;"/> *If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form. Typed Name: Walker Reagan Title: Rule-making Coordinator
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

OFFICE OF ADMIN HEARINGS
 2018 MAY 16 PM 4: 09
 FILED

1 14B NCAC 15B .1003 is readopted with changes as published in 32:18 NCR 1750 as follows:
2

3 **14B NCAC 15B .1003 PROHIBITED STATEMENTS IN ADVERTISING OR ON LABELS**

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

- 6 (1) is contrary to the Federal Alcohol Administration Act, 27 C.F.R. Sections 4.39, 4.64, 5.42, 5.65,
7 7.29, or 7.54, as interpreted by the ~~Commission,~~Commission. The provisions of 27 C.F.R. Sections
8 4.39, 4.64, 5.42, 5.65, 7.29, and 7.54 referenced in this Rule are hereby incorporated, including
9 subsequent amendments and editions, and may be accessed for free at <https://www.gpo.gov>;
10 (2) depicts the use of alcoholic beverages in a scene which is determined by the Commission to be
11 undignified, immodest or in bad taste;
12 (3) offers a prize or award upon the completion of any contest in which there is a requirement to
13 purchase the advertised product, except as otherwise permitted pursuant to 14B NCAC 15C .0714,
14 provided that no advertisement shall promote a game of chance or a lottery;
15 (4) ~~could lead a person under 21 years of age to believe that the product is suitable for consumption by~~
16 ~~that person;~~promotes or encourages the sale to, or use by, persons under 21 years of age of alcoholic
17 beverages, including any representation portraying a person under 21 years of age consuming
18 alcoholic beverages;
19 (5) is inconsistent with the State laws of public safety or safe driving;
20 (6) is contrary to state laws and rules governing sale, storage, or consumption of alcoholic beverages;
21 or
22 (7) is otherwise prohibited pursuant to a rule in this Chapter.
23

24 *Editor's Note:* James L. Conner, II, Administrative Law Judge with the Office of Administrative Hearings, declared
25 Rule 4 NCAC 2S .1005(a)(3) void as applied in Daniel W. Shelton t/a Shelton Broers v. N.C. Alcoholic Beverage
26 Control Commission (99 ABC 1641).
27

28 *History Note:* Authority G.S. 18B-100;18B-105; 18B-206; 18B-207;
29 Eff. January 1, 1982;
30 Amended Eff. July 1, 1992; May 1, 1984;
31 Transferred and Recodified from 04 NCAC 02S .1005 Eff. August 1, 2015;
32 Effective July 1, 2018.
33