



NOTICE OF TEXT

[Authority G.S. 150B-21.2(c)]

OAH USE ONLY

VOLUME:

ISSUE:

CHECK APPROPRIATE BOX:

- Notice with a scheduled hearing
 Notice without a scheduled hearing
 Republication of text. Complete the following cite for the volume and issue of previous publication, as well as blocks 1 - 4 and 7 - 14. If a hearing is scheduled, complete block 5.
Previous publication of text was published in Volume: Issue:

1. Rule-Making Agency: Alcoholic Beverage Control Commission

2. Link to agency website pursuant to G.S. 150B-19.1(c): <https://abc.nc.gov/>

3. Proposed Action -- Check the appropriate box(es) and list rule citation(s) beside proposed action:

- ADOPTION:
- AMENDMENT: 14B NCAC 15B .1004
- REPEAL:
- READOPTION with substantive changes:
- READOPTION without substantive changes:
- REPEAL through READOPTION:

4. Proposed effective date: February 1, 2020

5. Is a public hearing planned? Yes No

If yes: Public Hearing date: November 13, 2019

Public Hearing time: 10:00 a.m.

Public Hearing location: ABC Commission Hearing Room, 400 East Tryon Road, Raleigh, NC 27610

6. If no public hearing is scheduled, provide instructions on how to demand a public hearing:

7. Explain Reason For Proposed Rule(s): To adopt a permanent rule to increase the maximum allowable rebate an ABC retail permittee may offer on malt beverages or wine through the use of a coupon, rebate, loyalty card, discount card, or membership card from 25% to 35%, as directed by the General Assembly in S.L. 2019-182, Sec. 11.

8. Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Rule(s) is automatically subject to legislative review. Cite statutory reference:

9. The person to whom written comments may be submitted on the proposed rule(s):

Name: Walker Reagan

Address: 400 East Tryon Road

Raleigh, NC 27610

Phone (optional): 919-779-8367

Fax (optional): 919-661-6165

E-Mail (optional): walker.reagan@abc.nc.gov

10. Comment Period Ends: November 15, 2019

11. Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (\geq \$1,000,000)
- Approved by OSBM
- No fiscal note required

12. Rule-making Coordinator: Walker Reagan

Phone: 919-779-8367

E-Mail: walker.reagan@abc.nc.gov

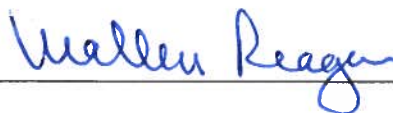
Additional agency contact, if any: Renee Metz

Phone: 919-779-8331

E-mail: renee.metz@abc.nc.gov

13. The Agency formally proposed the text of this rule(s) on
Date: August 14, 2019

14. Signature of Agency Head* or Rule-making Coordinator:



Typed Name: Walker Reagan
Title: Rule-making Coordinator

**If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.*

1 14B NCAC 15B .1004 is proposed for amendment as follows:
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3 **14B NCAC 15B .1004 GENERAL PROHIBITIONS**

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

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

14 (b) Advertising for an alcoholic beverage shall not include a coupon or an offer for a free alcoholic beverage. No
15 person shall advertise by means of a coupon, a rebate or a permittee's loyalty card, discount card or membership card
16 offering a discount off the purchase of a malt beverage or wine, except as provided in this section. A combination of
17 the use of a coupon, a rebate or a permittee's loyalty card, discount card or membership card shall not exceed a total
18 of ~~25~~35 percent of the advertised retail price of the item. Permittees may advertise by means of a coupon, a rebate or
19 a permittee's loyalty card, discount card or membership card under the following conditions:

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

1 (2) A permittee who holds an on-premises or off-premises malt beverage or wine permit under G.S.
2 18B-1001(1) through (6) or a wine shop permit under G.S. 18B-1001(16) may advertise discounts,
3 coupons and rebates with the requirement of the use of the permittee's loyalty card, discount card or
4 membership card in the following circumstances;

5 (A) The permittee shall require customers to present a loyalty card, discount card or
6 membership card to receive the advertised loyalty card, discount card or membership card
7 discount when purchasing a malt beverage or wine sold at the permittee's retail location for
8 off-premises consumption;

9 (B) No loyalty card, discount card or membership card shall be honored for the purchase of
10 alcohol for any individual below the legal age for purchase of alcohol;

11 (C) A loyalty card, discount card or membership card shall not provide a discount exceeding
12 ~~25~~35 percent of the advertised retail price of the item;

13 (D) A permittee shall not advertise permittee loyalty card, discount card or membership card
14 discounts in a publication produced for or by a higher education institution; and

15 (E) In any advertisement displaying a permittee loyalty card, discount card or membership card
16 discount, the permittee shall include the following statement on or about the discount
17 coupon or rebate in a similar font to the discount, "Drink Responsibly – Be 21."

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

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

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

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

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

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

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35 *History Note:* Authority G.S. 18B-100; 18B-105(b); 18B-207; 18B-1116(a)(3); S.L. 2019-182, Sec. 11:
36 Eff. January 1, 1982;
37 Amended Eff. January 1, 2011; July 1, 1992; August 1, 1985; May 1, 1984;

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Transferred and Recodified from 04 NCAC 02S .1006 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,
2016.