



**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 - 13. 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): [www.abc.nc.gov](http://www.abc.nc.gov)

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

- ADOPTION: 14B NCAC 15A .0104 and 15B .0113.
- READOPTION **with** substantive changes: 14B NCAC 15B .0102 and .0103.
- READOPTION **without** substantive changes:
- AMENDMENT: 14B NCAC 15B .1104.
- REPEAL:

4. Proposed effective date: July 1, 2018

5. Is a public hearing planned?  Yes  No

If yes: Public Hearing date: April 18, 2018

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 readopt the permanent rule(s) regulating the application for permit process, to adopt a related rule with regards to Alcohol Seller/Server Training, and to adopt and amend rules related to the allowing payment of fees for permit applications and renewals, and fines, by credit card or electronic funds transfer.

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: May 14, 2018.

11. Fiscal impact (check all that apply).

If this form contains rules that have different fiscal impacts, list the rule citations beside the appropriate impact.

- State funds affected –See fiscal note at [www.abc.nc.gov](http://www.abc.nc.gov)
- Environmental permitting of DOT affected  
Analysis submitted to Board of Transportation
- Local funds affected
- Substantial economic impact ( $\geq$ \$1,000,000)
- Approved by OSBM
- No fiscal note required by G.S. 150B-21.4
- No fiscal note required by G.S. 150B-21.3A(d)(2)

12. 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:

13. The Agency formally proposed the text of this rule(s) on  
Date: February 14, 2018

14. Signature of Agency Head\* or 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.

Typed Name: Walker Reagan

Title: Rule-making Coordinator

1 14B NCAC 15A .0104 is proposed for adoption as follows:  
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3 **14B NCAC 15A .0104 PAYMENT OF FEES AND FINES**

4 Except as otherwise limited in this Rule, payment of fees and fines owed to the Commission may be paid by certified  
5 check, cashier's check, money order, electronic payment, or Discover, Mastercard, or Visa credit cards. Payments for  
6 permit renewals for more than nine locations shall not be made by credit card. Credit card and electronic payments  
7 may be made online through the Commission's website. All payments shall be made payable to the North Carolina  
8 ABC Commission.

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10 History Note: Authority G.S. 18B-100, 18B-104; 18B-206; 18B-207; 18B-902; 18B-903;  
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1 14B NCAC 15B .0102 is proposed for readoption with substantive changes as follows:

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3 **14B NCAC 15B .0102 APPLICATIONS FOR PERMITS: GENERAL PROVISIONS**

4 (a) ~~Forms.~~—Application forms for all ABC permits may be obtained from the North Carolina Alcoholic Beverage  
5 Control Commission's office or ~~web site~~website as ~~referenced~~set forth in 14B NCAC 15A .0102.

6 (b) ~~Statutory Requirements.~~ ~~Before the issuance of any ABC permit, an applicant shall comply with the statutory~~  
7 ~~requirements of Articles 9 and 10 of Chapter 18B of the General Statutes and with the rules of the Commission.~~

8 (c) ~~Separate Permits Required.~~—An applicant operating ~~separate~~noncontiguous buildings or ~~structures not connected~~  
9 ~~directly with each other structures, except as permitted pursuant to G.S. 18B-1120,~~ or businesses with separate trade  
10 ~~names~~names, shall obtain and hold separate permits for each building or business for which he or she wants permits,  
11 and shall pay the ~~appropriate~~ application fees as ~~provided~~set forth in G.S. 18B-902(d). ~~Where there are multiple~~  
12 ~~buildings, and the Commission determines that the business is operated as one entity, the Commission may, in its~~  
13 ~~discretion, issue one permit.~~An applicant operating contiguous buildings or structures over which the applicant has  
14 exclusive control over the buildings and the space between buildings, and the buildings are operated as one business  
15 as determined by the Commission, may obtain and hold a single permit for the business.

16 (d)(c) ~~Information Required on Application.~~ ~~An~~Each individual required to qualify for an ABC permit under G.S.  
17 18B-900(c) applicant for an ABC permit shall file a written application with the Commission and in the application  
18 shall state, under oath, the following information:

19 (1) ~~name and address of applicant;~~the name, address, email address, last four digits of social security  
20 number, and telephone number(s) of the applicant;

21 (2) the name of the business and whether the business is a sole proprietorship, ~~corporate,~~corporation,  
22 limited liability ~~company~~company, or ~~partnership name;~~partnership;

23 (3) the mailing address and location address of ~~the~~ business for which a permit is desired, and ~~the~~ county  
24 in which ~~county,~~ and city if applicable, where the business is located;

25 (4) the trade name of business;

26 (5) ~~name and address of owner of premises;~~

27 (6) ~~the applicant's date and place of birth;~~

28 (7)(6) if the business is a corporation or limited liability company, the name and address of ~~the agent or~~  
29 ~~employee~~person authorized to serve as process agent ~~(person upon whom accept service of process~~  
30 under G.S. 1A, Rule 4(j) ~~legal service~~of Commission notices or ~~orders can be made);~~orders;

31 (8)(7) if the applicant is a non-resident, the name and address of ~~person~~ a resident of this State appointed  
32 as ~~the applicant's attorney-in-fact~~ in accordance with Chapter 32A of the General Statutes ~~by a~~  
33 ~~power of attorney;~~ for purposes of G.S. 18B-900(a)(2)b.;

34 (9)(8) an actual diagram of the premises showing:

35 (A) the entrances and exits;

36 (B) the storage area for alcoholic beverages; and

37 (C) the locations where alcoholic beverages will be served or consumed; and

- 1           (D) the exterior areas under lease, authority, or control of the applicant;
- 2       ~~(10)~~(9) that the applicant is the actual and bona fide owner or lessee of the premises, or controls
- 3           the premises pursuant to a management agreement to operate the premises with the actual owner or
- 4           lessee, for which where a permit is sought and shall submit a copy or memorandum of the lease
- 5           showing the applicant as tenant, or a copy of the deed showing the applicant as the grantee or
- 6           owner; sought;
- 7       ~~(11)~~ that the applicant intends to carry on the business authorized by the permit himself or herself or
- 8           under his or her immediate supervision and direction; and
- 9       ~~(12)~~(10) that the applicant is an actual and bona fide resident of the State of North Carolina or, as a non-
- 10           resident, has appointed, by a power of attorney, a resident manager, who is an actual
- 11           resident of this State, to serve as attorney-in-fact who will manage the business and accept service
- 12           of process and official Commission notices or orders; and
- 13       (11) that the applicant is in compliance with G.S. 18B-900(a)(3) through (8).

14 (d) The following documents completed, signed, notarized, and recorded, as applicable, shall be attached to and

15 submitted with an application, and shall be incorporated as part of the application:

- 16       (1) a Zoning and Compliance Form signed by the appropriate officials pursuant to G.S. 18B-901(c);
- 17       (2) for applicants for retail permits, a Proof of Alcohol Seller/Server Training Form containing the
- 18           applicant's name, business name, address, and telephone number, and a certification of completion
- 19           of an approved Alcohol Seller/Server training class with training date issued by the approved course
- 20           provider unique to the applicant;
- 21       (3) the fingerprint card, Authority for Release of Information Form, and certified check, cashier check,
- 22           money order, electronic payment, or credit card payment made payable to the North Carolina ABC
- 23           Commission in the amount of thirty-eight dollars (\$38.00) for payment of a state and national
- 24           fingerprint based check pursuant to 14B NCAC 18B .0405;
- 25       (4) payment of applicable permit fees as authorized in 14B NCAC 15A .0104;
- 26       (5) a certified copy of any recorded power of attorney registered in the county where the proposed
- 27           licensed premises is located;
- 28       (6) a Recycling Compliance Form for on-premise malt beverage, fortified wine, unfortified wine, and
- 29           mixed beverage permits only;
- 30       (7) for corporations not already holding a permit in this State, a copy of the Articles of Incorporation
- 31           and notarized corporate certification of shareholders holding 25% or more of the shares of the
- 32           corporation;
- 33       (8) for limited liability companies not already holding a permit in this State, a copy of Articles of
- 34           Organization and notarized organizational certification of members owning 25% or more interest in
- 35           the company. Additionally, if manager managed, a copy of the Operating Agreement;
- 36       (9) a black and white copy of applicant's current photo identification that bears a reasonable
- 37           resemblance to the applicant;

1           (10) a copy or memorandum of the lease showing the applicant as tenant, a copy of the deed showing the  
2           applicant as the grantee or owner, or a copy of a management agreement with the owner or lessee  
3           of the permitted property showing the applicant has the authority to operate the business at the  
4           permitted location;

5           (11) a diagram of the premises including the details required pursuant to Subparagraph (c)(8) of this  
6           Rule; and

7           (12) a Federal Employer Identification/Social Security Number Verification Form.

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10   *History Note: Authority 18B-100; ~~18B-206(a)~~; 18B-207; 18B-900; ~~18B-901(d)~~; ~~18B-901~~; 18B-902; 18B-903;*  
11    *~~18B-905; 18B-1000(3); 18B-1001; 18B-1008; 18B-1009;~~*  
12    *Eff. January 1, 1982;*  
13    *Amended Eff. January 1, 2011; July 1, 1992; May 1, 1984;*  
14    *Temporary Amendment Eff. October 25, 2013;*  
15    *Amended Eff. September 1, 2014;*  
16    *Transferred and Recodified from 04 NCAC 02S .0102 Eff. August 1, 2015;*  
17    *Recodified Paragraphs (c)-(l) to 14B NCAC 15B .0103 Eff \_\_\_\_\_;*  
18    *Readopted Eff. \_\_\_\_\_.*

1 14B NCAC 15B .0103 (originally Rule 15B .0102 (c)-(l)) is proposed for readoption with substantive changes as  
2 follows:

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4 **[Paragraphs (e) through (l) of 15B .0102 will be recodified as 15B .0103, and the existing 15B .0103 will be**  
5 **recodified as 15B .0109.]**

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7 **14B NCAC 15B .0103 ADDITIONAL PERMIT LIMITATIONS AND REQUIREMENTS**

8 ~~(e)(a) General Restriction; Living Quarters.~~—No permit for the possession, ~~salesale,~~ or consumption of alcoholic  
9 beverages shall be issued to any establishment when there are living quarters in or connected directly thereto, and  
10 no permittee shall establish or maintain living quarters in or connected to ~~his or her the~~ the permittee's licensed premises.

11 ~~(f)(b) General Restriction; Restrooms.~~—No permit for the on-premises possession, sale, or consumption of alcoholic  
12 beverages shall be issued to any establishment unless there are two restrooms in working order on the premises. The  
13 Commission shall waive ~~this~~ the two-restroom requirement upon a showing by the permittee that ~~he or she will suffer~~  
14 financial hardship or the safety of the employees will be jeopardized, it is not possible to have a second restroom in  
15 the existing premises due to building restrictions under historical preservation or zoning laws, or building or fire codes.

16 ~~(g)(c) Areas for Sales and Consumption.~~—In determining the areas where alcoholic beverages ~~will~~ may be sold and  
17 consumed, the Commission shall consider the convenience of the permittee and patrons, allowing the ~~fullest~~ maximum  
18 use of the premises consistent with the control of the sale and consumption of alcoholic ~~beverages,~~ but the beverages.  
19 ~~Commission will attempt to avoid consumption.~~ Consumption shall not be allowed in areas open to the general public  
20 other than patrons. To be approved, any premises shall have delineated vertical boundaries that the consumer would  
21 recognize as indicating the boundaries that physically separate areas where consumption is allowed from areas open  
22 to the general public other than patrons.

23 ~~(h) Temporary Permits for Continuation of Business.~~—~~The Commission may issue temporary permits to an applicant~~  
24 ~~for the continuation of a business operation that holds current ABC permits when a change in ownership or location~~  
25 ~~of a business has occurred. To obtain a temporary permit an applicant shall submit the appropriate ABC permit~~  
26 ~~application form, all required fees, a lease or other proof of legal ownership or possession of the property on which~~  
27 ~~the business is to be operated, and a written statement from the ALE agent in that area stating that there are no pending~~  
28 ~~ABC violations against the business. An applicant for a temporary permit shall also submit the permits of the prior~~  
29 ~~permittee for cancellation prior to the issuance of any temporary permit. No temporary permit shall be issued to any~~  
30 ~~applicant unless all prior ABC permits issued for the premises have been cancelled by the Commission.~~

31 ~~(i)(d) Retail Sales at Public Places Restricted.~~—The sale and delivery of alcoholic beverages by permitted retail outlets  
32 located on ~~fair grounds, fairgrounds,~~ golf courses, ball parks, race tracks, and other similar public places are restricted  
33 to an enclosed establishment in a designated place. No alcoholic beverages shall be sold, served, or delivered by these  
34 outlets outside the enclosed establishment, nor in grandstands, stadiums, or bleachers at public gatherings, except as  
35 provided in Paragraph ~~(f)(g)~~ of this Rule. As used in this Paragraph, the term "enclosed establishment" includes a  
36 temporary structure or structures constructed and used for the purpose of dispensing food and beverages at events to

1 be held on fairgrounds, golf courses, ball parks, race tracks, and other similar places. Sales of alcoholic beverages  
2 may be made in box seats only under the following conditions:

- 3 (1) table service of food and non-alcoholic beverages are available to patrons in box seats;
- 4 (2) no alcoholic beverages are delivered to the box seats area until after orders have been taken; and
- 5 (3) box seat areas have been designated as part of the permittee's premises on a diagram submitted by  
6 the permittee, and the Commission has granted written approval of alcoholic beverage sales in these  
7 seating areas.

8 ~~(j)(e)~~ If one permittee has more than one location within a single terminal of an airport boarding at least 150,000  
9 passengers annually and that permittee leases space from the airport authority, the permittee in such a situation may:

- 10 (1) obtain a single permit for all its locations in the terminal;
- 11 (2) use one central facility for storing the alcoholic beverages it sells at its locations; and
- 12 (3) pool the gross receipts from all its locations for determining whether it meets the requirements of  
13 G.S. 18B-1000(6) and 14B NCAC 15B .0514.

14 ~~(k)(f) Food Businesses.~~ Unless the business otherwise qualifies as a wine shop primarily engaged in selling wines  
15 for off-premise consumption, a food business qualifies for an off-premise fortified wine permit only if it maintains an  
16 inventory of staple foods worth at least one thousand five hundred dollars (\$1,500) at retail value. Staple foods include  
17 meat, poultry, fish, bread, cereals, vegetables, fruits, vegetable and fruit juices, and dairy products. Staple foods do  
18 not include coffee, tea, cocoa, soft drinks, candy, condiments, and ~~spices-baked goods ingredients, except for~~  
19 ingredients also listed as staple foods in this Paragraph.

20 ~~(l)(g) Professional Sporting Events.~~ Notwithstanding Paragraph ~~(i)(d)~~ of this Rule, holders of a retail permit pursuant  
21 to G.S. 18B-1001(1) may ~~sell malt beverages for consumption in the seating areas of stadiums, ball parks, and similar~~  
22 ~~public places with a seating capacity of 3,000 or more during professional sporting events~~ have in-stand sales pursuant  
23 to G.S. 18B-1009, provided that:

- 24 (1) the permittee or the permittee's employee shall not wear or display alcoholic beverage branded  
25 advertising;
- 26 (2) the permittee or the permittee's employee shall not use branded carrying trays, coolers, or other  
27 equipment to transport malt beverage products;
- 28 (3) the permittee or the permittee's employee may display the malt beverage product names and prices  
29 provided that all of the product names are displayed with the same font size and font style; and
- 30 (4) in-stand sales shall cease, whichever is earlier, upon the cessation of other malt beverage sales  
31 otherwise in the sports facility or upon the commencement of:
  - 32 (A) the eighth inning during baseball ~~games; provided that games.~~ However, if a single ticket  
33 allows entry to more than one baseball game, then the eighth inning of the final game;
  - 34 (B) the fourth quarter during football and basketball games;
  - 35 (C) the sixtieth minute during soccer games;
  - 36 (D) the third period during hockey games;
  - 37 (E) the final 25 percent of the distance scheduled for automotive races; and



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(F) the final hour of the anticipated conclusion of a contest or event for all other events.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-900; 18B-901;18B-902; 18B-903; 18B-905; 18B-1000(3);  
18B-1001; 18B-1008; 18B-1009;  
Transferred from 14B NCAC 15B .0102(c)-(l) Eff. \_\_\_\_\_;  
Readopted Eff. \_\_\_\_\_.*

1 14B NCAC 15B .0113 is proposed for adoption as follows:  
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3 **14B NCAC 15B .0113 ALCOHOL SELLER/SERVER TRAINING**

4 (a) All applicants applying for retail ABC permits shall submit as part of the application proof of responsible alcohol  
5 seller/server training prior to obtaining an ABC permit.

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

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

12 (1) age requirements for possessing, purchasing, and consuming alcoholic beverages;

13 (2) age requirements for selling and serving alcoholic beverages;

14 (3) acceptable forms of identification;

15 (4) methods to detect fake, altered, and imposter forms of identification;

16 (5) State Dram Shop laws;

17 (6) sales to intoxicated persons, including:

18 (A) penalties;

19 (B) prevention;

20 (C) typical signs of intoxication; and

21 (D) methods of detecting intoxication in customers;

22 (7) sales to underage persons, including:

23 (A) penalties;

24 (B) prevention; and

25 (C) methods of identifying potential underage customers;

26 (8) hours of sale and consumption, including clearing of tables;

27 (9) prohibited conduct on the ABC licensed premises, including:

28 (A) drug use; and

29 (B) gambling; and

30 (10) amounts of alcohol that may be purchased by customers in accordance with G.S. 18B-303.

31 (d) Responsible alcohol seller/server training courses and providers shall be approved by the Commission before a  
32 certificate of training or transcript will be accepted by the Commission for purposes of this Rule. A person seeking  
33 to become an approved vendor for alcohol education in North Carolina and a business permittee that provides training  
34 for its own employees shall submit the course provider's name, mailing, physical and email addresses, telephone  
35 numbers and the contract person's name and contact information, together with a copy of its responsible alcohol  
36 seller/server training program course content, to the Commission for approval. The Commission shall approve courses  
37 and providers that meet the minimum course content requirements set forth in Paragraph (c) of this Rule. Course

1 approval shall be valid for three years. A course provider's course content shall be submitted to the Commission for  
2 approval at least once every three years in order to maintain approved status.

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

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7 History Note: Authority G.S. 18B-100; 18B-122; 18B-207;

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1 14B NCAC 15B .1104 is proposed for amendment as follows:

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3 **14B NCAC 15B .1104 ADMINISTRATIVE FINES: PAYMENT**

4 ~~Pursuant to G.S. 18B-104, the Commission may fine a permittee whenever the ABC law authorizes suspension or~~  
5 ~~revocation of his permit.~~

6 When the Commission orders a permittee to pay a fine as part of a penalty, payment shall be received in Commission  
7 offices in Raleigh no later than ~~1521~~ days following the meeting at which the Commission orders the fine. The  
8 Commission shall include, as part of the order, what penalty will be imposed if the fine has not been received by the  
9 Commission by the prescribed deadline. Payment shall be ~~by certified check, cashier's check, or money order~~ made  
10 payable to the North Carolina ABC Commission in accordance with 14B NCAC 15A .0104.

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12 *History Note: Authority G.S. 18B-100; 18B-104; 18B-207;*  
13 *Eff. January 1, 1982;*  
14 *Amended Eff. May 1, 1984;*  
15 *Transferred and Recodified from 04 NCAC 02S .1104 Eff. August 1, 2015;*  
16 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,*  
17 *2016.*  
18