



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

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

ADOPTION: 14B NCAC 15A .2201 - .2205

READOPTION with substantive changes:

READOPTION without substantive changes:

AMENDMENT:

REPEAL:

4. Proposed effective date: December 1, 2018

5. Is a public hearing planned? Yes No

If yes: Public Hearing date: October 10, 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 adopt permanent rules to replace the temporary rules that became effective February 23, 2018 regulating the sale of certain alcoholic beverages at auction as a result of amendments to the law and the enactment of G.S. 18B-1002.1 by the General Assembly in S.L. 2017-87, Section 3.

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: October 10, 2018 at 10:00 a.m.

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
- 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: July 11, 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 .2201 is proposed for adoption as follows:
2

3 **SECTION .2200 – SPECIAL ONE-TIME PERMITS**
4

5 **14B NCAC 15A .2201 DEFINITIONS**

6 The following definitions apply to this Section:

- 7 (1) "Collector" means a person, other than an industry member, engaged in the collection of one or
8 more wines, decorative decanters of spirituous liquor, or antique spirituous liquors.
9 (2) "Decorative decanters of spirituous liquor" means the manufacturer's original sealed decanters,
10 limited in quantities as a specialized limited run or as a limited edition, filled with spirituous liquor
11 by a person issued a permit pursuant to state or federal law.
12 (3) "Private sale" means a sale between two collectors, neither of who are required to hold permits
13 pursuant to Chapter 18B of the General Statutes, except for permits issued pursuant to G.S. 18B-
14 1002(a)(4).
15

16 *History Note: Authority G.S. 18B-100; 18B-207; 18B-1002;*

17 *Temporary Adoption Eff. February 23, 2018. (Codifier's Note: This Rule shall remain in effect until*
18 *the permanent rule that replaces the temporary rule is effective. (See S.L. 2017-87, s. 19.(a));*
19 *Eff. December 1, 2018.*

1 14B NCAC 15A .2202 is proposed for adoption as follows:
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3 **14B NCAC 15A .2202 COLLECTOR TRANSPORT OR SALE PERMITS**

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

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

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18 *History Note: Authority G.S. 18B-100; 18B-207; 18B-900; 18B-1002;*
19 *Temporary Adoption Eff. February 23, 2018. (Codifier's Note: This Rule shall remain in effect until*
20 *the permanent rule that replaces the temporary rule is effective. (See S.L. 2017-87, s. 19.(a));*
21 *Eff. December 1, 2018.*
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23

1 14B NCAC 15A .2203 is proposed for adoption as follows:
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3 **14B NCAC 15A .2203 PERMISSIBLE SALES UNDER COLLECTOR TRANSPORT OR SALE PERMIT**

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

6 (1) sales shall only be made to persons at least 21 years of age;

7 (2) sales shall only be made as a special order pursuant to 14B NCAC 15A .1403, by auction, or by
8 private sale;

9 (3) sales shall be conducted subject to the dates, time, place, and manner specified in the permit;

10 (4) no sales shall be made to a person who is intoxicated as defined in 14B NCAC 15B .0101(2); and

11 (5) the quantity of wine or spirituous liquor sold to a single buyer shall not be in excess of the limits set
12 forth in G.S. 18B-303, unless the buyer of the wine or spirituous liquor has a valid permit issued
13 pursuant to G.S. 18B-1002(a)(4).

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

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

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19 *History Note: Authority G.S. 18B-100; 18B-207; 18B-1002;*

20 *Temporary Adoption Eff. February 23, 2018. (Codifier's Note: This Rule shall remain in effect until*
21 *the permanent rule that replaces the temporary rule is effective. (See S.L. 2017-87, s. 19.(a));*

22 *Eff. December 1, 2018.*

1 14B NCAC 15A .2204 is proposed for adoption as follows:

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3 **14B NCAC 15A .2204 SPECIAL AUCTION PERMITS**

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

7 (1) a copy of the applicable active license issued by the North Carolina Auctioneers Commission;

8 (2) the details of the date, time, duration, place, and manner of the auction;

9 (3) a list of the specific wine or spirituous liquors which may be subject to auction, including the name,
10 brand, quantity, and volume of each bottle or decanter; and

11 (4) pictures of the containers of spirituous liquors to be sold in sufficient clarity for the content of the
12 labels to be legible.

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

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18 *History Note: Authority G.S. 18B-100; 18B-207; 18B-900; 18B-1002.1;*

19 *Temporary Adoption Eff. February 23, 2018. (Codifier's Note: This Rule shall remain in effect until*
20 *the permanent rule that replaces the temporary rule is effective. (See S.L. 2017-87, s. 19.(a));*

21 *Eff. December 1, 2018.*

1 14B NCAC 15A .2205 is proposed for adoption as follows:

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3 **14B NCAC 15A .2205 CONDITIONS OF SALE UNDER SPECIAL AUCTION PERMITS**

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

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

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22 *History Note: Authority G.S. 18B-100; 18B-207; 18B-303; 18B-502; 18B-1002; 18B-1002.1;*
23 *Temporary Adoption Eff. February 23, 2018. (Codifier's Note: This Rule shall remain in effect until*
24 *the permanent rule that replaces the temporary rule is effective. (See S.L. 2017-87, s. 19(a));*
25 *Eff. December 1, 2018.*