



**PROPOSED TEMPORARY RULE FOR
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11/22/2017

CHECK APPROPRIATE BOX:

Proposed Temporary Rule [G.S. 150B-21.1(a3)]

Proposed Temporary Rule simultaneously adopted as an emergency rule [G.S. 150B-21.1A(a)]

1. Rule-Making Agency: Alcoholic Beverage Control Commission

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

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

AMENDMENT:

REPEAL:

3. Public Hearing:

Date: January 17, 2018


Time: 10:00 a.m.

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

4. Reason for agency adopting rule(s) under temporary action:

- A serious and unforeseen threat to the public health, safety or welfare.
- The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2017-87, Section 3.
Effective date: October 1, 2017
- A recent change in federal or state budgetary policy.
Effective date of change:
- A recent federal regulation.
Cite:
Effective date:
- A recent court order.
Cite order:
- Other:

Explain: The General Assembly enacted a new law to allow the sale of specified alcoholic beverages at auction by licensed auctioneers that became effective October 1, 2017. Section 19(a) of S.L. 2017-87 directs the ABC Commission to adopt temporary rules to implement the provisions of that act. Section 19(a) applies to Section 3 of the act. The temporary rules being proposed for adoption are required to comply with Section 19(a) of S.L. 2017-87.

5. Comments from the public shall be directed to: 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	
6. Comment Period Starts: November 27, 2017	Comment Period Ends: January 10, 2018
7. 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:	8. The Agency formally proposed the text of this rule(s) on Date: November 15, 2017
	9. Signature of Agency* Head or Rule-making Coordinator:  <hr/> *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 .2200 is proposed for adoption under temporary procedures as follows:

2
3 **SECTION .2200 – SPECIAL ONE-TIME PERMITS**

4 **14B NCAC 15A .2201 DEFINITIONS**

5 The following definitions apply to this Section:

6 (1) “Collector” means a person, other than an industry member, engaged in the collection of one or
7 more wines, decorative decanters of spirituous liquor, or antique spirituous liquors.

8 (2) “Decorative decanters of spirituous liquor” means the manufacturer’s original sealed decanters,
9 limited in quantities as a specialized limited run or as a limited edition, filled with spirituous liquor
10 by a person issued a permit pursuant to state or federal law.

11 (3) “Private sale” means a sale between two collectors, neither of who are required to hold permits
12 pursuant to Chapter 18B of the General Statutes, except for permits issued pursuant to G.S. 18B-
13 1002(a)(4).

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

1 **14B NCAC 15A .2202 COLLECTOR TRANSPORT OR SALE PERMITS**

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

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

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16 History Note: Authority G.S. 18B-100; 18B-207; 18B-900; 18B-1002;
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1 **14B NCAC 15A .2203 PERMISSIBLE SALES UNDER COLLECTOR TRANSPORT OR SALE PERMIT**

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

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

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

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

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

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

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

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

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17 History Note: Authority G.S. 18B-100; 18B-207; 18B-1002;
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1 **14B NCAC 15A .2204 SPECIAL AUCTION PERMITS**

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

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

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

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

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

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

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16 History Note: Authority G.S. 18B-100; 18B-207; 18B-900; 18B-1002.1;
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1 **14B NCAC 15A .2205 CONDITIONS OF SALE UNDER SPECIAL AUCTION PERMITS**

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

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

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20 *History Note: Authority G.S. 18B-100; 18B-207; 18B-303; 18B-502; 18B-1002;*
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