



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 <u>rule citation(s)</u> beside proposed action: <input checked="" type="checkbox"/> ADOPTION: 14B NCAC 15A .2301 - .2307 <input type="checkbox"/> READOPTION <u>with</u> substantive changes: <input type="checkbox"/> READOPTION <u>without</u> substantive changes: <input type="checkbox"/> AMENDMENT: <input type="checkbox"/> REPEAL:
4. Proposed effective date: January 1, 2019
5. Is a public hearing planned? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> 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 regulating the possession, transportation and uses of homemade alcoholic beverages as set forth in G.S. 18B-306, as necessitated by S.L. 2017-87, Section 10.

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 5, 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
- 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: August 8, 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 .2301 is proposed for adoption as follows:
2

3 **SECTION .2300 – HOMEMADE WINE AND MALT BEVERAGE EVENTS**
4

5 **14B NCAC 15A .2301 HOMEMADE WINE AND MALT BEVERAGE EVENTS**

6 As used in this Section:

- 7 (1) “Competition” means, as the term is used in G.S. 18B-306, a gathering or activity organized by
8 homemakers at which homemade product is entered to be judged, that is either:
9 (a) sanctioned by a national or international beer or wine judging program; or
10 (b) judged by individuals of whom at least 50% are currently certified as judges by a national
11 or international beer or wine judging program.
12 (2) “Contest” means, as the term is used in G.S. 18B-306, a gathering or activity organized by a
13 homemaker club at which homemade product of members of the club is entered to be judged.
14 (3) “Exhibition” means, as the term is used in G.S. 18B-306, a gathering or activity at which homemade
15 product produced by multiple homemakers is displayed or shown, but is not consumed or judged.
16 (4) “Event” includes an organized affair, exhibition, or competition.
17 (5) “Family” means a spouse, lineal descendant, ancestor, sibling, spouse's lineal descendant, spouse's
18 ancestor, spouse's sibling, and the spouse of any of these individuals.
19 (6) “General public” means any individual not a homemaker, a homemaker’s family, or a guest.
20 (7) “Guest” means an individual personally known to the homemaker or the homemaker’s family who
21 is invited to the event by direct contact, including in person or by telephone, mail, or electronic mail,
22 between the individual and the homemaker or the homemaker’s family, and that person’s personal
23 guest.
24 (8) “Homemade product” means wine or malt beverages produced pursuant to G.S. 18B-306.
25 (9) “Homemaker” means a person who makes homemade product.
26 (10) “Homemaker club” means an organization devoted to homemade product that:
27 (a) has a defined membership with a stated common purpose;
28 (b) levies an annual membership fee, separate from any admission or cover charge, that shall
29 be collected from each member whose dues shall not be more than 30 days past due;
30 (c) has a written policy for granting membership that includes a written application submitted
31 by each member; and
32 (d) maintains a list of all active members and their complete addresses that is present at all
33 organized affairs of the club and is open to inspection by alcohol law-enforcement agents
34 upon request.
35 (11) “Organized affair” means, as the term is used in G.S. 18B-306, a gathering or activity, other than a
36 competition or exhibition, organized in whole or part by homemakers that includes as one of its
37 purposes tasting or judging of homemade product. An organized affair includes meetings of a

1 homemaker club, and a home product production educational meeting that meets the requirements
2 of Rule .2305 of this Section, if tasting of homemade product is included as part of the meeting.

3 (12) “Tasting” means, as the term is used in G.S. 18B-306, a gathering or activity at which samples of
4 one or more home products are given for immediate consumption by a homemaker to another
5 homemaker, that homemaker’s family, or that homemaker’s guest or to registered attendees at a
6 home product production education meeting in accordance with the requirements of Rule .2305 of
7 this Section.

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9 *History Note: Authority G.S. 18B-100; 18B-207; 18B-306;*

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1 14B NCAC 15A .2302 is proposed for adoption as follows:
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3 **14B NCAC 15A .2302 COMPETITIONS**

4 (a) Consumption of homemade products at a competition, other than at a private residence, shall be limited to judges
5 of the competition, as defined by a national or international beer or wine judging program, who are identified in
6 advance of the competition. Judges may enter their homemade product in competitions in which they judge provided
7 they do not judge any competition category in which they have entries. A competition may be limited to invitees or
8 open to the general public, except as prohibited in Paragraph (d) of this Rule.

9 (b) A competition may be held on a premise holding a retail ABC permit if the following conditions are met:

10 (1) the competition shall be segregated from the remainder of the premises in a separate room with
11 closable doors from the portion of the premises where food or beverages are served to the general
12 public during the time of the event;

13 (2) no homemade product shall be consumed outside of the homemade product consumption area
14 designated pursuant to Subparagraph (1) of this Paragraph during the times any portion of the retail
15 premises is open to the general public;

16 (3) the retail permittee shall only provide or offer commercial alcoholic products to participants in the
17 competition at the same rate and method as offered to the general public at any other times of that
18 business day that the permittee is authorized to sell; and

19 (4) homemade product for the competition shall not be stored on permitted premises for more than 48
20 hours prior to the competition, and the homemade product is sealed, labeled as "homemade product
21 for competition entry," and segregated from other alcoholic beverages located on the premises. No
22 homemade product shall remain on the permitted premises the day after the conclusion of the
23 competition. All containers of homemade product left on the permitted premises contrary to the
24 provisions of this Rule shall be disposed of by the permittee or the permittee's employee by making
25 the homemade product unsuitable for, or incapable of, being consumed.

26 (c) A competition may be held on a premise holding a commercial ABC permit if the following conditions are met:

27 (1) the area for consumption of homemade product during a competition shall only be in the non-
28 production portions of the permitted premises;

29 (2) the competition shall only be held on those portions of permitted premises that are not open to the
30 public;

31 (3) no homemade product shall be consumed on the commercial permitted premises, except for judges,
32 during the times any portion of the commercial premises is open to the general public; and

33 (4) homemade product for the competition shall not be stored on permitted commercial premises for
34 more than 30 days prior to the competition, and the homemade product is sealed, labeled as
35 "homemade product for competition entry," stored only in post-production areas that may also
36 contained sealed alcoholic beverages produced by the commercial permittee, and segregated from
37 other alcoholic beverages located on the premises. No homemade product shall remain on the

1 permitted premises the day after the conclusion of the competition. All containers of homemade
2 product left on the permitted premises contrary to the provisions of this Rule shall be disposed of
3 by the permittee or the permittee's employee by making the homemade product unsuitable for, or
4 incapable of, being consumed.

5 (d) Cash prizes may be paid to entrants in a competition from the registration fees collected so long as not all
6 homemakers participating in the event share in the proceeds from the registration fees.

7
8 History Note: Authority G.S. 18B-100; 18B-207; 18B-306;
9

1 14B NCAC 15A .2303 is proposed for adoption as follows:

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3 **14B NCAC 15A .2303 EXHIBITIONS**

4 (a) An exhibition may be open to the general public.

5 (b) An exhibition shall not be held at a private residence.

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7 History Note: Authority G.S. 18B-100; 18B-207; 18B-306;

8

1 14B NCAC 15A .2304 is proposed for adoption as follows:
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3 **14B NCAC 15A .2304 ORGANIZED AFFAIRS**

4 (a) Homemade product may be consumed at organized affairs provided that, if the affair is a contest, it is not
5 sanctioned by a national or international beer or wine judging program and no admission fee is charged to attend,
6 except as authorized pursuant to Rule .2305 of this Section. Consumption at organized affairs shall be limited to
7 homemakers, their families, and their guests.

8 (b) All judges of a contest shall be members of the homemaker club or their guests. Prizes shall not be awarded as a
9 result of the contest, but homemakers may be recognized for their homemade products.

10 (c) An organized affair may be held on a premise holding a retail ABC permit if the following conditions are met:

11 (1) the area for consumption of homemade product during an organized affair shall be segregated from
12 the portion of the premises open to the general public during the time of the event by vertical
13 boundaries that separate the private event from areas open for public consumption;

14 (2) no homemade product shall be consumed outside of the homemade product consumption area
15 designated pursuant to Subparagraph (1) of this Paragraph during the times any portion of the retail
16 premises is open to the general public;

17 (3) the retail permittee may sell or offer commercial alcoholic products the permittee is authorized to
18 sell to persons attending the organized affair on the retail permittee's premises, provided that all
19 alcoholic beverages offered to participants in the organized affair shall be at the same price and
20 method as offered to the general public at any other times of that business day; and

21 (4) for an organized affair, homemade product may be stored on permitted premises for no more than
22 48 hours prior to the organized affair, provided that the homemade product shall be sealed, labeled
23 as "homemade product for contest entry," and segregated from other alcoholic beverages located on
24 the premises. No homemade product shall remain on the permitted premises the day after the
25 conclusion of the organized affair. All containers of homemade product left on the permitted
26 premises contrary to the provisions of this Rule shall be disposed of by the permittee or the
27 permittee's employee, by making the homemade product unsuitable for, or incapable of, being
28 consumed.

29 (d) An organized affair may not be held on a premise holding a commercial ABC permit.

30 (e) There shall be no admission or entrance fee charged for an organized affair occurring at a private residence.

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32 History Note: Authority G.S. 18B-100; 18B-207; 18B-306;
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1 14B NCAC 15A .2305 is proposed for adoption as follows:
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3 **14B NCAC 15A .2305 HOME PRODUCT PRODUCTION EDUCATION MEETING**

4 A home product production education meeting shall be an organized affair open only to dues paying members of a
5 state, regional, national, or international homemade beer or wine organization that includes programs to educate and
6 inform homemakers concerning the production of homemade products. Registration may be charged to participate in
7 the educational portions of the program. In addition to educational programs, the home product production education
8 meeting may include homemade product tastings by registered attendees of homemade product brought to the meeting
9 by registered attendees. Commercial alcoholic products may be sold or offered at home product education meetings
10 by a retail permittee, in addition to home products, provided that all commercial alcoholic products offered by the
11 retail permittee to participants at the meeting shall be at the same price and method as offered to the general public at
12 any other times of that business day.

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14 History Note: Authority G.S. 18B-100; 18B-207; 18B-306;
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1 14B NCAC 15A .2306 is proposed for adoption as follows:
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3 **14B NCAC 15A .2306 POSSESSION, CONSUMPTION, TRANSPORTATION, AND DISPOSITION OF**
4 **HOMEMADE PRODUCT**

5 (a) Possession and consumption of homemade product shall be limited to persons who are 21 years of age or older.
6 Homemade product shall not be offered, given to, or consumed by the general public.

7 (b) Except as limited by this Section, events may be held at locations where possession and consumption of malt
8 beverages and unfortified wine are otherwise authorized by law.

9 (c) Homemade product shall remain in possession of the homemaker, except:

10 (1) at an exhibition; or

11 (2) when the homemade product is under the control of a retail permittee or a commercial permittee in
12 accordance with Rules .2302 and .2304 of this Section.

13 Only a homemaker shall deliver that person's homemade product to the location of an event.

14 (d) A homemaker may transport quantities of homemade product up to the limits set forth in G.S. 18B-303(a),
15 provided that the maximum aggregate amount of all homemade product transported by an individual homemaker at
16 any one time for any one event shall not exceed 80 liters.

17 (e) All containers of homemade product remaining on non-permitted premises after the conclusion of an event, other
18 than events held at a private residence, shall be removed from the premises or the contents of the container shall be
19 disposed of by being made unsuitable for, or incapable of, being consumed at the conclusion of the event.

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21 History Note: Authority G.S. 18B-100; 18B-207; 18B-306;
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1 14B NCAC 15A .2307 is proposed for adoption as follows:
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3 **14B NCAC 15A .2307 ADMISSION FEES**
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5 (a) No admission fee shall be charged to persons consuming homemade product.

6 (b) An admission or entrance fee may be charged for a competition, except that no fees shall be charged for a
7 competition occurring at a private residence.

8 (c) An admission or entrance fee may be charged by the organizer of an exhibition.

9 (d) A registration fee may be charged to homemakers participating in a competition or home product production
10 education meeting.

11
12 History Note: Authority G.S. 18B-100; 18B-207; 18B-306;
13