



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:

READOPTION with substantive changes:

READOPTION without substantive changes:

AMENDMENT: 14B NCAC 15B .1006

REPEAL:

4. Proposed effective date: March 1, 2019

5. Is a public hearing planned? Yes No

If yes: Public Hearing date: December 12, 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 a permanent rule to allow a sports or entertainment venue with a permanent seating capacity of 3,000 or more, not located on a school, college or university campus, to display point-of-sale advertising for malt beverages and unfortified wine inside the venue that is visible from outside the venue, as directed by the General Assembly in S.L. 2018-65, Sec. 5.1.

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: December 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
- 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: September 12, 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 15B .1006 is proposed for amendment as follows:

2
3 **14B NCAC 15B .1006 ADVERTISING OF MALT BEVERAGES, WINE AND MIXED BEVERAGES BY**
4 **RETAILERS**

5 (a) Interior Advertising.

- 6 (1) Point-of-Sale. Retail malt beverage, wine and mixed beverage permittees may utilize any amount
7 of point-of-sale advertising for malt beverage, wine and mixed beverage products offered for sale
8 in the establishment. This advertising may be supplied by the industry member unless it constitutes
9 a fixture or has value other than as advertising material; except that an industry member may give a
10 retailer brand-identified items listed in 14B NCAC 15C .0711(c) for use as point-of-sale advertising;
- 11 (2) Price Boards. Retail malt beverage, wine and mixed beverage permittees may display inside price
12 boards showing the brand names and prices of malt beverage, wine and mixed beverage products
13 offered for sale in the establishment;
- 14 (3) Menus and Beverage Lists. Retail on-premise malt beverage, wine and mixed beverage permittees
15 may place on the menu and beverage lists the brand names and prices of malt beverage, wine and
16 mixed beverage products offered for sale in the establishment. Beverage lists may be supplied by
17 an industry member and may include up to six items from the retailer's food menu but shall not
18 include the name, logo or other identifier of the retail permittee on the advertisement. A table tent
19 is considered a beverage list for purposes of this Rule;
- 20 (4) Retailer Advertising Specialty Items. Retailer advertising specialty items are items such as trays,
21 coasters, mats, meal checks, paper napkins, glassware, cups, foam scrapers, back bar mats,
22 thermometers and other similar items that bear advertising matter. Advertising specialty items may
23 be provided to a retailer by an industry member as provided in 14B NCAC 15C .0711(b)(8);
- 24 (5) Window Displays. Retail malt beverage, wine and mixed beverage permittees may arrange
25 unopened malt beverage, wine or spirituous liquor products in a window display;
- 26 (6) Location. ~~No~~ Except as permitted pursuant to Paragraph (e) of this Rule, no point-of-sale
27 advertising, advertising specialty item or price board shall be displayed in a manner designed or
28 intended to advertise malt beverages, wine or mixed beverages on the outside of the establishment;
- 29 (7) T-shirts. A retailer's employees shall not wear alcoholic beverage brand identified t-shirts while
30 working on the retailer's licensed premises; and
- 31 ~~(8) Removal of Signs. A permittee shall remove any sign, display or advertisement in or about his~~
32 ~~licensed premises if the Commission finds it is contrary to public interest and orders its removal.~~

33 (b) Exterior Advertising.

- 34 (1) Outside signs on the premises.
- 35 (A) Malt Beverages. Retail malt beverage permittees may display the term "beer", "cold beer",
36 "draught beer", "specialty beer", "craft beer", "North Carolina beer", "local beer" or
37 "imported beer" on a single, non-mechanical outside sign. This sign may be neon

1 illuminated. The letters and figures on the sign shall not be more than 5 inches in height
2 and 2 inches apart and the sign shall be attached to the building on the licensed premises.
3 Retail malt beverage permittees may also display the term "beer", "cold beer", "draught
4 beer", "specialty beer", "craft beer", "North Carolina beer", "local beer" or "imported beer"
5 or a similar term on a single, portable, non-mechanical sidewalk sign that is no larger than
6 25 inches by 45 inches on each of its two sides. The sidewalk sign shall be displayed only
7 during the hours of operation;

8 (B) Wine. Retail wine permittees may display the term "wine permit-off premise", "wine
9 permit-on premise", "fine wine" or a similar term on a single non-mechanical outside sign.
10 This sign may be neon illuminated. The letters and figures on the sign shall not be more
11 than 5 inches in height and 2 inches apart and the sign shall be attached to the building on
12 the licensed premises. Instead of the sign described in this Paragraph, retail wine
13 permittees engaged in off-premise sales of wine may display the term "Wine Shop", "Wine
14 and Cheese" or a similar term on a single non-mechanical sign. This sign may be neon
15 illuminated. The letters and figures on the sign shall not be more than 18 inches in height
16 and the sign shall be attached to the building on the licensed premises. Retail wine
17 permittees may also display the term "wine permit-off premise", "wine permit-on premise",
18 "fine wine" or a similar term on a single, portable, non-mechanical sidewalk sign that is no
19 larger than 25 inches by 45 inches on each of its two sides. Instead of the sidewalk sign
20 described in this Paragraph, retail wine permittees engaged in off-premise sales of wine
21 may display the term "Wine Shop", "Wine and Cheese", "fine wine" or a similar term on a
22 single, portable, non-mechanical sidewalk sign that is no larger than 25 inches by 45 inches
23 on each of its two sides. A sidewalk sign shall be displayed only during the hours of
24 operation;

25 (C) Restriction. Retail malt beverage, wine and mixed beverage permittees shall not allow
26 price advertising or additional signs advertising malt beverages, wine and mixed beverages
27 on the outside of their premises. Outside signs alluding to malt beverages, wine or mixed
28 beverages by slang descriptions such as "brew," "suds," "six-pack," "vino" or "booze" are
29 prohibited;

30 (D) Exceptions; Menus; Trade Names. The placement of a food menu that also contains a list
31 of alcoholic beverages by brand and price in a window, on the exterior of the retailer's
32 building or on a sidewalk sign that is no larger than 25 inches by 45 inches on each of its
33 two sides is not a violation of this Rule. A sidewalk sign shall be displayed only during
34 the hours of operation;

35 (E) Mixed Beverages. Retail mixed beverage permittees may display the term "mixed
36 beverages," "all ABC permits," "mixed drinks," "cocktails," or "spirits," on a single non-
37 mechanical, non-neon, or otherwise self-illuminated outside sign. The letters and figures

1 on the sign shall not be more than five inches in height and two inches apart and the sign
2 shall be attached to the building on the licensed premises; and

3 (F) Private Club. A private club shall not display any exterior sign advertising the availability
4 of malt beverages, wine or mixed beverages;

5 (2) Billboards. Retail permittees shall not advertise malt beverage, wine or mixed beverage products
6 or the availability of alcoholic beverages by means of a billboard or outdoor sign except as provided
7 in this Section. Industry members with retail permits may advertise tastings;

8 (3) Aerial Displays. Retail permittees shall not advertise malt beverage, wine or mixed beverage
9 products or the availability of alcoholic beverages by means of an aerial display or an inflatable item
10 that is tethered; and

11 (4) Only exterior advertising permitted by local ordinances is authorized.

12 (c) Removal of Signs. A permittee shall remove any sign, display, or advertisement in or about his licensed premises
13 if the Commission finds it is contrary to public interest and orders its removal.

14 (d) Media Advertising. A retail malt beverage, wine or mixed beverage permittee may advertise price and brand of
15 malt beverage, wine and mixed beverage products offered for sale by means of circular, newspaper, magazine, radio,
16 television and internet.

17 (e) Notwithstanding Paragraphs (a)(6) and (c) of this Rule, a sports or entertainment venue with a permanently
18 constructed seating capacity of 3,000 or more, which is not located on the campus of a school, college, or university,
19 may display point-of-sale advertising for malt beverages and unfortified wine inside the venue that is visible from the
20 outside of the venue, and shall not be required by the Commission to move or remove the advertising.

21
22 *History Note: Authority G.S. 18B-100; 18B-105; 18B-207; 18B-1116(b); S.L. 2018-65, Sec. 5.1;*

23 *Eff. January 1, 1982;*

24 *Amended Eff. March 1, 2012; January 1, 2011; July 1, 1992; May 1, 1984;*

25 *Transferred and Recodified from 04 NCAC 02S .1008 Eff. August 1, 2015;*

26 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,*
27 *2016.*