



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 .1403 and 15B .0523.
- READOPTION** with substantive changes:
- READOPTION** without substantive changes:
- AMENDMENT:** 14B NCAC 15A .1303-.1304, .1402, and .1901,
- REPEAL:**

4. Proposed effective date: January 1, 2018

5. Is a public hearing planned? Yes No

If yes: **Public Hearing date:** November 15, 2017

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 establishing the process, procedures and conditions for permissible sales and transport of antique spirituous liquors as authorized by G.S. 18B-1001, and pursuant to G.S. 18B-1002(a)(4) as amended in S.L. 2017-87, Sec. 3(b).

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 Street

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 15, 2017 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

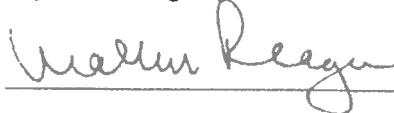
Agency contact, if any:

Phone:

E-mail:

13. The Agency formally proposed the text of this rule(s) on
Date: August 9, 2017

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 .1303 is proposed for amendment as follows:

2

3 **14B NCAC 15A .1303 TRANSPORTATION FROM STATE ABC WAREHOUSE**

4 Except as specifically authorized by statute or the rules of the Commission, no spirituous liquors or antique spirituous
5 liquors shall be transported within, into, or through this State for delivery to a local ~~ABC store or~~ board except from
6 the ~~state~~-State ABC warehouse.

7

8 *History Note: Authority G.S. 18B-100; 18B-101; ~~18B-204(a)~~; 18B-207; ~~18B-701(1)~~; 18B-701(a)(1); 18B-1001;*

9 *Eff. January 1, 1982;*

10 *Amended Eff. May 1, 1984;*

11 *Transferred and Recodified from 04 NCAC 02R .1304 Eff. August 1, 2015;*

12 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
13 *2015.*

1 14B NCAC 15A .1304 is proposed for amendment as follows:

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3 **14B NCAC 15A .1304 DIRECT SHIPMENTS**

4 (a) A ~~direct shipment is~~ “direct shipment” means a shipment of a distiller's spirituous liquors from the distiller or a
5 warehouse of spirituous liquors, or from an antique spirituous liquor seller of antique spirituous liquor, directly to a
6 local board without passing through the ~~Commission's State ABC~~ warehouse.

7 (b) Direct shipments ~~are~~ shall be allowed by the Commission in emergency situations when the State ABC warehouse
8 is closed due to natural or other disasters or in a situation ~~that~~ where for transportation reasons it is mutually
9 advantageous to local boards, the ~~Commission~~ Commission, ~~and~~ and the operator of the ~~Commission's warehouse (for~~
10 ~~example, commemorative bottles).~~ State ABC warehouse.

11 (c) Direct shipment shall have prior written approval from the Commission. Merchandise authorized to be shipped
12 by direct shipment shall be consigned by the ~~Commission's State ABC~~ warehouse to the distiller's account in care of
13 the local board. The local board shall acknowledge receipt of the merchandise on the shipping documents and forward
14 them to the ~~contractor~~ Contractor for processing through the accounting system as though the merchandise were
15 shipped from the ~~Commission's State ABC~~ warehouse.

16 (d) Upon compliance with 14B NCAC 15A .1403 and obtaining a transportation permit as required by G.S. 18B-403,
17 an antique spirituous liquor seller may deliver antique spirituous liquor listed in its inventory directly to the local board
18 that placed the special order for that inventory.

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20 *History Note: Authority G.S. 18B-100; 18B-109(a); 18B-204; 18B-207; 18B-403; 18B-701(1); 18B-1001;*
21 *Eff. January 1, 1982;*
22 *Amended Eff. January 1, 2011; May 1, 1984;*
23 *Transferred and Recodified from 04 NCAC 02R .1305 Eff. August 1, 2015;*
24 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
25 *2015.*

1 14B NCAC 15A .1402 is proposed for amendment as follows:

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3 **14B NCAC 15A .1402 PERMIT REQUIRED TO SELL ALCOHOLIC BEVERAGES**

4 No purchase of any spirituous ~~liquor~~ liquor, antique spirituous liquor, or fortified wine for resale in ABC stores shall
5 be made by any local board from any person that does not hold a permit from the Commission authorizing the sale of
6 those beverages to the local ~~boards, except that approved brands of taxpaid liquor boards.~~ boards. However, brands approved
7 for sale in North Carolina on which all taxes have been paid may be purchased for resale ~~from the board of county~~
8 ~~commissioners of any county pursuant to a sale ordered pursuant to G.S. 18B-503~~ for an amount not to exceed the
9 usual wholesale price of the liquor when liquor has been confiscated for a violation of the ABC laws. A local board
10 shall purchase fortified wine only from a North Carolina wholesaler who ~~has been issued a~~ holds an active wine
11 wholesaler permit.

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13 *History Note: Authority G.S. 18B-100; 18B-101; 18B-207; 18B-304(a); 18B-503(e); 18B-1107(a)(2);*

14 *Eff. January 1, 1982;*

15 *Amended Eff. July 1, 1992; May 1, 1984;*

16 *Transferred and Recodified from 04 NCAC 02R .1402 Eff. August 1, 2015;*

17 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
18 *2015.*

1 14B NCAC 15A .1403 is proposed for adoption as follows:

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3 **14B NCAC 15A .1403 SPECIAL ORDERS**

4 (a) Spirituous liquor products shall be approved for purchase from the Special Orders Price List as follows:

5 (1) The Commission shall approve for special order brands of spirituous liquor not otherwise on the
6 spirituous liquor product list of approved brands pursuant to 14B NCAC 15C .0203 and .0204,
7 including container sizes not on the approved list.

8 (2) When requested by a customer, a local board shall request that the Commission consider approval
9 for inclusion on the Special Orders Price List any spirituous liquor brand or container size, not
10 otherwise approved. The Commission shall consider the request and add any brand or product
11 approved for sale pursuant to 14B NCAC 15C .0203 and .0204 to the Special Orders Price List,
12 including the minimum order size requirement as required by the vendor of at least one case.

13 (b) When requested by a customer, a local board may place an order with the Commission for any product on the
14 Special Orders Price list. All customer orders shall be prepaid by the customer prior to the order being placed with
15 the Commission. Any order must meet the minimum order quantity requirements set by the Commission.

16 (c) Upon receipt of the special order from the local board, the Commission shall place the order with the vendor for
17 shipment to the State ABC warehouse for delivery to the local board by the State ABC warehouse with the next
18 regularly scheduled shipment to the local board.

19 (d) After completing the special order transaction with the customer, the local board shall report the sale of
20 merchandise sold pursuant to this Rule on its next monthly report to the Commission.

21 (f) In addition to the provisions set forth in Paragraph (a) of this Rule, antique spirituous liquor products shall be
22 approved for purchase from the Special Orders Price List as follows:

23 (1) Upon receipt of a request for inclusion of an antique spirituous liquor on the Special Orders Price
24 List from either a local board at the request of the owner of antique spirituous liquor, the owner of
25 antique spirituous liquor, or a mixed beverages permittee, the Commission shall consider the
26 request. Any antique spirituous liquor brand or product approved by the Commission for sale
27 pursuant to 14B NCAC 15C .0203 and .0204 shall be added to the Special Orders Price List. The
28 Commission shall determine the retail price for each product based on the markup formula pursuant
29 to G.S. 18B-804, set up each product in its pricing system, assign code numbers for each product,
30 and notify the local board and the State ABC warehouse of the price and product code number of
31 each product.

32 (2) The seller of the antique spirituous liquor shall provide to the Commission an inventory of each
33 product to be sold, the seller's selling price per bottle, and a legible picture or copy of the label of
34 each product sufficient to identify the product to be sold.

35 (g) An owner of antique spirituous liquor who desires to sell antique spirituous liquor shall obtain a Special One-
36 Time permit pursuant to G.S. 18B-1002(a)(4) prior to the sale.

1 (h) A mixed beverages permittee who wants to order antique spirituous liquor from the Special Orders Price List from
2 a permittee authorized to sell antique spirituous liquor pursuant to G.S. 18B-1002(a)(4) shall first obtain an antique
3 spirituous liquor permit pursuant to G.S. 18B-1001(20).

4 (i) When requested by an antique spirituous liquor permittee, a local board shall place an order from the Special One-
5 Time permittee selling the antique spirituous liquor on the Special Orders Price list. All orders shall be prepaid by the
6 antique spirituous liquor permittee to the local board prior to the order being placed with the Special One-Time
7 permittee.

8 (j) Upon delivery of the antique spirituous liquor to the local board by the Special One-Time permittee, the local
9 board shall pay the seller's price to the Special One-Time permittee and notify the antique spirituous liquor permittee
10 the order is available for pick up.

11 (k) Once the local board has possession of the antique spirituous liquor to be sold, the local board shall notify the
12 Commission and the State ABC warehouse, and forward the invoice bill of lading for the product to the State ABC
13 warehouse. The State ABC warehouse shall bill the local board for the bailment and bailment surcharge for the
14 product. The local board shall pay the bailment and bailment surcharge to the Commission.

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17 History Note: Authority G.S. 18B-100; 18B-101; 18B-207; 18B-800(c); 18B-804; 18B-807; 18B-1001; 18B-
18 1002(a)(4);

1 14B NCAC 15A .1901 is proposed for amendment as follows:

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3 **SECTION .1900 - SALES OF LIQUOR TO MIXED BEVERAGES PERMITTEES**

4
5 **14B NCAC 15A .1901 MIXED BEVERAGES TAX STAMP**

6 (a) Prior to the sale of any container of spirituous liquor or antique spirituous liquor to a permittee, the local board
7 shall affix to the container a mixed beverages tax stamp that ~~indicates~~states the following:

- 8 (1) the local board system of sale,~~sale;~~
9 (2) the permittee's transaction ~~number,~~number; and
10 (3) the permittee's Mixed Beverage Permit number.

11 (b) The mixed beverages tax stamp shall be affixed to the original paper labeling of each container, except that in the
12 case of a container bearing no original ~~label~~label, the stamp shall be affixed to any ~~conspicuous~~vertical portion of the
13 container. In no event ~~may~~shall the stamp be affixed to the cap or closure of a container. Where a case of one brand
14 has been purchased, the mixed beverages tax stamp shall be affixed to each container in the case and it shall not be
15 sufficient to stamp the exterior of the case.

16 (c) For sales of liquor to a guest room cabinet permittee, a local board may affix the mixed beverages tax stamp to
17 any portion of the container other than the cap or closure. In lieu of affixing the stamp to each container purchased
18 by a guest room cabinet permittee, a local board may choose to give to the guest room cabinet permittee one tax stamp
19 for each container of liquor purchased for resale from a guest room cabinet, as authorized by Rule .1804 of this
20 Subchapter.

21 (d) Mixed beverage permittees may transport no more than eight liters of opened containers of spirituous liquor
22 without a purchase-transportation permit to and from ~~an ABC Board~~a local board in the non-passenger area of a motor
23 vehicle for the purpose of replacing mixed beverage tax stamps that are defaced or that have worn out numbers.

24
25 *History Note: Authority G.S. 18B-100; 18B-101; 18B-203(a)(1); 18B-207; 18B-804(b)(8); 18B-807;*

26 *Eff. January 1, 1982;*

27 *Amended Eff. January 1, 2011; July 1, 1992; May 1, 1984;*

28 *Transferred and Recodified from 04 NCAC 02R .1901 Eff. August 1, 2015;*

29 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
30 *2015.*

1 14B NCAC 15B .0523 is proposed for adoption as follows:

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3 **14B NCAC 15B .0523 ANTIQUE SPIRITUOUS LIQUOR REGULATED**

4 As it relates to mixed beverage permittees in this Subchapter, antique spirituous liquor shall be regulated and treated
5 the same as spirituous liquor.

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7 History Note: Authority G.S. 18B-101; 18B-207; 18B-1001.