

14B NCAC 15B .0217 FILL OR REFILL ORIGINAL CONTAINERS

No permittee shall fill or refill in whole or in part any original container of alcoholic beverages with the same or any other kind of alcoholic beverage, except a bottler, manufacturer, or permittee authorized pursuant to G.S. 18B-1001(1), (2), (3), (4), or (16).

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14B NCAC 15B .0220 DISPENSING ALCOHOLIC BEVERAGES: PRODUCT IDENTIFICATION

- (a) Malt Beverages, On-Premises. Malt beverages may be sold by persons holding on-premise permits in the original containers, by the glass, by the mug, by the pitcher, or a single-service and single-use container as defined by FDA Food Code 2009, 1-201.10(B). The brand name of draught malt beverages dispensed in retail outlets shall be shown on the knobs of draught faucets. Covers for these faucets bearing a brand name may be used if the brand name appearing on the cover corresponds with the brand name on the knob of the faucets that are to be used for that brand.
- (b) Malt Beverages, Off-Premises. Malt beverages may be sold by persons holding an off-premise permit only in the unopened original container that was filled by the product manufacturer, except as permitted pursuant to G.S. 18B-1001.
- (c) Wine, On-Premises. A person holding an on-premises wine permit may sell wine in the unopened original container, by the carafe, by the glass, or a single-service and single-use container. A person holding an on-premises wine permit may sell wine mixed with non-alcoholic beverages by the carafe, by the glass, or a single-service and single-use container. Wine served in carafes, by the glass, or single-service and single-use containers may be dispensed under pressure from nitrogen from sealed bulk containers provided the containers and dispensing systems have been approved by the Commission and the Commission for Public Health. The vintner, brand, and type of wine dispensed by the carafe, glass, or single-service and single-use container, except for the house wine, shall appear on the wine list. Where the wine is dispensed from bulk containers, the vintner, brand, and type shall be shown on the knobs of draught faucets.
- (d) Use of Siphons. The use of siphons or pressurized dispensers is allowed if the malt beverage or wine contents are dispensed directly from the original containers.
- (e) Mixed Beverages. A person holding a mixed beverages permit may sell mixed beverages in a glass, in a pitcher, or in a single-service and single-use container.
- (f) Multi-Use Containers. All multi-use containers used by permittees to serve any alcoholic beverages shall meet the requirements as referenced by FDA Food Code 2009, 3-304.11(a). Multi-use containers include glassware, mugs, pitchers, and carafes.
- (g) Incorporation by Reference. The 2009 FDA Food Code, as established by the U.S. Department of Health and Human Services, Food and Drug Administration, is hereby incorporated by reference, excluding subsequent amendments and editions, and may be accessed at no cost at <https://www.fda.gov/food/guidanceregulation/retailfoodprotection/foodcode/ucm2019396.htm>.

*History Note: Authority G.S. 18B-100; 18B-206; 18B-207; 18B-1001; 130A-248(a);
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14B NCAC 15C .0302 LABELS TO BE SUBMITTED TO COMMISSION

- (a) All labels for malt beverage and wine products shall be submitted in duplicate to the Commission on an "Application for Label Approval Form," as required by Rule .0201 or .0202 of this Subchapter.
- (b) Each person requesting label approval shall furnish, in the application for label approval, the names and addresses of the manufacturer, bottler, and importer of the product.
- (c) Notwithstanding Paragraphs (a) and (b) of this Rule, holders of retail permits pursuant to G.S. 18B-1001(1), (2), (3), (4), or (16) that fill or refill growlers on demand shall not be required to submit the labels required by Rules .0303(b) or (c) or .0304(d) or (e) of this Section.

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14B NCAC 15C .0303 LABEL CONTENTS: MALT BEVERAGES

(a) Containers that are prefilled by the manufacturer shall be affixed with malt beverage labels that shall contain the following information in a legible form:

- (1) brand name of product;
- (2) name and address of brewer or bottler;
- (3) class of product (e.g., beer, ale, porter, lager, bock, stout, or other brewed or fermented beverage);
- (4) net contents;
- (5) if the malt beverage is fortified with any stimulants, the amount of each (milligrams) per container; and
- (6) the alcoholic beverage health warning statement as required by the Federal Alcohol Administration Act, 27 C.F.R. Sections 16.20 through 16.22.

(b) Growlers that are filled or refilled on demand with malt beverages pursuant to Rule .0308 of this Section shall be affixed with a label or a tag that shall contain the following information in type not smaller than 3 millimeters in height and not more than 12 characters per inch:

- (1) brand name of the product dispensed;
- (2) name of brewer or bottler;
- (3) class of product (e.g., beer, ale, porter, lager, bock, stout, or other brewed or fermented beverage);
- (4) net contents;
- (5) if the malt beverage is fortified with any stimulants from the original manufacturer, the amount of each (milligrams) per container;
- (6) name and address of business that filled or refilled the growler;
- (7) date of fill or refill;
- (8) if the malt beverage is more than six percent alcohol by volume, the amount of alcohol by volume pursuant to G.S. 18B-101(9); and
- (9) the following statement: "This product may be unfiltered and unpasteurized. Keep refrigerated at all times."

(c) Growlers that are filled or refilled on demand pursuant to Rule .0308 of this Section shall be affixed with the alcoholic beverage health warning statement as required by the Federal Alcohol Administration Act, 27 C.F.R. Sections 16.20 through 16.22. The provisions of 27 C.F.R. Sections 16.20 through 16.22 referenced in this Section are hereby incorporated by reference, including subsequent amendments and editions, and may be accessed for free at <https://www.gpo.gov>.

History Note: Authority G.S. 18B-100; 18B-101(9); 18B-206(a); 18B-207; 18B-1001; Eff. January 1, 1982; Amended Eff. April 1, 2011; Temporary Amendment Eff. October 25, 2013; Amended Eff. September 1, 2014; Transferred and Recodified from 04 NCAC 02T .0303 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017; Temporary Amendment Eff. November 28, 2017. (Codifier's Note: This Rule shall remain in effect until the permanent rule that replaces the temporary rule becomes effective. See S.L. 2017-87, s. 5.(b)).

14B NCAC 15C .0307 GROWLERS

(a) As used in this Section, a "growler" is a rigid glass, ceramic, plastic, aluminum, or stainless steel container with a closure or cap with a secure sealing that is no larger than 2 liters (0.5283 gallons) into which a malt beverage or unfortified wine is prefilled, filled, or refilled for off-premises consumption.

(b) Malt beverages may be sold in growlers as follows:

- (1) Holders of only a brewery permit may sell, deliver, and ship growlers prefilled with the brewery's malt beverage for off-premises consumption provided a label is affixed to the growler that accurately provides the information as required by Rules .0303(a) and .0305 of this Section.
- (2) Holders of retail permits pursuant to G.S. 18B-1001(1), (2), or (16) who do not hold a brewery permit shall not prefill growlers with malt beverage.
- (3) Holders of a brewery permit who also have retail permits pursuant to G.S. 18B-1001(1) may fill or refill growlers on demand with the brewery's malt beverage for off-premises consumption, provided the label as required by Rules .0303(b) and (c), and Rule .0305 of this Section is affixed to the growler.
- (4) Holders of retail permits pursuant to G.S. 18B-1001(1), (2), or (16) may fill or refill growlers on demand with draft malt beverage for off-premises consumption, provided the label as required by Rules .0303(b) and (c) and .0305 of this Section is affixed to the growler.

(c) Unfortified wine may be sold in growlers as follows:

- (1) Holders of only an unfortified winery permit may sell, deliver, and ship growlers prefilled with the winery's unfortified wine for off-premises consumption provided a label is affixed to the growler that provides the information as required by Rules .0304(a), (b) and (c), and Rule .0305 of this Section.
- (2) Holders of retail permits pursuant to G.S. 18B-1001(3), (4), or (16) who do not hold an unfortified winery permit shall not prefill growlers with unfortified wine.
- (3) Holders of an unfortified winery permit who also have retail permits pursuant to G.S. 18B-1001(3) may fill or refill growlers on demand with the winery's unfortified wine for off-premises consumption, provided the label as required by Rules .0304(d) and (e) and .0305 of this Section is affixed to the growler.
- (4) Holders of retail permits pursuant to G.S. 18B-1001(3), (4), or (16) may fill or refill growlers on demand with unfortified wine for off-premises consumption, provided the label as required by Rules .0304(d) and (e) and .0305 of this Section is affixed to the growler.

(d) Holders of retail permits pursuant to G.S. 18B-1001(1), (2), (3), (4), or (16) shall affix a label as required by Rules .0303(b) and (c), Rules .0304(d) and (e), and Rule .0305 of this Section to the growler when filling or refilling a growler.

(e) Holders of retail permits pursuant to G.S. 18B-1001(1), (2), (3), (4), or (16), may, in their discretion, refuse to fill or refill a growler, except in matters of discrimination pursuant to G.S. 18B-305(c).

History Note: Authority G.S. 18B-100; 18B-206(a); 18B-207; 18B-305; 18B-1001; Eff. April 1, 2011; Temporary Amendment Eff. October 25, 2013; Amended Eff. September 1, 2014; Transferred and Recodified from 04 NCAC 02T .0308 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017; Temporary Amendment Eff. November 28, 2017. (Codifier's Note: This Rule shall remain in effect until the permanent rule that replaces the temporary rule becomes effective. See S.L. 2017-87, s. 5.(b)).

14B NCAC 15C .0308 GROWLERS: CLEANING, SANITIZING, FILLING AND SEALING

(a) Except as permitted pursuant to Rules .0307(b) and (c) of this Section, filling and refilling growlers shall only occur on demand by a consumer.

(b) Growlers shall only be filled or refilled by a permittee or the permittee's employee.

(c) Prior to filling or refilling a growler, the growler and its cap shall be cleaned and sanitized by the permittee or the permittee's employee using one of the following methods:

- (1) Manual washing in a three compartment sink:
 - (A) prior to starting, clean sinks and work area to remove any chemicals, oils, or grease from other cleaning activities;
 - (B) empty residual liquid from the growler to a drain. Growlers shall not be emptied into the cleaning water;
 - (C) clean the growler and cap in water and detergent. Water temperature shall be at a minimum 110°F or the temperature specified on the cleaning agent manufacturer's label instructions. Detergent shall not be fat or oil based;
 - (D) remove any residues on the interior and exterior of the growler and cap;
 - (E) rinse the growler and cap in the middle compartment with water. Rinsing may be from the spigot with a spray arm, from a spigot, or from the tub as long as the water for rinsing is not stagnant and continually refreshed;
 - (F) sanitize the growler and cap in the third compartment. Chemical sanitizer shall be used in accordance with the EPA-registered label use instructions and shall meet the minimum water temperature requirements of that chemical; and
 - (G) a test kit or other device that accurately measures the concentration in mg/L of chemical sanitizing solutions shall be provided and be accessible for use; or
- (2) Mechanical washing and sanitizing machine:
 - (A) mechanical washing and sanitizing machines shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer and shall be used according to the machine's design and operation specifications;
 - (B) mechanical washing and sanitizing machines shall be equipped with chemical or hot water sanitization;
 - (C) concentration of the sanitizing solution or the water temperature shall be accurately determined by using a test kit or other device; and
 - (D) the machine shall be regularly serviced based upon the manufacturer's or installer's guidelines.

(d) Notwithstanding Paragraph (c) of this Rule, a growler may be filled or refilled without cleaning and sanitizing the growler, as follows:

- (1) Filling or refilling a growler with a tube as referenced by Paragraph (e) of this Rule:
 - (A) food grade sanitizer shall be used in accordance with the EPA-registered label use instructions;
 - (B) a container of liquid food grade sanitizer shall be maintained for no more than 10 malt beverage taps that will be used for filling and refilling growlers;
 - (C) each container shall contain no fewer than five tubes that will be used only for filling and refilling growlers;
 - (D) the growler is inspected visually for contamination;
 - (E) after each filling or refilling of a growler, the tube shall be immersed in the container with the liquid food grade sanitizer; and
 - (F) a different tube from the container shall be used for each fill or refill of a growler; or
- (2) Filling a growler with a contamination-free process:
 - (A) the growler shall be inspected visually for contamination;
 - (B) for growlers that can be refilled, the process shall be otherwise in compliance with the FDA Food Code 2009, Section 3-304.17(C); and
 - (C) for growlers that are for single use, the process shall be otherwise in compliance with the FDA Food Code 2009, Sections 4-903.11 and 4-903.12.

(e) Growlers shall be filled or refilled from the bottom of the growler to the top with a tube that is attached to the malt beverage or unfortified wine faucet and extends to the bottom of the growler or with a commercial filling machine.

(f) When not in use, tubes to fill or refill growlers shall be immersed and stored in a container with liquid food grade sanitizer.

(g) After filling or refilling a growler, the growler shall be sealed with a closure or cap.

*History Note: Authority G.S. 18B-100; 18B-206(a); 18B-207; 18B-1001;
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until the permanent rule that replaces the temporary rule becomes effective. See S.L. 2017-87, s.
5.(b)).*

14B NCAC 15C .0304 LABEL CONTENTS: WINE

- (a) All wine labels shall contain the following information, in a form legible to the consumer;
- (1) brand name of product;
 - (2) class and type, in conformity with Section .0400 of this Subchapter;
 - (3) name and address of manufacturer, or bottler, except as otherwise provided in these Rules;
 - (4) on blends consisting of foreign and domestic wine, if any reference is made to the presence of foreign wine, the exact percentage by volume the foreign wine; and
 - (5) net contents (unless blown or otherwise permanently inscribed in the container).
- (b) Exception for Retailer's Private Brand. In the case of wine bottles packaged for a retailer or other person under the person's private brand, the name and address of the bottler may be stated on another label affixed to the container, if the name and address of the person for whom the wine was bottled or packed appears on the label. The net contents shall be stated on the brand label or on a separate label affixed thereto on the same side of the container in legible form, unless blown or otherwise permanently inscribed in the container.
- (c) Imported Wines. The name and address of the importer of a foreign wine need not be stated on the brand label if it is stated upon another label affixed to the container.
- (d) Growlers that are filled or refilled on demand with unfortified wine pursuant to Rule .0308 of this Section shall be affixed with a label or a tag containing the following information in type not smaller than 3 millimeters in height and not more than 12 characters per inch:
- (1) brand name of the product dispensed;
 - (2) name of manufacturer or bottler;
 - (3) class and type of product;
 - (4) net contents;
 - (5) name and address of business that filled or refilled the growler;
 - (6) date of fill or refill; and
 - (7) the following statement: "This product may be unfiltered and unpasteurized. Keep refrigerated at all times."
- (e) Growlers that are filled or refilled on demand pursuant to Rule .0308 of this Section shall be affixed with the alcoholic beverage health warning statement as required by the Federal Alcohol Administration Act, 27 C.F.R. Sections 16.20 through 16.22.

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14B NCAC 15C .0403 CONTAINERS

(a) Unsealed Container Prohibited. Except as permitted by Rule .0307 of this Subchapter, the sale of wine in any unsealed container, any container originally designed for a product other than wine, or in any container the design or shape of which would tend to mislead the consumer as to the nature of the contents is prohibited.

(b) Distinguishing Mark Different from Retailer. The sale of wine in containers that have the blown, branded, or burned name or other distinguishing mark of any person engaged in business as a wine producer, importer, wholesaler, or bottler or any other person different from the person whose name is required to appear on the brand label by Rule .0304 of this Subchapter is prohibited.

*History Note: Authority G.S. 18B-206; 18B-207; 18B-1001;
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