



NOTICE OF TEXT
[Authority G.S. 150B-21.2(c)]

OAH USE ONLY
VOLUME: 34
ISSUE: 19

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 - 14. 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): https://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 15C .1307 <input checked="" type="checkbox"/> AMENDMENT: 14B NCAC 15C .1301, .1303-.1304 <input checked="" type="checkbox"/> REPEAL: 14B NCAC 15C .1305 <input type="checkbox"/> READOPTION <u>with</u> substantive changes: <input type="checkbox"/> READOPTION <u>without</u> substantive changes: <input type="checkbox"/> REPEAL through READOPTION:						
4. Proposed effective date: 08/01/2020						
5. Is a public hearing planned? Yes If yes: <table style="margin-left: 40px; border: none;"> <thead> <tr> <th style="text-align: left;">Date</th> <th style="text-align: left;">Time</th> <th style="text-align: left;">Location</th> </tr> </thead> <tbody> <tr> <td>05/13/2020</td> <td>10:00 a.m.</td> <td>ABC Commission Hearing Room, 400 East Tryon Road, Raleigh, NC 27610</td> </tr> </tbody> </table>	Date	Time	Location	05/13/2020	10:00 a.m.	ABC Commission Hearing Room, 400 East Tryon Road, Raleigh, NC 27610
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05/13/2020	10:00 a.m.	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 amend and adopt rules applicable to spirituous liquor tastings conducted by spirituous liquor special event permittees at certain special events and at certain ABC stores as necessitated by amendments to G.S. 18B-1114.7 enacted in S.L. 2019-182, Sec. 6. The amendments to 14B NCAC 15C .1301 consolidate all definitions in Section .1300 into a single rule, define a permit holder's authorized agent, and define a consumer tasting event conducted in an ABC store. The amendments to 14B NCAC 15C .1303 delete the requirement for designated tasting areas and the requirement that spirituous liquor used at non-ABC store tastings be purchased from an ABC store. The amendments to 14B NCAC 15C .1304 established the procedure for designation of a permit holder's authorized agent for purposes of conducting tastings. The repeal of 14B NCAC 15C .1305 is part of the consolidation of definitions into 14B NCAC 15C .1301. The adoption of 14B NCAC 15C .1307 defines the local board's authority to allow ABC store tastings, establishes a process for ensuring reasonable opportunities to all spirituous liquor special event permittees to conduct tastings in ABC stores, establishes proof of purchase from an ABC store of spirituous liquor served at ABC store tastings, and establishes reporting requirements for permittees and local boards of tastings conducted in ABC stores.

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): 919-661-6765
EMail (optional) walker.reagan@abc.nc.gov

10. Comment Period Ends: 06/01/2020

11. Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

No fiscal note required

12. Rule-making Coordinator:

Name: Walker Reagan
919-779-8367
walker.reagan@abc.nc.gov

Agency contact, if any:

Name: Walker Reagan
Phone: 919-779-8367
Email: walker.reagan@abc.nc.gov

13. The Agency formally proposed the text of this rule(s) on

Date: 03/11/2020

1 14B NCAC 15C .1301 is proposed for amendment as follows:
2

3 **SECTION .1300 – SPIRITUOUS LIQUOR TASTING SPECIAL EVENT PERMITS**
4

5 **14B NCAC 15C .1301 DEFINITIONS**

6 As used in G.S. 18B-1114.7 and in this Section:

7 (1) "Advertising specialties" means coasters, shot glasses, bottle or can openers, cork screws, ash trays,
8 shopping bags, individual can coolers, hats, caps, visors, t-shirts (without collars or buttons), and
9 key chains.

10 (2) "Charitable, nonprofit organization" means a nonprofit organization that is a charitable organization
11 as defined in G.S. 1-539.11(1).

12 ~~(2)~~(3) "Consumer tasting event" means any time a single spirituous liquor special event permittee provides
13 samples of spirituous liquor to a consumer in an ABC store pursuant to G.S. 18B-1114.7(c).

14 (4) "Local fund-raiser" means a special event sponsored or cosponsored by a local government, a local
15 charitable, nonprofit organization, or a local political organization for the purpose of raising funds
16 for a governmental, charitable, or political purpose.

17 (5) "Permit holder's authorized agent" means an individual authorized in writing by the spirituous
18 liquor special event permittee to conduct a consumer tasting or consumer tasting event pursuant to
19 the permittee's spirituous liquor special event permit. The individual shall be responsible for the
20 management on the site of the consumer tasting and consumer tasting event, and the supervision of
21 the permittee's or agent's employees or independent contractors offering or pouring tasting samples
22 at the consumer tasting or consumer tasting event.

23 (6) "Point-of-sale advertising materials" means advertising that is located where the spirituous liquor
24 product is displayed or sampled. Advertising materials may include signs, posters, banners, and
25 decorations that bear product advertising matter. Point-of-sale advertising materials as used in this
26 Section shall not include items listed in 14B NCAC 15C .0711(c).

27 ~~(3)~~(7) "Special event" means either:

28 (a) an event the spirituous liquor special event permittee participates in that is a trade show,
29 convention, street festival, holiday festival, agricultural festival, balloon race, local fund-
30 raisers, or other similar events approved pursuant to Rule .1302 of this Section, that is for
31 a limited duration of no more than 10 days and organized or sponsored by a person other
32 than the spirituous liquor special event permittee; or

33 (b) an event of limited duration of no more than 60 days at a shopping mall that is organized
34 and sponsored by the shopping mall or an association of shopping mall merchants as part
35 of a promotion or sale for all merchants in the shopping mall.
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37 *History Note: Authority G.S. 18B-100; 18B-207; 18B-1114.7;*

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Eff. April 1, 2019.

1 14B NCAC 15C .1303 is proposed for amendment as follows:

2
3 **14B NCAC 15C .1303 TASTINGS HELD FOR CONSUMERS**

4 ~~(a) Tasting Area Designation. Tastings permitted pursuant to a spirituous liquor special event permit shall only be~~
5 ~~conducted within a designated tasting area, delineated by vertical markings no less than 24 inches in height that the~~
6 ~~consumer would recognize as indicating the boundaries that physically separate the tasting area from the remainder~~
7 ~~of the special event. Consumers shall not be permitted to take tasting samples outside the designated tasting area. The~~
8 ~~permittee shall ensure that designated tasting area signs are displayed at the permittee's tastings serving tables and at~~
9 ~~the entrances and exits to the designated tasting area, with lettering of at least two inches in height, informing~~
10 ~~consumers that they must be 21 years of age to participate in the tastings and that no tasting samples are allowed to be~~
11 ~~taken out of the designated tasting area. A designated tasting area may include one or more permittees. A special event~~
12 ~~may have multiple designated tasting areas. If a tasting is conducted pursuant at an event where the event sponsor~~
13 ~~holds an ABC permit for that event, the area for conducting the tasting shall be limited to the area of the event covered~~
14 ~~by the ABC permit. If the tasting is conducted pursuant to this Section at an event where the event sponsor does not~~
15 ~~hold an ABC permit, the area for conducting the tasting shall be limited to the area allocated or assigned by the event~~
16 ~~sponsor for the exclusive use of the permittee conducting the tasting.~~

17 (b) Each permittee conducting a tasting may give each consumer tasting samples up to the limits set forth in G.S.
18 ~~18B-1114.7(b)(3).~~ G.S. 18B-1114.7(b)(3) or (c)(4), as applicable.

19 (c) ~~Training. Any~~ A spirituous liquor special event permittee shall ensure that any employee or agent of the permittee
20 ~~who will be conducting or supervising any tasting conducted pursuant to a spirituous liquor special event permit shall~~
21 ~~be given training, including:~~ has completed training that includes:

- 22 (1) identification of potential underage consumers;
- 23 (2) recognition of fictitious identification;
- 24 (3) identification of consumers who are visibly intoxicated;
- 25 (4) service of correct sample sizes; and
- 26 (5) methods to ensure compliance with G.S. 18B-1114.7 in accordance with Rule .1304 of this Section.

27 (d) ~~Consumption prohibited.~~ The permittee, the permittee's agent, or employee shall not be in the designated tasting
28 ~~area~~ for conducting the tasting after consuming alcoholic beverages except under the following conditions:

- 29 (1) the permittee, agent, or employee is off duty for the remainder of that day or night during which the
30 individual consumes any alcoholic beverage;
- 31 (2) the permittee, agent, or employee is out of uniform when uniforms are required to be worn while
32 performing any on duty services; and
- 33 (3) the permittee, agent, or employee shall not perform any ~~on-duty services of any nature~~ related to the
34 business of the permit while or after consuming alcoholic beverages.

35 (e) ~~Limitations.~~ Spirituous liquors ~~liquor~~ provided as for tastings pursuant to a spirituous liquor special event permit
36 shall not be mixed with any other alcoholic or non-alcoholic beverage. No non-alcoholic beverages, other than

1 unflavored water, shall be made available or accessible to the consumer by the permittee in the ~~designated tasting~~
2 ~~area-area for conducting the tasting.~~

3 ~~(f) Source of spirituous liquor. All spirituous liquor used for tasting samples given in accordance with this Rule shall~~
4 ~~be purchased by the permittee from an ABC store.~~

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6 *History Note: Authority G.S. 18B-100; 18B-207; 18B-1114.7;*

7 *Eff. April 1, 2019.*

1 14B NCAC 15C .1304 is proposed for amendment as follows:
2

3 **14B NCAC 15C .1304 SPECIAL EVENT COMPLIANCE PROCEDURE**

4 (a) ~~The~~Either the permittee to whom the spirituous liquor special event permit was ~~issued~~issued, or the permit holder's
5 authorized agent, must be present in the ~~designated tasting area~~ where the tasting is conducted at the time the ~~tastings~~
6 ~~occur~~tasting occurs. A copy of the spirituous liquor special event permit shall be on display in the ~~designated tasting~~
7 ~~area~~ where the tasting is conducted. A copy of the authority of the permit holder's authorized agent to act on behalf
8 of the permittee shall be present at the tasting event, ~~and~~A copy of the spirituous liquor special event permit and a
9 copy of the authority of the permit holder's authorized agent to act on behalf of the permittee shall be made available
10 to law enforcement agents upon request.

11 (b) For other special events approved by the Commission pursuant to Rule .1302 of this Section, a copy of the
12 Commission's approval shall be kept ~~in the designated tasting area during at the tasting~~ for the duration of the tastings
13 and made available to law enforcement agents upon request.

14 (c) A spirituous liquor special event permit holder shall maintain a written procedure establishing the method to be
15 used by the permit holder and the permit holder's employees or agents to ensure compliance with the requirements of
16 G.S. 18B-1114.7(b)(3), (4), and ~~(5)~~(5), and ~~(c)(4)~~. A copy of the written procedure shall be available ~~in the designated~~
17 ~~tasting area at the tasting~~ to the permit holder's employees and designated agents and shall be made available in the
18 ~~designated tasting area at the tasting~~ to law enforcement agents upon request.

19 (d) A copy of the written procedure required pursuant to Paragraph (c) of this Rule shall be:

- 20 (1) maintained for one year following the tasting;
21 (2) included as part of the consumer tasting record maintained in accordance with G.S. 18B-
22 1114.7(b)(10); and
23 (3) made available upon request to the Commission and law enforcement agents pursuant to G.S. 18B-
24 502.

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26 *History Note: Authority G.S. 18B-100; 18B-201; 18B-1114.7;*
27 *Eff. April 1, 2019.*

1 14B NCAC 15C .1305 is proposed for repeal as follows:

2

3 **14B NCAC 15C .1305 SPECIAL EVENT SALE OF BRANDED MERCHANDISE, POINT-OF-SALE**
4 **ADVERTISING MATERIALS AND ADVERTISING SPECIALTIES**

5

6 *History Note: Authority G.S. 18B-100; 18B-207; 18B-1114.7;*

7 *Eff. April 1, 2019;*

8 *Repealed Eff. _____.*

1 14B NCAC 15C .1307 is proposed for adoption as follows:

2
3 **14B NCAC 15C .1307 ABC STORE SPIRITUOUS LIQUOR TASTINGS**

4 (a) Local boards shall determine whether to allow tastings to be conducted in any of their ABC stores. The ABC
5 store, date, and times for any tastings authorized by the local board shall be set by the local board. Tastings do not
6 have to be conducted every week or in all ABC stores operated by the local board. The schedule set by the local board
7 for tastings can vary from week to week.

8 (b) If a local board authorizes consumer tasting events to be held in a specific ABC store, permission shall be granted
9 on a first-come, first-serve basis to a permittee to conduct a consumer tasting event at that ABC store at a specific date
10 and time established by the local board. This permission shall be subject to the permission being withdrawn by the
11 ABC store not later than thirty days prior to the scheduled time of the event, upon the receipt of a request from another
12 permittee that has conducted fewer consumer tasting events in the ABC store within a previous 12-month period than
13 the permittee originally granted permission. A superseding request for the same date and time must be received in
14 writing by the local board before the close of business on the last business day prior to thirty days prior to the
15 previously approved request date.

16 (c) In addition to the requirements set forth in G.S. 18B-1114.7(c)(7), a permit holder shall include with the notice a
17 copy of the local board's written approval for the permit holder to conduct a consumer tasting event at a specific time
18 and location. Written approval by the local board may be by email. For purposes of G.S. 18B-1114.7(c)(7)c., the list
19 shall include the product codes of the specific spirituous liquor products available for tasting.

20 (d) Proof of purchase of spirituous liquor from any ABC store shall be by receipts issued by an ABC store. Permittees
21 shall maintain receipts of purchases of spirituous liquor used in tastings for a period of six months from the date the
22 spirituous liquor is first used for tastings pursuant to G.S. 18B-1114.7. Spirituous liquor purchased from an ABC store
23 for use in tastings conducted in accordance with this Section may be used for multiple tastings at multiple locations.

24 (e) At the time of the completion of a tasting, the permittee shall submit to the local board in writing the name of the
25 permittee that conducted the consumer tasting event, the names of all employees or agents of the permittee who were
26 present at the tasting, and the name of each product available for tasting at the consumer tasting event. A local board
27 that authorizes consumer tasting events shall maintain for a period of three years a list of all consumer tasting events
28 conducted in each of its stores by date, name of the permittee that conducted the consumer tasting event, name of all
29 employees or agents of the permittee who were present at the tasting, and name of each product available for tasting
30 at the consumer tasting event.

31
32 *History Note: Authority G.S. 18B-100; 18B-207; 18B-1114.7;*

33 *Eff*