



NOTICE OF TEXT

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

OAH USE ONLY

VOLUME: 35

ISSUE: 07

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 rule citation(s) beside proposed action:

ADOPTION:

AMENDMENT: [14B NCAC 15C .0602, .0607](#)

REPEAL:

READOPTION with substantive changes:

READOPTION without substantive changes:

REPEAL through READOPTION:

4. Proposed effective date: [02/01/2021](#)

5. Is a public hearing planned? [Yes](#)

If yes:

Date	Time	Location
11/04/2020	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 define what constitutes "come to rest" for purposes of receipt of malt beverages and wine by wholesalers from nonresident malt beverage vendors and nonresident wine vendors prior to the wholesaler delivering these alcoholic beverages to retail permittees. The term "come to rest" is used in G.S. 18B-1113 and 18B-1114, but the term is not otherwise defined. Rule 14B NCAC 15C .0602(f) is also being amended to set out the factors considered by the ABC Commission in approving an application to allow maintenance of malt beverage and wine invoices off the retail premises.

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 email. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

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: 11/30/2020

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: 09/09/2020

1 14B NCAC 15C .0602 is proposed for amendment as follows:

2
3 **14B NCAC 15C .0602 SALES AND PURCHASE RESTRICTIONS: RECORDS**

4 (a) All malt beverages, unfortified wine, and fortified wine intended for sale, delivery, or shipment to retail permittees
5 in the wholesaler's designated sales territory shall be delivered by the supplier or its designee to the wholesaler. The
6 malt beverages, unfortified wine, and fortified wine delivered to the wholesaler shall be unloaded from the delivery
7 vehicle, placed on the floor of the wholesaler's permitted premises so that its entire weight is supported by the floor,
8 inventoried, inspected, and verified for taxes by the wholesaler. The provisions of this Paragraph do not apply to
9 products sold, delivered, or shipped pursuant to G.S. 18B-1101(7) or G.S. 18B-1104(a)(8).

10 (b) No wholesaler of malt beverages shall sell malt beverages to any person who does not hold a retail or wholesale
11 Malt Beverage-malt beverage permit, and no wholesaler of wine shall sell any fortified wine or unfortified wine to
12 any person who does not hold the appropriate retail or wholesale Fortified or Unfortified Wine Permit;fortified or
13 unfortified wine permit, except, that a wholesaler may furnish or sell wine or malt beverages to his~~the~~ wholesaler's
14 employees for the sole use of the employees.

15 (b)(c) No retail malt beverage or wine permittee shall purchase ~~those alcoholic beverages~~ malt beverages or wine
16 from anyone other than a licensed wholesaler.

17 (c) No malt beverage wholesaler shall sell, ship, or distribute any brand of malt beverages to any retail permittee
18 located outside the territory described in that wholesaler's distribution agreement for the product filed pursuant to G.S.
19 18B-1303(a).

20 (d) All persons holding retail Malt Beverage or Wine Permits-malt beverage or wine permits shall keep the sales
21 tickets and delivery receipts furnished by the wholesaler, pursuant to Rule .0502 of this Subchapter, as well as and all
22 other records of purchases of malt beverages and wine, filed-wine. All receipts and records required to be retained
23 pursuant to this Paragraph shall be kept separate and apart from all other records. Delivery receipts shall set forth
24 terms of sale for each separate transaction between the retailer and the wholesaler and shall include for each separate
25 sale:

- 26 (1) the date of sale;
- 27 (2) the trade name of the retail establishment;
- 28 (3) ~~location;~~the location of the retail establishment;
- 29 (4) the quantity of each brand of alcoholic beverage sold;
- 30 (5) the unit price;
- 31 (6) the total price;
- 32 (7) the amount paid; and
- 33 (8) the invoice or receipt number.

34 (e) The retailer shall retain for inspection copies of all sales tickets and delivery receipts on the premises for three
35 years.

1 (f) A retail permittee ~~who operates multiple locations~~ may maintain beer malt beverage and wine invoices at one
2 ~~central location~~ other location, other than the licensed premises, upon written application to and approval by the
3 Commission. When considering the application, the Commission shall consider the following:

4 (1) whether all permits are held by the same applicant;

5 (2) whether electronic copies of the invoices will be accessible to law enforcement at the retail location;
6 and

7 (3) whether the permittee agrees to make the original invoices available on the licensed premises to law
8 enforcement within 48 hours of the request by law enforcement.

9
10 *History Note: Authority G.S. 18B-100; 18B-207; 18B-1107; 18B-1109; 18B-1113; 18B-1114; ~~18B-1303(a);~~*

11 *Eff. January 1, 1982;*

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

13 *Transferred and Recodified from 04 NCAC 02T .0602 Eff. August 1, 2015;*

14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,*
15 *2017;*

16 *Amended Eff. _____.*

1 14B NCAC 15C .0607 is proposed for amendment as follows:

2

3 **14B NCAC 15C .0607 MALT BEVERAGE AND WINE SHIPMENTS TO MILITARY BASES**

4 No industry member except a wholesaler shall ship malt beverages or wine directly to a United States military or naval
5 reservation within North Carolina. All malt beverages and wine intended for that purpose shall be shipped to
6 ~~wholesalers and these~~wholesalers. These beverages shall come to rest upon the warehouse floor of the
7 ~~wholesalerswholesalers,~~ as set forth in 14B NCAC 15C .0602(a), who may then deliver them to United States military
8 or naval reservations within North Carolina.

9

10 *History Note: Authority G.S. 18B-109(b); 18B-100; 18B-207;*

11 *Eff. January 1, 1982;*

12 *Amended Eff. May 1, 1984;*

13 *Transferred and Recodified from 04 NCAC 02T .0609 Eff. August 1, 2015;*

14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,*
15 *2017;*

16 *Amended Eff. _____.*

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