

**SUBCHAPTER 15C - INDUSTRY MEMBERS: RETAIL/INDUSTRY MEMBER RELATIONSHIPS: SHIP
CHANDLERS: AIR CARRIERS: FUEL ALCOHOL**

SECTION .0100 - DEFINITIONS: APPLICATION PROCEDURES

14B NCAC 15C .0101 DEFINITIONS

The following terms shall have the following meanings when used in this Chapter:

- (1) "Brand," in relation to wines, means the name under which a wine is produced and includes trade names or trademarks. A brand shall not be construed to mean a class or type of wine, but all classes and types of wines sold under the same brand label shall be considered a single brand. Differences in packaging such as a different style, type, or size of container shall not be considered different brands.
- (2) "Branded merchandise" means items, including glassware, cups, signs, t-shirts, hats and other apparel, that bears the brand of the alcoholic beverage being served, or the brand of the brewery, winery, or distiller whose alcoholic beverages is being served, at a tasting conducted pursuant to G.S. 18B-1114.1, 18B-1114.5 or 18B-1114.7.
- (3) "Brokerage" means a business that brokers in the State the sale of spirituous liquor on behalf of a spirituous liquor supplier.
- (4) "Brokerage representative" means an individual who promotes spirituous liquor on behalf of a brokerage.
- (5) "Distiller representative" means an individual who promotes spirituous liquor on behalf of a distiller, or otherwise represents a distiller.
- (6) "Industry member" means any wholesaler, salesman, brewery, winery, bottler, importer, liquor importer/bottler, distiller, distiller representative, brokerage, brokerage representative, supplier representative, rectifier, nonresident vendor, vendor representative, or affiliate thereof, that sells or solicits orders for alcoholic beverages, whether or not licensed in this State.
- (7) "Rectifier" means a permittee that processes spirituous liquor by cutting, blending, mixing, or infusing it with any ingredient that reacts with the constituents of the distilled spirits and changes the character and nature, or standards of identity, of the distilled spirits, but does not include a person who extracts spirituous liquor by original or continuous distillation, or who mixes spirituous liquor with other ingredients for immediate consumption.
- (8) "Retail permittee" or "retailer" means any permittee holding a retail alcoholic beverage permit issued pursuant to the authority of G.S. 18B-1001, but does not include a non-profit or political organization that has been issued a Special One-Time permit pursuant to the provisions of G.S. 18B-1002(a)(2) or (5).
- (9) "Spirituous liquor supplier" means a distiller, liquor importer/bottler, or rectifier.
- (10) "Supplier representative" means, as the term is used in G.S. 18B-1114.7, an individual who promotes on behalf of a spirituous liquor supplier, or otherwise represents a spirituous liquor supplier.
- (11) "Vendor" means any brewery, winery, bottler, malt beverages or wine importer, or nonresident malt beverage vendor or nonresident wine vendor as those terms are used in G.S. 18B-1113 and 18B-1114.
- (12) "Vendor representative" means any person who holds a permit issued pursuant to G.S. 18B-1112.
- (13) "Wine" means both fortified wine and unfortified wine.

*History Note: Authority G.S. 18B-100; 18B-101; 18B-207;
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Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,
2017;
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14B NCAC 15C .0102 APPLICATION PROCEDURES

(a) Who Files. Before any winery, brewery, distiller, wholesaler, importer, bottler, vendor, distiller representative, brokerage representative, salesman, supplier representative, or vendor representative sells, solicits orders for, or manufactures, bottles, or imports any alcoholic beverage in this State, that person shall first file written application for the appropriate permit and pay any required fees, as described in G.S. 18B-902, and as set forth in this Rule. Applications for permits for businesses shall be filed by those individuals listed in G.S. 18B-900(c).

(b) Application. Application forms for all ABC permits may be obtained from the North Carolina Alcoholic Beverage Control Commission's office or website as set forth in 14B NCAC 15A .0102. Each person shall provide in the application, under oath, the following information, as applicable:

- (1) the name, address, email address, last four digits of social security number, and telephone number(s) of the applicant;
- (2) the mailing address and location address of the business for which a permit is desired, and the county and state where the business is located;
- (3) the name of the business and whether the business is a sole proprietorship, corporation, limited liability company, or partnership;
- (4) the trade name of business;
- (5) the applicant's date of birth;
- (6) if the business is a corporation or limited liability company, the name and address of the person authorized to accept service of process of Commission notices or orders under G.S. 1A, Rule 4(j);
- (7) if the applicant is a non-resident intending to operate a business in the State, the name and address of a resident of the State appointed as the applicant's attorney-in-fact in accordance with Chapter 32C of the General Statutes for purposes of G.S. 18B-900(a)(2)b.;
- (8) if the application is for a vendor representative, brokerage representative, distiller representative, or supplier representative permit, authorization from the commercial permittee, brokerage, distiller, or spirituous liquor supplier to represent it; and
- (9) that the applicant is in compliance with G.S. 18B-900(a)(3) through (8).

(c) Additional documentation. The following documents completed, signed, notarized, and recorded, as applicable, shall be attached to and submitted with an application, and shall be incorporated as part of the application:

- (1) for applicants applying on behalf of a business pursuant to G.S. 18B-900(c), the fingerprint card, Authority for Release of Information Form, and certified check, cashier check, money order, electronic payment, or credit card payment made payable to the North Carolina ABC Commission in the amount of thirty-eight dollars (\$38.00) for payment of a state and national fingerprint-based criminal history record check pursuant to 14B NCAC 18B .0405;
- (2) for applicants applying for brokerage representative, distiller representative, or supplier representative permits, a certified copy of the applicant's State criminal history record check;
- (3) payment of applicable permit fees as authorized in 14B NCAC 15A .0104;
- (4) for businesses located in this State, a certified copy of any recorded power of attorney registered in the county where the proposed licensed premises is located;
- (5) for corporations not already holding a permit in this State, a copy of the Articles of Incorporation and notarized corporate certification of shareholders holding 25 percent or more of the shares of the corporation;
- (6) for limited liability companies not already holding a permit in this State, a copy of Articles of Organization and notarized organizational certification of members owning 25 percent or more interest in the company. Additionally, if manager-managed, a copy of the Operating Agreement;
- (7) a black and white copy of applicant's current photo identification;
- (8) for a business located in this State, a copy or memorandum of the lease showing the applicant as tenant, a copy of the deed showing the applicant as the grantee or owner, or a copy of a management agreement with the owner or lessee of the permitted property showing the applicant has the authority to operate the business at the permitted location; and
- (9) a Federal Employer Identification/Social Security Number Verification Form.

(d) Salesmen, Representatives, Vendors To State Companies. All salesmen, vendor representatives, distiller representatives, brokerage representatives, supplier representatives, and vendors shall further state on the permit application the name of every manufacturer, importer, wholesaler, distiller, brokerage, spirituous liquor supplier, or vendor that the applicant will represent in the State. The persons listed in this Paragraph shall notify the Commission when their authorization to represent an industry member ceases. The manufacturer, importer, wholesaler, distiller, brokerage, spirituous liquor supplier, or vendor shall notify the Commission whenever any of the persons listed in this

Paragraph are no longer their authorized representative. Notification required pursuant to this Paragraph shall be made to the Commission in writing within 30 days of the termination of the authorization to represent.

(e) Wholesalers. In addition to the requirements set forth in Paragraphs (a), (b), and (c) of this Rule, before a wholesaler receives, possesses, transports, sells, delivers, or ships wine or malt beverages in the State, the vendor shall file with the Commission a separate distribution agreement filing form for each brand authorized to be sold by the wholesaler and the specific territory where the product may be sold for each wholesaler location. The distribution agreement filing form shall contain the vendor's and wholesaler's names, trade names if applicable, addresses, telephone numbers, ABC permit numbers, and the name of the brand and territory where the sales may take place in the State, by county or parts of counties. For wine vendors, the form shall also state whether the vendor ships 1,250 cases or more of wine in the State each year. The form shall be signed and dated by the vendor and the wholesaler. If any changes in the distribution agreement affect the information on the distribution agreement filing form filed with the Commission, the wholesaler shall amend the form and file it with the Commission on a revised distribution agreement filing form before the changes become effective.

(f) Liquor Importer/Bottler. In addition to the requirements set forth in Paragraphs (a), (b), and (c) of this Rule, a liquor importer/bottler applying for a permit shall submit a description of the operations of its business, which shall include the location address of any storage facility or bottling plant, if different than the address shown on the permit application, and any associated federal alcoholic beverage permit numbers.

(g) Nonresident Vendors. In addition to the requirements set forth in Paragraphs (a), (b), and (c) of this Rule, a nonresident malt beverage vendor or a nonresident wine vendor applying for a permit shall submit the following:

- (1) a copy of the Federal Basic Permit or Brewers Notice;
- (2) a statement of whether the business is a malt beverage vendor or a wine vendor;
- (3) a statement whether the applicant has ever been disapproved by any government agency for any application to manufacture, use, store, rectify, bottle, distribute, sell, import, or transport distilled spirits, beer, or wine;
- (4) a statement whether the applicant has ever compromised, by payment of penalties or otherwise, any violation of any federal or state laws relating to internal revenue or customs taxation of alcoholic beverages; and
- (5) certification of understanding that the applicant can only engage in activities authorized by the ABC laws of this State for the permit issued, and that before any wine or malt beverage can be offered for sale in the State, the product and label must be approved by the Commission.

(h) Wine Producers. In addition to the requirements set forth in Paragraphs (a), (b), and (c) of this Rule, a wine producer applying for a permit shall submit a copy of the recorded deed or lease for the farming establishment that meets the requirements set forth in G.S. 18B-1000(10), including the address of the farm and one of the following:

- (1) a survey or diagram of the farm, indicating the areas and acreage used in the production of grapes, berries, or other fruits for the manufacture of unfortified wine; or
- (2) an affidavit stating that the farm consists of at least five acres committed to the production of grapes, berries, or other fruits for the manufacture of unfortified wine, listing the acreage used for this purpose and its function.

(i) Wine Shippers. In addition to the requirements set forth in Paragraphs (a), (b), and (c) of this Rule, a wine shipper applying for a permit shall submit the following:

- (1) a description of the operation of the business;
- (2) a website address through which orders will be received;
- (3) a statement whether the applicant has ever been disapproved by any government agency for any application to manufacture, use, store, rectify, bottle, distribute, sell, import or transport distilled spirits, beer, or wine;
- (4) a statement whether the applicant has ever compromised, by payment of penalties or otherwise, any violation of any federal or state laws relating to internal revenue or customs taxation of alcoholic beverages;
- (5) a statement whether the business entity holds a valid Federal Basic Permit, either as a Bonded Wine Cellar or Bonded Winery, and a copy of the Federal Basic Permit; and
- (6) a wine shipper brand listing consisting of all brands of fortified and unfortified wines identified to be shipped into the State by the wine shipper, including the names of the common carriers used for shipping. The permitted wine shipper may amend the brands of wine permitted to be shipped into the State by filing an amended wine shipper brand listing with the Commission prior to shipping. Only brands identified by the wine shipper to the Commission in writing may be legally shipped into the State.

History Note: Authority G.S. 18B-100; 18B-109; 18B-207; 18B-900; 18B-902; 18B-1000; 18B-1001.1; 18B-1105.1; 18B-1113; 18B-1114; 18B-1114.3; 18B-1114.7; 18B-1203; 18B-1303;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0102 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
Amended Eff. April 1, 2019.

SECTION .0900 - DISTILLERS: REPRESENTATIVES

14B NCAC 15C .0901 DISTILLER, SUPPLIER AND BROKERAGE REPRESENTATIVES: PROHIBITED ACTS

(a) Representatives Prohibited from Entering Store. Distiller representatives, supplier representatives, or brokerage representatives shall not enter any ABC store except for the purpose of calling on the buyer if the buyer's office is maintained in the store, for the purpose of making a purchase, or for the purpose of visiting a store to market product, build displays, or attach added value items in accordance with written permission from the local Board. An initial request for permission to visit a store pursuant to this Paragraph shall be made in writing by the representative to the general manager of the local Board in a form acceptable to the local Board. The local Board may adopt policies regulating when a representative may visit the local Board's ABC store, which may include the times, frequency, purpose, method of requesting and approving permission, and any advance notice requirements. Permission granted by the general manager, or other persons designated by the local Board, to the representative to visit the local Board's ABC stores shall initially be made in writing and in accordance with any policies adopted by the local Board. The duration of the permission may be for an indefinite time. The local Board's policies may authorize the general manager, or his or her designee, to verbally authorize subsequent specific visits after written permission has been given.

(b) Representatives Prohibited from Contacting Store Personnel. Distiller representatives, supplier representatives, or brokerage representatives shall not contact store personnel for the purpose of promoting their merchandise while store personnel are off-duty. Store personnel shall not allow distiller representatives, supplier representatives, or brokerage representatives to contact them in any manner for the purpose of promoting their merchandise while store personnel are off-duty.

(c) Gifts Prohibited. Distiller representatives, supplier representatives, or brokerage representatives shall not give liquor, including samples, or anything of value to local ABC board members or employees, including store managers and general managers, at any time. Local ABC board members or employees, which includes store managers and general managers, shall not accept gifts, either directly or through a third person, from any distiller representative, supplier representative, or brokerage representative.

(d) Soliciting and Advertising Prohibited. Except for contact with the Commission, local ABC boards, and retail permittees, with regards to the promotion and purchase of spirituous liquor, no distiller representative, supplier representative, or brokerage representative shall:

- (1) solicit any order, agreement, or other commitment to purchase liquor, whether or not it is legally enforceable; or
- (2) advertise, promote, or encourage purchases by any means or method or furnish any means by which spirituous liquor may be obtained, except as provided in 14B NCAC 15B .1008.

This Paragraph shall not apply to a distiller representative, supplier representative, or brokerage representative who has been granted an exception by the Commission to make presentations of pictorial artwork or renderings of the design of the decanter and solicitation of a special order of these decanters at the request of a local ABC board and non-profit, charitable corporation related to orders and sales of commemorative bottles pursuant to 14B NCAC 15A .1404. Requests for an exception under this Paragraph shall be made in writing to the Commission.

(e) Relationship With Mixed Beverages Permittee. No employee or representative of any distiller, importer, rectifier, or bottler may promote or solicit orders by a mixed beverages permittee or aid the permittee in placing orders for any spirituous liquor or for any other alcoholic beverages.

(f) Gifts and Inducements Prohibited. Except as permitted pursuant to Rules .0710 and .0711 of this Subchapter, no employee or representative of any industry member may give or lend to any mixed beverage permittee or the permittee's employee any gift, money, services, equipment, furniture, fixture, or other thing of value.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-704; 18B-807; 18B-1116;
Eff. January 1, 1982;
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Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
Amended Eff. April 1, 2019.*

SECTION .1300 – SPECIAL EVENT PERMITS

14B NCAC 15C .1301 DEFINITIONS

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

- (1) "Charitable, nonprofit organization" means a nonprofit organization that is a charitable organization as defined in G.S. 1-539.11(1).
- (2) "Local fund-raiser" means a special event sponsored or cosponsored by a local government, a local charitable, nonprofit organization, or a local political organization for the purpose of raising funds for a governmental, charitable, or political purpose.
- (3) "Special event" means either:
 - (a) an event the spirituous liquor special event permittee participates in that is a trade show, convention, street festival, holiday festival, agricultural festival, balloon race, local fund-raisers, or other similar events approved pursuant to Rule .1302 of this Section, that is for a limited duration of no more than 10 days and organized or sponsored by a person other than the spirituous liquor special event permittee; or
 - (b) an event of limited duration of no more than 60 days at a shopping mall that is organized and sponsored by the shopping mall or an association of shopping mall merchants as part of a promotion or sale for all merchants in the shopping mall.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1114.7;
Eff. April 1, 2019.

14B NCAC 15C .1302 OTHER SIMILAR EVENTS APPROVAL

(a) For other events not specifically listed in G.S. 18B-1114.7, the holder of a spirituous liquor special event permit issued pursuant to G.S. 18B-1114.7 shall obtain approval of that other similar event from the Commission prior to the permit holder participating in the event. The Commission's approval of other events under this Rule shall be in writing.

(b) The holder of the permit shall submit a written application for approval to the Commission no less than seven business days prior to the date of the event. The application, available on the Commission's website, includes:

- (1) the permit holder's name, business name, spirituous liquor special event permit number, email address, and telephone and fax numbers;
- (2) the name, dates, time, location, address, and county of the event;
- (3) whether an admission fee will be charged of the attendees by the event sponsor;
- (4) the event sponsor's name, address, contact information, event or sponsor's social media link or webpage, and whether the event sponsor is a non-profit organization;
- (5) whether the event sponsor holds a special one-time ABC permit pursuant to G.S. 18B-1002(a)(2) or (5) and whether alcohol will otherwise be sold or given away at the event; and
- (6) the names of other co-sponsors, supporters, vendors, or exhibitors who are expected to participate in the event, and whether those persons hold ABC permits.

(c) The Commission shall not approve events sponsored exclusively by the holder of the permit. Tastings of spirituous liquor shall not be allowed pursuant to a spirituous liquor special event permit on the premises of a retail permittee or an ABC store.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1114.7;
Eff. April 1, 2019.*

14B NCAC 15C .1303 TASTINGS HELD FOR CONSUMERS

(a) Tasting Area Designation. Tastings permitted pursuant to a spirituous liquor special event permit shall only be conducted within a designated tasting area, delineated by vertical markings no less than 24 inches in height that the consumer would recognize as indicating the boundaries that physically separate the tasting area from the remainder of the special event. Consumers shall not be permitted to take tasting samples outside the designated tasting area. The permittee shall ensure that designated tasting area signs are displayed at the permittee's tastings serving tables and at the entrances and exits to the designated tasting area, with lettering of at least two inches in height, informing consumers that they must be 21 years of age to participate in the tastings and that no tasting samples are allowed to be taken out of the designated tasting area. A designated tasting area may include one or more permittees. A special event may have multiple designated tasting areas.

(b) Each permittee conducting a tasting may give each consumer tasting samples up to the limits set forth in G.S. 18B-1114.7(b)(3).

(c) Training. Any employee of a permittee who will be conducting or supervising any tasting conducted pursuant to a spirituous liquor special event permit shall be given training, including:

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

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

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

(e) Limitations. Spirituous liquors provided as tastings pursuant to a spirituous liquor special event permit shall not be mixed with any other alcoholic or non-alcoholic beverage. No non-alcoholic beverages, other than water, shall be made available to the consumer in the designated tasting area.

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

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1114.7;
Eff. April 1, 2019.*

14B NCAC 15C .1304 SPECIAL EVENT COMPLIANCE PROCEDURE

(a) The permittee to whom the spirituous liquor special event permit was issued must be present in the designated tasting area at the time the tastings occur. A copy of the spirituous liquor special event permit shall be on display in the designated tasting area and shall be made available to law enforcement agents upon request.

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

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

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

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

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

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

(a) In addition to the tastings permitted under this Section, a spirituous liquor special event permit holder may sell branded merchandise and provide point-of-sale advertising materials and advertising specialties to consumers at consumer tastings only within the designated tasting area. No unrelated activities shall be conducted within the designated tasting area.

(b) For purposes of this Rule:

- (1) "Point-of-sale advertising materials" means advertising that is located inside the designated tasting area established in accordance with Rule .1303 of this Section where the product is displayed or sampled. Advertising materials may include signs, posters, banners, and decorations that bear product advertising matter. Point-of-sale advertising materials as used in this Section shall not include items listed in 14B NCAC 15C .0711(c).
- (2) "Advertising specialties" means coasters, shot glasses, bottle or can openers, cork screws, ash trays, shopping bags, individual can coolers, hats, caps, visors, t-shirts (without collars or buttons), and key chains.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1114.7; Eff. April 1, 2019.

14B NCAC 15C .1306 SPECIAL EVENT PARTICIPATION LIMITATIONS

- (a) For special events in shopping malls, the spirituous liquor special event permittee shall not participate in any single mall more than 10 days cumulatively in any three-month period.
- (b) A spirituous liquor special event permittee shall not participate more than 10 days cumulatively during a three-month period in a special event sponsored or arranged by the same person or business.
- (c) A spirituous liquor special event permittee shall not participate in a special event for which the permittee was the only spirituous liquor special event permittee invited or allowed to participate in the special event.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1114.7; 18B-1116;
Eff. April 1, 2019.