

REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcoholic Beverage Control Commission

RULE CITATION: 14B NCAC 15B .1004

DEADLINE FOR RECEIPT: January 10, 2020

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In (b), line 16, please capitalize "Section."

In (b)(1)(B), please add a comma after "discount card."

On page 2, line 18, is it necessary to say "direct or indirect" cooperation? Could you just say "Cooperation?"

In (f), line 28, please add a comma after "premiums."

After the last line of your history note, please add a proposed effective date. The earliest effective date for this Rule is February 1, 2020.

...

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;

Amended Eff. February 1, 2020.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder
Commission Counsel
Date submitted to agency: December 31, 2019

1 14B NCAC 15B .1004 is amended with changes as published in 34:06 NCR 489 as follows:

2
3 **14B NCAC 15B .1004 GENERAL PROHIBITIONS**

4 (a) For the purposes of this Rule, the following definitions shall apply:

- 5 (1) "Coupon" means a part of a retail permittee's advertisement that is redeemed by a purchaser to the
6 retail permittee to obtain a discount at the time of sale;
- 7 (2) "Loyalty card, discount card, or membership card" means a card that is issued by a retail permittee
8 to customers that, upon presentation to the retail permittee, provides for the purchaser to receive a
9 loyalty card, discount card, membership card, or coupon discount on a portion of the amount paid
10 by the purchaser for off-premises beer or wine consumption sales at the time of sale; and
- 11 (3) "Rebate" for a retail ~~permittee, permittee~~ means a promise by the retail permittee to return a portion
12 of the amount paid by the purchaser upon the condition the purchaser completes a rebate form and
13 the purchaser meets the terms and conditions of the rebate form's requirements.

14 (b) Advertising for an alcoholic beverage shall not include a coupon or an offer for a free alcoholic beverage. No
15 person shall advertise by means of a coupon, a rebate or a permittee's loyalty card, discount card or membership card
16 offering a discount off the purchase of a malt beverage or wine, except as provided in this section. A combination of
17 the use of a coupon, a rebate or a permittee's loyalty card, discount card or membership card shall not exceed a total
18 of ~~25~~35 percent of the advertised retail price of the item. Permittees may advertise by means of a coupon, a rebate or
19 a permittee's loyalty card, discount card or membership card under the following conditions:

- 20 (1) A permittee who holds an on-premises or off-premises malt beverage or wine permit under G.S.
21 18B-1001(1) through (6) or a wine shop permit under G.S. 18B-1001(16) may advertise by means
22 of a coupon or a rebate in the following circumstances:
- 23 (A) The permittee may provide a coupon or a rebate for use by a customer when purchasing a
24 malt beverage or wine sold at the permittee's retail location for off-premises consumption;
- 25 (B) The permittee may require a customer to use the permittee's loyalty card, discount card or
26 membership card with the use of a coupon or rebate when purchasing a malt beverage or
27 wine sold at the permittee's retail location for off-premises consumption;
- 28 (C) No coupons or rebates shall be honored for the purchase of alcohol for any individual below
29 the legal age for purchase of alcohol;
- 30 (D) A coupon or rebate shall not provide a discount exceeding ~~25~~35 percent of the advertised
31 retail price of the item;
- 32 (E) A permittee shall not advertise or distribute coupons or rebates in a publication produced
33 for or by a higher education institution; and
- 34 (F) In any advertisement displaying a discount coupon or rebate, the permittee shall include
35 the following statement on or about the discount coupon or rebate in a similar font to the
36 discount coupon or rebate, "Drink Responsibly – Be 21;" and

(2) A permittee who holds an on-premises or off-premises malt beverage or wine permit under G.S. 18B-1001(1) through (6) or a wine shop permit under G.S. 18B-1001(16) may advertise discounts, coupons and rebates with the requirement of the use of the permittee's loyalty card, discount card or membership card in the following circumstances;

(A) The permittee shall require customers to present a loyalty card, discount card or membership card to receive the advertised loyalty card, discount card or membership card discount when purchasing a malt beverage or wine sold at the permittee's retail location for off-premises consumption;

(B) No loyalty card, discount card or membership card shall be honored for the purchase of alcohol for any individual below the legal age for purchase of alcohol;

(C) A loyalty card, discount card or membership card shall not provide a discount exceeding ~~25~~35 percent of the advertised retail price of the item;

(D) A permittee shall not advertise permittee loyalty card, discount card or membership card discounts in a publication produced for or by a higher education institution; and

(E) In any advertisement displaying a permittee loyalty card, discount card or membership card discount, the permittee shall include the following statement on or about the discount coupon or rebate in a similar font to the discount, "Drink Responsibly – Be 21."

Direct or indirect cooperation shall not occur between a retailer and an industry member in either marketing, redemption or funding of coupons, rebates or loyalty card, discount card or membership card discounts under this Rule. Participation of an industry member in the use of coupons, rebates or loyalty card, discount card or membership card discounts is a violation of G.S. 18B-1116(a)(3).

(c) No industry member or retailer shall advertise alcoholic beverages in any programs for events or activities in connection with any elementary or secondary schools; nor shall any alcoholic beverages advertising be connected with these events when broadcast over radio or television.

(d) No industry member or retailer is permitted to advertise alcoholic beverages by use of sound trucks.

(e) No industry member or retailer shall advertise spirituous liquor upon the picture screen of any theater.

(f) Except as otherwise provided in these Rules, no industry member or retailer shall promote an alcoholic beverage product by giving prizes, premiums or merchandise to individuals for which any purchase of alcoholic beverages is required or based on the return of empty containers unless all containers of like products are accepted and considered on an equal basis with the product sold by the promoter.

(g) No on-premise permittee or his agent shall advertise any drink promotion prohibited by 14B NCAC 15B .0223. This Paragraph includes a ban on all advertisements of "2 for 1," "buy 1 get 1 free," "buy 1 get another for a _____ (nickel, penny, etc.)," and any other similar statement indicating that a patron must buy more than one drink.

History Note: Authority G.S. 18B-100; 18B-105(b); 18B-207; 18B-1116(a)(3); S.L. 2019-182, Sec. 11:

Eff. January 1, 1982;

Amended Eff. January 1, 2011; July 1, 1992; August 1, 1985; May 1, 1984;

1 *Transferred and Recodified from 04 NCAC 02S .1006 Eff. August 1, 2015;*
2 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,*
3 *2016.*