

1 14B NCAC 15A .1403 is amended **with changes** as published in 35:06 NCAC 664 as follows:

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3 **14B NCAC 15A .1403 SPECIAL ORDERS**

4 (a) Spirituous liquor products shall be approved for purchase from the Special Orders Price List as follows:

5 (1) When requested by a customer, a local board shall request that the Commission consider approval
6 for inclusion on the Special Orders Price List any spirituous liquor brand or container size that is
7 not otherwise approved.

8 (2) The Commission shall consider the local board's request, and approve, in accordance with 14B
9 NCAC 15C .0203 and .0204, any brand or product for special order and the addition to the Special
10 Orders Price List, including the special item case size requirement as ~~required~~ established by the
11 ~~vendor of at least one case vendor.~~

12 (b) When requested by a customer, a local board ~~may~~ shall place an order with the Commission for any ~~product~~ special
13 item case on the Special Orders Price List. ~~All customer orders shall be prepaid by the customer prior to the order~~
14 ~~being placed with the Commission. Any order must meet the minimum order quantity requirements set by the~~
15 ~~Commission. A local board is not required to place an order on behalf of a customer for a quantity less than the case~~
16 ~~size requirement established by the vendor. If a customer desires to purchase a quantity less than the special item case~~
17 ~~size of any product, a local board may purchase any unsold bottles in the special item case for public sale. Any bottles~~
18 ~~purchased by the local board in excess of the quantity ordered by customers shall not be eligible to be sold below the~~
19 ~~uniform price pursuant to Rule 14B NCAC 15A .1702.~~

20 (c) All customer orders shall be prepaid by the customer prior to the order being placed with the Commission.
21 However, a local board may waive the requirement for the customer to prepay for the order if the local board elects to
22 purchase the portion of the special item case in excess of the quantity ordered by the customer.

23 (d) Upon receipt of the special order from the local board, the Commission shall place the order with the vendor for
24 shipment to the State ABC warehouse for delivery to the local board by the State ABC warehouse Contractor with the
25 Contractor's next regularly scheduled shipment to the local board.

26 (d)(c) ~~After completing the special order transaction with the customer, the local board shall report the sale of~~
27 ~~merchandise sold pursuant to this Rule on its next monthly report to the Commission.~~

28 For purposes of this Section and implementation of G.S. 18B-800(c1), the following terms mean:

29 (1) "Special item case" means the vendor's minimum bottle case size for special item products.

30 (2) "Special item list" means Special Order Price List.

31 (3) "Special Order Price List" means the list of spirituous liquor products approved by the Commission
32 for sale in the State that are not available through the State ABC warehouse, but are available by
33 special order in accordance with this Rule and Rule 14B NCAC 15A .1407.

34 (e) **In addition to the provisions set forth in Paragraph (a) of this Rule, antique spirituous liquor products shall be**
35 **approved for purchase from the Special Orders Price List as follows:**

36 (1) **Upon receipt of a request for inclusion of an antique spirituous liquor on the Special Orders Price**
37 **List from either a local board at the request of the owner of antique spirituous liquor, the owner of**

1 antique spirituous liquor, or a mixed beverages permittee, the Commission shall consider the
2 request. Any antique spirituous liquor brand or product approved by the Commission for sale
3 pursuant to 14B NCAC 15C .0203 and .0204 shall be added to the Special Orders Price List. The
4 Commission shall determine the retail price for each product based on the markup formula pursuant
5 to G.S. 18B 804, set up each product in its pricing system, assign code numbers for each product,
6 and notify the local board and the State ABC warehouse of the price and product code number of
7 each product.

8 (2) The seller of the antique spirituous liquor shall provide to the Commission an inventory of each
9 product to be sold, the seller's selling price per bottle, and a picture or copy of the label of each
10 product legible to the Commission sufficient to identify the product to be sold.

11 (f) An owner of antique spirituous liquor who desires to sell antique spirituous liquor shall obtain a special one time
12 permit pursuant to G.S. 18B 1002(a)(4) prior to the sale.

13 (g) A mixed beverages permittee who wants to order antique spirituous liquor from the Special Orders Price List from
14 a permittee authorized to sell antique spirituous liquor pursuant to G.S. 18B 1002(a)(4) shall first obtain an antique
15 spirituous liquor permit pursuant to G.S. 18B 1001(20).

16 (h) When requested by an antique spirituous liquor permittee, a local board shall place an order from the special one-
17 time permittee selling the antique spirituous liquor on the Special Orders Price list. All orders shall be prepaid by the
18 antique spirituous liquor permittee to the local board prior to the order being placed with the special one time
19 permittee.

20 (i) Upon delivery of the antique spirituous liquor to the local board by the special one time permittee, the local board
21 shall pay the seller's price to the special one time permittee and notify the antique spirituous liquor permittee the order
22 is available for pick up, and the location where it may be picked up.

23 (j) Once the local board has possession of the antique spirituous liquor to be sold, the local board shall notify the
24 Commission and the State ABC warehouse, and forward the invoice bill of lading for the product to the State ABC
25 warehouse. The State ABC warehouse shall bill the local board for the bailment and bailment surcharge for the
26 product. The local board shall pay the bailment and bailment surcharge to the Commission.

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28 *History Note:* Authority G.S. 18B-100; 18B-101; 18B-207; 18B-800(c); 18B-804; 18B-807; 18B-1001; 18B-
29 1002(a)(4);

30 *Eff. January 1, 1982;*

31 *Amended Eff. May 1, 1984;*

32 *Transferred and Recodified from 04 NCAC 02R .1404 Eff. August 1, 2015;*

33 *Agency did not readopt rule pursuant to G.S. 150B-21.3A by RRC established deadline of May 31,*
34 *2017;*

35 *Eff. January 1, 2018 (Codifier approved request from agency to reuse rule number).;*

36 *Amended Eff. February 1, 2021.*

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: Alcoholic Beverage Control Commission	
2. Rule citation & name (name not required for repeal): 14B NCAC 15A .1407 Antique Spirituous Liquor Special Orders	
3. Action: <input checked="" type="checkbox"/> ADOPTION <input type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTION <input type="checkbox"/> REPEAL through READOPTION	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
6. Notice for Proposed Rule: <input checked="" type="checkbox"/> Notice Required Notice of Text published on: September 15, 2020 Link to Agency notice: https://abc.nc.gov/ Hearing on: November 4, 2020 Adoption by Agency on: December 9, 2020 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact. Check all that apply. <input type="checkbox"/> This Rule was part of a combined analysis. <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
<p style="text-align: center;">9. REASON FOR ACTION</p> 9A. What prompted this action? Check all that apply: <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: </div> <div style="width: 45%;"> <input checked="" type="checkbox"/> Legislation enacted by the General Assembly Cite Session Law: S.L. 2019-182, Sec. 3 <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other: </div> </div> <p>9B. Explain: This rule is adopted to recodify into a separate rule the rules related to antique spirituous liquor special orders. Additionally, the rule will no longer require prepayment by the mixed beverages permittee before orders are placed for antique spirituous liquor. Paragraphs (e) through (j) of Rule 14B NCAC 15A .1403, as amended, are being recodified in this rule.</p>	
10. Rulemaking Coordinator: Walker Reagan Phone: 919-779-8367 E-Mail: walker.reagan@abc.nc.gov Additional agency contact, if any: Renee Metz Phone: 919-779-8331 E-Mail: renee.metz@abc.nc.gov	11. Signature of Agency Head* or Rule-making Coordinator: <div style="text-align: center; font-family: cursive; color: blue; font-size: 1.2em;">Walker Reagan</div> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <p><small>*If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.</small></p> <p>Typed Name: Walker Reagan Title: Rule-making Coordinator</p>
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

1 14B NCAC 15A .1407 is adopted with changes as published in 35:06 NCAC 664 as follows:

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3 **14B NCAC 15A .1407 – ANTIQUE SPIRITUOUS LIQUOR SPECIAL ORDERS**

4 (a) In addition to the provisions set forth in Paragraph (a) of ~~Rule 1402~~ Rule .1403 of this Section, antique spirituous
5 liquor products shall be approved for purchase from the Special Orders Price List as follows:

6 (1) Upon receipt of a request for inclusion of an antique spirituous liquor on the Special Orders Price
7 List from either the owner of antique spirituous liquor, a local board at the request of the owner of
8 antique spirituous liquor, or a mixed beverages permittee, the Commission shall consider the
9 request.

10 (2) The seller of the antique spirituous liquor shall provide to the Commission an inventory of each
11 product to be sold, the seller's selling price per bottle, and a picture or copy of the label of each
12 product legible to the Commission that allows it to identify the product to be sold.

13 (3) Any antique spirituous liquor brand or product approved by the Commission for sale shall be added
14 to the Special Orders Price List, listed by seller. The Commission shall determine the retail price for
15 each product based on the markup formula pursuant to G.S. 18B-804, set up each product in its
16 pricing system, assign code numbers for each product, and notify the local board and the State ABC
17 warehouse of the price and product code number of each product.

18 (b) An owner of antique spirituous liquor who wants to sell antique spirituous liquor shall obtain a special one-time
19 permit pursuant to G.S. 18B-1002(a)(4) prior to the sale.

20 (c) A mixed beverages permittee who wants to order antique spirituous liquor from the Special Orders Price List from
21 an antique spirituous liquor seller shall first obtain an antique spirituous liquor permit pursuant to G.S. 18B-1001(20).

22 (d) When requested by an antique spirituous liquor permittee, a local board shall place an order from the antique
23 spirituous liquor seller for spirituous liquor on the Special Orders Price list.

24 (e) Upon delivery of the antique spirituous liquor to the local board by the antique spirituous liquor seller, the local
25 board shall notify the antique spirituous liquor permittee the order is available for pickup and the location where it
26 may be picked up. The local board shall collect payment for the antique spirituous liquor from the antique spirituous
27 liquor permittee at the time of the pickup and shall pay the seller's price to the antique spirituous liquor seller from
28 the proceeds of the sale.


29 (f) Once the local board has possession of the antique spirituous liquor to be sold, the local board shall notify the
30 Commission and the State ABC warehouse and forward the invoice bill of lading for the product to the State ABC
31 warehouse. The State ABC warehouse shall bill the local board for the bailment and bailment surcharge for the
32 product. The local board shall pay the bailment and bailment surcharge to the Commission.

33
34 *History Note:* Authority G.S. 18B-100; 18B-101; 18B-207; 18B-800(c); 18B-804; 18B-807; 18B-1001; 18B-
35 1002(a)(4);

36 *Adopted Eff. February 1, 2021.*
37

SUBMISSION FOR PERMANENT RULE

(Revised January 5, 2021)

1. Rule-Making Agency: Alcoholic Beverage Control Commission	
2. Rule citation & name (name not required for repeal): 14B NCAC 15A .1801 Purchase-Transportation Permits for Wine and Liquor	
3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTION <input type="checkbox"/> REPEAL through READOPTION	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
6. Notice for Proposed Rule: <input checked="" type="checkbox"/> Notice Required Notice of Text published on: September 15, 2020 Link to Agency notice: https://abc.nc.gov/ Hearing on: November 4, 2020 Adoption by Agency on: December 9, 2020 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact. Check all that apply. <input type="checkbox"/> This Rule was part of a combined analysis. <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact ($\geq \$1,000,000$) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
9. REASON FOR ACTION	
9A. What prompted this action? Check all that apply: <input type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: <input checked="" type="checkbox"/> Legislation enacted by the General Assembly Cite Session Law: S.L. 2019-182, Sec. 5 <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other:	
9B. Explain: This rule is being amended to include purchase-transportation permits issued by distilleries.	
10. Rulemaking Coordinator: Walker Reagan Phone: 919-779-8367 E-Mail: walker.reagan@abc.nc.gov Additional agency contact, if any: Renee Metz Phone: 919-779-8331 E-Mail: renee.metz@abc.nc.gov	11. Signature of Agency Head* or Rule-making Coordinator:  *If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form. Typed Name: Walker Reagan Title: Rule-making Coordinator
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

1 14B NCAC 15C .0602 is amended with changes as published in 35:7 NCR 754 as follows:

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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 ~~(a)(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,] permit.~~ except, that ~~However,~~ a wholesaler may furnish or sell wine or malt beverages to
14 ~~his~~ the wholesaler's employees for the sole use of the employees.

15 ~~(b)(c)~~ No retail malt beverage or wine permittee shall purchase ~~these 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~~ malt beverages or wine 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.

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

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

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

and

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

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1107; 18B-1109; 18B-1113; 18B-1114; 18B-1303(a);
Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0602 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,
2017;
Amended Eff. February 1, 2021.*

1 14B NCAC 15C .0607 is amended with changes as published in 35:7 NCR 754 as follows:

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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 ~~wholesalers~~wholesalers, as set forth in [~~14B NCAC 15C .0602(a);~~]Rule .0602(a) of this Section, who may then deliver
8 them to United States military or naval reservations within North Carolina.

9
10 *History Note: Authority* ~~G.S. 18B-109(b); 18B-100; G.S. 18B- 100; 18B-109(b); 18B-207; 18B-1101(2); 18B-~~
11 ~~1102(2); 18B-1104(3); 18B-1113; 18B-1114;~~
12 *Eff. January 1, 1982;*
13 *Amended Eff. May 1, 1984;*
14 *Transferred and Recodified from 04 NCAC 02T .0609 Eff. August 1, 2015;*
15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,*
16 *2017;*
17 *Amended Eff. February 1, 2021.*
18