

REQUEST FOR TECHNICAL CHANGE

AGENCY: Alcoholic Beverage Control Commission

RULE CITATION: 14B NCAC 15B .1013

DEADLINE FOR RECEIPT: September 4, 2019

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:

On your Submission for Permanent Rule Form, please include the rule name next to the rule citation in box 2.

In (b)(1) and throughout the rule where these terms are used, does your regulated public understand the meaning of "manufacturer, importer, distiller, rectifier, or bottler?"

In (b)(3)(B), line 18, and elsewhere the term is used, what is an "industry member"? Is it what is defined in Rule 15A .0103?

In (b)(3)(B), line 18, and elsewhere you use the term, what is the "designated redemption agent"? Is this a third-party that will process the refunds? Does your regulated public understand the meaning of this term?

On line 31, how will they include a sample of the "redemption procedure"?

Why is (b)(9) necessary if (b)(2) already limits refunds to purchasers?

In (c) and (d), just to be clear, what is a "retail business" and a "retail permittee?" Does the term include ABC stores? G.S. 18B-1006(h) allows "retail permittees" to only purchase malt beverages, unfortified wine, or fortified wine. Is that the meaning you are using here?

In other words, is it correct that an ABC store can advertise a refund offer on its premises, but a convenience store or beer and wine shop (being "retail permittees") may not?

At the end of your history note, please add a proposed effective date.

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: August 21, 2019

1 14B NCAC 15B .1013 is amended with changes as published in 33:23 NCR 2249 as follows:

2
3 **14B NCAC 15B .1013 REFUND OFFERS**

4 (a) General. Refund offers may be used to advertise spirituous liquor. Refund offers may be advertised by newspaper,
5 magazine, direct mail, [internet]the Internet, or other electronic means.

6 (b) Conditions. A refund offer is an offer to a ~~consumer~~purchaser for a rebate of money or merchandise from a liquor
7 industry member, obtained by ~~mailingsubmitting~~ a form. A refund offer is allowed under the following conditions:

8 (1) A refund may be offered only by a manufacturer, importer, distiller, ~~rectifier~~rectifier, or bottler of
9 spirituous liquor.

10 (2) A refund may be offered only to purchasers of the manufacturer's original unopened container of
11 liquor that is purchased from a localan ABC store.

12 (3) A refund may be offered ~~only~~in any of the following ways:

13 (A) ~~when~~When the redemption form is a part of or attached to the package or container, or
14 when the forms are available on tear-off pads displayed in the store. Any offer that is a
15 part of or attached to the package or container shall be placed there by the industry member
16 who offers the refund.

17 (B) When the redemption form is part of an electronic refund procedure or software application
18 made available by the industry member or its designated redemption agent.

19 (4) The redemption form shall include a statement that the person redeeming the refund must be at least
20 21 years of age.

21 (5) A refund offer shall apply throughout the state.State.

22 ~~(5)(6)~~ A refund offer shall include an expiration date.

23 ~~(6)(7)~~ A refund offer shall include a statement explaining the redemption ~~procedure~~procedure, including
24 the expiration date and length of time before the refund is sent to the purchaser. Refund offers shall
25 be redeemed by ~~mailingsubmitting~~ the redemption form to the industry member who offers the
26 refund or its designated redemption ~~agent-agent~~ in the manner required by the industry member,
27 either by mail or electronically. Such anThe designated redemption agent shall not be a retail or
28 wholesale permittee in the ~~state.State.~~

29 ~~(7)(8)~~ An industry member shall notify the ~~commission~~Commission at least 10 days before it ~~offers a~~
30 ~~refund~~provides a refund offer on liquor. The notice shall state the proposed amount of the refund,
31 its expiration date, to whom redemption forms ~~mustshall~~ be ~~mailed~~submittedsubmitted, and the
32 name, ~~addressaddress~~, and phone number of the redemption agent. The notice shall also include a
33 sample of the redemption ~~form-form~~ or the redemption procedure.

34 ~~(8)(9)~~ An ~~ABCA local~~ board member or ~~board~~ employee shall not ~~receive refunds on offers obtained from~~
35 ~~liquor packages or containers before sale at retail.~~submit a redemption form for a refund under this
36 Rule except for [lawful] purchases of spirituous liquor the local board member or board employee
37 has made.

1 (c) Commercial Bribery; Cooperative Advertising. No local ABC board member, board employee, ~~retailer~~retailer,
2 or retailer employee shall accept and no industry member shall pay any fee for the display or use of refund offers. The
3 name of a retail business or retail permittee shall not appear on any refund offer.

4 (d) Advertising ~~Refund Offers. Refund offers may be advertised by newspapers, magazines or direct mail but no~~
5 ~~redemption form may appear in such advertisement.~~Limits. No refund offer for liquor may be advertised on the
6 premises of any retail permittee.

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8 *History Note: Authority G.S. 18B-100; 18B-105(b); 18B-207;*

9 *Eff. June 1, 1987;*

10 *Amended Eff. July 1, 1992;*

11 *Transferred and Recodified from 04 NCAC 02S .1020 Eff. August 1, 2015;*

12 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,*
13 *2016.*