

## REQUEST FOR TECHNICAL CHANGE

AGENCY: ABC Commission

RULE CITATION: All Rules Submitted

**DEADLINE FOR RECEIPT: Thursday, October 8, 2020**

***NOTE: This request when viewed on computer extends 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 each Submission for Permanent Rule form:*

*In Box 6, I take it you re-noticed the hearing date to reflect the change from the date published in the Register? I was able to locate the April 15, 2020 notice, but that moved the hearing to June 10. When was the additional notice sent out?*

*In Box 9B, please include a brief explanation of the reason for the rule change. You can just use the rationale for each Rule that you published in the Register.*

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

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: September 24, 2020

## REQUEST FOR TECHNICAL CHANGE

AGENCY: ABC Commission

RULE CITATION: 14B NCAC 15C .1301

**DEADLINE FOR RECEIPT: Thursday, October 8, 2020**

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 (4), I take it that "local" is a known term in this context?*

*In (5), what is the difference between a "consumer tasting" and a "consumer tasting event"?*

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

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: September 24, 2020

1 14B NCAC 15C .1301 is amended with changes as published in 34:19 NCAC 1773 as follows:

2  
3 **SECTION .1300 – SPIRITUOUS LIQUOR TASTING SPECIAL EVENT PERMITS**

4  
5 **14B NCAC 15C .1301 DEFINITIONS**

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

- 7 (1) "Advertising specialties" means coasters, shot glasses, bottle or can openers, cork screws, ash trays,  
8 shopping bags, individual can coolers, hats, caps, visors, t-shirts (without collars or buttons), and  
9 key chains.
- 10 (2) "Charitable, nonprofit organization" means a nonprofit organization that is a charitable organization  
11 as defined in G.S. 1-539.11(1).
- 12 ~~(2)~~(3) "Consumer tasting event" means any time a single spirituous liquor special event permittee provides  
13 samples of spirituous liquor to a consumer in an ABC store pursuant to G.S. 18B-1114.7(c).
- 14 (4) "Local fund-raiser" means a special event sponsored or cosponsored by a local government, a local  
15 charitable, nonprofit organization, or a local political organization for the purpose of raising funds  
16 for a governmental, charitable, or political purpose.
- 17 (5) "Permit holder's authorized agent" means an individual authorized in writing by the spirituous  
18 liquor special event permittee to conduct a consumer tasting or consumer tasting event pursuant to  
19 the permittee's spirituous liquor special event permit. The individual shall be responsible for the  
20 management on the site of the consumer tasting [and] or consumer tasting event, and the supervision  
21 of the permittee's or agent's employees or independent contractors offering or pouring tasting  
22 samples at the consumer tasting or consumer tasting event.
- 23 (6) "Point-of-sale advertising materials" means advertising that is located where the spirituous liquor  
24 product is displayed or sampled. Advertising materials may include signs, posters, banners, and  
25 decorations that bear product advertising matter. Point-of-sale advertising materials as used in this  
26 Section shall not include items listed in 14B NCAC 15C .0711(c).
- 27 ~~(3)~~(7) "Special event" means either:
- 28 (a) an event the spirituous liquor special event permittee participates in that is a trade show,  
29 convention, street festival, holiday festival, agricultural festival, balloon race, local fund-  
30 raisers, or other similar events approved pursuant to Rule .1302 of this Section, that is for  
31 a limited duration of no more than 10 days and organized or sponsored by a person other  
32 than the spirituous liquor special event permittee; or
- 33 (b) an event of limited duration of no more than 60 days at a shopping mall that is organized  
34 and sponsored by the shopping mall or an association of shopping mall merchants as part  
35 of a promotion or sale for all merchants in the shopping mall.

36  
37 *History Note: Authority G.S. 18B-100; 18B-207; 18B-1114.7;*

1                   *Eff. April 1, 2019;*  
2                   *Amended Eff. October 1, 2020*  
3

1 14B NCAC 15C .1303 is amended with changes as published in 34:19 NCAC 1773 as follows:

2  
3 **14B NCAC 15C .1303 TASTINGS HELD FOR CONSUMERS**

4 (a) ~~Tasting Area Designation. Tastings permitted pursuant to a spirituous liquor special event permit shall only be~~  
5 ~~conducted within a designated tasting area, delineated by vertical markings no less than 24 inches in height that the~~  
6 ~~consumer would recognize as indicating the boundaries that physically separate the tasting area from the remainder~~  
7 ~~of the special event. Consumers shall not be permitted to take tasting samples outside the designated tasting area. The~~  
8 ~~permittee shall ensure that designated tasting area signs are displayed at the permittee's tastings serving tables and at~~  
9 ~~the entrances and exits to the designated tasting area, with lettering of at least two inches in height, informing~~  
10 ~~consumers that they must be 21 years of age to participate in the tastings and that no tasting samples are allowed to be~~  
11 ~~taken out of the designated tasting area. A designated tasting area may include one or more permittees. A special event~~  
12 ~~may have multiple designated tasting areas. If a tasting is conducted pursuant to this Section at an event where the~~  
13 ~~event sponsor holds an ABC permit for that event, the area for conducting the tasting shall be limited to the area of~~  
14 ~~the event covered by the ABC permit. If the tasting is conducted pursuant to this Section at an event where the event~~  
15 ~~sponsor does not hold an ABC permit, the area for conducting the tasting shall be limited to the area allocated or~~  
16 ~~assigned by the event sponsor for the exclusive use of the permittee conducting the tasting.~~

17 (b) Each permittee conducting a tasting may give each consumer tasting samples up to the limits set forth in ~~G.S.~~  
18 ~~18B-1114.7(b)(3); G.S. 18B-1114.7(b)(3) or (c)(4), as applicable.~~

19 (c) ~~Training. Any A spirituous liquor special event permittee shall ensure that any employee or agent of a the permittee~~  
20 ~~who will be conducting or supervising any tasting conducted pursuant to a spirituous liquor special event permit shall~~  
21 ~~be given training, including: has completed training that includes:~~

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

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

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

36 (e) ~~Limitations. Spirituous liquors liquor provided as for~~ tastings pursuant to a spirituous liquor special event permit  
37 shall not be mixed with any other alcoholic or non-alcoholic beverage. No non-alcoholic beverages, other than

1 unflavored water, shall be made available or accessible to the consumer by the permittee in the ~~designated tasting~~  
2 ~~area-area for conducting the tasting.~~

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

5  
6 *History Note: Authority G.S. 18B-100; 18B-207; 18B-1114.7;*

7 *Eff. April 1, 2019;*

8 *Amended Eff. October 1, 2020.*

1 14B NCAC 15C .1304 is amended with changes as published in 34:19 NCAC 1773 as follows:

2  
3 **14B NCAC 15C .1304 SPECIAL EVENT COMPLIANCE PROCEDURE**

4 (a) ~~The~~ Either the permittee to whom the spirituous liquor special event permit was issued, or the permit holder's  
5 authorized agent, must be present in the designated tasting area where the tasting is conducted at the time the tastings  
6 ~~occur.~~ tasting occurs. A copy of the spirituous liquor special event permit shall be on display in the ~~designated tasting~~  
7 area where the tasting is conducted. ~~A copy of the authority of the permit holder's authorized agent to act on behalf~~  
8 of the permittee shall be present at the tasting event. ~~and A copy of the spirituous liquor special event permit and a~~  
9 copy of the authority of the permit holder's authorized agent to act on behalf of the permittee shall be made available  
10 to law enforcement agents upon request.

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

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

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

- 20 (1) maintained for one year following the tasting;  
21 (2) included as part of the consumer tasting record maintained in accordance with G.S. 18B-  
22 1114.7(b)(10); and  
23 (3) made available upon request to the Commission and law enforcement agents pursuant to G.S. 18B-  
24 502.

25  
26 *History Note: Authority G.S. 18B-100; 18B-201; 18B-1114.7;*  
27 *Eff. April 1, 2019;*  
28 *Amended Eff. October 1, 2010.*  
29

1 14B NCAC 15C .1305 is repealed as published in 34:19 NCAC 1773 as follows:

2  
3 **14B NCAC 15C .1305 SPECIAL EVENT SALE OF BRANDED MERCHANDISE, POINT-OF-SALE**  
4 **ADVERTISING MATERIALS AND ADVERTISING SPECIALTIES**

5  
6 *History Note: Authority G.S. 18B-100; 18B-207; 18B-1114.7;*  
7 *Eff. April 1, 2019;*  
8 *Repealed Eff. October 1, 2020.*  
9



## REQUEST FOR TECHNICAL CHANGE

AGENCY: ABC Commission

RULE CITATION: 14B NCAC 15C .1307

### **DEADLINE FOR RECEIPT: Thursday, October 8, 2020**

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:

*You made multiple changes to this Rule post-publication. Were these made in response to public comment?*

*In (a), line 5, consider replacing "do not have" with "are not required"*

*On line 7, consider replacing "can" with "may"*

*In (b), line 11, do you need the language "As an additional condition imposed pursuant to G.S. 18B-1114.7(c)(10),"? If you want to retain the citation, you could state it on line 13, "tasting event pursuant to G.S. 18B-1114.7(c)(10)."*

*In (c), line 14, please capitalize "Rule"*

*On line 15, and again in (e), line 32, I take it you need to retain "specific" here?*

*On line 15, will the ABC store withdraw the permission or will it be the local board? I ask because it appears from the language in (c) that it's the local board. Since the withdrawal is specific to that store, should it read "withdrawn for that ABC store"?*

*In (d), line 27, where is this right to a hearing before the local board set forth?*

*And why is (d) only confined to failure to comply with additional conditions, rather than all of G.S. 18B-1114.7? Will the ABC Commission address those failures?*

*On line 29, since you say that the permittee "may" be denied – will that be determined at the hearing?*

*In (h), Page 2, was this change in response to public comment? Would the local boards have otherwise been required to maintain these records?*

*On line 11, replace the semicolon after "permittees" with a colon.*

*In (h)(3), line 14, replace the comma after "tastings" with a semicolon.*

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: September 24, 2020

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

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: September 24, 2020

1 14B NCAC 15C .1307 is adopted with changes as published in 34:19 NCAC 1773 as follows:

2  
3 **14B NCAC 15C .1307 ABC STORE SPIRITUOUS LIQUOR TASTINGS**

4 (a) Local boards shall determine whether to allow tastings to be conducted in any of their ABC stores. The ABC store,  
5 date, and times for any tastings authorized by the local board shall be set by the local board. Tastings do not have to  
6 be conducted every week or in all ABC stores operated by the local board. The schedule set by the local board for  
7 tastings can vary from week to week.

8 (b) If a local board authorizes consumer tasting events to be held in a specific ABC store, ~~permission shall be granted~~  
9 ~~on a first come, first serve basis to a permittee~~ written requests to conduct a consumer tasting event at that ABC store  
10 at a specific date and time established by the local ~~board~~ board shall be processed on a first-come, first-served basis.  
11 As an additional condition imposed pursuant to G.S. 18B-1114.7(c)(10), a local board may require a permittee to  
12 include a signed agreement to comply with local board conditions as a part of a written request for permission to  
13 conduct a consumer tasting event.

14 (c) ~~This~~ Notwithstanding Paragraph (b) of this rule, once permission has been granted to conduct a consumer tasting  
15 event at a specific date and time, this permission shall be subject to the permission being withdrawn by the ABC store  
16 not later than 30 days prior to the scheduled time of the event, upon the receipt of a request from another permittee  
17 that has conducted fewer consumer tasting events in the ABC store within a previous 12-month period than the  
18 permittee originally granted permission. A superseding request for the same date and time must be received in writing  
19 by the local board before the close of business on the last business day prior to ~~30~~ 35 days prior to the previously  
20 approved request date. Prior to accepting a request to preempt a previously approved request date and time, the local  
21 board shall provide to the superseding requestor a schedule of other available dates and times for consumer tasting  
22 events in lieu of the requested date. If the alternative dates and times are not acceptable to the superseding requestor,  
23 the original permission shall be withdrawn, and the date and time shall be assigned to the superseding requestor. A  
24 local board that withdraws permission to conduct a consumer tasting event shall provide the permittee originally  
25 granted permission with a written explanation of the reason for the withdrawal and the process for requesting a  
26 rescheduling of the consumer tasting event.

27 (d) After the right to a hearing before the local board, a permittee found by the local board to have conducted a  
28 consumer tasting event in violation of the additional conditions imposed by the local board pursuant to G.S. 18B-  
29 1114.7(c)(10), may be denied the right to conduct future consumer tasting events for a period of up to one year from  
30 the date of the violation.

31 ~~(e)~~ (e) In addition to the requirements set forth in G.S. 18B-1114.7(c)(7), a permit holder shall include with the notice  
32 a copy of the local board's written approval for the permit holder to conduct a consumer tasting event at a specific  
33 time and location. Written approval by the local board may be by email. For purposes of G.S. 18B-1114.7(c)(7)c., the  
34 list shall include the product codes of the specific spirituous liquor products available for tasting.

35 ~~(d)~~ (f) Proof of purchase of spirituous liquor from any ABC store shall be by receipts issued by an ABC store.  
36 Permittees shall maintain receipts of purchases of spirituous liquor used in tastings for a period of six months from  
37 the date the spirituous liquor is first used for tastings pursuant to G.S. 18B-1114.7. Spirituous liquor purchased from

1 an ABC store for use in tastings conducted in accordance with this Section may be used for multiple tastings at multiple  
2 locations.

3 ~~(e)~~(g) At the time of the completion of a tasting, the permittee shall submit to the local board in writing the name of  
4 the permittee that conducted the consumer tasting event, the names of all employees or agents of the permittee who  
5 were present at the tasting, and the name of each product available for tasting at the consumer tasting event. A local  
6 board that authorizes consumer tasting events shall maintain for a period of three years a list of all consumer tasting  
7 events conducted in each of its stores by date, name of the permittee that conducted the consumer tasting event, name  
8 of all employees or agents of the permittee who were present at the tasting, and name of each product available for  
9 tasting at the consumer tasting event.

10 (h) A local board that authorizes consumer tasting events shall maintain for a period of three years the following  
11 records by types of permittees:

12 (1) written requests for permission to conduct tastings;

13 (2) permissions granted to conduct tastings;

14 (3) denials of request for permission to conduct tastings, and

15 (4) withdrawal of permissions to conduct tastings.

16 A local board shall make these records available to the Commission upon request.

17  
18 *History Note: Authority G.S. 18B-100; 18B-207; 18B-1114.7;*

19 *Eff. October 1, 2020.*