



State of North Carolina
ALCOHOLIC BEVERAGE CONTROL COMMISSION

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July 12, 2017

Mr. Garth Dunkin
Chairman
Rules Review Commission
Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

Dear Chairman Dunkin:

This letter is in regards to the readoption of Rule 14B NCAC 15A .1403 identified as "Necessary with Substantive Public Interest" pursuant to G.S. 150B-21.3A(c)(2)(g). We would like to formally request an extension of the readoption date for this rule. This rule is currently in the process of readoption, but due to several circumstances, was not adopted by the Alcoholic Beverage Control Commission by the May 31, 2017 deadline established in April 2016.

The Rule was published in the NC Register on March 15, 2017 with a comment period that ran through May 15, 2017. A public hearing was scheduled on the rule for April 12, 2017 but was not officially held. No comments were received during the published comment period and no one appeared to speak at the time for which the public hearing had been noticed. The ABC Commission held its regular May 2017 meeting on May 10, 2017, prior to the end of the comment period. The matter of the readoption of the rule after the expiration of the comment period was not heard at the next meeting of the ABC Commission held on June 7, 2017. The ABC Commission is scheduled to meet July 19, 2017 and was prepared to proceed with readoption of the rule at that time.

As background on the history of consideration of the readoption of this rule, in 2015 the General Assembly amended the law to permit the sale of antique spirituous liquor in the State under certain limited circumstances. The proposed temporary rules would have included amendments to 14B NCAC 15A .1403, as well as other rules. In April 2016 when the Rules Review Commission set the readoption date for the Rule in consultation with the ABC Commission, consideration of both the readoption and amendment to this rule was delayed to see if the all the rule changes necessitated by the new antique spirituous liquor law could be completed in time for 14B NCAC 15A .1403 to be readopted with substantive change to include the additional provisions for antique spirituous liquor. When it was determined in March 2017

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that the readoption and the antique spirituous liquor rules could not all be completed by May 31, 2017, it was decided to proceed with just the readoption of this rule at this time.

The ABC Commission believes that because it published the rule in the NC Register for 60 days, it substantially complied with the APA pursuant to G.S. 150B-18. However, if the Rules Review Commission believes the public hearing should be rescheduled and held, we are prepared to do so. The question may remain as to whether the comment period has remained open since the public hearing has not yet been held, or whether a new 60-day comment period will have to be opened. If the Rules Review Commission believes a public hearing needs to be rescheduled and a new 60-day comment period opened, we believe that the ABC Commission could reasonably readopt the rule by February 28, 2018 if an extension for the readoption is granted to that date.

We respectfully ask for an extension for the rule in 14B NCAC 15A .1403 with a new readoption deadline of February 28, 2018 in order to ensure adequate time for the ABC Commission to consider the readoption of this rule.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Walker Reagan". The signature is fluid and cursive, with the first name "Walker" and last name "Reagan" clearly distinguishable.

Walker Reagan
Rulemaking Coordinator