



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: Alcoholic Beverage Control Commission

2. Rule citation & name: 14B NCAC 15A .2201 - Definitions

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: November 16, 2017
- b. Proposed Temporary Rule published on the OAH website: November 22, 2017
- c. Public Hearing date: January 17, 2018
- d. Comment Period: November 27, 2017 - January 10, 2018
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): November 22, 2017
- f. Adoption by agency on: January 17, 2018
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2017-87, Section 3
Effective date: October 1, 2017
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: The General Assembly enacted a new law creating a special auction permit to allow licensed auctioneers to sell certain alcoholic beverages at auction. Section 19(a) of S.L. 2017-87 directed the ABC Commission to adopt temporary rules to implement the provisions of this act. The temporary rules being proposed for adoption are required to comply with Section 19(a) of S.L. 2017-87.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

The General Assembly directed the ABC Commission to adopt temporary rules to implement the provisions of Section 3 of S.L. 2017-87. The ABC Commission rulemaking emailing list has been engaged in this temporary rulemaking process since September 27, 2017 by reviewing a rule draft prior to proposal by the ABC Commission on November 16, 2017. Since this rule has been proposed by the ABC Commission, comments and concerns were received from one source which were considered and incorporated in the version of the rules adopted which satisfied the concerns raised. No further comments have been received concerning this rule either in writing or at the public hearing.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Walker Reagan

Phone: 919-779-8367

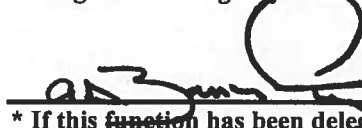
E-Mail: walker.reagan@abc.nc.gov

Agency contact, if any: Walker Reagan

Phone: 919-779-8367

E-Mail: walker.reagan@abc.nc.gov

10. Signature of Agency Head*:



* 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: A.D. "Zander" Guy, Jr.

Title: Chairman

E-Mail: Zander.Guy@abc.nc.gov

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

SESSION LAW 2017-87
SENATE BILL 155

FILED
2018 JAN 31 PM 1:02
OFFICE OF ADMIN HEARINGS

AN ACT TO MAKE VARIOUS CHANGES TO THE ALCOHOLIC BEVERAGE
CONTROL COMMISSION LAWS.

The General Assembly of North Carolina enacts:

DISTILLERY PERMIT AMENDMENTS

SECTION 1.(a) G.S. 18B-1105 reads as rewritten:

"§ 18B-1105. Authorization of distillery permit.

- (a) Authorized Acts. – The holder of a distillery permit may do any of the following:
- (1) Manufacture, purchase, import, possess and transport ingredients and equipment used in the distillation of spirituous liquor.
 - (2) Sell, deliver and ship spirituous liquor in closed containers at wholesale to exporters and local boards within the State, and, subject to the laws of other jurisdictions, at wholesale or retail to private or public agencies or establishments of other states or nations.
 - (3) Transport into or out of the distillery the maximum amount of liquor allowed under federal law, if the transportation is related to the distilling process.
 - (4) Sell spirituous liquor distilled at the distillery in closed containers to visitors who tour the distillery for consumption off the premises. Sales under this subdivision are allowed only in a county where the establishment of a county or municipal ABC store has been approved pursuant to G.S. 18B-602(g) and are subject to the time and day restrictions in G.S. 18B-802. Spirituous liquor sold under this subdivision shall (i) be listed as a code item for sale in the State, (ii) be sold at the price set by the Commission for the code item pursuant to G.S. 18B-804(b), and (iii) have affixed to its bottle a sticker that bears the words "North Carolina Distillery Tour Commemorative Spirit" in addition to any other labeling requirements set by law. Consumers purchasing spirituous liquor under this subdivision are limited to purchasing, and the selling distillery is limited to selling to each consumer, no more than ~~one bottle~~ five bottles of spirituous liquor per 12 month period. The distillery shall use a commonly adopted standard point of sale system to maintain searchable electronic records captured at the point of sale, to include the purchaser's name, drivers license number, and date of birth for at least 12 months from the date of purchase. The Commission shall adopt rules regulating the retail sale of spirituous liquor under this subdivision.
 - (5) Conduct consumer tastings in accordance with G.S. 18B-1114.7.

(b) Distilleries for Fuel Alcohol. – Any person in possession of a Federal Operating Permit pursuant to Title 27, Code of Federal Regulations, Part 19 (April 1, 2010 Edition), shall obtain a fuel alcohol permit before manufacturing any alcohol. The permit shall entitle the permittee to perform only those acts allowed by the Federal Operating Permit, and all conditions of the Federal Operating Permit shall apply to the State permit."

SECTION 1.(b) G.S. 18B-804 is amended by adding a new subsection to read:



- (10) The permit holder shall maintain for a period of at least one year a record of each consumer tasting conducted. The record shall include the date of the consumer tasting, the time of the consumer tasting, an identification of the venue at which the consumer tasting was held, an identification of the spirituous liquor that was provided for tasting at the consumer tasting, and the name of any person who poured spirituous liquor at the consumer tasting. The permit holder shall allow the ABC Commission to inspect those records at any time."

ALLOW SALE OF SPECIFIED ALCOHOLIC BEVERAGES AT AUCTION BY LICENSED AUCTIONEERS

SECTION 3.(a) G.S. 18B-603(f) reads as rewritten:

"§ 18B-603. Effect of alcoholic beverage elections on issuance of permits.

...
(f) Permits Not Dependent on Elections. – The Commission may issue the following kinds of permits without approval at an election:

- (1) Special occasion ~~permits;~~permits.
- (2) Limited special occasion ~~permits;~~permits.
- (3) Brown-bagging permits for private clubs and congressionally chartered veterans ~~organizations;~~organizations.
- (4) Culinary permits, except as restricted by ~~subdivision (d)(5);~~subdivision (d)(5).
- (5) Special one-time permits issued under ~~G.S. 18B-1002;~~G.S. 18B-1002.
- (6) All permits listed in ~~G.S. 18B-1100;~~G.S. 18B-1100.
- (7) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for tourism ABC ~~establishments;~~establishments.
- (8) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for tourism ~~resorts;~~resorts.
- (9) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for historic ABC establishments.
- (10) Special auction permits issued under G.S. 18B-1002.1."

SECTION 3.(b) G.S. 18B-1002(a)(4) reads as rewritten:

"(a) Kinds of Permits. – In addition to the other permits authorized by this Chapter, the Commission may issue permits for the following activities:

- ...
(4) A permit may be issued to a collector of ~~wine or wine,~~ decorative decanters of spirituous liquor—liquor, or antique spirituous liquor authorizing that person to bring into the State, transport, or possess as a collector, a greater amount of those alcoholic beverages than is otherwise authorized by this Chapter, or to sell those alcoholic beverages in a manner prescribed by the Commission."

SECTION 3.(c) Article 10 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-1002.1. Special auction permit.

(a) Permit Authorized. – A permit may be issued upon application to an auction firm or auctioneer licensed by the North Carolina Auctioneers Commission pursuant to Chapter 85B of the General Statutes to allow the licensed auction firm or auctioneer to sell at auction items described in G.S. 18B-1002(a)(4). An auction held under this section may receive competing bids that are in person or by telephone, fax, or online.

(b) Conditions of Permit. – A permit issued under this section is valid only for the auction specified in the permit. Any sales under this permit are subject to the purchase restrictions in G.S. 18B-303.

(c) Administrative Procedure. – Denial or revocation of a permit under this section does not entitle the applicant or permittee to a hearing under Chapter 150B of the General Statutes."

SECTION 3.(d) This section becomes effective October 1, 2017.

ALLOW THE SALE OF ALCOHOLIC BEVERAGES BEFORE NOON ON SUNDAYS, SUBJECT TO LOCAL GOVERNMENT APPROVAL

SECTION 4.(a) G.S. 18B-1004(c) reads as rewritten:

"§ 18B-1004. Hours for sale and consumption.

...
(c) Sunday Hours. – ~~It-Except as authorized pursuant to G.S. 18B-112(b1), 153A-145.7, or 160A-205.3, it shall be unlawful to sell or consume alcoholic beverages on any licensed premises from the time at which sale or consumption must cease on Sunday morning until 12:00 Noon on that day.~~

SECTION 4.(b) Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-145.7. Hours of certain alcohol sales.

In accordance with G.S. 18B-1004(c), a county may adopt an ordinance allowing for the sale of malt beverages, unfortified wine, fortified wine, and mixed beverages beginning at 10:00 A.M. on Sunday pursuant to the licensed premises' permit issued under G.S. 18B-1001."

SECTION 4.(c) Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-205.3. Hours of certain alcohol sales.

In accordance with G.S. 18B-1004(c), a city may adopt an ordinance allowing for the sale of malt beverages, unfortified wine, fortified wine, and mixed beverages beginning at 10:00 A.M. on Sunday pursuant to the licensed premises' permit issued under G.S. 18B-1001."

SECTION 4.(d) G.S. 18B-112 is amended by adding a new subsection to read:

"(b1) In accordance with G.S. 18B-1004(c), the Eastern Band of Cherokee Indians tribe may adopt an ordinance allowing for the sale of malt beverages, unfortified wine, fortified wine, and mixed beverages beginning at 10:00 A.M. on Sunday pursuant to the licensed premises' permit issued under the authority of G.S. 18B-112(d)."

AUTHORIZE SALE OF CROWLERS BY RETAIL PERMITTEES

SECTION 5.(a) G.S. 18B-1001 reads as rewritten:

"§ 18B-1001. Kinds of ABC permits; places eligible.

When the issuance of the permit is lawful in the jurisdiction in which the premises are located, the Commission may issue the following kinds of permits:

- (1) On-Premises Malt Beverage Permit. – An on-premises malt beverage permit authorizes (i) the retail sale of malt beverages for consumption on the premises, (ii) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of malt beverages in a ~~cleaned, sanitized, resealable~~ cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. It also authorizes the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:

- a. ~~Restaurants;~~ Restaurants.
- b. ~~Hotels;~~ Hotels.

(a) Issuance, Qualifications. – Each person who receives an ABC permit shall obtain the corresponding local license, if any, under this Article. All local licenses are issued by the city or county where the establishment for which the license is sought is located. ~~The information required to be provided and the qualifications for a local license are the same as the information and qualifications required for the corresponding ABC permit. Upon proper application and payment of the prescribed tax, issuance of a local license is mandatory if the applicant holds the corresponding ABC permit. No documentation shall be required of the applicant except as provided in this section.~~ Issuance of a local license is mandatory if the applicant holds the corresponding ABC permit and provides all of the following: (i) a copy of the most recently completed State application form for an ABC permit exclusive of any attachments, (ii) the ABC permit for visual inspection, and (iii) payment of the prescribed tax. No local license may be issued under this Article until the applicant has received from the ABC Commission the applicable permit for that activity, and no county license may be issued for an establishment located in a city in that county until the applicant has received from the city the applicable license for that activity.

(b) Duration. – All licenses issued under this section are annual licenses for the period from May 1 to April 30.

(c) Transfer. – A license may not be transferred from one person to another or from one location to another.

(d) License Exclusive. – A local government may not require a license for activities related to the manufacture or sale of alcoholic beverages other than the licenses stated in this Article."

CLARIFY WINERY SPECIAL EVENT LOCATIONS

SECTION 18. G.S. 18B-1114.1 reads as rewritten:

"§ 18B-1114.1. Authorization of winery special event permit.

(a) Authorization. – The holder of an unfortified winery permit, a limited winery permit, a viticulture/enology course authorization, or a wine producer permit may obtain a winery special permit allowing the winery or wine producer to give free tastings of its wine, and to sell its wine by the glass or in closed containers, at trade shows, conventions, shopping malls, wine festivals, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, farmers markets, and other similar events approved by the Commission.

(b) Limitation. – A winery special event permit is valid only in a jurisdiction that has approved the establishment of ABC stores or has approved the sale of unfortified wine."

RULES

SECTION 19.(a) Except as otherwise provided, the Alcoholic Beverage Control (ABC) Commission shall adopt temporary rules to implement the provisions of this act. Temporary rules adopted in accordance with this section shall remain in effect until permanent rules that replace the temporary rules become effective.

SECTION 19.(b) Any rule or policy adopted by the ABC Commission that does not comply with the provisions of this act shall be null, void, and without effect.

EFFECT OF HEADINGS

SECTION 20. The headings to the sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

EFFECTIVE DATE

SECTION 21. Except as otherwise provided, this act is effective when it becomes law.
In the General Assembly read three times and ratified this the 29th day of June, 2017.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 3:17 p.m. this 30th day of June, 2017

1 14B NCAC 15A .2201 is adopted under temporary procedures as follows:
2

3 **SECTION .2200 – SPECIAL ONE-TIME PERMITS**
4

5 **14B NCAC 15A .2201 DEFINITIONS**

6 The following definitions apply to this Section:

7 (1) “Collector” means a person, other than an industry member, engaged in the collection of one or
8 more wines, decorative decanters of spirituous liquor, or antique spirituous liquors.

9 (2) “Decorative decanters of spirituous liquor” means the manufacturer’s original sealed decanters,
10 limited in quantities as a specialized limited run or as a limited edition, filled with spirituous liquor
11 by a person issued a permit pursuant to state or federal law.

12 (3) “Private sale” means a sale between two collectors, neither of who are required to hold permits
13 pursuant to Chapter 18B of the General Statutes, except for permits issued pursuant to G.S. 18B-
14 1002(a)(4).

15
16 History Note: Authority G.S. 18B-100; 18B-207; 18B-1002;

17 Temporary Adoption Eff. February 23, 2018.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: Alcoholic Beverage Control Commission

2. Rule citation & name: 14B NCAC 15A .2202 – Collector Transport or Sale Permits

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: November 16, 2017
- b. Proposed Temporary Rule published on the OAH website: November 22, 2017
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- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2017-87, Section 3
Effective date: October 1, 2017
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: The General Assembly enacted a new law creating a special auction permit to allow licensed auctioneers to sell certain alcoholic beverages at auction. Section 19(a) of S.L. 2017-87 directed the ABC Commission to adopt temporary rules to implement the provisions of this act. The temporary rules being proposed for adoption are required to comply with Section 19(a) of S.L. 2017-87.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

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8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Walker Reagan

Phone: 919-779-8367

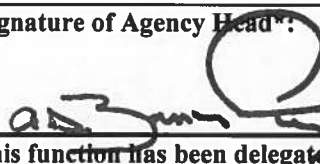
E-Mail: walker.reagan@abc.nc.gov

Agency contact, if any: Walker Reagan

Phone: 919-779-8367

E-Mail: walker.reagan@abc.nc.gov

10. Signature of Agency Head*:



* 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: A.D. "Zander" Guy, Jr.

Title: Chairman

E-Mail: Zander.Guy@abc.nc.gov

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

1 14B NCAC 15A .2202 is adopted under temporary procedures as follows:

2
3 **14B NCAC 15A .2202 COLLECTOR TRANSPORT OR SALE PERMITS**

4 To qualify for a permit issued pursuant to G.S. 18B-1002(a)(4), in addition to the applicable information required
5 pursuant to G.S. 18B-900, a collector shall submit an application to the Commission that requires the following
6 information:

- 7 (1) the basis for qualification as a collector;
8 (2) whether the application is for the transportation or sale of wine or spirituous liquors;
9 (3) a list of the specific wine or spirituous liquors being transported, possessed, or sold, including the
10 name, brand, quantity, and volume of each bottle or decanter;
11 (4) pictures of the containers of spirituous liquors to be transported, possessed, or sold in sufficient
12 clarity for the content of the labels to be legible;
13 (5) if the application is for a sale, the details of the method of sale including whether the sale will be as
14 a special order pursuant to 14B NCAC 15A .1403, by auction, or by private sale, including the name
15 of the buyer if by special order or private sale, or the name of the auctioneer if by auction; and
16 (6) certification under oath to the conditions for permits pursuant to G.S. 18B-900.

17
18 History Note: Authority G.S. 18B-100; 18B-207; 18B-900; 18B-1002;

19 Temporary Adoption Eff. February 23, 2018.
20



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: Alcoholic Beverage Control Commission	
2. Rule citation & name: 14B NCAC 15A .2203 – Permissible Sales Under Collector Transport or Sale Permit	
3. Action:	<input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal
4. Was this an Emergency Rule:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Effective date:
5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: November 16, 2017 b. Proposed Temporary Rule published on the OAH website: November 22, 2017 c. Public Hearing date: January 17, 2018 d. Comment Period: November 27, 2017 - January 10, 2018 e. Notice pursuant to G.S. 150B-21.1(a3)(2): November 22, 2017 f. Adoption by agency on: January 17, 2018 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: S.L. 2017-87, Section 3 Effective date: October 1, 2017 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other: Explain: The General Assembly enacted a new law creating a special auction permit to allow licensed auctioneers to sell certain alcoholic beverages at auction. Section 19(a) of S.L. 2017-87 directed the ABC Commission to adopt temporary rules to implement the provisions of this act. The temporary rules being proposed for adoption are required to comply with Section 19(a) of S.L. 2017-87.	

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☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Walker Reagan

Phone: 919-779-8367

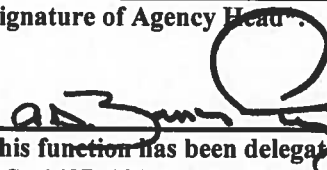
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Phone: 919-779-8367

E-Mail: walker.reagan@abc.nc.gov

10. Signature of Agency Head



* 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: A.D. "Zander" Guy, Jr.

Title: Chairman

E-Mail: Zander.Guy@abc.nc.gov

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

1 14B NCAC 15A .2203 is adopted under temporary procedures as follows:

2
3 **14B NCAC 15A .2203 PERMISSIBLE SALES UNDER COLLECTOR TRANSPORT OR SALE PERMIT**

4 (a) Sales of wine or spirituous liquor by the holder of a permit issued pursuant to Rule .2202 of this Section shall be
5 subject to the following conditions:

6 (1) sales shall only be made to persons at least 21 years of age;

7 (2) sales shall only be made as a special order pursuant to 14B NCAC 15A .1403, by auction, or by
8 private sale;

9 (3) sales shall be conducted subject to the dates, time, place, and manner specified in the permit;

10 (4) no sales shall be made to a person who is intoxicated as defined in 14B NCAC 15B .0101(2); and

11 (5) the quantity of wine or spirituous liquor sold to a single buyer shall not be in excess of the limits set
12 forth in G.S. 18B-303, unless the buyer of the wine or spirituous liquor has a valid permit issued
13 pursuant to G.S. 18B-1002(a)(4).

14 (b) The wine or spirituous liquor sold pursuant to a permit issued pursuant to this Rule shall remain in the possession
15 of the collector until transferred to the buyer.

16 (c) A permit issued pursuant to G.S. 18B-1002(a)(4) is not required for sales of wine or spirituous liquors by auction
17 pursuant to G.S. 18B-1002.1.

18
19 History Note: Authority G.S. 18B-100; 18B-207; 18B-1002;
20 Temporary Adoption Eff. February 23, 2018.
21
22



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: Alcoholic Beverage Control Commission

2. Rule citation & name: 14B NCAC 15A .2204 – Special Auction Permits

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

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- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: The General Assembly enacted a new law creating a special auction permit to allow licensed auctioneers to sell certain alcoholic beverages at auction. Section 19(a) of S.L. 2017-87 directed the ABC Commission to adopt temporary rules to implement the provisions of this act. The temporary rules being proposed for adoption are required to comply with Section 19(a) of S.L. 2017-87.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

The General Assembly directed the ABC Commission to adopt temporary rules to implement the provisions of Section 3 of S.L. 2017-87. The ABC Commission rulemaking emailing list has been engaged in this temporary rulemaking process since September 27, 2017 by reviewing a rule draft prior to proposal by the ABC Commission on November 16, 2017. Since this rule has been proposed by the ABC Commission, comments and concerns were received from one source which were considered and incorporated in the version of the rules adopted which satisfied the concerns raised. No further comments have been received concerning this rule either in writing or at the public hearing.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Walker Reagan

Phone: 919-779-8367

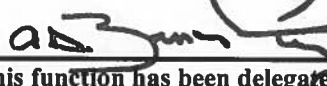
E-Mail: walker.reagan@abc.nc.gov

Agency contact, if any: Walker Reagan

Phone: 919-779-8367

E-Mail: walker.reagan@abc.nc.gov

10. Signature of Agency Head*:



* 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: A.D. "Zander" Guy, Jr.

Title: Chairman

E-Mail: Zander.Guy@abc.nc.gov

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

1 14B NCAC 15A .2204 is adopted with changes under temporary procedures as follows:

2
3 **14B NCAC 15A .2204 SPECIAL AUCTION PERMITS**

4 (a) To qualify for a permit issued pursuant to G.S. 18B-1002.1, in addition to the applicable information required
5 pursuant to G.S. 18B-900, an auction firm or auctioneer licensed pursuant to Chapter 85B of the General Statutes shall
6 submit an application to the Commission that requires the following information:

- 7 (1) a copy of the applicable active license issued by the North Carolina Auctioneers Commission;
8 (2) the details of the date, time, duration, place, and manner of the auction;
9 (3) a list of the specific wine or spirituous liquors which may be subject to auction, including the name,
10 brand, quantity, and volume of each bottle or decanter; and
11 (4) pictures of the containers of spirituous liquors to be sold in sufficient clarity for the content of the
12 labels to be legible.

13 (b) No permit is required pursuant to G.S. 18B-1002.1 for sale at auction of alcoholic beverages pursuant to a permit
14 issued pursuant to G.S. 18B-1002(a)(1), (2) or (3), or a permit issued pursuant to G.S. 18B-1002(a)(4) when the
15 auction is conducted on the collector's premises and the alcoholic beverages remain in the possession of the collector
16 until transferred to the buyer.

17
18 *History Note: Authority G.S. 18B-100; 18B-207; 18B-900; 18B-1002.1;*
19 *Temporary Adoption Eff. February 23, 2018.*
20
21



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: Alcoholic Beverage Control Commission

2. Rule citation & name: 14B NCAC 15A .2205 – Conditions of Sale Under Special Auction Permits

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: November 16, 2017
- b. Proposed Temporary Rule published on the OAH website: November 22, 2017
- c. Public Hearing date: January 17, 2018
- d. Comment Period: November 27, 2017 - January 10, 2018
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): November 22, 2017
- f. Adoption by agency on: January 17, 2018
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2017-87, Section 3
Effective date: October 1, 2017
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: The General Assembly enacted a new law creating a special auction permit to allow licensed auctioneers to sell certain alcoholic beverages at auction. Section 19(a) of S.L. 2017-87 directed the ABC Commission to adopt temporary rules to implement the provisions of this act. The temporary rules being proposed for adoption are required to comply with Section 19(a) of S.L. 2017-87.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

The General Assembly directed the ABC Commission to adopt temporary rules to implement the provisions of Section 3 of S.L. 2017-87. The ABC Commission rulemaking emailing list has been engaged in this temporary rulemaking process since September 27, 2017 by reviewing a rule draft prior to proposal by the ABC Commission on November 16, 2017. Since this rule has been proposed by the ABC Commission, comments and concerns were received from one source which were considered and incorporated in the version of the rules adopted which satisfied the concerns raised. No further comments have been received concerning this rule either in writing or at the public hearing.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Walker Reagan

Phone: 919-779-8367

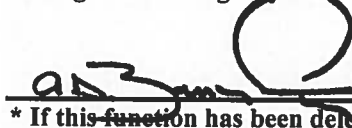
E-Mail: walker.reagan@abc.nc.gov

Agency contact, if any: Walker Reagan

Phone: 919-779-8367

E-Mail: walker.reagan@abc.nc.gov

10. Signature of Agency Head*:



* 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: A.D. "Zander" Guy, Jr.

Title: Chairman

E-Mail: Zander.Guy@abc.nc.gov

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

1 14B NCAC 15A .2205 is adopted under temporary procedures as follows:

2
3 **14B NCAC 15A .2205 CONDITIONS OF SALE UNDER SPECIAL AUCTION PERMITS**

4 Sales at auction of wine or spirituous liquor by the holder of a permit issued pursuant to Rule .2204 of this Section
5 shall be subject to the following conditions:

- 6 (1) the auctioneer shall be in physical possession of the wine or spirituous liquor subject to sale at
7 auction;
8 (2) sales shall only be made to persons at least 21 years of age;
9 (3) sales shall be conducted subject to the date, time, place, and manner specified in the permit;
10 (4) no sales shall be made to a person who is intoxicated as defined in 14B NCAC 15B .0101(2);
11 (5) delivery of possession of a quantity of wine or spirituous liquor sold pursuant to this Rule to a single
12 buyer in excess of the limits set forth in G.S. 18B-303 shall not be permitted unless the buyer at
13 auction of the wine or spirituous liquor has a valid permit issued pursuant to G.S. 18B-1002(a)(4)
14 or otherwise complies with the provisions of G.S. 18B-303;
15 (6) records of sales maintained in accordance with G.S. 85B-7(d) of an auction conducted pursuant to
16 Rule .2204 of this Section shall be open to inspection by the Commission and law enforcement
17 agents in accordance with G.S. 18B-502; and
18 (7) purchases by the holder of a permit issued pursuant to Rule .2204 of this Section who bids on and
19 purchases at auction wine or spirituous liquor shall be subject to the conditions, limitations, and
20 requirements of Items (2), (4), and (5) of this Rule.

21
22 History Note: Authority G.S. 18B-100; 18B-207; 18B-303; 18B-502; 18B-1002;

23 Temporary Adoption Eff. February 23, 2018.
24