

1 14B NCAC 15B .0217 is amended as published in 32:19 NCR 1840 as follows:

2

3 **14B NCAC 15B .0217 FILL OR REFILL ORIGINAL CONTAINERS**

4 No permittee ~~except a bottler or manufacturer~~ shall fill or refill in whole or in part any original container of alcoholic
5 beverages with the same or any other kind of alcoholic ~~beverage~~beverage, except a bottler, manufacturer, or permittee
6 authorized pursuant to G.S. 18B-1001(1), (2), (3), (4), or (16).

7

8 *History Note: Authority G.S. 18B-206(a); 18B-207; 18B-1001;*

9 *Eff. January 1, 1982;*

10 *Amended Eff. May 1, 1984;*

11 *Transferred and Recodified from 04 NCAC 02S .0224 Eff. August 1, 2015;*

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

14 *Temporary Amendment Eff. November 28, 2017. (Codifier's Note: This Rule shall remain in effect*
15 *until the permanent rule that replaces the temporary rule becomes effective. See S.L. 2017-87, s.*
16 *5.(b);*

17 *Amended Eff. August 1, 2018.*

1 14B NCAC 15B .0220 is amended as published in 32:19 NCR 1840 as follows:

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3 **14B NCAC 15B .0220 DISPENSING ALCOHOLIC BEVERAGES: PRODUCT IDENTIFICATION**
4

5 (a) Malt Beverages, On-Premises. Malt beverages may be sold by persons holding on-premise permits in the original
6 containers, by the glass, by the mug, by the ~~pitcher~~pitcher, or a single-service and single-use container as defined by
7 FDA Food Code 2009, 1-201.10(B). The brand name of draught malt beverages dispensed in retail outlets shall be
8 shown on the knobs of draught faucets. Covers for these faucets bearing a brand name may be used if the brand name
9 appearing on the cover corresponds with the brand name on the knob of the faucets that are to be used for that brand.

10 (b) Malt Beverages, Off-Premises. Malt beverages may be sold by persons holding a ~~retail~~an off-premise permit
11 only in the unopened original container that was filled by the product ~~manufacturer~~manufacturer, except as permitted
12 pursuant to G.S. 18B-1001.

13 (c) Wine, On-Premises. A person holding an on-premises wine permit may sell wine in the unopened original
14 container, by the carafe, by the ~~glass~~glass, or a single-service and single-use container. A person holding an on-
15 premises wine permit may sell wine mixed with non-alcoholic beverages by the carafe, by the ~~glass~~glass, or a single-
16 service and single-use container. Wine served in carafes, by the ~~glass~~glass, or single-service and single-use containers
17 may be dispensed under pressure from nitrogen from sealed bulk containers provided the containers and dispensing
18 systems have been approved by the Commission and the Commission for Public Health. The vintner, ~~brand~~brand,
19 and type of wine dispensed by the carafe, ~~glass~~glass, or single-service and single-use container, except for the house
20 wine, shall appear on the wine list. Where the wine is dispensed from bulk containers, the vintner, ~~brand~~brand, and
21 type shall be shown on the knobs of draught faucets.

22 (d) Use of Siphons. The use of siphons or pressurized dispensers is allowed if the malt beverage or wine contents are
23 dispensed directly from the original containers.

24 (e) Mixed Beverages. A person holding a mixed beverages permit may sell mixed beverages in a glass, in a
25 ~~pitcher~~pitcher, or in a single-service and single-use container.

26 (f) Multi-Use Containers. All multi-use containers used by permittees to serve any alcoholic beverages shall meet
27 the requirements as referenced by FDA Food Code 2009, 3-304.11(a). Multi-use containers include glassware, mugs,
28 ~~pitchers~~pitchers, and carafes.

29 (g) Incorporation by Reference. The 2009 FDA Food Code, as established by the U.S. Department of Health and
30 Human Services, Food and Drug Administration, is hereby incorporated by reference, excluding subsequent
31 amendments and editions, and may be accessed at no cost at
32 <https://www.fda.gov/food/guidanceregulation/retailfoodprotection/foodcode/ucm2019396.htm>.
33

34 *History Note: Authority G.S. 18B-100; 18B-206; 18B-207; 18B-1001; 130A-248(a); FDA Food Code 2009, 1-*
35 *201.10(B), 3-304.11(a);*
36 *Eff. January 1, 1982;*
37 *Amended Eff. June 1, 2013; May 1, 1984;*

1 *Transferred and Recodified from 04 NCAC 02S .0228 Eff. August 1, 2015;*
2 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,*
3 *2016;*
4 *Temporary Amendment Eff. November 28, 2017. (Codifier's Note: This Rule shall remain in effect*
5 *until the permanent rule that replaces the temporary rule becomes effective. See S.L. 2017-87, s.*
6 *5.(b);*
7 *Amended Eff. August 1, 2018.*

1 14B NCAC 15C .0302 is amended as published in 32:19 NCR 1840 as follows:

2

3 **14B NCAC 15C .0302 LABELS TO BE SUBMITTED TO COMMISSION**

4 (a) All labels for malt beverage and wine products shall be submitted in duplicate to the Commission on an
5 "Application for Label Approval ~~Form.~~"Form," as required by Rule .0201 or .0202 of this Subchapter.

6 (b) Each person requesting label approval shall furnish, in the application for label approval, the names and addresses
7 of the manufacturer, bottler, and importer of the product.

8 (c) Notwithstanding Paragraphs (a) and (b) of this Rule, holders of retail permits pursuant to G.S. 18B-1001(1), (2),
9 ~~(3), (4),~~ or (16) that fill or refill growlers on demand ~~are not~~ shall not be required to submit the labels required by
10 ~~Rule~~Rules .0303(b) or (c) or .0304(d) or (e) of this Section.

11

12 *History Note: Authority G.S. 18B-100; 18B-206(a); 18B-207; ~~18B-1001(1); 18B-1001(2); 18B-1001(16); 18B-~~*
13 *1001;*

14 *Eff. January 1, 1982;*

15 *Temporary Amendment Eff. October 25, 2013;*

16 *Amended Eff. September 1, 2014;*

17 *Transferred and Recodified from 04 NCAC 02T .0302 Eff. August 1, 2015;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,*
19 *2017;*

20 *Temporary Amendment Eff. November 28, 2017. (Codifier's Note: This Rule shall remain in effect*
21 *until the permanent rule that replaces the temporary rule becomes effective. See S.L. 2017-87, s.*

22 *5.(b)).*

23 *Amended Eff. August 1, 2018.*

24

25

REQUEST FOR TECHNICAL CHANGE

AGENCY: ABC Commission

RULE CITATION: 14B NCAC 15C .0303

DEADLINE FOR RECEIPT: Friday, July 6, 2018

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:

Please highlight all of the changes you made to this Rule after publication in the Register. [See Rule 26 NCAC 02C .0405(b)(2)].

In the History Note, Page 2, there is no need to show a change to the punctuation at the end of line 8. You did not do this for the preceding rules.

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: June 21, 2018

1 14B NCAC 15C .0303 is amended with changes as published in 32:19 NCAC 1840 as follows:

2
3 **14B NCAC 15C .0303 LABEL CONTENTS: MALT BEVERAGES**

4 (a) Containers that are prefilled by the manufacturer shall be affixed with malt beverage labels that shall contain the
5 following information in a ~~legible form:~~form legible to the consumer:

- 6 (1) brand name of product;
- 7 (2) name and address of brewer or bottler;
- 8 (3) class of product (e.g., beer, ale, porter, lager, bock, stout, or other brewed or fermented beverage);
- 9 (4) net contents;
- 10 (5) if the malt beverage is fortified with any stimulants, the amount of each (milligrams) per container;
- 11 and
- 12 (6) the alcoholic beverage health warning statement as required by the Federal Alcohol Administration
13 Act, 27 C.F.R. Sections 16.20 through 16.22.

14 (b) Growlers that are filled or refilled on demand with malt beverages pursuant to Rule .0308 of this
15 ~~Subchapter~~Section shall be affixed with a label or a tag ~~that shall contain~~containing the following information in type
16 not smaller than 3 millimeters in height and not more than 12 characters per inch:

- 17 (1) brand name of the product dispensed;
- 18 (2) name of brewer or bottler;
- 19 (3) class of product (e.g., beer, ale, porter, lager, bock, stout, or other brewed or fermented beverage);
- 20 (4) net contents;
- 21 (5) if the malt beverage is fortified with any stimulants from the original manufacturer, the amount of
22 each (milligrams) per container;
- 23 (6) name and address of business that filled or refilled the growler;
- 24 (7) date of fill or refill;
- 25 (8) if the malt beverage is more than six percent alcohol by volume, the amount of alcohol by volume
26 pursuant to G.S. 18B-101(9); and
- 27 (9) the following statement: "This product may be unfiltered and unpasteurized. Keep refrigerated at
28 all times."

29 (c) Growlers that are filled or refilled on demand pursuant to Rule .0308 of this Section shall be affixed with the
30 alcoholic beverage health warning statement as required by the Federal Alcohol Administration Act, 27 C.F.R.
31 Sections 16.20 through 16.22. The provisions of 27 C.F.R. Sections 16.20 through 16.22 referenced in this Section
32 are hereby incorporated by reference, including subsequent amendments and editions, and may be accessed for free
33 at <https://www.gpo.gov>.

34
35 *History Note:* Authority G.S. 18B-100; 18B-101(9); 18B-206(a); 18B-207; 18B-1001;
36 Eff. January 1, 1982;
37 Amended Eff. April 1, 2011;

1 *Temporary Amendment Eff. October 25, 2013;*
2 *Amended Eff. September 1, 2014;*
3 *Transferred and Recodified from 04 NCAC 02T .0303 Eff. August 1, 2015;*
4 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,*
5 *2017;*
6 *Temporary Amendment Eff. November 28, 2017. (Codifier's Note: This Rule shall remain in effect*
7 *until the permanent rule that replaces the temporary rule becomes effective. See S.L. 2017-87, s.*
8 *~~5.(b)~~; See S.L. 2017-87, s. 5.(b));*
9 *Amended Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: ABC Commission

RULE CITATION: 14B NCAC 15C .0304

DEADLINE FOR RECEIPT: Friday, July 6, 2018

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:

Please highlight all of the changes you made to this Rule after publication in the Register. [See Rule 26 NCAC 02C .0405(b)(2)].

In (a)(4), line 9, delete the "and" at the end of the line.

In (a)(5), line 10, insert an "and" at the end of the line, assuming you intend to require all 6 items.

In the History Note, Page 2, there is no need to show a change to the punctuation at the end of line 8.

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: June 21, 2018

1 14B NCAC 15C .0304 is amended with changes as published in 32:19 NCAC 1840 as follows:

2
3 **14B NCAC 15C .0304 LABEL CONTENTS: WINE**

4 (a) All wine labels shall contain the following information, in a ~~legible form:~~form legible to the consumer:

- 5 (1) brand name of product;
- 6 (2) class and type, in conformity with Section .0400 of this Subchapter;
- 7 (3) name and address of manufacturer, or bottler, except as otherwise provided in these Rules;
- 8 (4) on blends consisting of foreign and domestic wine, if any reference is made to the presence of
- 9 foreign wine, the exact percentage by volume the foreign wine; and
- 10 (5) net contents (unless blown or otherwise permanently inscribed in the container).
- 11 (6) the alcoholic beverage health warning statement as required by the Federal Alcohol Administration
- 12 Act, 27 C.F.R. Sections 16.20 through 16.22.

13 (b) Exception for Retailer's Private Brand. In the case of wine bottles packaged for a retailer or other person under

14 ~~his~~the person's private brand, the name and address of the bottler ~~need not be stated on the brand label but~~ may be

15 stated on another label affixed to the container, if the name and address of the person for whom the wine was bottled

16 or packed appears on the label. The net contents shall be stated on the brand label or on a separate label affixed ~~in~~

17 ~~immediate proximity~~ thereto on the same side of the container in ~~readily~~ legible form, unless blown or otherwise

18 permanently inscribed in the container.

19 (c) Imported Wines. The name and address of the importer of a foreign wine need not be stated on the brand label if

20 it is stated upon another label affixed to the container.

21 (d) Growlers that are filled or refilled on demand with unfortified wine pursuant to Rule .0308 of this Section shall

22 be affixed with a label or a tag containing the following information in type not smaller than 3 millimeters in height

23 and not more than 12 characters per inch:

- 24 (1) brand name of the product dispensed;
- 25 (2) name of manufacturer or bottler;
- 26 (3) class and type of product;
- 27 (4) net contents;
- 28 (5) name and address of business that filled or refilled the growler;
- 29 (6) date of fill or refill; and
- 30 (7) the following statement: "This product may be unfiltered and unpasteurized. Keep refrigerated at
- 31 all times."

32 (e) Growlers that are filled or refilled on demand pursuant to Rule .0308 of this Section shall be affixed with the

33 alcoholic beverage health warning statement as required by the Federal Alcohol Administration Act, 27 C.F.R.

34 Sections 16.20 through 16.22.

35
36 *History Note: Authority G.S. 18B-100; 18B-206(a); 18A-207; 18B-1001;*

37 *Eff. January 1, 1982;*

1 *Amended Eff. May 1, 1984;*
2 *Transferred and Recodified from 04 NCAC 02T .0304 Eff. August 1, 2015;*
3 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,*
4 *2017;*
5 *Temporary Amendment Eff. November 28, 2017. (Codifier's Note: This Rule shall remain in effect*
6 *until the permanent rule that replaces the temporary rule becomes effective. See S.L. 2017-87, s.*
7 *~~5.(b)~~. See S.L. 2017-87, s. 5.(b));*
8 *Amended Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: ABC Commission

RULE CITATION: 14B NCAC 15C .0307

DEADLINE FOR RECEIPT: Friday, July 6, 2018

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 (b)(1), line 9, please delete or define "accurately" [I note you do not use this language in (c)(1)]

In (c)(1), line 22, please insert a comma after "(b)"

On line 22, since you have "Rules" before ".0304(a)" you do not need to have "Rule" before ".0305"

In (d), line 34, you do not need "Rules" before ".0304" and "Rule" before ".0305"

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: June 21, 2018

1 14B NCAC 15C .0307 is amended as published in 32:19 NCR 1840 as follows:

2
3 **14B NCAC 15C .0307 GROWLERS**

4 (a) As used in this ~~Rule, Section,~~ a "growler" is a ~~refillable~~ rigid glass, ceramic, plastic, aluminum, or stainless steel
5 container with a ~~flip top or screw on lid~~ closure or cap with a secure sealing that is no larger than 2 liters (0.5283
6 gallons) into which a malt beverage or unfortified wine is prefilled, filled, or refilled for off-premises consumption.

7 (b) Malt beverages may be sold in growlers as follows:

8 (1) Holders of only a brewery permit may sell, deliver, and ship growlers prefilled with the brewery's
9 malt beverage for off-premises consumption provided a label is affixed to the growler that accurately
10 provides the information as required by Rules .0303(a) and .0305 of this Section.

11 ~~(e)~~(2) Holders of retail permits pursuant to G.S. 18B-1001(1), (2), or (16) who do not hold a brewery
12 permit shall not prefill growlers with malt beverage.

13 ~~(d)~~(3) Holders of a brewery permit who also have retail permits pursuant to G.S. 18B-1001(1) may fill or
14 refill growlers on demand with the brewery's malt beverage for off-premises consumption, provided
15 the label as required by Rules .0303(b) and (c) and .0305 of this Section is affixed to the growler.

16 ~~(e)~~(4) Holders of retail permits pursuant to G.S. 18B-1001(1), (2), or (16) may fill or refill growlers on
17 demand with draft malt beverage for off-premises consumption, provided the label as required by
18 Rules .0303(b) and (c) and .0305 of this Section is affixed to the growler.

19 (c) Unfortified wine may be sold in growlers as follows:

20 (1) Holders of only an unfortified winery permit may sell, deliver, and ship growlers prefilled with the
21 winery's unfortified wine for off-premises consumption provided a label is affixed to the growler
22 that provides the information as required by Rules .0304(a), (b) and (c), and Rule .0305 of this
23 Section.

24 (2) Holders of retail permits pursuant to G.S. 18B-1001(3), (4), or (16) who do not hold an unfortified
25 winery permit shall not prefill growlers with unfortified wine.

26 (3) Holders of an unfortified winery permit who also have retail permits pursuant to G.S. 18B-1001(3)
27 may fill or refill growlers on demand with the winery's unfortified wine for off-premises
28 consumption, provided the label as required by Rules .0304(d) and (e) and .0305 of this Section is
29 affixed to the growler.

30 (4) Holders of retail permits pursuant to G.S. 18B-1001(3), (4), or (16) may fill or refill growlers on
31 demand with unfortified wine for off-premises consumption, provided the label as required by Rules
32 .0304(d) and (e) and .0305 of this Section is affixed to the growler.

33 ~~(f)~~(d) Holders of retail permits pursuant to G.S. 18B-1001(1), (2), ~~(3), (4),~~ or (16) shall affix a label as required by
34 Rules .0303(b) and (c), Rules .0304(d) and (e), and Rule .0305 of this Section to the growler when filling or refilling
35 a growler.

36 ~~(g)~~(e) Holders of retail permits pursuant to G.S. 18B-1001(1), (2), ~~(3), (4),~~ or (16), may, in their discretion, refuse to
37 fill or refill a growler, except in matters of discrimination pursuant to G.S. 18B-305(c).

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*History Note: Authority G.S. 18B-100; 18B-206(a); 18B-207; 18B-305; ~~18B-1001(1); 18B-1001(2); 18B-1001(16); 18B-1001~~;
Eff. April 1, 2011;
Temporary Amendment Eff. October 25, 2013;
Amended Eff. September 1, 2014;
Transferred and Recodified from 04 NCAC 02T .0308 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
Temporary Amendment Eff. November 28, 2017. (Codifier's Note: This Rule shall remain in effect until the permanent rule that replaces the temporary rule becomes effective. See S.L. 2017-87, s. 5.(b));
Amended Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: ABC Commission

RULE CITATION: 14B NCAC 15C .0308

DEADLINE FOR RECEIPT: Friday, July 6, 2018

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 (a), line 4, please make "Rules" singular.

In (c)(1)(E), line 20, what is "continually"? I take it this is known to your regulated public?

In (c)(1)(G), line 24, and (c)(2)(C), line 33, I take it "accurately" is known to your regulated public?

In (c)(2)(A), lines 27-28, is "easily accessible and readable" known to your regulated public?

In (d)(2)(C), lines 17-18, has this part of the Food Code been incorporated by reference pursuant to G.S. 150B-21.6 in another rule? If not, please do so here.

So that I'm clear – does Paragraph (e) apply to filling and refilling for every growler, or just some of them? I ask because (d)(1) seems to indicate that it will be just some, but there doesn't appear to be any limiting language in (e) itself.

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: June 21, 2018

1 14B NCAC 15C .0308 is amended as published in 32:19 NCR 1840 as follows:

2
3 **14B NCAC 15C .0308 GROWLERS: CLEANING, SANITIZING, FILLING AND SEALING**

4 (a) ~~Filling~~ Except as permitted pursuant to Rules .0307(b) and (c) of this Section, filling and refilling growlers shall
5 only occur on demand by a ~~customer~~ consumer.

6 (b) Growlers shall only be filled or refilled by a permittee or the permittee's employee.

7 (c) Prior to filling or refilling a growler, the growler and its cap shall be cleaned and sanitized by the permittee or the
8 permittee's employee using one of the following methods:

9 (1) Manual washing in a three compartment sink:

10 (A) ~~Prior~~ prior to starting, clean sinks and work area to remove any chemicals, oils, or grease
11 from other cleaning activities;

12 (B) ~~Empty~~ empty residual liquid from the growler to a drain. Growlers shall not be emptied into
13 the cleaning water;

14 (C) ~~Clean~~ clean the growler and cap in water and detergent. Water temperature shall be at a
15 minimum 110°F or the temperature specified on the cleaning agent manufacturer's label
16 instructions. Detergent shall not be fat or oil based;

17 (D) ~~Remove~~ remove any residues on the interior and exterior of the growler and cap;

18 (E) ~~Rinse~~ rinse the growler and cap in the middle compartment with water. Rinsing may be
19 from the spigot with a spray arm, from a spigot, or from the tub as long as the water for
20 rinsing ~~shall~~ is not be stagnant ~~but shall be~~ and continually refreshed;

21 (F) ~~Sanitize~~ sanitize the growler and cap in the third compartment. Chemical sanitizer shall be
22 used in accordance with the EPA-registered label use instructions and shall meet the
23 minimum water temperature requirements of that chemical; and

24 (G) ~~A~~ a test kit or other device that accurately measures the concentration in mg/L of chemical
25 sanitizing solutions shall be provided and be ~~readily~~ readily accessible for use; or

26 (2) Mechanical washing and sanitizing machine:

27 (A) ~~Mechanical~~ mechanical washing and sanitizing machines shall be provided with an easily
28 accessible and readable data plate affixed to the machine by the manufacturer and shall be
29 used according to the machine's design and operation specifications;

30 (B) ~~Mechanical~~ mechanical washing and sanitizing machines shall be equipped with chemical
31 or hot water sanitization;

32 (C) ~~Concentration~~ concentration of the sanitizing solution or the water temperature shall be
33 accurately determined by using a test kit or other device; and

34 (D) ~~The~~ the machine shall be regularly serviced based upon the manufacturer's or installer's
35 guidelines.

36 (d) Notwithstanding Paragraph (c) of this Rule, a growler may be filled or refilled without cleaning and sanitizing the
37 ~~growler~~ growler, as follows:

- 1 (1) Filling or refilling a growler with a tube as referenced by Paragraph (e) of this Rule:
- 2 (A) ~~Food~~ food grade sanitizer shall be used in accordance with the EPA-registered label use
- 3 instructions;
- 4 (B) ~~A~~ container of liquid food grade sanitizer shall be maintained for no more than 10 malt
- 5 beverage taps that will be used for filling and refilling growlers;
- 6 (C) ~~Each~~ each container shall contain no fewer than five tubes that will be used only for filling
- 7 and refilling growlers;
- 8 (D) ~~The~~ the growler is inspected visually for contamination;
- 9 (E) ~~The growler is filled or refilled with a tube as described in Paragraph (e) of this Rule;~~
- 10 (F) ~~After~~ after each filling or refilling of a growler, the tube shall be immersed in the container
- 11 with the liquid food grade sanitizer; and
- 12 (G)(F) ~~A~~ different tube from the container shall be used for each fill or refill of a growler; or
- 13 (2) Filling a growler with a contamination-free process:
- 14 (A) ~~The~~ the growler shall be inspected visually for contamination; ~~and~~
- 15 (B) ~~Shall for growlers that can be refilled, the process shall~~ be otherwise in compliance with
- 16 the FDA Food Code 2009, ~~Section 3-304.17(e); Section 3-304.17(C); and~~
- 17 (C) ~~for growlers that are for single use, the process shall be otherwise in compliance with the~~
- 18 FDA Food Code 2009, Sections 4-903.11 and 4-903.12.

- 19 (e) Growlers shall be filled or refilled from the bottom of the growler to the top with a tube that is attached to the malt
- 20 beverage or unfortified wine faucet and extends to the bottom of the growler or with a commercial filling machine.
- 21 (f) When not in use, tubes to fill or refill growlers shall be immersed and stored in a container with liquid food grade
- 22 sanitizer.
- 23 (g) After filling or refilling a growler, the growler shall be sealed with a closure or cap.

24

25 *History Note: Authority G.S. 18B-100; 18B-206(a); 18B-207; ~~18B-1001(1); 18B-1001(2); 18B-1001(16); FDA~~*

26 *~~Food Code 2009, Section 3-304.17(e) and Section 4-204.13(a),(b) and (d); 18B-1001;~~*

27 *Temporary Adoption Eff. October 25, 2013;*

28 *Eff. September 1, 2014;*

29 *Transferred and Recodified from 04 NCAC 02T .0309 Eff. August 1, 2015;*

30 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,*

31 *2017;*

32 *Temporary Amendment Eff. November 28, 2017. (Codifier's Note: This Rule shall remain in effect*

33 *until the permanent rule that replaces the temporary rule becomes effective. See S.L. 2017-87, s.*

34 *5.(b));*

35 *Amended Eff. August 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: ABC Commission

RULE CITATION: 14B NCAC 15C .0403

DEADLINE FOR RECEIPT: Friday, July 6, 2018

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 (a), lines 6, what would tend to mislead the consumer as to the nature of the contents? Does your regulated public know this?

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: June 21, 2018

1 14B NCAC 15C .0403 is amended as published in 32:19 NCR 1840 as follows:

2

3 **14B NCAC 15C .0403 CONTAINERS**

4 (a) Unsealed Container Prohibited. ~~The~~ Except as permitted by Rule .0307 of this Subchapter, the sale of wine in any
5 unsealed ~~container or~~ container, any container originally designed for a product other than ~~wine~~wine, or in any
6 container the design or shape of which would tend to mislead the consumer as to the nature of the contents is
7 prohibited. ~~All wine containers shall be made of glass or other nonmetallic materials except for bulk on-premises~~
8 ~~containers approved by the Commission.~~

9 (b) Distinguishing Mark Different from Retailer. The sale of wine in containers that have the blown, ~~branded~~branded,
10 or burned name or other distinguishing mark of any person engaged in business as a wine producer, importer,
11 ~~wholesaler~~wholesaler, or bottler or any other person different from the person whose name is required to appear on
12 the brand label by Rule .0304 of this Subchapter is prohibited.

13

14 *History Note: Authority G.S. 18B-206; 18B-207; 18B-1001;*

15 *Eff. January 1, 1982;*

16 *Amended Eff. June 1, 1986; May 1, 1984;*

17 *Transferred and Recodified from 04 NCAC 02T .0410 Eff. August 1, 2015;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19,*
19 *2017;*

20 *Temporary Amendment Eff. November 28, 2017. (Codifier's Note: This Rule shall remain in effect*
21 *until the permanent rule that replaces the temporary rule becomes effective. See S.L. 2017-87, s.*

22 *5.(b);*

23 *Amended Eff. August 1, 2018.*