

14B NCAC 15A .0902 MAINTENANCE OF WORKING CAPITAL

(a) A local board shall set its working capital requirements at not less than two weeks' average gross sales of the latest fiscal year nor greater than:

- (1) four months average of the latest fiscal year for boards with gross sales less than one million five hundred thousand dollars (\$1,500,000);
- (2) three months average of the latest fiscal year for boards with gross sales greater than or equal to one million five hundred thousand dollars (\$1,500,000) and less than fifty million dollars (\$50,000,000); and
- (3) two months average of the latest fiscal year for boards with gross sales equal to or greater than fifty million dollars (\$50,000,000).

(b) A local board is considered insolvent if all of the following conditions apply:

- (1) the local board does not adhere to the working capital requirements as stated in Paragraph (a) of this Rule;
- (2) the local board's current assets are less than the local board's current liabilities and the current portion of long-term debt;
- (3) the local board is unable to pay its debts as they fall due; and
- (4) the Commission determines the projected revenues will not meet the projected expenses in the next fiscal year based upon factors including statewide trends in sales and revenues, the status of the local economy, and the local board's projected expenses based upon the prior fiscal year's expenses.

(c) As used in this Rule, "long-term debt" means the loans and financial obligations lasting over one year.

History Note: Authority G.S. 18B-100; 18B-203(a)(20); 18B-207; 18B-702(g),(u); 18B-805(d); Eff. January 1, 1982; Amended Eff. November 1, 2011; July 1, 1992; June 1, 1988; May 1, 1984; Transferred and Recodified from 04 NCAC 02R .0902 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015; Amended Eff. December 1, 2019.

14B NCAC 15A .0903 DEPOSITS

- (a) Each local board shall designate as its official depositories one or more banks or trust companies in this State.
- (b) The amount of funds on deposit in an official depository or deposited at interest shall be secured as provided in the Rules of the Local Government Commission at 20 NCAC 07, which are incorporated herein by reference, including subsequent amendments and editions.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-702(t),(u);
Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0903 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. December 1, 2019.*

14B NCAC 15A .0905 DAILY DEPOSITS

(a) Each officer whose duty it is to collect or receive moneys of the local board shall deposit the collections and receipts daily into an official depository. If the local board gives its approval, deposits shall be required only when the moneys on hand are equal to or are greater than two hundred fifty dollars (\$250.00), but in any event a deposit shall be made of any amount of moneys on hand on the last business day of the month. Deposits in an official depository shall be reported to the finance officer by means of a duplicate deposit ticket.

(b) A change fund necessary for daily operation of an ABC store shall be established by each local board and maintained in a secure place on the store's premises and shall not be subject to the daily deposit rule set forth in Paragraph (a) of this Rule. Each change fund shall be maintained in the amount and place established by the local board.

(c) The finance officer may at any time audit the records maintained by any employee collecting sales revenue and may prescribe the form and detail of these records.

(d) The Commission shall waive or alter the daily deposit requirement set forth in Paragraph (a) of this Rule for any local board upon a written request where security for the funds involved would include a locked fireproof safe or other container designed for the protection of valuable documents or money.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-702(t),(u);
Eff. May 1, 1984;
Amended Eff. November 1, 2010;
Transferred and Recodified from 04 NCAC 02R .0905 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. December 1, 2019.*

14B NCAC 15A .0907 ANNUAL INDEPENDENT FINANCIAL AUDIT

(a) Each local board shall have its accounts audited after the close of each fiscal year by an independent certified public accountant. The auditor shall be selected by and report to the local board. The audit contract shall be on a form provided by the Commission. The audit contract shall include a definition of the scope of work, a requirement that the audit be conducted in accordance with generally accepted auditing standards, and a requirement that all audited financial statements be prepared in accordance with GASB Statement 34. The audit report is due to the Commission 90 days after the end of the fiscal year. The financial officer shall ensure one unbound copy of the audit report and management letter is filed with the Commission.

(b) Each officer and employee of the local board having custody of public money or responsibility for keeping records of financial or fiscal affairs shall produce books and records requested by the auditor or the Commission and shall divulge any information relating to fiscal affairs as requested. If any member of the local board or any employee conceals, falsifies or refuses to deliver or divulge any books, records, or information with intent to mislead the auditor or impede or interfere with the audit, that individual is subject to removal for cause pursuant to G.S. 18B-203(a)(8).

(c) Each local board shall disclose the distribution of profits, including all distributions made pursuant to G.S. 18B-805, in a schedule to be included with the annual audited financial statements. The schedule shall be supported by a listing of each person who receives moneys from the local board, the date of payment and, if applicable, the purpose for which the payment was made and restrictions on use of the payment. The listing shall provide the same totals as were used in the schedule for each type of distribution.

*History Note: Authority G.S. 18B-100; 18B-203(a)(8); 18B-207; 18B-702(s), (u);
Eff. May 1, 1984;
Amended Eff. November 1, 2010;
Transferred and Recodified from 04 NCAC 02R .0907 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. December 1, 2019.*

14B NCAC 15A .1003 EMPLOYMENT AGE REQUIREMENT

A person employed by a local board shall be at least 18 years of age unless waived by the Commission. The Commission shall grant a waiver pursuant to this Rule subject to compliance with the conditions and limitations applicable to permittees pursuant to G.S. 95-25.5(j).

*History Note: Authority G.S. 18B-100; 18B-207; 18B-302(h); 18B-807;
Eff. January 1, 1982;
Amended Eff. February 1, 1986;
Transferred and Recodified from 04 NCAC 02R .1004 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. December 1, 2019.*

14B NCAC 15A .1006 PERSONNEL MANUAL

(a) Each local board shall establish rules governing each of the following:

- (1) Initial employment of employees, including qualifications and requirements for new employees;
- (2) Compensation and benefits;
- (3) Hours and days of work, holidays, vacation, sick leave;
- (4) Promotion, transfer, demotion, and suspension of employees;
- (5) Separation or termination of employees;
- (6) Granting of salary increases; and
- (7) Employee grievance procedures.

(b) A local board may model its personnel policies and procedures after those adopted by the county or municipality in which it operates.

(c) A local board shall not adopt a rule that conflicts with the provisions of Chapter 18B or these Rules.

*History Note: Authority G.S. 18B-100; 18B-203(a)(10); 18B-207; 18B-700(g1); 18B-701(a); 18B-807;
Eff. July 1, 1992;
Transferred and Recodified from 04 NCAC 02R .1009 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,
2015;
Amended Eff. December 1, 2019.*

14B NCAC 15A .1102 LOCAL RULES

(a) Submitted to Commission. A copy of all rules or amendments thereto that may be adopted by a local board to govern the operation of ABC stores or the enforcement of the ABC laws shall be submitted to the Commission at least 30 days prior to the date on which it is proposed that those rules or amendments are to become effective.

(b) Power to Approve. The Commission shall notify a local board within 15 days of receipt of a proposed rule or amendment if the rules are disapproved or the effective date of the rules will be delayed. Those rules or amendments shall become effective when and as approved by the Commission. If the Commission does not send a notice of disapproval within 15 days of receipt, those rules or amendments shall stand approved.

*History Note: Authority G.S. 18B-100; 18B-203(a)(10); 18B-207; 18B-807;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1102 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. December 1, 2019.*

14B NCAC 15A .1103 COST OF AUDIT

The cost of any audit or examination of records required by the Commission pursuant to G.S. 18B-205 shall be borne by the local board being audited or examined.

*History Note: Authority G.S. 18B-100; 18B-205; 18B-207; 18B-702(u); 18B-807;
Eff. January 1, 1982;
Transferred and Recodified from 04 NCAC 02R .1104 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. December 1, 2019.*

14B NCAC 15A .1203 APPROVAL OF NEW STORES

(a) Notice to Commission. The opening of any new ABC stores shall not be considered by the Commission unless a 45-day notice is given to the Chairman as to the intended location of the store and until a public notice of the intention to open the ABC store has been posted for 30 days at the proposed location.

(b) Sign Requirements. In order to meet the public notice requirements of Paragraph (a) of this Rule, the local board shall post at least one sign at the proposed new store site in accordance with all the following requirements:

- (1) Dimensions of the sign shall be at least three feet high and three feet wide;
- (2) The board shall state on the sign its intention to open an ABC store on the site and shall state the telephone number of the local board where public comments will be received;
- (3) Lettering shall be at least four inches in height and background colors shall contrast so that the notice may be discerned by the viewer; and
- (4) The sign shall be posted within 10 feet of the property line that is parallel to the public road or sidewalk that will be in front of the proposed store, or if the proposed store will be in an existing shopping center, the sign shall be posted on the front exterior of the existing storefront or building. Lettering on the sign shall face the public road or sidewalk, or if within an existing shopping center, the lettering shall face the exterior of the existing storefront or building.

(c) In considering whether to approve the opening of a new ABC store, in addition to determining whether the health, safety or general welfare of the community would be adversely affected, the Commission shall consider the factors enumerated in G.S. 18B-901(c)(3), (4), (5), (6), and (7).

*History Note: Authority G.S. 18B-100; 18B-207; 18B-801;
Eff. January 1, 1982;
Amended Eff. November 1, 2010; July 1, 1992;
Transferred and Recodified from 04 NCAC 02R .1203 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. December 1, 2019.*

14B NCAC 15A .1204 NEW STORES PROHIBITED IN CERTAIN AREAS

History Note: Authority G.S. 18B-100; 18B-207; 18B-801;
Eff. January 1, 1982;
Transferred and Recodified from 04 NCAC 02R .1204 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,
2015;
Repealed Eff. December 1, 2019.

**SECTION .1300 - STORAGE AND DISTRIBUTION OF SPIRITUOUS LIQUORS: COMMERCIAL
TRANSPORTATION**

14B NCAC 15A .1301 STORAGE: DELIVERIES: SECURITY

- (a) Storage. Private warehouse contractors performing the receipt, storage, and distribution functions shall:
- (1) Allocate space in the State ABC warehouse for each item listed on the price list adopted by the Commission. Space allocated shall be based on sales volume;
 - (2) Develop and publish a delivery schedule of spirituous liquors to all local boards based on each local board's sales volume and the economical delivery of spirituous liquor to all local boards, subject to approval of the Commission. Orders and shipments over the quantity on the approved schedule may be made as agreed between the local boards and the Contractor. All orders over the quantity on the schedule shall be accepted and delivered when the Contractor determines it is economically feasible based upon the size of the regular load and the size of the additional quantity.
 - (3) Develop and publish standard operating procedures not covered by these Rules for use by the Contractor and local boards. All procedures published shall be submitted to the Commission.
- (b) Deliveries and Shipments. The processing of shipments upon receipt by the local boards shall be as follows:
- (1) The Contractor shall provide the local board representative an Off-Loading Check Sheet, an Invoice Bill(s) of Lading, and a Transmittal Sheet with the shipment. The Off-Loading Check Sheet shall reflect the items and quantities being delivered in numerical order, and the quantities shall agree with those on the Invoice Bill(s) of Lading and the Transmittal Sheet;
 - (2) The system used for off-loading shall be such that an accurate count of the merchandise is made and all overages or shortages can be verified by the local board before any exceptions entries are made on the Transmittal Sheet;
 - (3) If there are no overages, shortages or breakage, remittance shall be made as referenced in Subparagraph (10) of this Paragraph;
 - (4) If there is an overage which is accepted by the local board representative, the local board representative shall line through the number of cases invoiced and shall write the correct number of cases on the Transmittal Sheet. The local board representative shall enter the quantity over, the stock code number and an explanation in the "comments" block on the Transmittal Sheet. Upon return of the Transmittal Sheet to the State ABC warehouse, the Contractor shall issue a debit adjustment. The debit adjustment shall have the original invoice number in the purchase order reference box as a cross reference. Remittance shall be made as referenced in Subparagraph (10) of this Paragraph;
 - (5) If there is an overage that is not accepted by a local board representative, the local board representative shall enter the quantity, the stock code number and an explanation in the "comments" box on the Transmittal Sheet. The driver shall return the merchandise to the State ABC warehouse;
 - (6) If there is a shortage, the local board representative shall line through the number of cases invoiced and shall write the correct number of cases on the Transmittal Sheet. The local board representative shall enter the quantity under, the stock code number and an explanation in the "comments" box on the Transmittal Sheet. Upon return of the Transmittal Sheet to the State ABC warehouse, the Contractor shall issue a credit adjustment. Remittance shall be made as referenced in Subparagraph (10) of this Paragraph;
 - (7) The local board representative shall handle breakage discovered during the unloading process as a shortage in shipment in accordance with the procedure set forth in Subparagraph (6) of this Paragraph with the note in the "comments" block of the Transmittal Sheet indicating that the case was returned due to breakage. If the breakage involves a case that is an overage not accepted by the local board representative, the procedures in Subparagraph (5) of this Paragraph shall be followed. Remittance shall be made as referenced in Subparagraph (10) of this Paragraph;
 - (8) If a local board's shipment includes a shrink-wrapped pallet(s), the local board shall break down the pallet(s) and any overage, shortage, or breakage shall be reported to the State ABC warehouse as follows:
 - (A) The procedures for marking the Transmittal Sheet in Subparagraphs (4), (5), (6) and (7) of this Paragraph shall be followed; and
 - (B) The updated Transmittal Sheet shall be emailed, faxed or postmarked to the State ABC warehouse within three days of delivery of the pallet(s);Remittance shall be made as referenced in Subparagraph (10) of this Paragraph;

- (9) Except as provided for in Subparagraph (8) of this Paragraph, the local board representative and the driver shall sign the Transmittal Sheet(s) and the driver shall return the Transmittal Sheet(s) to the State ABC warehouse. The local board representative shall receipt date stamp or sign the distiller's Invoice Bills of Lading copies and the driver shall return them to the State ABC warehouse; and
 - (10) The local board shall remit payment to the party listed in the "Remit to" information listed on the Invoice Bill(s) of Lading which includes any Bailment Invoices or Surcharge Invoices. The local board shall enter the Invoice Bill of Lading number on each check or each check stub.
- (c) Security Measures. Security of the merchandise during the delivery process shall be as follows:
- (1) The conveyances (trucks and trailers) shall be secured with a serially numbered metal or plastic seal by the Contractor;
 - (2) The seal numbers will be entered on the "Seal Nos." line of the invoice transmittal sheet. Extra seals shall be included in sealed envelopes for resealing the unit when shipments are destined for more than one local board and for the return trip after final delivery;
 - (3) The local board general manager or the general manager's designated representative shall check the seal number on the unit with the number on the invoice transmittal sheet upon arrival of a shipment. If the numbers correspond the unit shall be unsealed by the local board's representative. If the numbers do not correspond the Contractor shall be contacted for further instructions; and
 - (4) The local boards' general manager shall not allow the Contractor's driver or his assistant to remove the seal.
- (d) Local boards shall not pick up merchandise from the State ABC warehouse without prior approval from the Administrator or the Administrator's designee.
- (e) Local boards may purchase, exchange, or otherwise obtain spirituous liquor from another local board and transport such beverages as necessary for the operation of its ABC stores. Payment for such transactions shall be satisfied as provided by 14B NCAC 15A .1406.

*History Note: Authority G.S. 18B-100; 18B-204; 18B-207; 18B-701(a)(1);
Eff. January 1, 1982;
Amended Eff. January 1, 2011; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1302 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. December 1, 2019.*

14B NCAC 15A .1302 COMMERCIAL TRANSPORTATION: PERMIT AND BOND REQUIRED

(a) Any person transporting spirituous liquors into and through the State shall first secure a blanket fleet permit for the transportation of spirituous liquors signed by the Chairman or Administrator. That permit shall designate the spirituous liquors to be shipped.

(b) Driver to Possess Permit. Any person applying for and receiving this permit shall require the driver or operator of any truck, tractor, or trailer to have in the driver's possession a copy of all the documents required pursuant to G.S. 18B-1115(d)(3) and (4).

(c) Commission to Provide Forms. Blank forms for the bond shall be supplied by the Commission upon request. The bond form shall include the name of the principal, the name and address of the surety, the bond number, and an obligation on the surety to insure the permittee's lawful transport and delivery of alcoholic beverages in the State in the amount of one thousand dollars (\$1000).

(d) A local board owning and operating trucks for the purpose of transporting spirituous liquors from a local warehouse to the various local stores within a local ABC system shall not be required to give bond and shall be permitted to operate its trucks without a common carrier permit.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-1115;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1303 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. December 1, 2019.*

14B NCAC 15A .1304 DIRECT SHIPMENTS

(a) A "direct shipment" means a shipment from the distiller or a warehouse of spirituous liquors, or from an antique spirituous liquor seller, directly to a local board without passing through the State ABC warehouse.

(b) Direct shipments shall be allowed by the Commission in emergency situations when the State ABC warehouse is closed due to natural or other disasters or in a situation where for transportation reasons it is mutually advantageous to local boards, the Commission, or the operator of the State ABC warehouse.

(c) Direct shipment shall have prior written approval from the Commission. Merchandise authorized to be shipped by direct shipment shall be consigned by the State ABC warehouse to the distiller's account in care of the local board. The local board shall acknowledge receipt of the merchandise on the shipping documents and forward them to the Contractor for processing through the accounting system as though the merchandise were shipped from the State ABC warehouse.

(d) Upon compliance with 14B NCAC 15A .1403 and obtaining a transportation permit as required by G.S. 18B-403, an antique spirituous liquor seller may deliver antique spirituous liquor listed in its inventory directly to the local board that placed the special order for that inventory.

*History Note: Authority G.S. 18B-100; 18B-204; 18B-207; 18B-403; 18B-701(a)(1);
Eff. January 1, 1982;
Amended Eff. January 1, 2011; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1305 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. December 1, 2019; January 1, 2018.*

14B NCAC 15A .1404 COMMEMORATIVE BOTTLES

The Commission shall approve local boards' orders and sales of specially designed bottles commemorating particular events, occasions, or ceremonies, provided advertising borne upon commemorative bottles is limited to commemorating historical events of the local board and non-profit, charitable enterprises. Other businesses, other than the distiller, shall not advertise themselves or their products via commemorative bottles.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-807;
Eff. January 1, 1982;
Amended Eff. November 1, 2010;
Transferred and Recodified from 04 NCAC 02R .1405 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. December 1, 2019.*

14B NCAC 15A .1405 RECORDS REQUIRED

(a) A record of all orders, receipts, invoices, and payments shall be maintained by local boards and be available for inspection by any representative of the Commission during the local board's normal business hours.

(b) Local boards shall retain the following records for the length of time specified in this Paragraph:

- (1) sales report until the annual audit is completed,
- (2) warehouse report for one year,
- (3) daily store report until the annual audit is completed,
- (4) stock difference report for three years,
- (5) receiving report until the annual audit is completed,
- (6) clerk's daily sales and cash report until the annual audit is completed,
- (7) paid invoices for three years,
- (8) loss and damage claim records for three years, and
- (9) required records pursuant to 14B NCAC 15B .0501 related to the sale of mixed beverages for three years.

*History Note: Authority G.S. 18B-100; 18B-203(a)(4); 18B-205; 18B-207; 18B-702(s), (u);
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1406 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,
2015;
Amended Eff. December 1, 2019.*

1 **14B NCAC 15A .1406 PAYMENT**

2 (a) Local boards shall remit full payment of the Contractor's statement of account pertaining to the bailment charge
3 within 30 days of receipt of the statement.

4 (b) Local boards shall remit full payment of the Contractor's statement of account pertaining to the bailment surcharge
5 within 30 days of receipt of the statement.

6 (c) Local boards shall remit full payment of the distiller's invoice within 30 days of delivery of the liquor.

7 (d) Local boards that obtain spirituous liquor from another local board pursuant to 14B NCAC 15A .1301(e) shall
8 remit full payment within 15 days of the transaction.

9

10 *History Note: Authority G.S. 18B-100; G.S. 18B-203(a)(14) and (15); G.S. 18B-207; 18B-702(u);*

11 *Eff. May 1, 1984;*

12 *Amended Eff. November 1, 2010; July 1, 1992;*

13 *Transferred and Recodified from 04 NCAC 02R .1407 Eff. August 1, 2015;*

14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
15 *2015;*

16 *Amended Eff. January 1, 2020.*