

## Impact Analysis

04 NCAC 02T .0308 GROWLERS

Alcoholic Beverage Control Commission

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Authority: G.S. 18B-100, 18B-206(a), 18B-207, 18B-1001(1), (2) and (16)

Impact Summary: State Government: Little to no

Local Government: No

Substantial Economic Impact: Unclear

These rule changes (see proposed text in Appendix) are necessary to comply with Session Law 2013-76 that requires the North Carolina Alcoholic Beverage Control Commission to adopt rules dealing with sanitation of growlers. This rule amendment is necessary to further define a growler and further explain which permittees can prefill growlers and which permittees can fill and refill growlers on demand. This provides necessary information in reference to the proposed adoption of the rule that requires the sanitation of growlers, 04 NCAC 02T .0309.

Under the amended rule, On-premises Malt Beverage, Off-premises Malt Beverage and Wine Shop permittees can voluntarily decide whether they want to fill or refill growlers on demand with malt beverages.

### Impact on the Private Sector

While these are voluntary decisions, they are decisions the on-premises malt beverage, off-premises malt beverage and wine shop permittees cannot make under the current rules. Therefore, depending on whether the permittees choose to act on this proposed allowance in the rules, there might be an impact.

It is very difficult, however, to quantify the potential impact of the rule change, given the lack of information. There are approximately 19,000 on-premises malt beverage, off-premises malt beverage and wine shop permits that are currently valid. Due to the requirement that a person is required to have an on-premises or off-premises malt beverage permit or a wine shop permit to fill or refill growlers on demand and not a separate specific permit, unless the ABC Commission were to conduct a survey of currently permitted establishments, the Commission cannot measure the number of establishments that already have the required permits that will offer this service.

The ABC Commission has identified fewer than ten businesses that have opened to specifically provide filling and refilling of growlers on demand. The ABC Commission already received

\$4,000.00 since they have permits. The ABC Commission would receive an additional \$2,000.00 each year thereafter, if the number of these businesses stays the same.

It is unclear whether the rule change would have a substantial economic impact (i.e. an impact over \$500,000 per year) or not on the private sector.

Prior to this proposed rule change, only breweries were allowed to fill and refill growlers on demand with malt beverages.

Prior to this proposed rule change, breweries charged a minimum of \$9.00 for a growler fill, but that price increased depending on the brewery, the size of the growler and the type of malt beverage. Breweries also charged a minimum of \$5.00 for the purchase of a growler, but that price increased depending on the brewery, the size of the growler and what the growler is made of.

It can be assumed that breweries will have a reduction of growler sales and fills after on-premises malt beverage, off-premises malt beverage and wine shop permittees begin growler sales and fills.

It can also be assumed that there will be a market share difference to a small extent with people purchasing a filled growler for off-premises consumption, instead of a six pack, twelve pack or case of malt beverage from a retailer.

The Commission invites comments from stakeholders regarding the potential impact of the proposed rules on the market for malt beverages, including potential changes in malt beverage market share.

### **Impact on State Government**

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## APPENDIX

04 NCAC 02T .0308 0303 is proposed for amendment as follows:

### 04 NCAC 02T .0308 GROWLERS

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

(b) Holders of only a brewery permit ~~that have retail permits pursuant to G.S. 18B-1001(2), may sell growlers filled~~ may sell, deliver and ship growlers prefilled with the brewery's malt beverage for off-premises consumption provided a label is affixed to the growler that accurately provides the information as required by 04 NCAC 02T .0303 Rules .0303(a) and .0305 ~~.0305~~ of this Section.

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

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

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

~~(e) Holders of a brewery permit that have retail permits pursuant to G.S. 18B-1001(2), may refill customer's growlers provided a label is affixed to the growler that accurately provides the information as required by 04 NCAC 02T .0303 and .0305.~~

~~(d) Breweries that refill growlers sold by other breweries shall relabel the growler prior to filling it with malt beverage.~~

~~(e) Breweries that refill growlers sold by other breweries shall remove, deface or cover any permanent or non-permanent labels prior to affixing a new label.~~

(f)  Holders of retail permits pursuant to G.S. 18B-1001(1), (2) or (16), shall affix a label as required by Rules .0303(b) and .0305 of this Section to the growler when filling or refilling a growler.

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

*History Note: Authority G.S. 18B-100; 18B-206(a); 18B-207; 18B-305; 18B-1001(1), (2) and (16);  
Eff. April 1, 2011;  
Amended Eff. October 1, 2014;*

Temporary Amendment Eff. October 25, 2013.