Impact Analysis

04 NCAC 02T .0309 GROWLERS: CLEANING, SANITIZING, FILLING AND SEALING

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Authority: G.S. 18B-100, 18B-206(a), 18B-207, 18B-1001(1), (2) and (16); FDA Food Code 2009, Section 3-304.17(c) and Section 4-204.13(a), (b) and (d);

Impact Summary: State Government: No

Local Government: No

Substantial Economic Impact: Unclear

This rule adoption (see proposed text in Appendix) is 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. The adoption is also necessary for the health and safety of the public. By following this rule, a permittee will reduce the chances of cross-contamination between growlers.

Under the adopted 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. If they decide to provide this service then they must adhere to one of two different cleaning methods or they must fill the growlers in a specific way.

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 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.

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 adoption, only breweries were allowed to fill and refill growlers on demand with malt beverages.

If a permittee chooses to provide this service and they did not have a three compartment sink or a mechanical washing and sanitizing machine, the minimum standard of filling a growler requires that the permittee have a container with sanitizer and five tubes per every ten taps. Each tube would cost less than $1.00. Each container that can hold the tubes and liquid food grade sanitizer would cost approximately $13.00. With this information, a permittee would need to invest at least $18.00 per ten taps plus the cost of liquid sanitizer. Due to the ABC Commission's inability to obtain information as to the number of permittees that will offer this service and the number of taps individual permittees will use, a minimum cost for providing this service cannot be provided.

The Commission invites comments from stakeholders regarding the potential impact of the proposed rules on the costs involved in sanitizing growlers for fills and refills on demand.

Impact on State Government

There will be no impact on State government.

APPENDIX

04 NCAC 02T .0309 is proposed for adoption as follows:

04 NCAC 02T .0309 GROWLERS: CLEANING, SANITIZING, FILLING AND SEALING

(a) Filling and refilling growlers will only occur on demand by a customer.

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

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

(1) Manual washing in a three compartment sink:

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

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

(C) Clean the growler and cap in water and detergent. Water temperature shall be at a minimum 110ºF or the temperature specified on the cleaning agent manufacturer's label instructions. Detergent shall not be fat or oil based.

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

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

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

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

(2) Mechanical washing and sanitizing machine:

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

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

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

(D) The machine shall be regularly serviced based upon the manufacturer's or installer's guidelines;

(d) Notwithstanding Paragraph (b), a growler may be filled or refilled without cleaning and sanitizing the growler as follows:

(1) Filling or refilling a growler with a tube as referenced by Paragraph (e):

(A) Food grade sanitizer shall be used in accordance with the EPA-registered label use instructions;

(B) A container of liquid food grade sanitizer shall be maintained for no more than 10 malt beverage taps that will be used for filling and refilling growlers;

(C) Each container shall contain no less than five tubes that will be used only for filling and refilling growlers;

(D) The growler is inspected visually for contamination;

(E) The growler is filled or refilled with a tube as described in Paragraph (e);

(F) After each filling or refilling of a growler, the tube shall be immersed in the container with the liquid food grade sanitizer; and

(G) A different tube from the container shall be used for each fill or refill of a growler; or

(2) Filling a growler with a contamination-free process:

(A) The growler is inspected visually for contamination;

(B) The growler shall only be filled or refilled by a permittee or the permittee's employee; and

(C) Is otherwise in compliance with the FDA Food Code 2009, Section 3-304.17(c).

(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 beverage faucet and extends to the bottom of the growler or with a commercial filling machine.

(f) When not in use, tubes to fill or refill growlers shall be immersed and stored in a container with liquid food grade sanitizer.

(g) After filling or refilling a growler, the growler shall be sealed with a cap.

History Note: *Authority G.S. 18B-100; 18B-206(a); 18B-207; 18B-1001(1), (2) and (16); FDA Food Code 2009, Section 3-304.17(c) and Section 4-204.13(a), (b) and (d);*
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