

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control No. 20 Department or Agency Alabama Alcoholic Beverage Control Board

Rule No. 20-X-2-.01

Rule Title: Glossary of Terms.

 New X Amend Repeal Adopt by Reference

Would the Absence of the proposed rule significantly harm or endanger the public health, welfare, or safety?

 no

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare?

 yes

Is there another, less restrictive method of regulation available that could adequately protect the public?

 no

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?

 no

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule?

 no

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public?

 yes

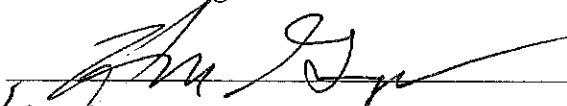
.....
Does the proposed rule have an economic impact:

 no

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

.....
Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer 

Date 2/19/10

ALABAMA ALCOHOLIC BEVERAGE
CONTROL BOARD

NOTICE OF INTENDED ACTION

<u>RULE NO. & TITLE</u>	20-X-2-.01	Glossary of Terms.
	20-X-7-.07	Wine Tasting.
	20-X-7-.11	Spirits Tasting.
	20-X-8-.10	Delivery of Alcoholic Beverages by Wholesalers and In-State Manufacturers of Beer and Wine.

INTENDED ACTION: Amend rules.

SUBSTANCE OF PROPOSED ACTION: The agency proposes to amend the above rules consistent with newly enacted legislation. The proposed amendments to rules can be found on the ABC Board website www.abc.alabama.gov

<u>RULE NO. & TITLE</u>	20-X-5-.15	Permits for Off-Site Tasting Rooms for In-State Wine Manufacturers and a Winery Association.
	20-X-6-.18	Draft Beer for Off-Premises Consumption.
	20-X-8-.14	Requirements of Financial Responsibility by Manufacturers.
	20-X-9-.04	Record Keeping Requirements for In-State Manufacturers of Beer, Wine and Spirits, and Brew Pubs.

INTENDED ACTION: Adopt new rules.


SUBSTANCE OF PROPOSED ACTION: The agency proposes to adopt new rules consistent with newly enacted legislation. The proposed new rules can be found on the ABC Board website www.abc.alabama.gov

TIME, PLACE, MANNER OF PRESENTING VIEWS:

Interested persons may present their views in writing to the Administrative Procedures Secretary, Alabama ABC Board, 2715 Gunter Park Drive, West, Montgomery, Alabama 36109, or via email admin@abc.alabama.gov , to be received no later than September 7, 2016.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: September 7, 2016

CONTACT PERSON AT AGENCY: Robert S. Hill, III, General Counsel, Alabama ABC Board, 2715 Gunter Park Drive, West, Montgomery, Alabama 36109.



H.M. Gipson
Administrator

20-X-2-.01. GLOSSARY OF TERMS.

The following words or phrases, whenever they appear in regulations 20-X-2 through 20-X-19, unless the context clearly indicates otherwise, shall have the meaning ascribed to them as follows:

(1) *Alcoholic Beverages.* Any alcoholic, spirituous, vinous, fermented or other alcoholic beverage, or combination of liquors and mixed liquor, a part of which is spirituous, vinous, fermented or otherwise alcoholic, and all drinks or drinkable liquids, preparations or mixtures intended for beverage purposes, which contain one-half of one percent or more of alcohol by volume, and shall include liquor, beer, and wine, both fortified and table wine.

(2) *Association.* A partnership, limited partnership, limited liability company or any form of unincorporated enterprise owned by two or more persons.

(3) *Beer, or Malt or Brewed Beverages.* Any beer, lager beer, ale, porter, malt or brewed beverage or similar fermented malt liquor containing one-half of one percent or more of alcohol by volume and not in excess of five percent alcohol by weight and six percent by volume, by whatever name the same may be called.

(4) *Board.* The Alabama Alcoholic Beverage Control Board.

(5) *Brandy.* All beverages which are an alcoholic distillate from the fermented juice, mash, or wine of fruit, or from the residue thereof, produced in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to the beverage, as bottled at not less than 80 degree proof.

(6) *Carton.* The package, container or containers in which alcoholic beverages are originally packaged for shipment to market by the manufacturer, its designated representatives or the importer.

(7) *Cash.* Any United States legal tender currency, credit card, check, guaranteed check, electronic funds transfer, postal money order and/or state warrant.

(8) *Church.* Church shall mean an entire house or structure set apart primarily for use for purposes of public worship, and whose sanctuary is tax exempt under the laws of this state, and in which religious services are held and with which a clergyman is associated, and the entire structure is kept for that use and not put to any other use inconsistent therewith.

(9) Cider. A fermented alcoholic beverage made from apple juice and containing not more than 8.5 percent alcohol by volume.

~~(9)~~**(10)** (a) *Club.* Class I. A corporation or association organized or formed in good faith by authority of law and which must have at least 150 paid-up members. It must be the owner, lessee or occupant of an establishment operated solely for the objects of a national, social, patriotic, political or athletic nature or the like, but not for pecuniary gain, and the property as well as the advantages of which, belong to all the members and which maintains an establishment provided with special space and accommodations where, in consideration of payment, food with or without lodging is habitually served. The club shall hold regular meetings, continue its business through officers regularly elected, admit members by written application, investigation and ballot and charge and collect dues from elected members.

(b) Class II. A corporation or association organized or formed in good faith by authority of law and which must have at least 100 paid-up members. It must be the owner, lessee or occupant of an establishment operated solely for the objects of a national, social, patriotic, political or athletic nature or the like. The

club shall hold regular meetings, continue its business through officers regularly elected, admit members by written application, investigation and ballot and charge and collect dues from elected members.

~~(10)~~**(11)** *Corporation.* A corporation or joint stock association organized under the laws of this state, territory or foreign country, or dependency.

~~(11)~~**(12)** *Dry County.* Any county which by a majority of those voting voted in the negative in an election heretofore held under the applicable statutes at the time of said election or may hereafter vote in the negative in an election or special method referendum hereafter held in accordance with the provisions of Chapter 2, Title 28, or held in accordance with the provisions of any act hereafter enacted permitting such election.

~~(12)~~**(13)** *Dry Municipality.* Any municipality within a wet county which has, by its governing body or by a majority of those voting in a municipal election heretofore held in accordance with the provisions of Section 28-2-22, or in a municipal option election heretofore or hereafter held in accordance with the provisions of Chapter 2A, Title 28, Code of Ala. 1975, as amended, or any act hereafter enacted permitting municipal option election, voted to exclude the sale of alcoholic beverages within the corporate limits of said municipality.

~~(13)~~ *Fortified Wine Or Vinous Liquor.* Any wine containing more than 14.9 percent alcohol by volume but not more than 24 percent, or such other percentages as may be designated by the Legislature of Alabama. ~~Fortified wine is vinous liquor.~~

(14) *General Welfare Purposes.*

- (a) The administration of public assistance as set out in Sections 38-2-5 and 38-4-1;
- (b) Services, including supplementation and supplementary services under the federal Social Security Act, to or on behalf of persons to whom such public assistance may be given under said Sections 38-2-5 and 38-4-1;
- (c) Service to and on behalf of dependent, neglected or delinquent children; and
- (d) Investigative and referral services to and on behalf of needy persons.

(15) *Hearing Commission.* A body appointed by the Alabama Alcoholic Beverage Control Board to hear and decide all contested license applications and all disciplinary charges against any licensee for violation of this title or the regulations of the Board.

(16) *Hotel.* A building or buildings held out to the public for housing accommodations of travelers or transients, and shall include motel and bed and breakfast, but shall not include a rooming house or boarding house.

(17) *Importer.* Any person, association or corporation engaged in importing alcoholic beverages, liquor, wine or beer, manufactured outside of the United States of America into this state or for the sale or distribution in this state, or to the Board or to a wholesale licensee of the Board authorized to receive such product.

(18) *Industry Representative.* A licensed manufacturer or any person who represents a licensed manufacturer of alcoholic beverages. This does not include a wholesale or retail licensee of the ABC Board.

(19) Keg. A pressurized factory sealed container with a capacity equal to or greater than five US gallons, from which beer is withdrawn by means of an external tap.

~~(19)~~ **(20)** *License*. License shall mean a contract between the Alabama Alcoholic Beverage Control Board and the licensee granting authority to said licensee to manufacture, sell, warehouse, distribute, or transport any alcoholic beverages in the manner provided by law.

~~(20)~~ **(21)** *Licensed Premises*. Any portion of the interior of any building or structure accessible to the public, employees, owners, licensees or agents of licensees, together with the curtilage thereof, and any living quarters contained therein.

~~(21)~~ **(22)** *Licensee*. Any person, corporation, association or partnership holding a valid and duly issued ABC Board license. Said terms shall include both masculine and feminine gender and shall include both singular and plural when appropriate.

~~(22)~~ **(23)** *Liquor*. Any alcoholic, spirituous, vinous, fermented, or other alcoholic beverage, or combination of liquors and mixed liquor, a part of which is spirituous, fermented, vinous or otherwise alcoholic, and all drinks and drinkable liquids, preparations or mixtures intended for beverage purposes, which contain one-half of one percent or more of alcohol by volume, except beer and table wine.

~~(23)~~ **(24)** *Liquor Store*. A liquor store operated by the ABC Board where alcoholic beverages other than beer are authorized to be sold in unopened containers.

~~(24)~~ **(25)** *List Price*. That wholesale and retail price established from time to time and printed in the price list issued by the ABC Board.

~~(25)~~ **(26)** *Manufacturer*. Any person, association or corporation engaged in the producing, bottling, manufacturing, distilling, rectifying or compounding of alcoholic beverages, liquor, beer or wine in this state or for sale or distribution in this state or to the ABC Board or to a licensee of the ABC Board.

(27) Mead. An alcoholic beverage produced by fermenting a solution of honey and water with grain mash and containing not more than 18 percent alcohol by volume.

~~(26)~~ **(28)** *Meal*. A diversified selection of food, some of which is not susceptible of being consumed in the absence of at least some articles of tableware and which cannot be conveniently consumed while one is standing or walking about.

~~(27)~~ **(29)** *Minor*. Any person under 21 years of age; provided, however, in the event Section 28-1-5, Code of Ala. 1975, shall be repealed or otherwise shall be no longer in effect, thereafter the provisions of Section 26-1-1, Code of Ala. 1975, shall govern.

~~(28)~~ **(30)** *Municipality*. Any incorporated city or town of this state, which shall include the police jurisdiction thereof.

~~(29)~~ **(31)** *Organization*. A group of persons, an association, or a corporation.

~~(30)~~ **(32)** *Person*. Every natural person, association or corporation. Whenever used in a clause prescribing or imposing a fine or imprisonment, or both, such term as applied to "association" shall mean the partners or members thereof and as applied to "corporation" shall mean the officers thereof, except as to incorporated clubs the term "person" shall mean such individual or individuals who, under the bylaws of such clubs, shall have jurisdiction over the possession and sale of alcoholic beverages therein.

~~(31)~~ **(33)** *Population*. The population according to the last preceding or any subsequent decennial census of the United States, except where a municipality is incorporated subsequent to the last census, in which

event, its population until the next decennial census shall be the population of said municipality as determined by the judge of probate of said county as the official population on the date of its incorporation.

~~(32)~~ (34) *Private Package Store-Private Liquor Store*. Those lounge retail liquor licensees or club liquor retail licensees who declare to the ABC Board that their primary business shall be the sale of alcoholic beverages for off-premises consumption and who further declare their compliance with Regulation 20-X-5-.12 herein.

~~(33)~~ (35) *Restaurant*. A reputable place licensed as a restaurant, operated by a responsible person of good reputation and habitually and principally used for the purpose of preparing and serving meals for the public to consume on the premises.

~~(34)~~ (36) *Retailer*. Any person licensed by the ABC Board to engage in the retail sale of any alcoholic beverages to the consumer.

~~(35)~~ (37) *Sale Or Sell*. Any transfer of liquor, wine or beer for a consideration, and any gift in connection with, or as a part of, a transfer of property other than liquor, wine or beer for a consideration. These terms shall include any exchange, barter or trafficking of alcoholic beverages.

~~(36)~~ (38) *Selling Price*. The total marked-up price of spirituous or vinous liquors sold by the ABC Board, exclusive of taxes levied thereon.

~~(37)~~ (39) *School*. School shall include buildings used for the purpose of imparting instruction to children in Grades K-12, when provided by a public, private, denominational, and parochial school, except those buildings used primarily for adult education or college extension courses. School does not include a proprietary trade or occupational school.

~~(38)~~ (40) *Table Wine*. ~~Any wine containing not more than 14.9 16.5 percent alcohol by volume or such other percentages as may be designated by the Legislature of Alabama. Table wine is not liquor, spirituous or vinous. Any wine containing not more than 24 percent alcohol by volume. Table wine does not include any wine containing more than sixteen and one-half percent alcohol by volume that is made with herbs or flavors, except vermouth, or is an imitation or other standard wine. Table wine is not liquor, spirituous, or vinous.~~

~~(39)~~ (41) *Unopened Container*. A container containing alcoholic beverages, which has not been opened or unsealed subsequent to filling and sealing by the manufacturer or importer.

~~(40)~~ (42) *Vehicle*. Shall mean any means of transportation by land, water or by air.

~~(41)~~ (43) *Wet County*. Any county which by a majority of those voting voted in the affirmative in an election heretofore held in accordance with the statutes applicable at the time of said election or may hereafter vote in the affirmative in an election or special method referendum held in accordance with the provisions of Chapter 2 of Title 28, or other statutes applicable at the time of said election.

~~(42)~~ (44) *Wet Municipality*. Any municipality in a dry county which by a majority of those voting voted in the affirmative in a municipal option election heretofore or hereafter held in accordance with the provisions of Act 84-408, Acts of Alabama 1984, appearing as Chapter 2A, Title 28, as amended, or any act hereafter enacted permitting municipal option election, or any municipality which became wet by vote of the governing body or by the voters of the municipality heretofore or hereafter held under the special

method referendum provisions of Section 28-2-22, or as hereafter provided, where the county has become dry subsequent to the elected wet status of the municipality.

(43) ~~(45)~~ *Wholesaler*. Any person licensed by the ABC Board to engage in the sale and distribution of table wine and beer, or either of them, within this state, at wholesale only, to be sold for export or to retail licensees or other wholesale licensees or others within this state lawfully authorized to sell table wine and beer, or either of them, for the purpose of resale only.

(44) ~~(46)~~ *Wine*. All beverages made from the fermentation of fruits, berries, or grapes, with or without added spirits, and produced in accordance with the laws and regulations of the United States, containing not more than 24 percent alcohol by volume, and shall include all sparkling wines, carbonated wines, special natural wines, rectified wines, vermouths, vinous beverages, vinous liquors, and like products. For tax purposes wine is divided into the following categories:

(a) Class I. Wine containing not more than 16.5 percent alcohol by volume.

(b) Class II. Wine containing more than 16.5 percent alcohol by volume, but not more than 24 percent alcohol by volume.

Author: ABC Board

Statutory Authority: *Code of Ala. 1975*, §§28-3-1; 28-3-49

History: Repealed and New: Filed August 21, 1998, effective October 16, 1998