

HOW TO COMPLY WITH NORTH CAROLINA'S LAW ON GROWLER SALES, FILLS and REFILLS

Updated with new 2015 law to include Hard Ciders and Wine
Effective June 19, 2015

BACKGROUND

Prior to passage of HB 829 in 2013, state law only allowed for the sale of pre-filled, filled or refilled growlers at breweries. The N.C. Retail Merchants Association (NCRMA) drafted HB 829 to expand current North Carolina law, based on the success of South Carolina's growler sales at grocery stores and other off-premise retailers to allow for retailers to fill growlers with malt beverages. In 2015, NCRMA was instrumental in the passage of HB 909 to further expand the law to allow for the sale of hard ciders and wines, dispensed from a keg, into growlers.

It remains permissible only for brewery permittees to sell, ship or deliver prefilled growlers (only of their own brews). Therefore, permit holders that do not have a brewery permit cannot refill growlers from their draft lines for retail sale.

However, growlers may now be filled or refilled at breweries that also have retail permits, as well as businesses having the following permits issued by the North Carolina Alcoholic Beverage Control (ABC) Commission:

- On-premises malt beverage permit;
- Off-premises malt beverage permit; and
- Wine Shop permit

With the expanding popularity and ever-growing selection of craft beers, hard ciders and wine on tap, retailers will now have an additional tool to introduce this growing market segment to North Carolina consumers.

Until the ABC Commission updates and adopts further rules specific to the 2015 law, the rules pertaining to the 2013 growler law will apply to growlers of unfortified wines, which include hard ciders.

WHAT YOU NEED TO KNOW

North Carolina's § 18B-1001 (2013 HB 829, S.L. 2013-76, 2015 HB 909, S.L.2015-98) Requirements

What is a growler?

A growler is defined as "a rigid glass, plastic, aluminum or stainless steel container with a flip-top or screw-on lid that is no larger than two 2 liters (0.5283 gallons) into which a malt beverage, or unfortified wine that is dispensed from a keg, is prefilled, filled or refilled for off-premises consumption."

The retail sale of malt beverages, hard ciders and wines that are dispensed from a keg in a cleaned, sanitized, resealable growler is allowed, provided that other requirements are met as laid out in N.C.G.S. § 18B-1001 and NC ABC Commission Administration Rules. These "other requirements" primarily concern the use of labels, which must be affixed to the growlers at the time of sale, filling or refilling as well as regulations governing the cleaning, sanitizing, filling and sealing of growlers.

Is a permit required?

A brewery or retailer must have a valid ABC permit for a) on-premises malt beverages, b) off-premises malt beverages sales, or c) a wine shop. The allowed activities under these permits have now been expanded to include filling and refilling growlers. Unlike wine and beer tasting permits, you are not required to have a specific new permit to fill or refill a growler. Permits are issued through the NC ABC Commission.

NOTE: This information is not legal advice, and may not apply to every business. For legal advice, please consult an attorney. Other ABC statutes and rules apply.

LABEL REQUIREMENTS

Prefilled Growler Labels (*breweries only*)

Growlers that are prefilled by the manufacturer must have a legible label containing the following information and be submitted to the ABC Commission for approval using the *Application for Label Approval Form*:

- Brand name of the product;
- Name and address of the brewer or bottler;
- Class of product (i.e., beer, ale, porter, lager, bock, stout, or other brewed or fermented beverage);
- Net contents;
- If fortified with any stimulants, the amount of each such stimulant (in milligrams per container); and
- The alcoholic beverage health warning statement as required by the Federal Alcohol Administration Act, 27 C.F.R. § 16.20 through 16.22.

Growler Fill/Refill Labels

Retailers that fill or refill growlers on demand are not required to submit labels to the ABC Commission for approval, but must meet labeling requirements. Each growler must be affixed with a label or a tag that should contain the following information in type not smaller than 3 millimeters in height and not more than 12 characters per inch (this is consistent with current federal regulations):

- Brand name of the product dispensed;
- Name of brewer or bottler;
- Class of product (e.g., beer, ale, porter, lager, bock, stout, or other brewed or fermented beverage);
- Net contents;
- If the beverage is fortified with any stimulants from the original manufacturer, the amount of each (milligrams) per container;
- Name and address of business that filled or refilled the growler;
- Date of fill or refill;
- If the beverage is more than six percent alcohol by volume, the amount of alcohol by volume contained in the beverage pursuant to *G.S. 18B-101(9)*;
- The following statement: “*This product may be unfiltered and unpasteurized. Keep refrigerated at all times.*”; and,
- Shall be affixed with the alcoholic beverage health warning statement as required by the *Federal Alcohol Administration Act, 27 C.F.R. Sections 16.20 through 16.22*.

Designing and pre-printing labels that comply with these guidelines to allow the relevant information to be completed at the time of filling can simplify the labeling process on-site.

Sanitation Requirements

There are three alternative approved methods for cleaning and sanitizing growlers. No matter which option you choose, the guidelines are specific and need to be strictly followed in order to comply with ABC Commission rules. Under each method, the permittee or the permittee’s employee must do the cleaning and sanitization. Any of the following methods may be used:

1. Manual washing in a three-compartment sink, or
2. Utilizing a mechanical washing and sanitizing machine.
3. If neither of the above methods is utilized, one of the two following fill methods must be used:
 - a. Using a sanitized tube, or
 - b. Using a contamination-free process for filling.

Option 1: Manual washing in a three-compartment sink:

- Prior to starting, sinks and work areas must be cleaned to remove any chemicals, oils or grease from other cleaning activities;
- Empty residual liquid from the growler to a drain. Growlers cannot be emptied into the cleaning water;
- Clean the growler and cap in water and detergent. Water temperature must be at a minimum 110°F or the temperature specified on the cleaning agent manufacturer's label instructions. The detergent used to clean the growler cannot be fat or oil based;
- Remove any residues on the interior and exterior of the growler and cap;
- 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 is not stagnant but must be continually refreshed;
- Sanitize the growler and cap in the third compartment. Chemical sanitizer must be used in accordance with the EPA-registered label use instructions and must meet the minimum water temperature requirements of that chemical; and
- A test kit or other device that accurately measures the concentration in MG/L of chemical sanitizing solutions must be provided and be readily accessible for use.

Option 2: Mechanical washing and sanitizing machine:

- Mechanical washing and sanitizing machines must be labeled with an easily accessible and readable data plate affixed to the machine by the manufacturer and must be used according to the machine's design and operation specifications;
- Mechanical washing and sanitizing machines must be equipped with chemical or hot water sanitization;
- Concentration of the sanitizing solution or the water temperature must be accurately determined by using a test kit or other device; and
- The machine must be regularly serviced based upon the manufacturer or installer's guidelines.

Option 3: Process for filling without cleaning and sanitizing

3A. Filling or refilling a growler with a tube:

- Food-grade sanitizer must be used in accordance with the EPA-registered label use instructions;
- A container of liquid food grade sanitizer must be maintained for no more than 10 malt beverage taps that will be used for filling and refilling growlers;
- Each container must contain no less than 5 tubes that will be used only for filling and refilling; The growler must be inspected visually for contamination;
- The growler must be filled or refilled from the bottom of the growler to the top with a tube that is attached to the beverage faucet and extends to the bottom of the growler or with a commercial filling machine;
- After each filling or refilling of a growler, the tube must be immersed in the container with the liquid food grade sanitizer; and
- A different tube from the container must be used for each fill or refill of a growler.

3B: Filling a growler with a contamination-free process:

- The growler must be inspected visually for contamination;
- The growler must be filled or refilled only by a permittee or the permittee's employee; and
- The permittee is otherwise in compliance with the FDA Food Code 2009, [Section 3-304.17\(c\)](#) regarding refilling returnables.

Growler Filling Instructions

Retailers must fill or refill from the bottom of the growler to the top with a tube that is attached to the beverage faucet and extends to the bottom of the growler or with a commercial filling machine. When not in use, tubes to fill or refill growlers should be immersed and stored in a container with liquid food grade sanitizer.

All growlers must be sealed with a cap.

Sale of Growlers - Questions & Answers

Q: Who may fill or refill growlers at my establishment?

A: Only you (the permittee) or your employee. Therefore, a customer may not fill his or her own growler.

Q: Do I have to fill/refill a growler at a customer's request?

A: You always have the discretion to refuse to fill or refill a growler as long as it is not done in a discriminatory manner based on race, religion, color, national origin, sex or disability.

Q: If I know it is going to be a busy night and I will have several growler requests, can I go ahead and fill several growlers and have them on the shelf ready for sale?

A: Only brewery permittees may prefill growlers and only if they are prefilled with their own brews. A prefilled growler is treated the same as a malt beverage bottle/can and brewers can only fill bottles/cans with their own product. Just like bottles and cans, prefilled growlers can be sold at breweries or distributed to retail establishments.

Q: I have an on-premise permit. Can my customer consume their growler on-site once purchased?

A: No. Under no circumstance can a growler be opened or consumed on premises.

Q: What happens if I do not comply with the rules and regulations regarding growler fills and refills?

A: Penalties can include a suspension or revocation of your permit, a monetary fine of up to \$500 for the first violation and up to \$1,000 for repeated violations, or both.

Q: Can any wine/ hard cider be put into a growler and sold?

A: No. Only wines or hard ciders put into kegs by the producer can then be transferred into a growler and sold.

Q. How old do you need to be to fill a growler?

A: 18 years of age or older

Q. Can a permittee refuse to fill a growler from another retailer/brewery?

A: Yes, the retailer may set its own store policy.

Q. Can my store offer customers promotions using coupons/punch cards for a free growler or one at a discounted price?

A. You can offer a free growler container but cannot offer a free fill of a growler as part of a promotion, coupon or rewards program. You may not offer a promotion, coupon or rewards program discount or combination thereof that is more than 25% off the advertised retail price of the growler. A general discount that is not through a promotion, coupon or rewards program may exceed 25%.

Q: What are the steps to get started in the "growler business?"

A: These are the steps that the NC Retail Merchants Association recommends a retailer take when considering this business opportunity:

1) The retailer needs at least one of the required three permits: On-premises malt beverage permit; Off-premises malt beverage permit; or Wine Shop permit.

2) The retailer will need a build-out for filling growlers - some are mobile while some are built-ins. Depending on which method of growler filling station you will use, you may want to have the growler filling area in close proximity to the three-tub sink or commercial dishwasher. However, if you are not sanitizing the growler and are using the sanitized tubes or commercial filling station, then the area where the growler station is located is not as important.

3) Retailer will need to purchase tubes and sanitizing solutions as well as growlers from a reputable source.

4) Retailers must lock or secure the growler taps so that customers cannot access them.

5) Retailer will need to ensure labeling, sanitation and filling meets the ABC guidelines as noted in this document.

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For more information on How to Comply with the NC Growler Law
Call NCRMA at (919) 832-0811 or contact the NC Alcohol Beverage Control Commission at (919) 779-0700. <https://abc.nc.gov>