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# 2022 Festival Participation & Event Permitting Guidelines

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**ABC**  
COMMISSION  
NORTH CAROLINA

## **Event & Festival Guidelines for Participating Breweries** (can also apply to Wineries)

### *Step 1: Identify the Type of Event and Obtain the Required Permits and Approvals*

#### **A. (“Type A”) An event:**

- held at an unlicensed location
  - hosted by a nonprofit organization, and
  - ticketed event or beer sales only by the nonprofit organization
1. **Permits:** The nonprofit organization sponsor for the event is required to hold a **Special One-Time** permit. Breweries simply donating malt beverage products are not required to hold a **Malt Beverage Special Event** permit.
  2. **Responsibility:** As no other permits are in effect for a “Type A” event, the nonprofit organization holding the **Special One-Time** Permit must retain control over the event including the service and sale of alcoholic beverages. The permit-holding nonprofit organization may be held responsible for any violations that occur at the event.
    - a. Only the nonprofit organization may engage in the sale of tickets and the sale or service of alcoholic beverages.
    - b. Brewery employees may pour at the event only as volunteers for the nonprofit organization holding the **Special One-Time** permit.
  3. **Relationship:** Breweries may sponsor the nonprofit organization, a **Special One-Time** permittee, per the provisions of 14B NCAC 15C.0712. There can be no exclusivity of product selection, meaning the **Special One-Time** permittee must solicit product donations of more than one brand and/or serve multiple brands of beer at the event.

#### **B. (“Type B”) An event:**

- held at an unlicensed location
  - where beer sales will be conducted
  - by each participating brewery
1. **Permits:** Each participating brewery must have a **Malt Beverage Special Event** permit.

**Location:** The event must qualify as one of the following: “at shopping malls and at trade shows, conventions, malt beverage festivals, street festivals, holiday festivals, agricultural festivals, farmers markets, balloon races, local fund-raisers, and other similar events approved by the Commission.” G.S. § 18B-1114.5

- a. If the event does not fit within the types specified in the statute, the participant(s) will need to submit a **Winery or Brewery Special Event Approval** (found at [abc.nc.gov](http://abc.nc.gov); Permit Forms; Miscellaneous Commercial Forms). Generally, “pop-up” shops are not considered special events.
2. **Responsibility:** Each participating brewery will be held responsible for any violations committed by their employees or representatives at their designated booth, table, or space.

C. **("Type C") An event:**

- held at an unlicensed location
  - where beer sales will be conducted
  - by BOTH a nonprofit organization host and a participating brewery
- OR**
- where beer sales will be conducted by breweries and
  - nonprofit will charge a "gate fee" or "attendance fee" that will
  - give consumers access to "free" samples at the breweries' booths
1. Permits: The nonprofit organization sponsor for the event is required to hold a **Special One-Time** permit. Also, any breweries selling their product directly to event attendees must have a **Malt Beverage Special Event** permit.
  2. Responsibility:
    - a. The **Special One-Time** permit will generally be in effect for the event location and at any booths where beer is poured as part of the ticket price or sold by the nonprofit organization. The nonprofit organization may be held responsible for any violations that occur at the event.
    - b. At any booths where breweries are selling their product, the brewery's **Malt Beverage Special Event** permit will be in effect. Each brewery selling their product will be held responsible for any violations that occur at their booth space or by their employees or representatives.
  3. Relationship: Breweries may sponsor the nonprofit organization's event, a **Special One-Time** permittee, per the provisions of 14B NCAC 15C .0712. There can be no exclusivity of product meaning the **Special One-Time** permit-holder must solicit product donations of more than one brand and/or serve multiple brands of beer at the event.

D. **("Type D") An event:**

- held on a retailer's premises
  - hosted by a nonprofit organization
  - with tickets or beer sales only by the nonprofit organization
1. Permit: The hosting nonprofit organization is required to hold a **Special One-Time** permit. The retailer must hold an **On-Premises Malt Beverage** permit.
  2. Responsibility: Only the hosting nonprofit organization or the retailer may engage in the sale of tickets or beer. There cannot be a commingling of retail and nonprofit sales in the same part of the premises at the same time. Either the retailer is closed for retail sales during the event or the nonprofit's event is in a separate room or area.
  3. Relationship: Breweries may sponsor the nonprofit organization, a **Special One-Time** permittee, per the provisions of 14B NCAC 15C .0712.

- a. Product selection cannot be exclusive, meaning the **Special One-Time** permittee must solicit product donations of more than one brand and serve multiple brands of beer at the event.
  - b. The retailer is not permitted to keep any beer donated to the nonprofit organization by participating breweries. Any unused product must remain in the possession of the nonprofit organization or may be reclaimed by each donating brewery.
  - c. Each participating brewery (or an event organizer that includes a list all participating breweries) will be required to complete and submit an **Industry Promotion Approval Form** in advance of the event (see "Reference 2" below for more information).
4. **The above conditions still hold true if the hosting retailer happens to be adjacent to or a part of a brewery. A brewery's taproom is a retail premises.**

### Step 2: Identify Special Circumstances

#### **A. Is a retailer sponsoring the event?**

1. If a retailer holding an ABC permit is sponsoring (i.e. providing money, food, volunteers, etc.) an event hosted by a nonprofit organization holding a **Special One-Time** Permit, sponsoring breweries are responsible for ensuring an **Industry Promotion Approval** request is submitted to the ABC Commission in advance of the event (see "Reference 2" below for more information). One brewery or an event organizer can submit one form if a list of all participating breweries (wineries, and distilleries) is included with the form.
2. A retailer sponsoring an event hosted by a nonprofit organization holding a **Special One-Time** permit is not authorized to take possession of any beer donated by participating breweries to the nonprofit organization for the event. Any unused product must remain in the possession of the nonprofit organization or may be reclaimed by each donating brewery.
3. Breweries will be in violation of the Cooperative Advertising rule (14B NCAC 15B.1005) if the breweries' participation is not approved prior to the event.
4. If an event has been approved, it will be posted on an event calendar on the ABC Commission website. (Legal; Industry Information. Only the current month can be viewed.)

#### **B. Are you an out-of-state brewery?**

1. To participate in any event in North Carolina, you will need to hold a **Nonresident Malt Beverage Vendor** permit. If you are simply donating product for a "Type A" event, the product must come from the inventory of your designated NC wholesaler for the territory in which the event is occurring.
2. If you will be participating in a "Type B" or a "Type C" event, and will be selling beer at the event, you must also have a **Malt Beverage Special Event Permit**. Again, the product may only come from the inventory of the designated NC wholesaler for the territory in which the event is occurring.

3. Out-of-State breweries must comply with all other applicable regulations as if an in-state brewery. This includes submitting a **Distribution Agreement Filing Form**, obtaining **Label/Product Approval**, and utilizing a wholesaler.

### Step 3: Educate Brewery Employees and Representatives on Event Participation Guidelines

#### A. Pre-Event Compliance

1. All brands must have a **Distribution Agreement Filing Form** on file with the ABC Commission New Product Section covering the county or territory in which the festival is being held.
2. All products sold, served, or donated in NC must have prior **Label/Product Approval**.

#### B. Staffing at Event

1. "Type A" event – When the brewery is participating in an event held solely under a **Special One-Time** permit, the staffing may include:
  - a. Nonprofit Volunteer Server – Every booth must have at least one person representing the nonprofit and responsible for serving the beer. A brewery employee may participate only as a volunteer for the nonprofit organization and is bound by the same rules and conditions as all other volunteers. Volunteers may not consume alcoholic beverages before or while working at the event, even for quality control purposes.
  - b. Brewery Representative – A brewery may send a representative to attend an event to observe and respond to questions regarding the product. This person must not engage in the service of beer, as this person is not a volunteer for the nonprofit organization.
2. "Type B" or "Type C" event – When the brewery is operating under its **Malt Beverage Special Event** permit, all persons working at the booth, serving beer, or representing the brewery are employees of the brewery while at the event.

#### C. Quality Control Tasting

Brewery employees may consume samples of malt beverages for purposes of sensory analysis, quality control, or education either on the premises of a **Special One-Time** permittee or the booth or space used by the brewery pursuant to a **Malt Beverage Special Event** permit. (G.S. § 18B-1121)

#### D. Event Attire

1. "Type A" event – When the brewery is participating in an event held solely under a **Special One-Time** permit, the Nonprofit Volunteer Server may not wear branded brewery attire but may wear the attire other volunteers for the nonprofit are wearing. The Brewery Representative may wear branded brewery attire to respond to questions.

- a. **Best Practices** – It is advisable to make each person’s role at the event clear to any ALE agent. Nonprofit Volunteer Servers should wear clothing, nametags, or lanyards identifying them as volunteers for the nonprofit, and preferably as a “server” or some other title that will indicate to the ALE that those persons are responsible for the service of beer. Also, the Brewery Representative’s role as someone who is not eligible to serve beer may be clearer if the Brewery Representative stands to the side or front of the area where the brewery’s beer is served, rather than behind or inside the area where the beer is being served. Further, if the nonprofit organization provides “quality control assistants” or “draft technicians” to assist with quality control tasting, those persons should wear clothing, nametags, or lanyards identifying them as such.
2. “Type B” or “Type C” event – When the brewery is operating under its **Malt Beverage Special Event** permit, the brewery employees may wear branded brewery attire.

#### **E. Alcohol Service Guidelines**

1. Zero tolerance policy on serving to persons under the legal age to possess or consume alcoholic beverages.
2. Do not serve intoxicated persons. If you are not comfortable making this call, please ask for event security or police.
3. Any pouring location is considered a “point of sale” and is subject to all NC ABC statutes and regulations.
4. If servers do not ask for identification (ID), there will be no defense to a criminal charge if they sell to underage persons. Forms of ID that are defensible in court are:
  - a. **Current Driver’s License** – When drivers renew their license, the NC Division of Motor Vehicles provides a paper 20-day driving certificate and then mails the permanent photo ID/driver’s license to the driver. Drivers are allowed to keep their old license until the renewed license is mailed to them. The temporary 20-day paper license is considered a valid driver’s license; the customer should show their expired license with a photograph in conjunction with the valid 20-day driving certificate.
  - b. **U.S. Military ID** – These identifications are green & white with a photograph.
  - c. **ID Card**– An official ID card that has a photograph and is issued by NC DMV or the comparable state agency of any other state.
  - d. **Official Passport** – Issued by any nation. Passports may be in the booklet or card form.
5. The verification of ID should occur at the point of sale, even if a 21+ event or IDs are checked at the gate. Wrist-bands, hand stamps, and other comparable markers are NOT considered proof of age.

#### **Step 5: Participating in Virtual Events**

Breweries have been allowed to participate in special events described in G.S. § 18B-1114.5 virtually. If providing samples or product that must be picked up, the pick-up cannot occur at a

retail location. If a non-profit is sponsoring the event and has obtained a Special One-time permit, the nonprofit organization must retain control over the event including at the pick-up location.

**In summary, we know that there are many details involved in preparing for a festival and our hope is that this guide will aid in providing clarity and understanding, thereby creating a more efficient process and a better understanding of NC ABC regulations. However, if you have any questions regarding events, permitting, regulatory compliance, wholesaler designation, or product approval, please contact an attorney who can provide advice specific to your brewery.**

### *Step 6: Extension of Licensed Premises*

In compliance with N.C.G.S. 18B-904(h)(3), please submit written notification, an updated diagram, and written permission from the property owner (if applicable) to [permits@abc.nc.gov](mailto:permits@abc.nc.gov).

### **References**

**Distribution Agreement Filing Form** – All brands sold in North Carolina are required to have a Distribution Agreement Filing Form on file with the ABC, designating the wholesaler(s) authorized to distribute the brand in territories in NC. The form is available at: [abc.nc.gov](http://abc.nc.gov); Beer & Wine Product Approval; Beer & Wine Product Forms

**Industry Promotion Approval** – This form is required when an industry member sponsors or participates in a nonprofit organization event where a retailer will also be sponsoring the event. Provide as much information as possible about the event on this form. The form should be submitted to [legal@abc.nc.gov](mailto:legal@abc.nc.gov) no less than two weeks prior to the event, but preferably earlier. The event host may coordinate this process to submit a single Industry Promotion Approval package to the ABC, covering the event and all breweries participating in the event. Contact the event host to confirm responsibility for this request. Information regarding advertising must be included. Each brewery may only disseminate approved advertising to promote an event where a retailer is sponsoring or participating, to avoid a cooperative advertising violation. The form is available at: [abc.nc.gov](http://abc.nc.gov); Legal; Industry Information

**Label/Product Approval** – All products sold, served, or donated in North Carolina must be approved by the ABC. The application is available at: [abc.nc.gov](http://abc.nc.gov); Beer & Wine Product Approval; Beer & Wine Product Forms

**Brewery Special Event Permit** – This permit authorizes the brewery to give free tastings of its malt beverages, to sell its malt beverages by the glass or in closed containers, and to sell branded merchandise at specific types of events. The application is available at: [abc.nc.gov](http://abc.nc.gov); Permit Forms; Commercial Permitting Forms; Miscellaneous Commercial Forms

**Nonresident Malt Beverage Vendor Permit** – An out of state brewery is required to hold this permit to “sell, deliver, and ship malt beverages” into North Carolina. The application is available at: [abc.nc.gov](http://abc.nc.gov); Permit Forms; Commercial Permitting Forms; Commercial Permit (Out-of-State)

**On-Premises Malt Beverage Permit** – This permit is necessary to serve beer for on premises consumption in a permanent retail location. The application is available at: [abc.nc.gov](http://abc.nc.gov); Permit Forms; Retail Permitting Forms; Retail Permit Application and Forms

**Special One-Time Permit** – A nonprofit or political organization may be eligible for this permit, which allows the sale or service of alcoholic beverages at a single fundraising event, which may be ticketed. The application is available at: [abc.nc.gov](http://abc.nc.gov); Permit Forms; Special One-Time Permit Application

**Winery/Brewery Special Event Approval** – Approval of an event where breweries will sell beer under their Malt Beverage Special Event Permit is required if the event will be held at location other than those listed in the statute. The form is available at: [abc.nc.gov](http://abc.nc.gov); Legal; Industry Information