

Alabama Alcoholic Beverage Control Board
2715 Gunter Park Drive West
Montgomery, Alabama 36109

August 9, 2016

Consideration for 20-X-6-.18: Draft Beer for Off-Premise Consumption

To Whom It May Concern,

We appreciate the opportunity to provide input on the proposed action to adopt 20-X-6-.18. We welcome clear and smart regulations regarding growlers and other take-home draft beer options. We submit this document for your consideration.

1. The 128 ounce limit

The restriction that growlers and similar vessels be no larger than one gallon is reasonable and allows for standard industry sizes for re-packaged draft beer. We appreciate and welcome this clarification.

2. Clarification for crowlers

Similar to a glass growler, a metal crowler allows brewers and retailers to re-package draft beer, on-demand, for consumption off the premises. Industry members and consumers appreciate the crowler's ability to maintain freshness.

While the proposal specifically allows for aluminum containers such as crowlers, we respectfully ask the Board to consider clarification of two areas:

- Section 1 provides that "plastic containers may be used, but are not reusable." Crowlers are also not typically reusable.
- The sealing requirements in section 5(b) requires that "a plastic heat shrink wrap band, strip, or sleeve extend around the cap, lid, stopper or plug to form a seal that must be broken upon the opening of the container." Brewers and retailers use special equipment to seal the crowler lid like a can, thus creating a tamper-proof seal. We ask that the words "sealed metal lid" be inserted after the words "screw-on cap" in Section 5(a) to address this issue and to clearly authorize use of a practical container.

3. Filling and refilling requirements

Section 3(a) references "rules for refilling returnables established by the United States Food and Drug Administration (FDA) and the Alabama Department of Public Health." While the FDA does have published guidance for refillable containers, agency rules on the subject were not identified. No citation is provided in the proposed regulation for FDA rules or for any rules of the Alabama Department of Public Health. Beer is an alcoholic beverage and as such, a relatively low risk exists that pathogens will

survive in a growler. We urge the ABC to take a common sense approach to growler refilling based on FDA guidance along the lines of the following:

Employees of the licensee must physically inspect containers prior to filling in order to verify that the container is free of obvious contaminants.

The design of the container and of the rinsing equipment at a licensed premise must allow effective cleaning at the licensed premises.

Facilities for rinsing must be available at the licensed premises. Such facilities must rinse containers with fresh, hot water that is not recirculated.

Consumer-owned containers returned to the licensee for refilling may only be refilled for sale and provided to the same consumer who brought the container to the licensed premises.

4. Labeling of draft beer for off-premise consumption

Section (6) of the proposal requires that licensees affix a label containing specific information. While growlers are not typically subject to federal labeling requirements, we appreciate the Board's interest in requiring this information.

However, we respectfully ask the Board to consider the following suggestions:

A. Clarification that labels on these containers do not require ABC label approval

Federal regulations do not require a TTB certificate of label approval for growlers and similar containers. A consumer may be providing the container and the net contents will vary, making a standard label impossible. Further, licensees fill these containers from kegs that are themselves already required to have TTB and ABC approval. Finally, this proposal also applies to retail licensees, and there is no mechanism for this class of license to obtain federal or state approval for beer labels. Creation of such a process for retailers would be an enormous and unnecessary burden for retailers and for the ABC.

We respectfully ask the Board to clarify that these containers are not subject to ABC label approval requirements.

B. Removal of "The amount of alcohol by volume" from the required information

Alcohol content is not currently required on any other label of beer under federal or Alabama law. As written, this proposal would make growlers the only beer containers in Alabama that requires this information on the label.

Although not required by federal regulations, 27 CFR § 7.71 does mandate certain standards and tolerances if a label includes a statement of alcohol content. Mandating this information may subject growlers to more requirements than packaged products.

We respectfully ask the Board to remove this item as a requirement for these containers.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dan Roberts', with a stylized flourish extending to the right.

Dan Roberts, Executive Director