

#### **§ 18B-1304. Prohibitions.**

It is unlawful for a supplier, or an officer, agent or representative of a supplier, to:

- (1) Coerce or attempt to coerce or persuade a wholesaler to violate any provision of the ABC laws or rules of the Department of Revenue.
- (2) Except as authorized by G.S. 18B-1305(a1), alter in a material way, terminate, fail to renew, or cause a wholesaler to resign from, a franchise agreement with a wholesaler except for good cause and with the notice required by G.S. 18B-1305.
- (3) Withdraw money from or otherwise access a wholesaler's bank accounts without the wholesaler's consent.
- (4) Present a franchise agreement, amendment, or renewal to a wholesaler that attempts to waive compliance with any provision of this Article or that requires a wholesaler to waive compliance with any provision of this Article. A wholesaler entering into a franchise agreement containing provisions in conflict with this Article shall not be deemed to waive rights protected by, or in compliance with, any provision of this Article.
- (5) Induce or coerce, or attempt to induce or coerce, any wholesaler to assent to any franchise agreement, amendment, or renewal that does not comply with this Article and the laws of this State.
- (6) Coerce or attempt to coerce a wholesaler, or its designated or anticipated successor, to sign a franchise agreement, amendment, or renewal to a franchise agreement by threatening to refuse to approve or delay issuing an approval for the sale, transfer, or merger of a wholesaler's business.
- (7) Terminate, cancel, or nonrenew or attempt to terminate, cancel, or nonrenew a franchise agreement on the basis that the wholesaler fails to agree or consent to an amendment to the franchise agreement.
- (8) Prohibit a wholesaler from distributing the product of any other supplier, except that a supplier may prohibit a wholesaler from distributing the product of another supplier if reasonable grounds exist for prohibiting the wholesaler's acquisition of the product and the acquisition would result in the wholesaler acquiring eighty percent (80%) or more by volume of all malt beverage products sold in the territory being acquired at the time of the acquisition.
- (9) Refuse to approve or require a wholesaler to terminate a brand manager or successor manager without good cause. A supplier has good cause only if the person designated for approval by the wholesaler fails to meet reasonable standards and qualifications.
- (10) Discriminate in price, allowance, rebate, refund, payment term, commission, discount, or service between wholesalers licensed in North Carolina. As used in this subsection, "discriminate" means the granting of a more favorable price, allowance, rebate, refund, payment term, commission, discount, or service to one North Carolina wholesaler than to another North Carolina wholesaler based on the quantity of malt beverages purchased or for any other reason, but "discriminate" shall exclude the granting of more favorable freight and transportation costs, price promotions on malt beverage products for special events in a particular market not to exceed 14 consecutive days, point-of-sale advertising materials, sponsorships, consumer specialty items, consumer sweepstakes, and novelties. A supplier may, however, offer a lower price or discount in order to match that of a

competing supplier on a similar category of malt beverage products in the entire State or in a particular market. (1989, c. 142, s. 1; 2012-4, s. 1.)