

# AGENDA

## IOWA ALCOHOLIC BEVERAGES COMMISSION MEETING

Boardroom

Iowa Alcoholic Beverages Division

1918 Hulsizer Road

Ankeny, Iowa 50021

June 22, 2017 – 1:00 PM

Dial in Number: 1.866.685.1580

Conference Code Number: 0009991572

**Call to Order** ..... **Chairperson Wilson**

- I. Introductions/Opening Remarks
- II. Approval of Agenda – **ACTION ITEM**
- III. Approval of April 26, 2017, Minutes – **ACTION ITEM**

**Administrator’s Report** ..... **Administrator Larson**

- IV. Fulfillment of Spirits RFP Update
- V. Category Management Update
- VI. Tied House Reform Update
- VII. Licensing Reform Update
- VIII. Regulatory Update
- IX. Operations Update
- X. Attorney General’s Report

**Public Comment...** ..... **Chairperson Wilson**

- Dramshop Insurance Presentation by Iowa Restaurant Association

**Old Business** ..... **Chairperson Wilson**

**New Business** ..... **Chairperson Wilson**

- Election of Officers – **ACTION ITEM**

**Next Meeting Date** ..... **Chairperson Wilson**

- Date in August To Be Determined

**Adjournment** ..... **Chairperson Wilson**

NOTE: Committee and Board agendas may be amended any time up to 24 hours before the meetings. Agenda items may be considered out of order at the discretion of the chair. Meetings will not convene earlier than stated above. If you require accommodations to participate in this public meeting, call 515.281.7407 or TTY at (toll-free) 866.IowaABD to make your request. Please notify ABD at least 48 hours in advance.



**Financial Overview YTD through May FY17**



## ABD Metrics July 1, 2016 - May 31st, 2017

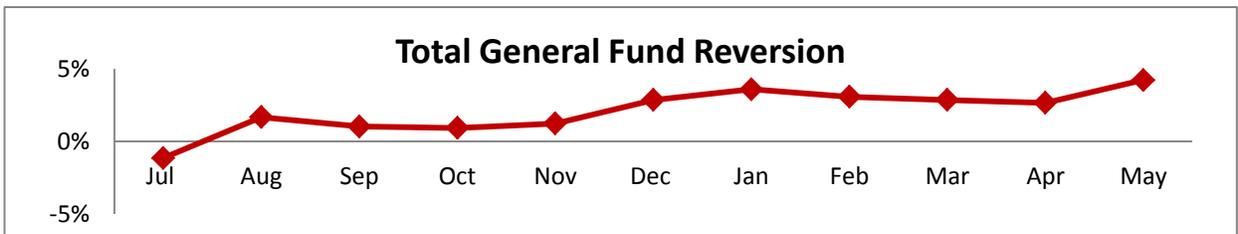
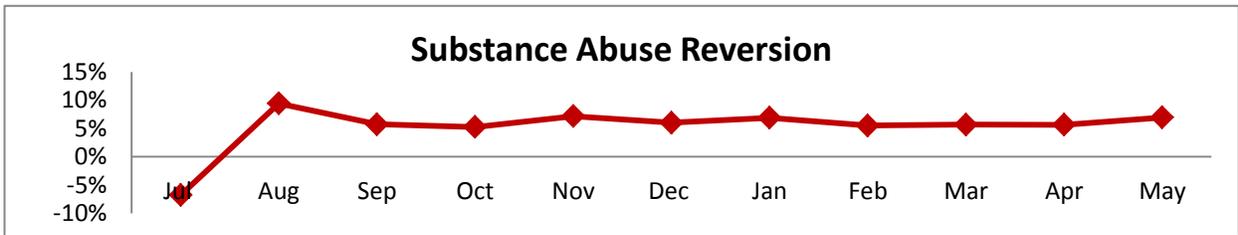
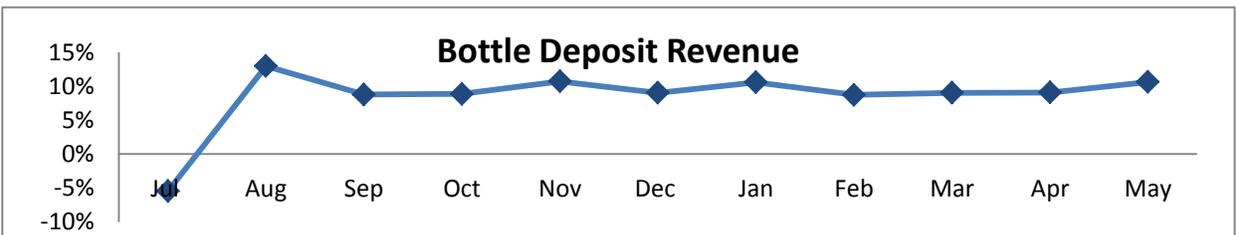
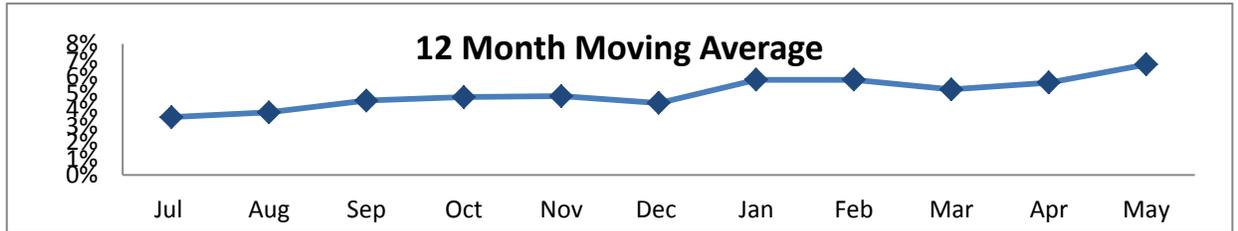
### FY 17 Current YTD Financial Analysis

Metric	FY2016	FY2017	Trend	5 Year Average	4 Year Average
Total Liquor Sales YTD	\$255,467,327.49	\$273,290,157.23	6.98%	5.50%	4.50%
12 Month Moving Average	\$23,943,814.00	\$25,560,968.00	6.75%	5.50%	4.50%
Split Case Fee	\$1,317,357.00	\$1,395,521.00	5.93%		
Bottle Deposit Revenue	\$2,287,882.00	\$2,530,851.00	10.62%		
Substance Abuse Reversion	\$17,974,927.00	\$19,227,997.00	6.97%		
Liquor Profits Reversion	\$82,700,000	\$85,700,000	3.63%		
Total General Fund Reversion	\$100,674,927	\$104,927,997	4.22%		
Average Monthly Order Volume	4,068	4,890	20.21%		
Average Monthly Case Volume	159,565	163,250	2.31%		
Average Monthly Bottle Volume	1,815,472	1,919,036	5.70%		
Total Freight Cost per Case	\$1.32	\$1.29	-2.27%		
Driver Cost per Case	\$0.73	\$0.73	0.00%		
Total Warehouse Operation Cost Per Case	\$0.91	\$1.13	24.18%		
Warehouse Worker Cost per Case	\$0.82	\$1.03	25.61%		

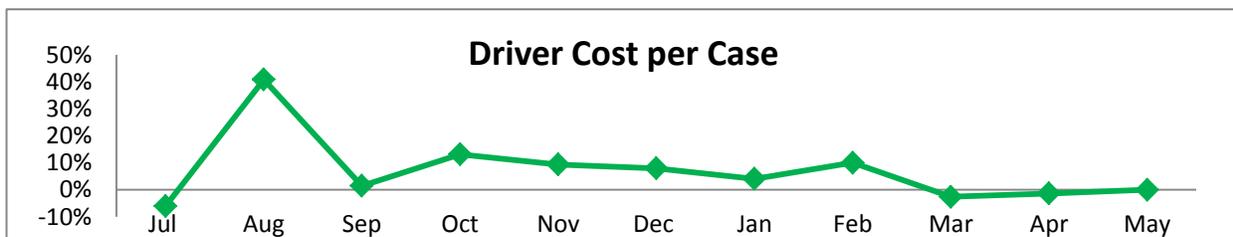
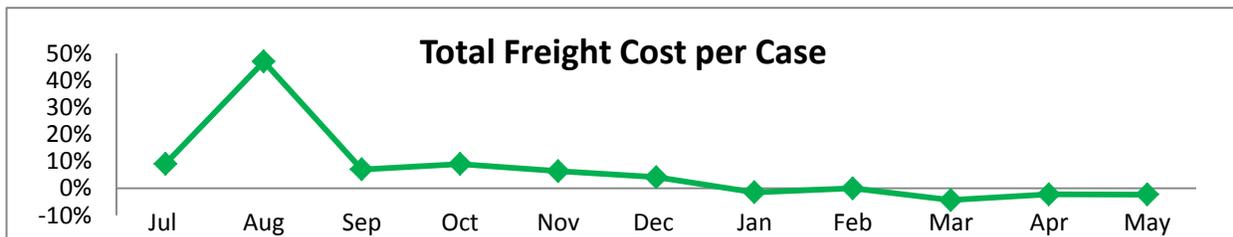
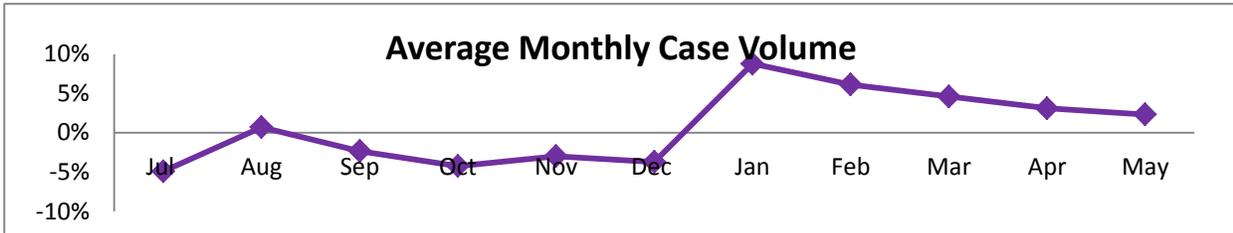
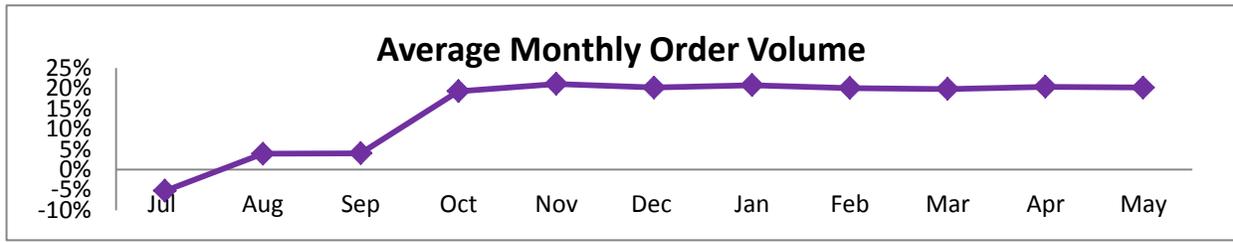
### Key Performance Indicators (KPIs) Benchmarks

Metric	ABD FY2016 Actual	ABD FY2017 Actual	Best in Class Benchmark	Median Industry Benchmark	
Distribution Cost as a % of Sales	3.74%	3.57%	2.04%	5.00%	
Distribution Cost as a % of Cost of Goods Sold	5.89%	5.65%	<1.6%	6.05%	
Distribution Cost Per Unit Shipped	\$0.480	\$0.460	\$0.30	\$1.04	

**ABD Metric Trend Line Data FY1 July 1, 2016 - May 31st, 2017**



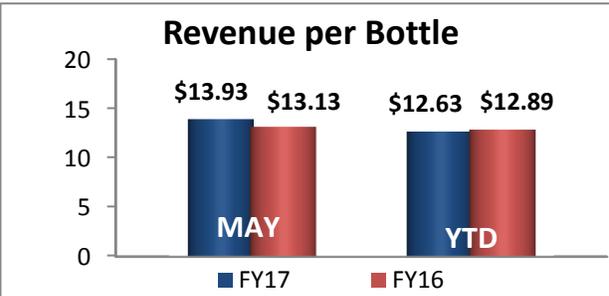
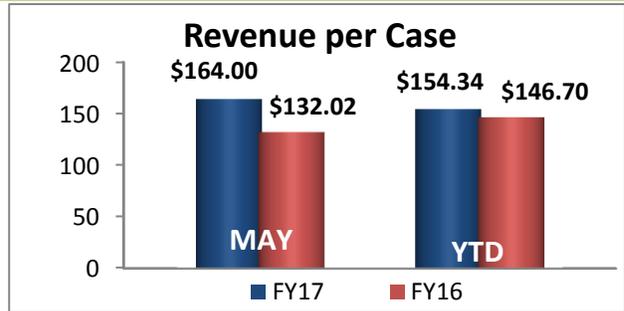
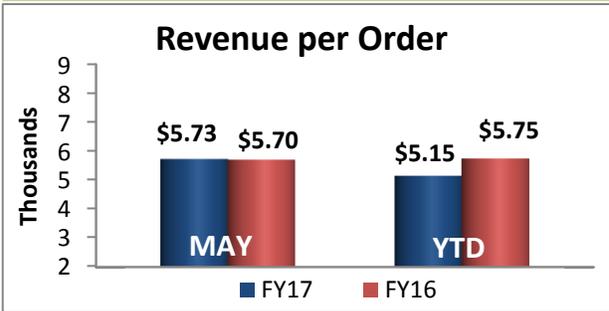
## ABD Metric Trend Line Data FY17 Continued



Iowa ABD  
Monthly Financial Meeting

**FY 2017 MAY SALES COMPARISON - YEAR OVER YEAR- CASH BASIS**

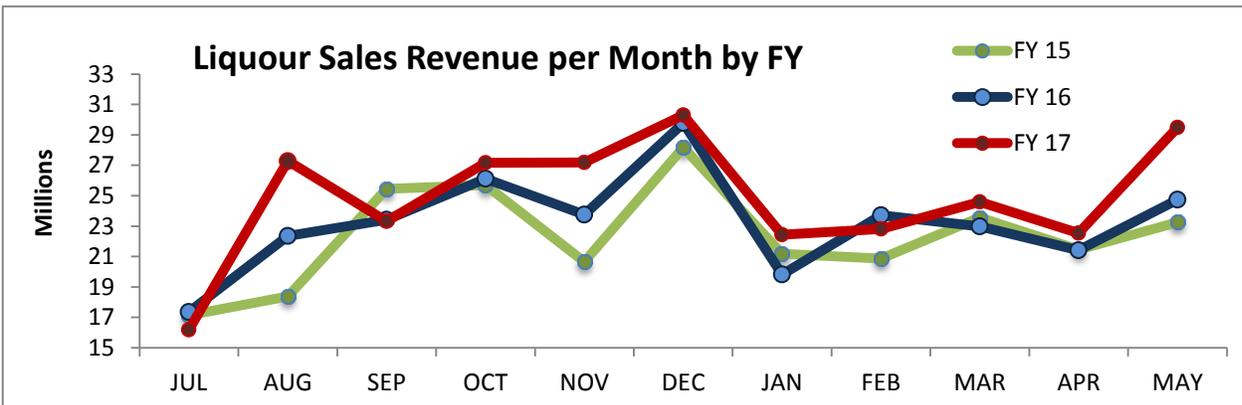
Category	FY 2017	FY 2016	% Change
Liquor Sales	29,486,763	24,735,346	19.21%
Split Case Fee	150,220	124,648	20.51%
Bottle Dep and Sur	216,463	224,990	-3.79%
<b>Total Revenue</b>	<b>29,853,445</b>	<b>25,084,984</b>	<b>19.01%</b>
Orders	5,209	4,401	18.36%
Cases	182,030	190,007	-4.20%
Bottles	2,142,863	1,986,019	7.90%



JUL-APR Average Sale Days Comparison	
Month	YOY
JUL-SEP 1st QTR	0
OCT- DEC 2nd QTR	-1
JAN-MAR 3rd QTR	0
APRIL	-1
MAY	1
JUNE	0
<b>Total For FY</b>	<b>-1</b>

**JULY - MAY SALES COMPARISON - YEAR TO DATE**

Category	FY 2017	FY 2016	% Change
Liquor Sales	273,293,155	253,900,319	7.64%
Split Case Fee	1,395,521	1,307,771	6.71%
Bottle Dep and Sur	2,466,201	2,274,970	8.41%
<b>Total Revenue</b>	<b>277,154,875</b>	<b>257,483,060</b>	<b>7.64%</b>
Orders	53,798	44,752	20.21%
Cases	1,795,748	1,755,224	2.31%
Bottles	21,109,396	19,970,202	5.70%

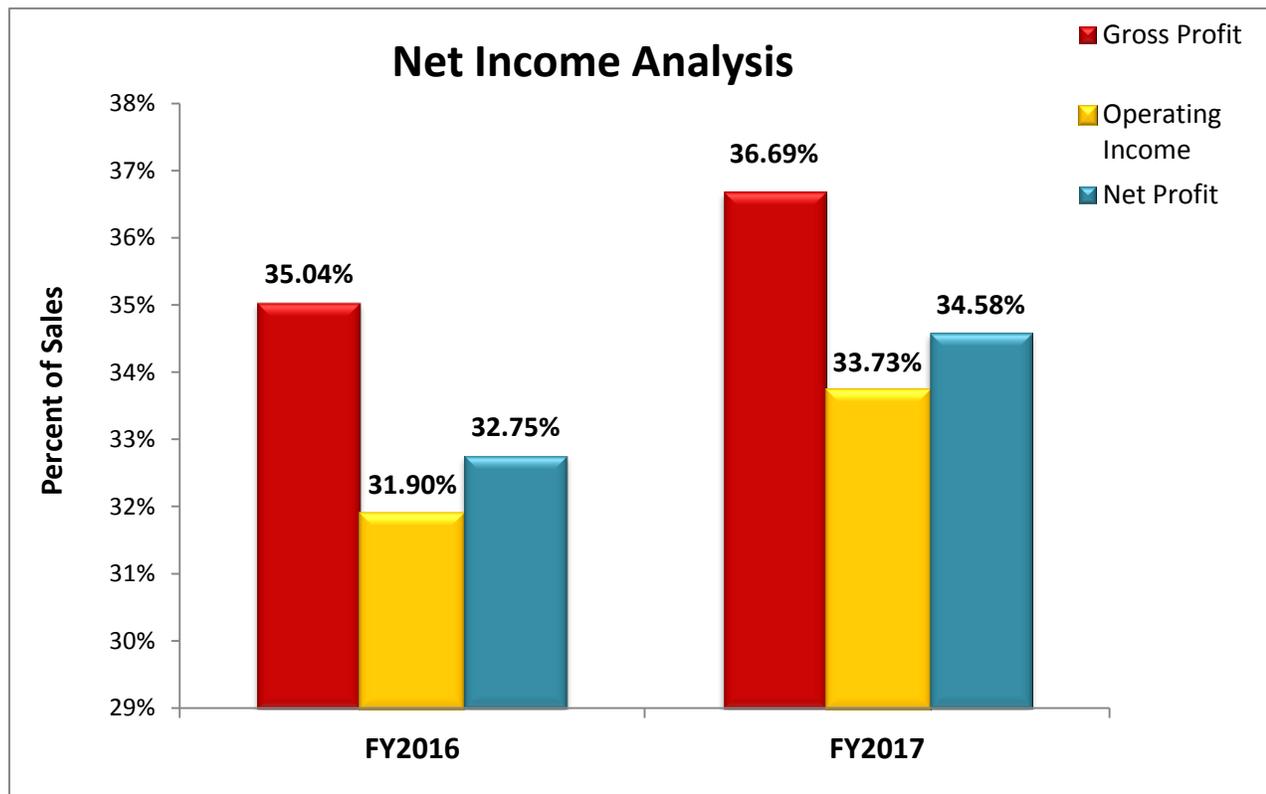


## Net Income Analysis YTD May 2017\*

\* Total amounts have been adjusted to exclude one time expenses

Category	FY2016	FY2017	% Change	Amount Change
Gross Profit	89,518,029	100,265,321	12.01%	\$ 10,747,292.00
Operating Income	81,488,420	92,168,882	13.11%	\$ 10,680,462.00
Net Profit	83,677,946	94,504,492	12.94%	\$ 10,826,546.00
Net Sales	255,467,327	273,290,155	6.98%	\$ 17,822,828.00

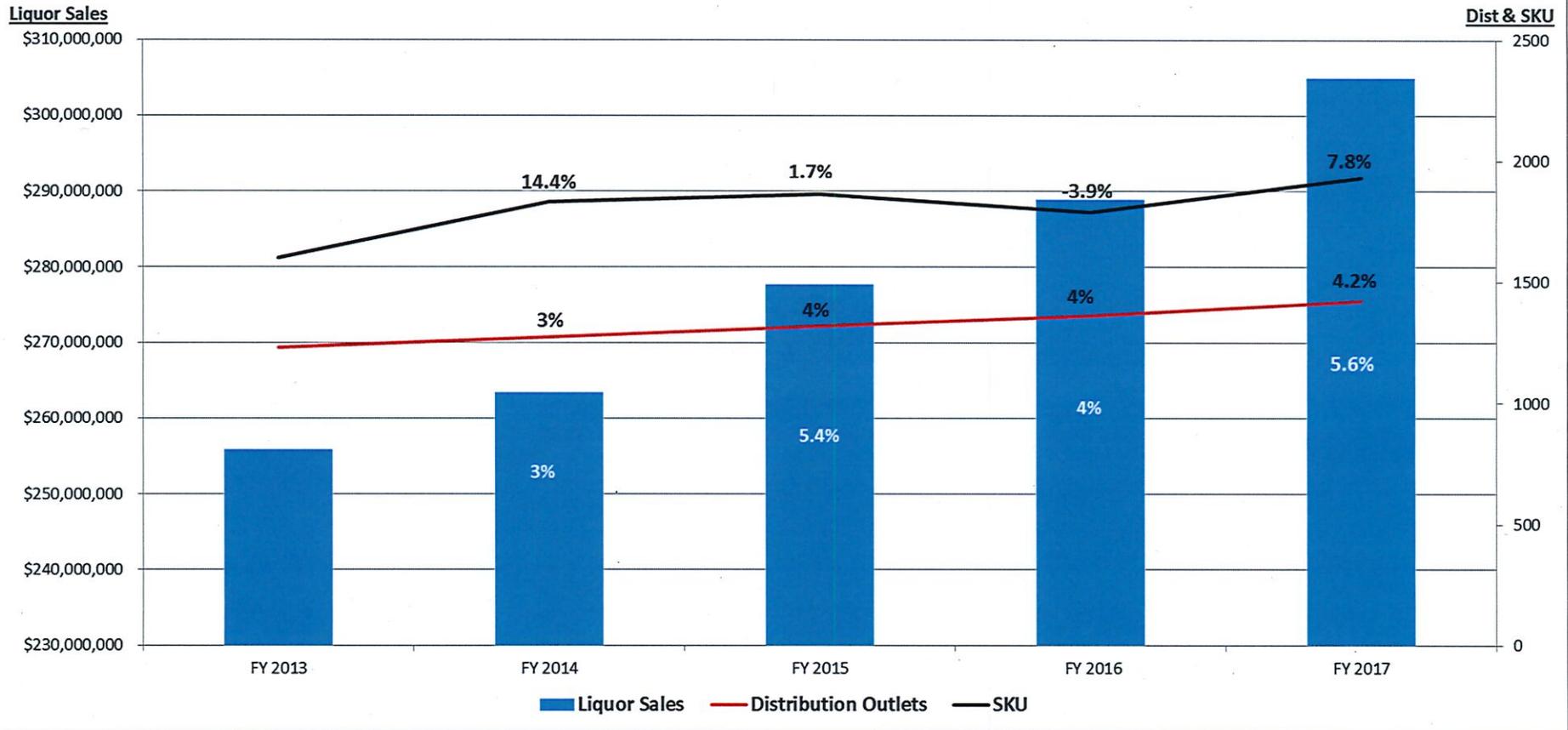
Percent Of Sales	FY2016	FY2017	% Change	Amount Change
Gross Profit	35.04%	36.69%	4.70%	1.65
Operating Income	31.90%	33.73%	5.73%	1.83
Net Profit	32.75%	34.58%	5.57%	1.83



Iowa ABD  
FY 17 Profit and Loss Statement  
Through May 31, 2017

	May FY 2016	May FY 2017	May FY17 vs. FY16 % Chg.	May FY17 vs. FY16 Amount Chg.	YTD FY 2016	YTD FY 2017	FY17 vs. FY16 % Chg.	FY17 vs. FY16 Amount Chg.
<b>Liquor Sales Revenue</b>	<b>24,735,346</b>	<b>29,483,763</b>	<b>19.20%</b>	<b>4,748,417</b>	<b>255,467,327</b>	<b>273,290,155</b>	<b>6.98%</b>	<b>17,822,828</b>
<b>Cost of Sales</b>								
Bailment	15,509,150	16,322,074	5.24%	812,924	164,381,861	175,083,190	6.51%	10,701,329
Less: Bailment Fees	(169,567)	(179,728)	5.99%	(10,161)	(1,787,589)	(1,882,575)	5.31%	(94,986)
Less: Special Handling Fees	(18,284)	(18,852)	3.11%	(568)	(292,916)	(159,010)	-45.71%	133,906
Less: Defective Products	(5,991)	(695)	-88.40%	5,296	(65,260)	(16,770)	-74.30%	48,490
<b>Total Cost of Sales</b>	<b>15,315,308</b>	<b>16,122,799</b>	<b>5.27%</b>	<b>807,491</b>	<b>162,236,096</b>	<b>173,024,835</b>	<b>6.65%</b>	<b>10,788,739</b>
<b>Gross Profit</b>	<b>9,420,038</b>	<b>13,360,964</b>	<b>41.84%</b>	<b>3,940,926</b>	<b>89,518,029</b>	<b>100,265,321</b>	<b>12.01%</b>	<b>10,747,292</b>
<b>Gross Profit %</b>	<b>38.1%</b>	<b>45.3%</b>	<b>18.99%</b>	<b>7.23%</b>	<b>35.0%</b>	<b>36.7%</b>	<b>4.70%</b>	<b>1.65%</b>
<b>Operating Expenses</b>								
Freight Expenses	180,860	186,843	3.31%	5,983	2,313,581	2,324,468	0.47%	10,887
Warehouse Expenses	158,987	165,980	4.40%	6,993	1,588,974	2,030,777	27.80%	441,803
Other Expenses Related To Distribution	468,688	40,000	-91.47%	(428,688)	468,688	40,000	-91.47%	(428,688)
<b>Total Operating Expenses</b>	<b>808,535</b>	<b>392,823</b>	<b>-51.42%</b>	<b>(415,712)</b>	<b>4,371,243</b>	<b>4,395,245</b>	<b>0.55%</b>	<b>24,002</b>
<b>General and Administrative Expenses</b>								
Warehouse Administration	37,186	32,015	-13.91%	(5,171)	566,354	529,721	-6.47%	(36,633)
Product Administration	35,270	28,951	-17.92%	(6,319)	419,405	368,610	-12.11%	(50,795)
Accounting	35,515	41,500	16.85%	5,985	388,975	431,341	10.89%	42,366
Information Technology	292,037	437,888	49.94%	145,851	1,891,718	1,999,477	5.70%	107,759
Buildings and Grounds	25,827	60,449	134.05%	34,622	391,914	372,045	-5.07%	(19,869)
<b>General and Administrative Expense Total</b>	<b>425,835</b>	<b>600,803</b>	<b>41.09%</b>	<b>174,968</b>	<b>3,658,366</b>	<b>3,701,194</b>	<b>1.17%</b>	<b>42,828</b>
<b>Income from Operations</b>	<b>8,185,668</b>	<b>12,367,338</b>	<b>51.09%</b>	<b>4,181,670</b>	<b>81,488,420</b>	<b>92,168,882</b>	<b>13.11%</b>	<b>10,680,462</b>
<b>Other Revenues</b>								
Split Case Fee	124,648	150,220	20.52%	25,572	1,317,357	1,395,521	5.93%	78,164
Bottle Deposit/Surcharge	224,990	281,110	24.94%	56,120	2,287,882	2,530,848	10.62%	242,966
Recycling	1,531	2,983	94.84%	1,452	18,570	19,881	7.06%	1,311
Fuel and Lease Reimbursement	5,550	-	-100.00%	(5,550)	30,883	10,758	-65.17%	(20,125)
Lease Revenue	-	19,987	100.00%	19,987	59,963	59,963	100.00%	-
<b>Total Other Revenues</b>	<b>356,719</b>	<b>454,300</b>	<b>27.36%</b>	<b>97,581</b>	<b>3,714,655</b>	<b>4,016,970</b>	<b>8.14%</b>	<b>302,315</b>
<b>Other Expenses</b>								
Bottle Deposit Fee	57,623	46,841	-18.71%	(10,782)	470,321	519,188	10.39%	48,867
Recycle Surcharge Fee	127,571	104,737	-17.90%	(22,834)	1,057,484	1,160,905	9.78%	103,421
Liquor Refunds	-	667	#DIV/0!	667	(2,676)	1,267	-147.35%	3,943
Substance Abuse Transfer	1,506,435	1,586,757	5.33%	80,322	16,234,727	17,153,615	5.66%	918,888
<b>Total Other Expense</b>	<b>1,691,629</b>	<b>1,739,002</b>	<b>2.80%</b>	<b>47,373</b>	<b>17,759,856</b>	<b>18,834,975</b>	<b>6.05%</b>	<b>1,075,119</b>
<b>Net Profit</b>	<b>6,850,758</b>	<b>11,082,636</b>	<b>61.77%</b>	<b>4,231,878</b>	<b>67,443,219</b>	<b>77,350,877</b>	<b>14.69%</b>	<b>9,907,658</b>
<b>Return on Sales</b>	<b>27.7%</b>	<b>37.6%</b>	<b>35.72%</b>	<b>9.89%</b>	<b>26.4%</b>	<b>28.3%</b>	<b>7.21%</b>	<b>1.90%</b>

## Annual Growth of Liquor Sales, Distribution Outlets, & SKU's



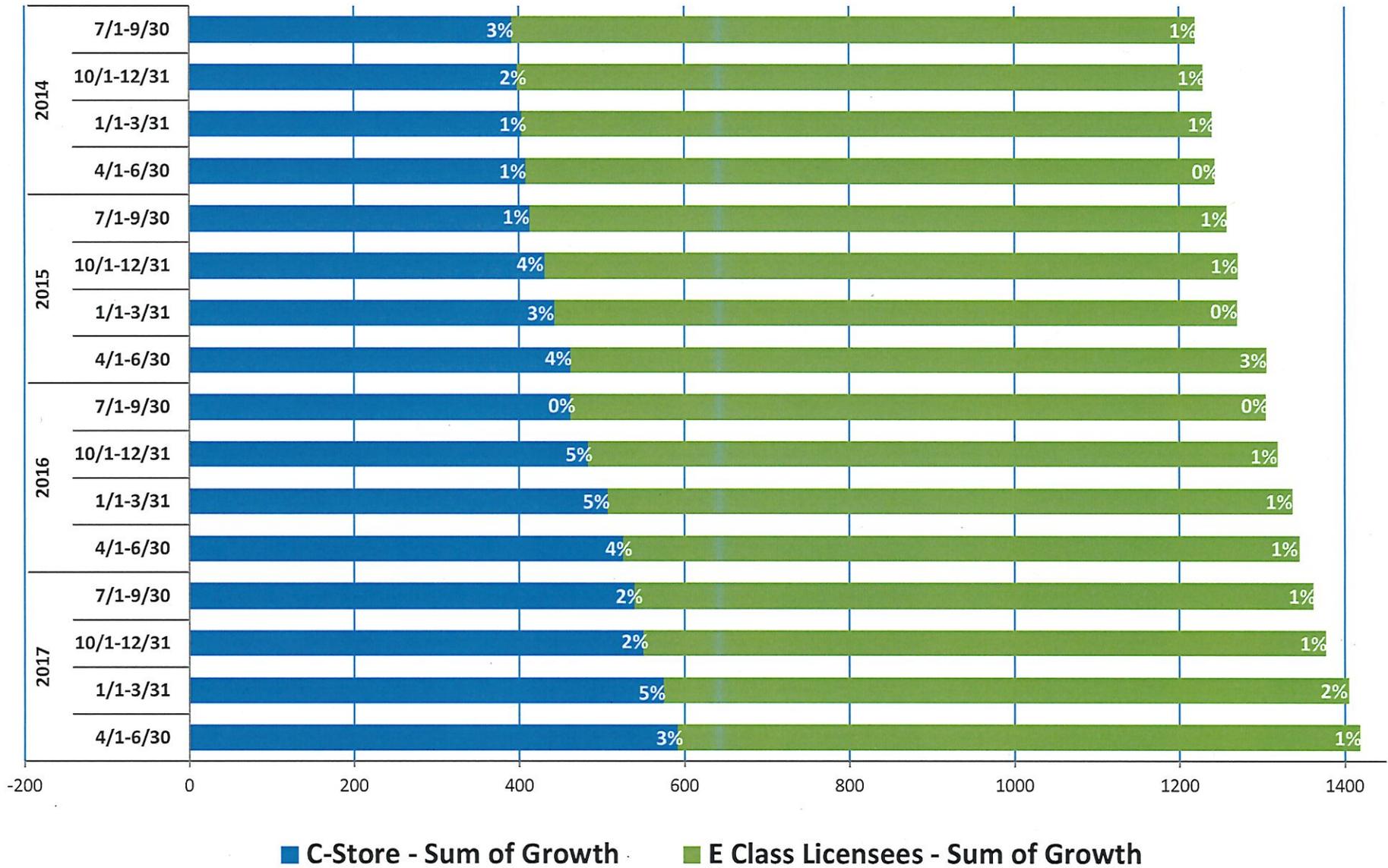
## SKU

A stock keeping unit (SKU) is a product and service identification code for a store or product, often portrayed as a machine-readable barcode that helps track the item for inventory. In short, it is the number of products we have available. SKU growth is measured at fiscal year-end.

## Fiscal Year

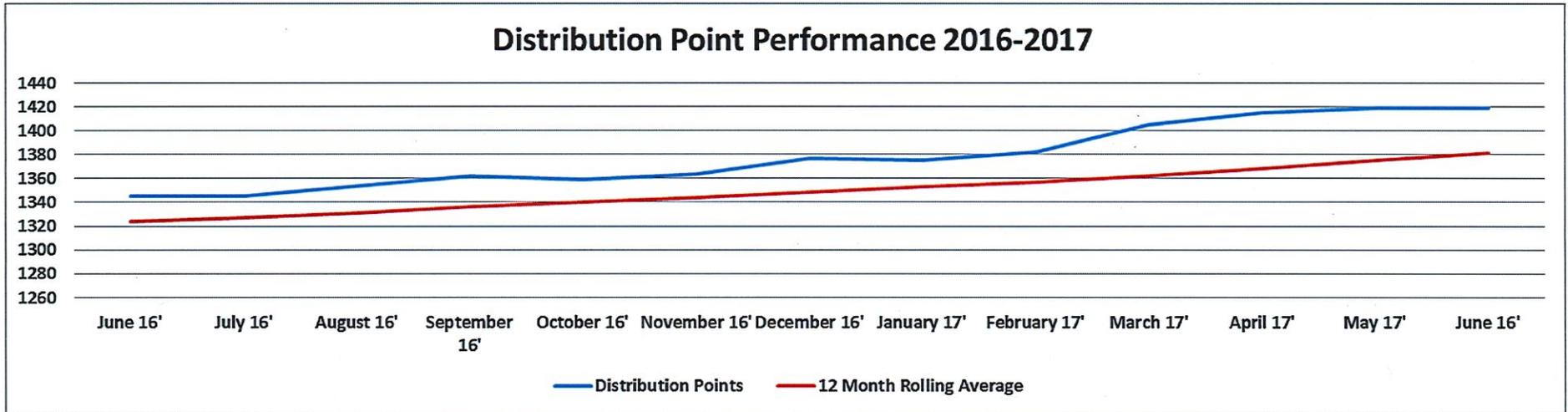
Begins July 1 and ends June 30.

## Distribution Outlets





## 12 Month Rolling Average



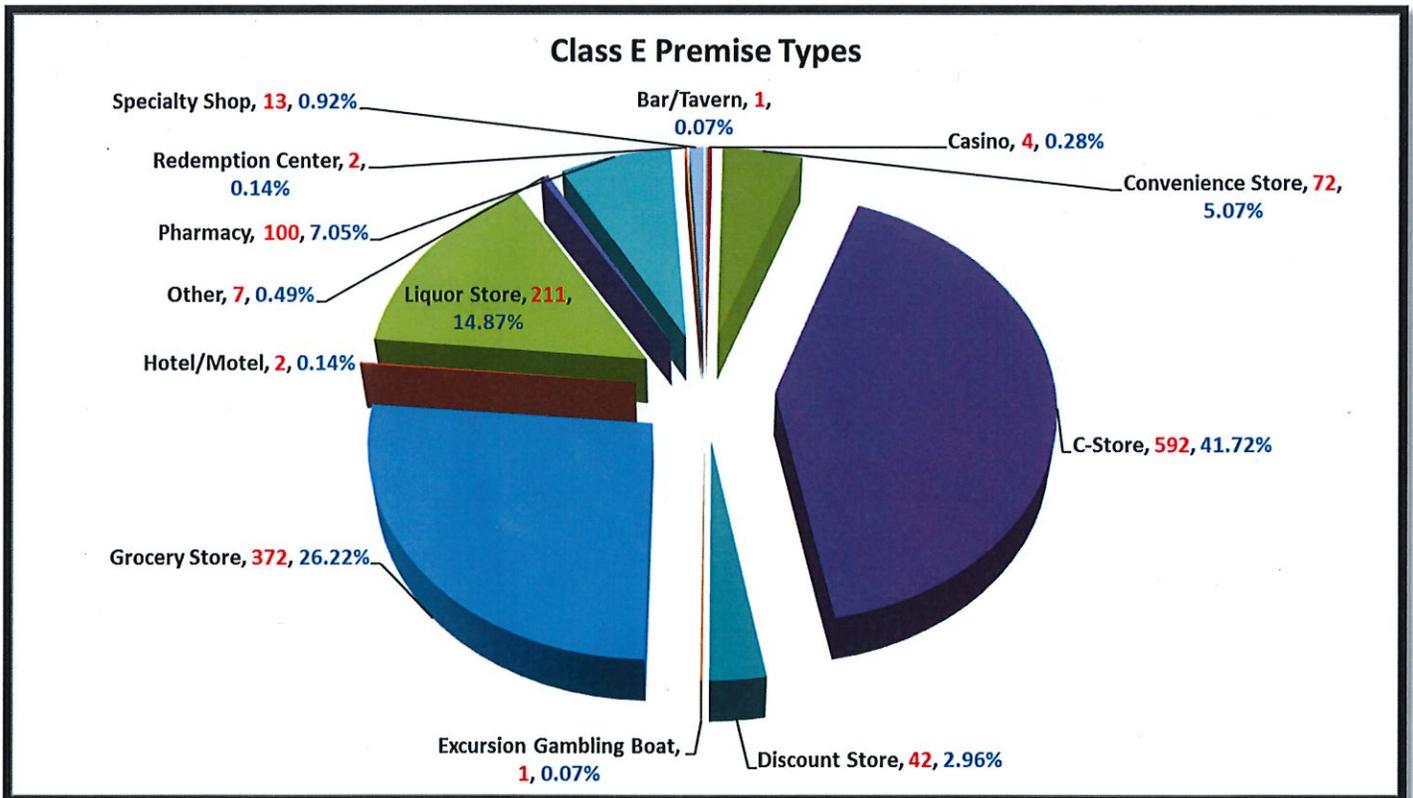
### Summary

The actual growth of distribution points (Blue) far exceeded the 12 month rolling average (Red). This shows the distribution point growth to be both consistently positive and greater than the previous 12 month average. The below bullets are the actual average growth.

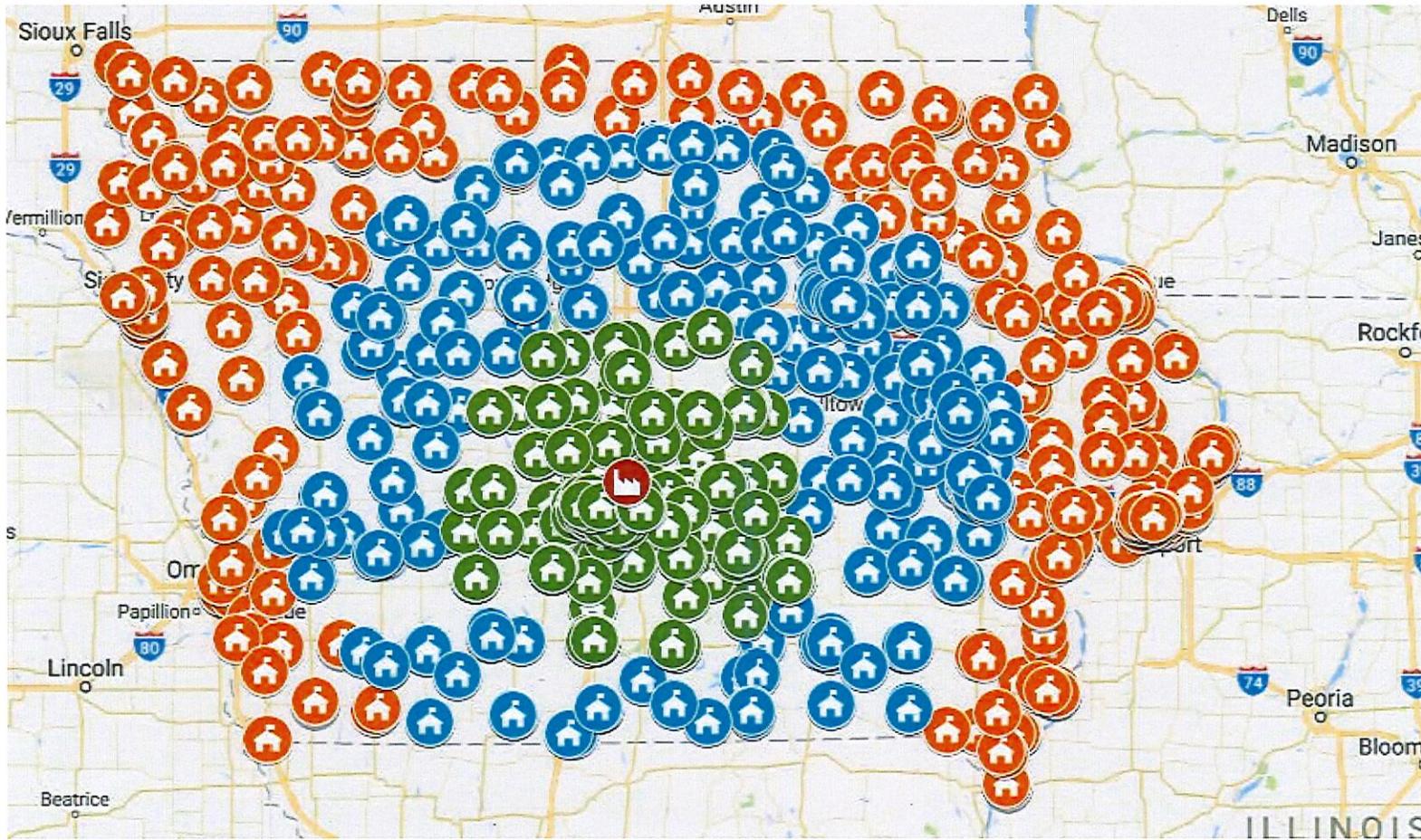
- Yearly 4%
- Quarterly 1%
- Monthly 0.44%

# Class E Licensees as of June 19, 2017

- 1419 active class E licensees
- 592 are C-Stores that sell gas
- 923 class E licensees added since 7.1.11
- 747 active class E licensees as of 5.24.11
- All Class E's are ordering electronically as of 9.1.16
- 276 new class E's added since June 1, 2015. All were required to order electronically.



# Iowa Class E Radius Analysis March 17'



The Iowa Alcohol Beverages division currently distributes to the state of Iowa through one central warehouse in Ankeny, IA.

**28%** (380 of 1365) Class E's 50 mile radius.

- **31%** (FY16 \$80,707,782.78)
- **30%** (6048779 Bottles)
- **14%** of Iowa

**36%** (493 of 1365) Class E's 50-100 mile radius

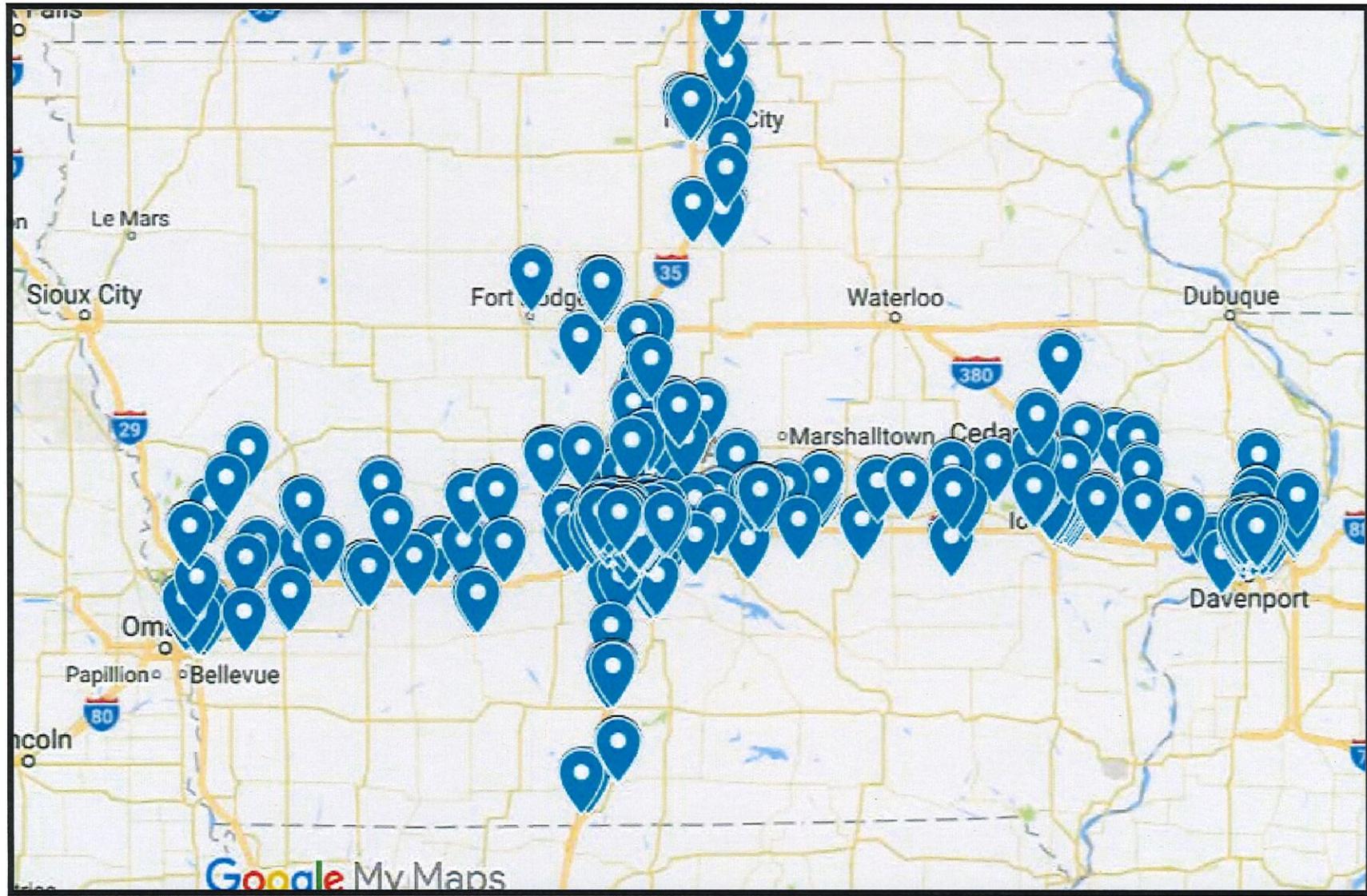
- **35%** (FY16 \$92,595,812.69)
- **36%** (7118249 Bottles)
- **42%** of Iowa

**36%** (492 of 1365) Class E's 100+ mile radius

- **34%** (FY16 \$88,668,746.88)
- **34%** (6783499 Bottles)
- **44%** of Iowa

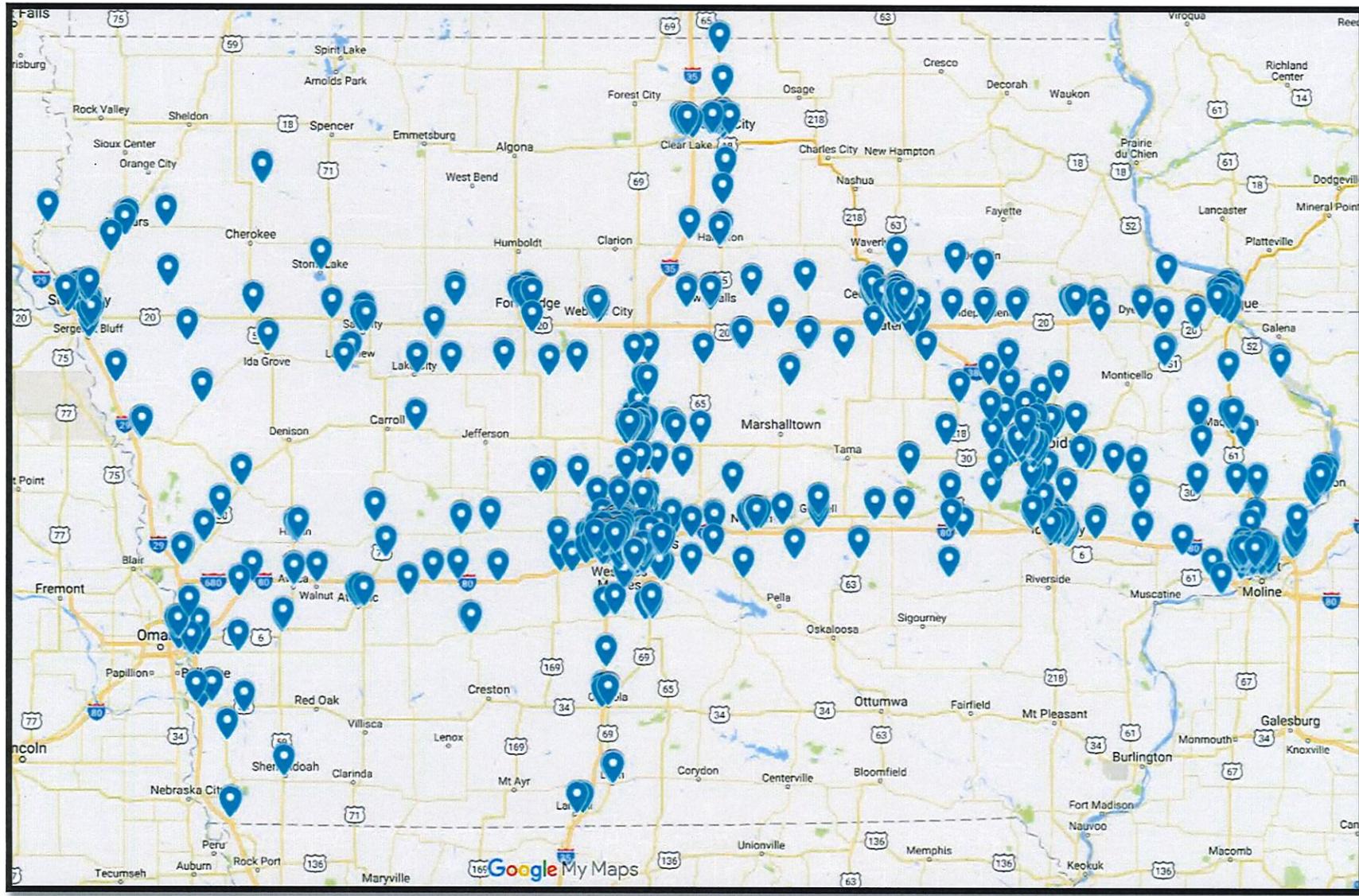


# Iowa Class E Licensees by HWY 80/35 Divide



Along the 80/35 HWY divide in Iowa Class E Licensees are 43% of the total Class E population

# Iowa Class E Licensees by Major HWY's



Iowa's highways of 80,35,20,29,30,& 380 contain 70% of Iowa's Class E Licensee's



A Review of Iowa's  
Approach to Liquor Liability and DRAM Insurance

Jessica Dunker  
**President and CEO**  
**Iowa Restaurant Association**

# Who is the Iowa Restaurant Association?



- Member based non-profit trade association
- Protect, Promote and Educate Iowa's Restaurant and Hospitality industry
- Represent the legislative interests of the restaurant, tavern and hospitality industry in Des Moines and Washington, D.C.
- State affiliate of the National Restaurant Association

# A Little History

- The Association was founded the same year Prohibition ended – 1933. That’s why we share an anniversary with the Iowa ABD.
- At one point there was a group called SABRE that represented taverns. That organization merged into the IRA in the late 1990s.
- We represent restaurants and bars. Lodging has its own Association.

# IRA Board Officers



Mike Holms  
Chairman



Jeff Duncan  
In-coming Chair



Ryan Achterhoff  
Secretary/Treasurer



Matt Johnson  
Immediate Past Chair

# IRA Board of Directors

## CHAIR

Mike Holms  
Splash Seafood/Gerleman Management  
Des Moines, IA

## CHAIR-ELECT

Jeff Duncan  
Vivian's, Des Moines, IA

## SECRETARY/TREASURER

Ryan Achterhoff  
Pizza Ranch, Inc.  
Orange City, IA

## IMMEDIATE PAST CHAIR

Matt Johnson  
Barley's Bar & Grill  
Council Bluffs, IA

## Executive Committee

### At-Large Members

Robert Anderson  
Iowa Culinary Institute at DMACC,  
Ankeny, IA

Sarah Pritchard  
Samba LC/Table 128 Bistro + Bar  
Clive, IA

Jake Kendall  
Culver's Restaurant  
Cedar Rapids, IA

## Directors

Alex Banasik  
Down Under Bar & Grill  
Des Moines, IA

Darin Beck  
Barnuda Companies  
Cedar Falls, IA

Scott Carlson  
Court Avenue Restaurant &  
Brewing Co., Americana  
Restaurant & Lounge

Steve Casteel  
Heartland Payment Systems  
Urbandale, IA

Lauren Doll-Sheeder  
Doll Distributing, LLC, Des  
Moines, IA

Kurt Friese  
Devotay, Edible Iowa  
Iowa City, IA

Sam Jennison  
Drake Restaurant, LLC  
Burlington, IA

Brad Korkow  
Society Insurance

Kris Kay  
Go Fish Marina  
Princeton, IA

Christian Moffat  
Crème Cupcake  
Des Moines, IA

Joe McConville  
Gusto Pizza  
Des Moines, IA

Mike Rastrelli  
Rastrelli's Restaurant,  
Clinton, IA

Jeremy Thompson  
Sazerac Co.  
Des Moines, IA

Scott Vermillion  
Martin Brothers Distributing Co.  
Cedar Falls, IA

Amy Walsh  
Mickey's Irish Pub  
Waukee, IA

Clay Willey  
Prairie Meadows Racetrack &  
Casino, Altoona, IA



ServSafe Alcohol is a four hour course that offers indepth information on alcohol laws, recognition of intoxication levels, ID checking, and techniques for dealing with difficult situations. The certification exam is appropriate for all front-of-the-house staff, including bartenders, waiters, hosts, bussers, security and valets.

- Classes are \$50 per person
- Members \$35 per person
- IRA just received grant to train 500 people in Iowa
- We will charge \$10 to non members and \$5 for members for materials cost

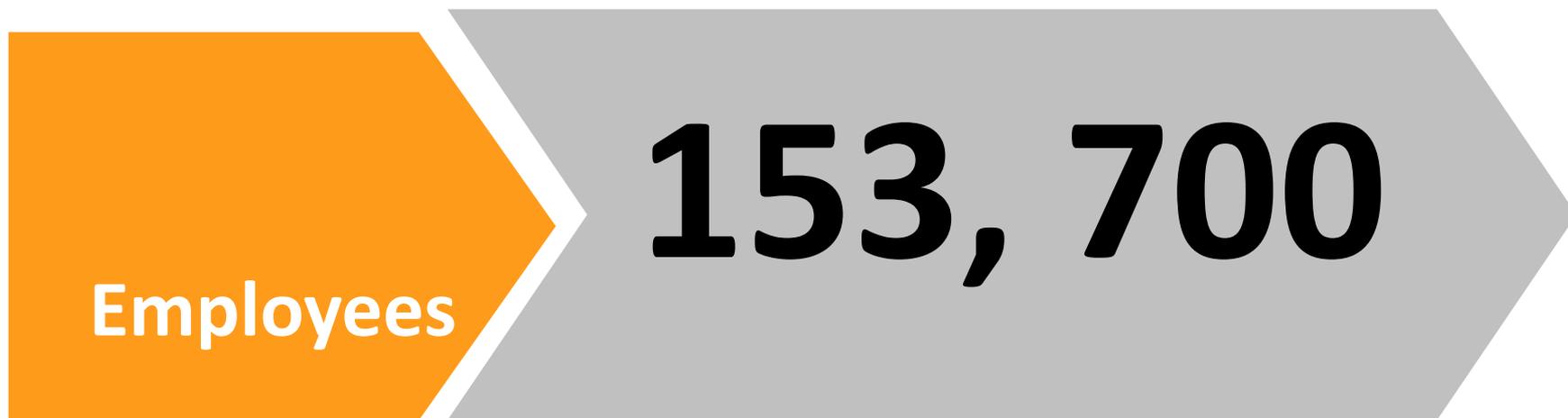


6,129

Eating and drinking place  
locations in Iowa in 2015

*\*Most recent data available from National Restaurant Association*

# Iowa Restaurant Industry 2017



2<sup>nd</sup> Largest Private Sector Employer in the State  
Projected to add 1,000 new jobs per year for each of the next 10 years

# Restaurant Industry's Share of the Food Dollar



Source: National Restaurant Association

**\$4.4 billion**

Projected sales in Iowa's  
restaurants in 2017

# Iowa's Restaurant & Tavern Industry

On a typical day  
Iowa's restaurant and beverage  
industry estimates average sales  
in excess of

**\$12 million**



# Iowa's Restaurant & Tavern Industry

On a typical day each of  
Iowa's restaurant and beverage  
industry establishments averages  
sales of

**\$1,966**



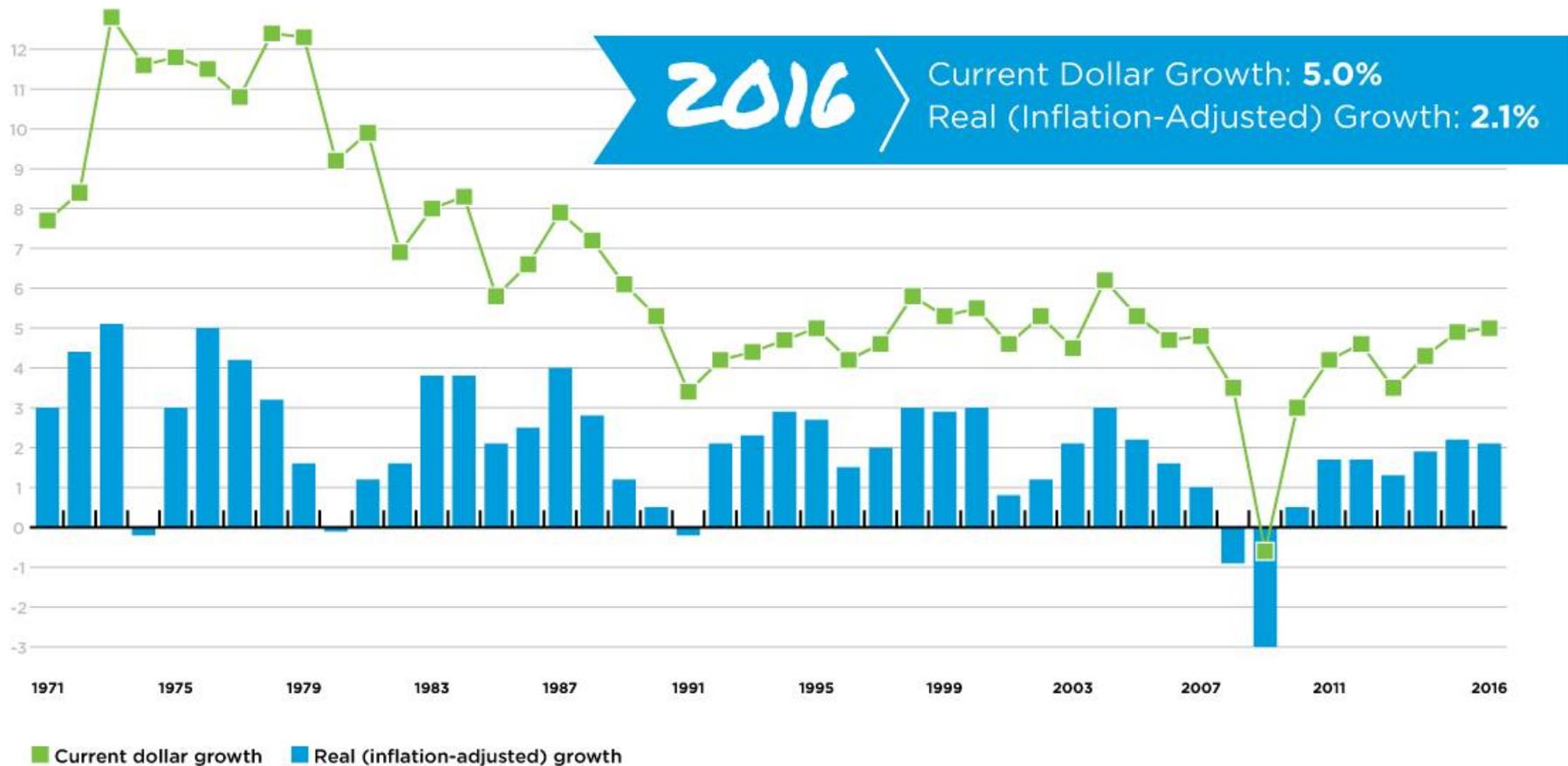
# Iowa's Restaurant & Tavern Industry

Assuming a 5% margin,  
on a typical day each of  
Iowa's restaurant and beverage  
industry establishments average  
a profit of approximately

**\$98**

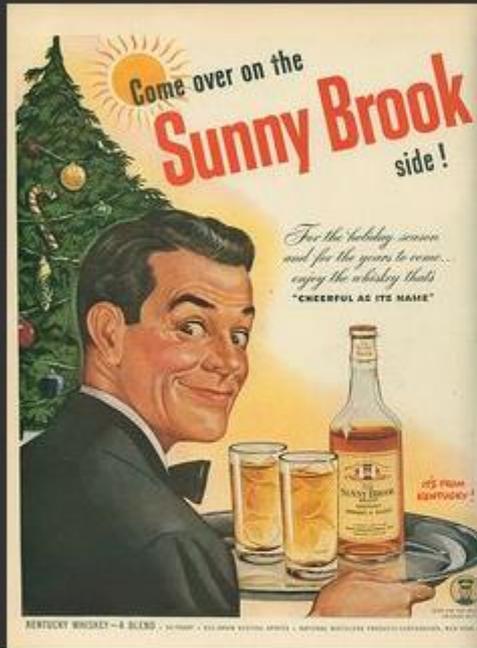


# 45 Years of Restaurant Industry Sales (1971-2015)



*\*The National Restaurant Association defines the restaurant industry as that which encompasses all meals and snacks prepared away from home, including all takeout meals and beverages.*

Source: National Restaurant Association



### 3 Tier Change

1963

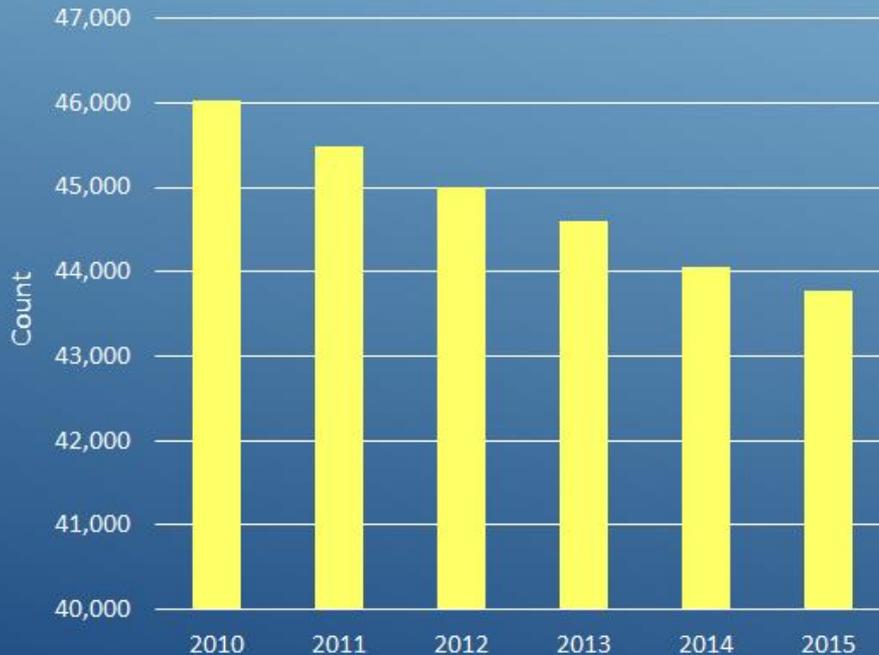
## LIQUOR BY THE DRINK IS ALLOWED

- The class "C" liquor license is created, allowing the sale of alcoholic liquor by the glass for consumption on the licensed premises.
- Counties have the 'local option' of prohibiting liquor by the drink in their jurisdictions. ('Local option' repealed Jan. 1, 1972).
- Dram shop liability insurance becomes a precondition to the issuance of on-premises retail liquor licenses and beer permits.

# Traditional On Premise Drinking Establishments

(Hospitality Establishments that primarily sell alcohol) 2010 to 2015

Establishments Counts



Neighborhood bars closing, but don't count them out yet



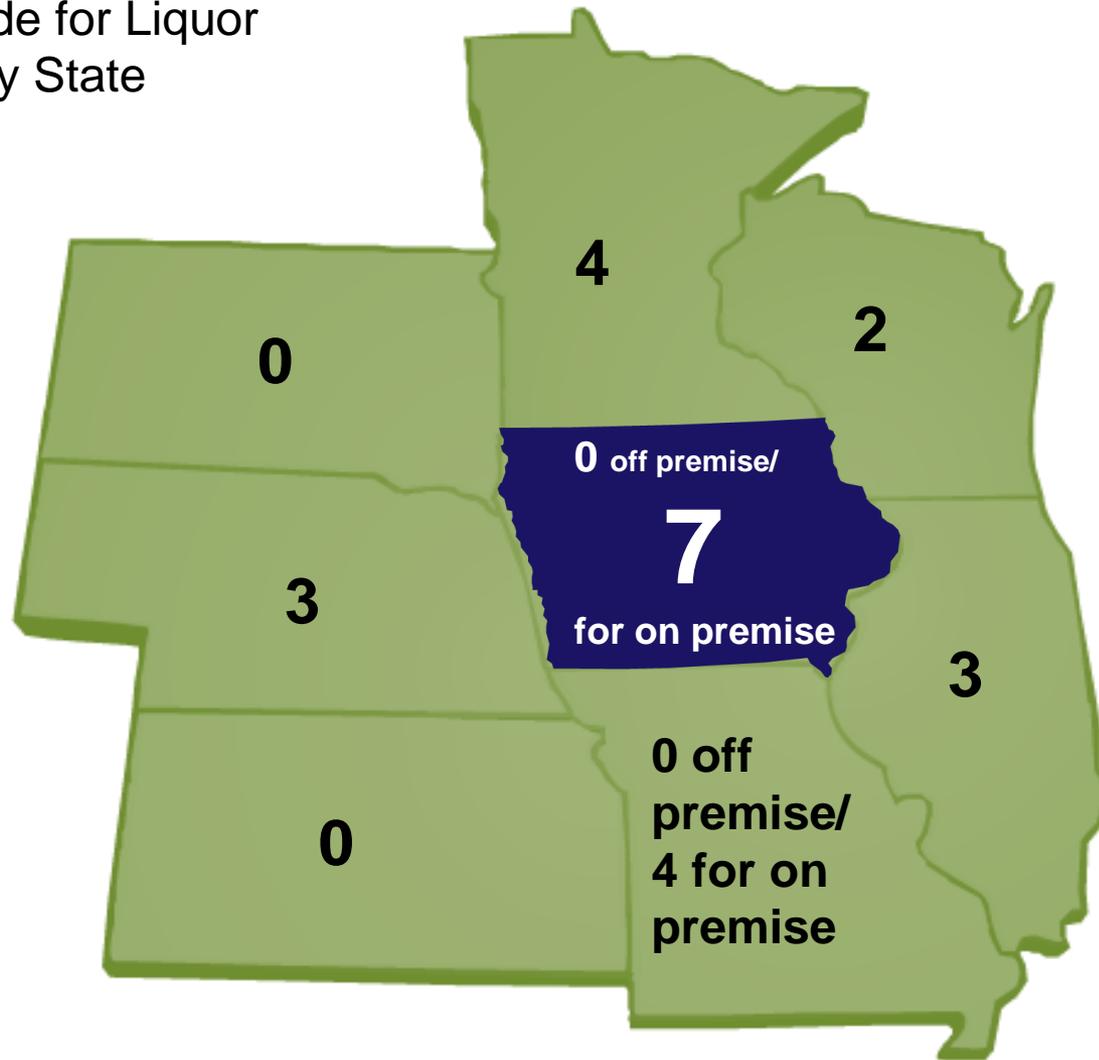
Source: U.S. BLS, Quarterly Census of Employment and Wages, 2016.

## GENERAL LIABILITY LIQUOR LIABILITY GRADES

State	NUMERICAL GRADE	EFFECTIVE OR DISTRIBUTION DATE	FINAL DISPOSITION CIRCULAR
ALABAMA	10	7/1/1995	<a href="#">GL-95-020</a>
ALASKA	8	4/1/2003	<a href="#">LI-GL-2002-352</a>
ARIZONA	5	7/1/1995	<a href="#">GL-95-020</a>
ARKANSAS	3	8/2000	<a href="#">LI-GL-2000-091</a>
CALIFORNIA	3	12/5/1996	<a href="#">GL-96-295</a>
COLORADO	3	7/1995	<a href="#">GL-95-020</a>
CONNECTICUT	5	2/1/2004	<a href="#">LI-GL-2003-216</a>
DELAWARE	0	7/1/1995	<a href="#">GL-95-020</a>
DIST. OF COL.	9	11/1/1998	<a href="#">GL-96-200</a>
FLORIDA	3	9/1/1995	<a href="#">GL-95-020</a>
GEORGIA	4	7/1/1995	<a href="#">GL-95-020</a>
HAWAII	7	<b>REFER TO THE HAWAII INSURANCE BUREAU, INC.</b>	
IDAHO	4	7/1/1995	<a href="#">GL-95-020</a>
ILLINOIS	3	7/1995	<a href="#">GL-95-020</a>
INDIANA	5	7/1/1995	<a href="#">GL-95-020</a>
IOWA *	0/OFF PREM, 7/ON PREM	3/1/2004	<a href="#">LI-GL-2003-331</a>
KANSAS	0	7/1/1995	<a href="#">GL-95-020</a>
KENTUCKY	3	7/1995	<a href="#">GL-95-020</a>
LOUISIANA	3	9/1/1995	<a href="#">GL-95-020</a>
MAINE	4	7/1/1995	<a href="#">GL-95-020</a>
MARYLAND	0	9/1/1995	<a href="#">GL-95-020</a>
MASSACHUSETTS	6	4/1/2008	<a href="#">LI-GL-2007-227</a>
MICHIGAN	5	7/1/1995	<a href="#">GL-95-020</a>
MINNESOTA	4	7/1995	<a href="#">GL-95-020</a>
MISSISSIPPI	4	7/1/1995	<a href="#">GL-95-020</a>
MISSOURI *	0/OFF PREM, 4/ON PREM	4/1/2003	<a href="#">LI-GL-2002-370</a>
MONTANA	5	7/1/1995	<a href="#">GL-95-020</a>
NEBRASKA	3	1/1/2008	<a href="#">LI-GL-2007-174</a>
NEVADA	0	7/1/1995	<a href="#">GL-95-020</a>
NEW HAMPSHIRE	7	7/1/1995	<a href="#">GL-95-020</a>
NEW JERSEY	4	7/1/1995	<a href="#">GL-95-020</a>
NEW MEXICO	5	7/1/1995	<a href="#">GL-95-020</a>
NEW YORK	6	7/1995	<a href="#">GL-95-020</a>
NORTH CAROLINA	6	9/1/1995	<a href="#">GL-95-020</a>
NORTH DAKOTA	5	7/1/1995	<a href="#">GL-95-020</a>
OHIO	4	7/1/1995	<a href="#">GL-95-020</a>
OKLAHOMA *	3/OFF PREM, 5/ON PREM	7/1/1995	<a href="#">GL-95-020</a>
OREGON	4	12/1/2001	<a href="#">LI-GL-2001-195</a>
PENNSYLVANIA	7	7/1/1995	<a href="#">GL-95-020</a>
PUERTO RICO	0	11/1/1995	<a href="#">GL-95-104</a>
RHODE ISLAND	6	3/1/1996	<a href="#">GL-95-331</a>
SOUTH CAROLINA	6	3/2011	<a href="#">LI-GL-2010-196</a>
SOUTH DAKOTA	0	8/1/2000	<a href="#">LI-GL-2000-088</a>
TENNESSEE	3	7/1/1995	<a href="#">GL-95-020</a>
TEXAS	6	10/1995	<a href="#">GL-95-104</a>
UTAH*	0/OFF PREM, 6/ON PREM	7/1/2011	<a href="#">LI-GL-2011-022</a>
VERMONT	10	7/1/1995	<a href="#">GL-95-020</a>
VIRGINIA	0	9/1/1999	<a href="#">LI-GL-1999-088</a>
WASHINGTON	5	7/1/1995	<a href="#">GL-95-020</a>
WEST VIRGINIA	7	7/1/1995	<a href="#">GL-95-020</a>
WISCONSIN	2	7/1/1995	<a href="#">GL-95-020</a>
WYOMING	5	7/1995	<a href="#">GL-95-020</a>

- Rankings are from the Insurance Services Office
- Only four states have a grade difference between on premise and off premise sales
- We are 46<sup>th</sup> in the nation. Only four states have worse rankings.

## Insurance Grade for Liquor Liability by State



## Types Who Sell

Liquor Stores  
Grocery Stores  
Big Box Retailers

Drug Stores  
Discount Stores  
Convenience Stores

Gas Stations  
Restaurants  
Taverns



## Types Who Cover





## Unintended consequences:

1. Innocent victims only have protection available in about 1 in 5 situations.
2. When things go wrong, there's an incentive trail back to the insurance policies of restaurants and bars—even when they didn't over serve.
3. Quality insurance policies are harder to find, more expensive, and offer less coverage.
4. Many top insurers are leaving the state.



# Barmuda

RESTAURANTS • NIGHTCLUBS • LOUNGES



“For one of our locations, we used to carry \$1 million coverage for innocent victims at a cost of approximately \$10,000 per year. Today, I can only find a policy offering \$150,000 in coverage at a cost of \$45,000 per year. It is becoming impossible to do business. What’s worse, it seems we’ve strayed from the intent of

requiring innocent victim/DRAM insurance in the first place.

*Darin Beck*  
*Barmuda, Corp*



“We currently operate our Saints Pub concept in four states—Iowa, Missouri, Nebraska and Kansas. DRAM insurance in Iowa is more difficult and much more expensive to obtain. Because we have a single policy that covers all locations, higher Iowa rates also impact what we pay in other states. We have been advised

by our insurance broker to keep our combined Iowa alcohol sales under 30% of our total alcohol sales. When we look at expansion opportunities, Iowa Dram insurance is a strong disincentive to expanding in Iowa. In fact, we picked our new west Omaha location over a strong Council Bluffs alternative in large part due to Iowa DRAM laws and our insurance broker’s advice. It is just easier and cheaper to do business in other states.”

*Scott W. Anderson*  
*Riley Drive, Inc.*  
*Saints Pub and Tonic Bars*

## 'Iowa is a great place to live if you are a drunk,' a victim's mom says. She could be right.

Kath A. Bolten, [kbolten@dmreg.com](mailto:kbolten@dmreg.com) 1:43 p.m. CT Nov 21, 2017 | Updated 1:52 p.m. CT April 6, 2017



Photo: Michele Curcio Smith/Des Moines Register

Part of The Des Moines Register series "Driving Drunk: Iowa's deadly problem."

(This story was updated MAY 6, 2017, to reflect additional vehicle data that the state department was able to release.)

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**PORT DODGE, Ia.** — On the evening of April 4, 2016, James ...  
milk and orange juice for breakfast. Ulises ...  
championship game together.

But McCartney, 32, never made it home.

"Four blocks from the grocery store, the minivan was hit. McCartney died 35 days later.

The driver who hit him, 40-year-old Lane Rust Shivers, will never be driving while intoxicated eight times before, but he

"He just repeats the same offense over and over again," said



John McCarthy, 32, never made it home after being struck by a car while driving. Photo: Des Moines Register

It's a frustration many

last year, at least 84 peo ...  
Iowa Department of Trans

At least 40 percent of those driving drunk, an executive

Those harsh statistics reflect a state has stymied little progress

And all the while, Iowa's death

The victims: Read the stories of a data @desmoinesregister.com

**FROM THE EDITOR:** [Part 1 of a 3-part series on Iowa's deadly drunk driving problem](#)

Since 2005, more than 1,100 people, more than the population of Gilbert or Palo Alto according to state Department of Public Safety data. That's an average of more th

Nearly two-third of the drivers charged with vehicular homicide while intoxicated in arrested multiple times. The Register's analysis of Iowa judicial branch data shows

"Iowa is a great place to live if you are a drunk," said Pam Bough, whose teenage son committ offense after offense after offense, and nothing will happen to you."

The Register's analysis compares more than 263,000 Iowa intoxicated driving records fr

The findings demonstrate the vast and unending problem the state faces:

## 60,000 repeat drunk drivers: What can Iowa do?

Kath A. Bolten, [kbolten@dmreg.com](mailto:kbolten@dmreg.com) 1:43 p.m. CT Jan 21, 2017 | Updated 8:31 a.m. CT Jan 27, 2016



Photo: Kelley Fremont/The Register

Iowa has made little headway in reducing the percentage of intoxicated drivers who are repeat offenders, Moines Register analysis of state data shows.

In 2015, 36 percent of the 11,628 motorists convicted of driving impaired had previously been caught while intoxicated, data from the Iowa Court Information System show. That's down just 3 percentage p

Since 2000, roughly 222,800 drivers have been convicted of operating a vehicle while intoxicated i Iowa. Nearly 60,000 were repeat offenders, according to Iowa Court Information System data.

### Also in today's report:

- [Des Moines story: Why I love driving drunk](#) ([http://www.desmoinesregister.com/story/2017/03/25/why-i-love-driving-drunk/99388114/](#))
- [Des Moines story: Iowa caught 3 times before I learned](#) ([http://www.desmoinesregister.com/story/2017/03/25/iowa-caught-3-times-before-i-learned/99388114/](#))

The numbers are an indication of the magnitude of the problem facing Iowa in its continued struggle to get drunken drivers off roads. has caught the attention of Gov. Terry Branstad, who has signed the Iowa Legislature to find more effective ways to keep intoxicated drivers off roads. ([http://www.desmoinesregister.com/story/2017/03/25/iowa-caught-3-times-before-i-learned/99388114/](#))

That task has proved difficult. Last session, the Legislature failed to act on proposals that would have meant tougher controls on as mandatory ignition interlock devices and twice-daily drunk-ars for brain tests.

Both are proposals other states have in place.

"Protecting the public has got to be the top priority," said Gregory Franck, whose son was killed last year by a drunk driver. Franck, 41, was riding his bicycle on the morning of Oct. 15, 2015, when he was struck by a vehicle driven by Jonathan Leyva Rodriguez, 32, of West Des Moines.

Leyva Rodriguez, who this month was sentenced to 34 years in prison ([http://www.desmoinesregister.com/story/2017/03/25/iowa-caught-3-times-before-i-learned/99388114/](#)), had a blood alcohol concentration that was more than twice the legal limit of 0.08 percent.

"Drunk driving is a violent crime," said Gregory Franck of Ankeny. "That person who makes the choice to drink and drive is a violent criminal."

After Leyva Rodriguez was sentenced, Franck and his wife, Jan, pledged to push Iowa lawmakers to pass legislation to identify potential repeat offenders and keep them off the road.

Some states, including Minnesota, have found effective ways to accomplish that goal, according to a 2015 National Highway Traffic Safety Administration report. Minnesota and five other states issue special vehicle license plates for drivers whose licenses have been

in addition, 17 states impound or destroy the license plate of a vehicle owned by people convicted of driving in

This summer, the Iowa Attorney General's office is exploring whether the idea is viable. ([http://www.desmoinesregister.com/story/2017/03/25/iowa-caught-3-times-before-i-learned/99388114/](#))

He said he has contacted the Iowa attorney general's office to explore whether the idea is viable.

"We need to find more effective ways of keeping people who are impaired off the roads," Hoye said.

As the state searches for answers, intoxicated drivers, particularly repeat offenders, continue to take a deadly toll on the state's roads.

Last year, Iowa had 123 impaired driving fatalities, up from 114 three years earlier.

## Who served that last drink? Iowa targeting problem bars to battle drunk driving

Kath A. Bolten, [kbolten@dmreg.com](mailto:kbolten@dmreg.com) 1:43 p.m. CT April 15, 2017



Photo: The Register

Part of The Des Moines Register series "Driving Drunk: Iowa's deadly problem."

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Iowa's alcohol-enforcement agency, concerned with the rising toll taken by drunken drivers, is preparing a campaign to crack down on bars and restaurants that serve intoxicated customers. The Des Moines Register has learned.

As fatalities in Iowa mount — at least 84 people died in 2016 alone in alcohol-related crashes ([http://www.desmoinesregister.com/story/2017/03/25/driving-while-drunk-or-intoxicated-fatalities/99388114/](#)) — the state has focused its attention on keeping intoxicated people from getting behind the wheel, with Gov. Terry Branstad expected to sign a sobriety monitoring bill ([http://www.desmoinesregister.com/story/2017/04/12/247-sobriety-bill-heads-branstad-desk/100368188/](#)) into law Monday.

But the state's Alcoholic Beverages Division also has quietly ramped up efforts to hold alcoholic beverage license-holders more accountable.

The division currently is investigating two establishments that might have over-served individuals involved in alcohol-related fatalities, officials said, declining to identify the businesses.

Division officials say they also are assessing whether Iowa's alcohol licensing laws should be overhauled to better ensure that businesses that serve or sell beer, wine and liquor operate responsibly.

By year's end, the division will provide Iowa's executive and legislative branches a slate of recommendations aimed at strengthening the state's alcohol licensing laws, including:

- Developing a system to track where intoxicated drivers were served their last drink before causing a crash. The division also wants similar information for those arrested for drunken driving.
- Increasing civil penalties to a level that deters alcohol-licensed businesses from selling to minors or over-serving patrons.
- Streamlining administrative appeals so problem establishments can't drag out the process.



"Once it becomes known we are actually going down this road, it will send signals and increase awareness by the license-holders that people are watching," said Stephen Larson, administrator of the division that oversees the licensing, regulation and distribution of alcohol in Iowa.

State officials acknowledge that focusing only on drunken-driving offenders will have scant impact on reducing alcohol-related fatalities on Iowa roads.

Since 2005, more than 1,100 people have been killed in alcohol-related traffic crashes in Iowa ([http://www.desmoinesregister.com/story/2017/03/25/driving-while-drunk-or-intoxicated-fatalities/99388114/](#)), according to state Department of Public Safety data. That's an average of more than 90 deaths a year.

**123.92 CIVIL LIABILITY FOR DISPENSING OR SALE AND SERVICE OF BEER, WINE, OR INTOXICATING LIQUOR (DRAMSHOP ACT) -- LIABILITY INSURANCE -- UNDERAGE PERSONS.**

1. a. Any person who is injured in person or property or means of support by an intoxicated person or resulting from the intoxication of a person, has a right of action for all damages actually sustained, severally or jointly, against any licensee or permittee, whether or not the license or permit was issued by the division or by the licensing authority of any other state, who sold and served any beer, wine, or intoxicating liquor to the intoxicated person when the licensee or permittee knew or should have known the person was intoxicated, or who sold to and served the person to a point where the licensee or permittee knew or should have known the person would become intoxicated.

*b.* If the injury was caused by an intoxicated person, a permittee or licensee may establish as an affirmative defense that the intoxication did not contribute to the injurious action of the person.

## Current

123.92 CIVIL LIABILITY FOR DISPENSING OR SALE AND SERVICE OF BEER, WINE, OR INTOXICATING LIQUOR (DRAMSHOP ACT) — LIABILITY INSURANCE — UNDERAGE PERSONS.

1. a. **Any person** who is injured in person or property or means of support by an intoxicated person or resulting from the intoxication of a person, has a right of action for **all damages** actually sustained, severally or jointly, against any licensee or permittee, **whether or not the license or permit was issued by the division or by the licensing authority of any other state**, who sold and served any beer, wine, or intoxicating liquor **to the intoxicated person when the licensee or permittee knew or should have known the person was intoxicated, or who sold to and served the person to a point where the licensee or permittee knew or should have known the person would become intoxicated.**

b. If the injury **was caused** by an intoxicated person, a permittee or licensee may establish as an affirmative defense that the intoxication did not contribute to the injurious action of the person.

## Changes in SSB1179

Change to “innocent third party” so the intoxicated person himself cannot seek damages

Change to a maximum of \$75,000

Change to ensure those crossing the border were actually overserved in an Iowa establishment

Replace so only someone directly serving someone who is obviously intoxicated is held to account. Ensures a trainable and defensible standard.

Add the word “proximately” to ensure that the alcohol was actually the cause of incident.

## Proposed

123.92 CIVIL LIABILITY FOR DISPENSING OR SALE AND SERVICE OF BEER, WINE, OR INTOXICATING LIQUOR (DRAMSHOP ACT) — LIABILITY INSURANCE — UNDERAGE PERSONS.

1. a. **Any innocent third-party** who is injured in person or property or means of support by an intoxicated person or resulting from the intoxication of a person, has a right of action for **damages up to \$75,000** actually sustained, severally or jointly, **against any licensee or permittee, whether or not the license or permit was issued by the division**, who sold and served any beer, wine, or intoxicating liquor **directly to a visibly intoxicated person.**

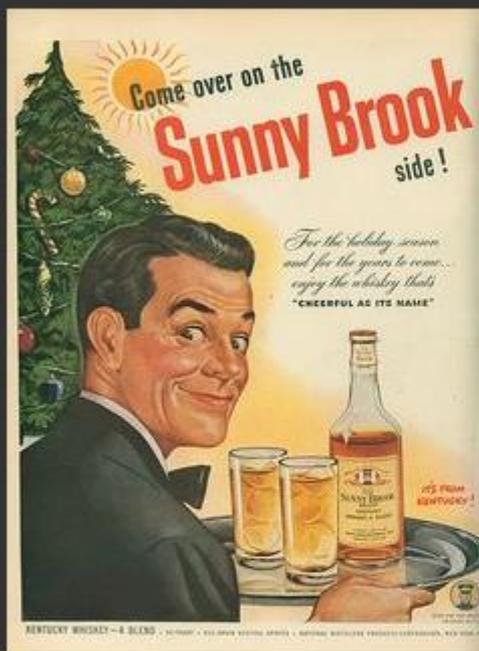
b. If the injury was **proximately** caused by an intoxicated person, a permittee or licensee may establish as an affirmative defense that the intoxication did not contribute to the injurious action of the person.

## Proposed Changes

### **123.92 CIVIL LIABILITY FOR DISPENSING OR SALE AND SERVICE OF BEER, WINE, OR INTOXICATING LIQUOR (DRAMSHOP ACT) -- LIABILITY INSURANCE -- UNDERAGE PERSONS.**

1. a. Any innocent third-party who is injured in person or property or means of support by an intoxicated person or resulting from the intoxication of a person, has a right of action for damages up to \$75,000 actually sustained, severally or jointly, against any licensee or permittee, whether or not the license or permit was issued by the division, who sold and served any beer, wine, or intoxicating liquor directly to a visibly intoxicated person.

*b.* If the injury was proximately caused by an intoxicated person, a permittee or licensee may establish as an affirmative defense that the intoxication did not contribute to the injurious action of the person.



### 3 Tier Change

1963

## LIQUOR BY THE DRINK IS ALLOWED

- The class "C" liquor license is created, allowing the sale of alcoholic liquor by the glass for consumption on the licensed premises.
- Counties have the 'local option' of prohibiting liquor by the drink in their jurisdictions. ('Local option' repealed Jan. 1, 1972).
- Dram shop liability insurance becomes a precondition to the issuance of on-premises retail liquor licenses and beer permits.



# Impact!

Meaningful DRAM Reform, Focused on  
Evening the Playing the Field,  
Will do More to Spur Economic Development,  
and Update Antiquated Laws That Directly  
Impact Hospitality Establishments Than Any  
Other Modification to Chapter 123

# ABD Commission

The Iowa Alcoholic Beverage Commission oversees the operations of the Iowa Alcoholic Beverages Division and provides insight and advice regarding policy and business decisions.

# Request to the Commission

1. Elevate the priority of meaningful DRAM reform.
2. Review SSB1179 and understand the “whys” behind the language
3. Formally Endorse or Support Bill
4. Be willing to answer questions from legislators, the Governor’s Office and/or media if necessary

## Keg Stand faces lawsuits in drunken crash that killed 2 officers



Photo: Associated Press

The estates of two Deer Monroe police officers killed in a fiery collision have filed wrongful death lawsuits against a West Deer Monroe bar where the drunk driver who hit their SUV spent several hours before the crash.

Officers Carine Puente Morales and Susan Farrell [were both killed March 20](#) ([http://www.local2016.com/story/news/local/2016/03/20/wrong-way-crash-kills-two-deer-monroe-police-officers/823437840](#)) when a vehicle driven by Knoxville resident Benjamin Beary collided head-on with their Ford Explorer on Interstate 80 near Winston. Beary was traveling in the wrong direction.

The crash happened just after 12:30 a.m. Beary, who also died, reportedly left the Keg Stand, at 9533 Westown Parkway, at midnight after spending approximately six hours at the bar watching the NCAA Men's Basketball Tournament.

Both lawsuits claim that Beary, 25, was served alcoholic drinks at the Keg Stand when a bartender "knew or should have known" that he was already intoxicated or would become drunk, a violation of Iowa's dram shop law.

The two officers' bars and restaurants to be held liable to pay for medical expenses, lost wages and other damages if their employees serve drinks to patrons who later injure or kill themselves or another person.

### RELATED:

- Wrong way driver would 'never intentionally cause this pain' ([http://www.wncn.com/story/news/crime-and-courts/2016/03/23/wrong-way-driver-identified-fatal-crash/82343385](#))

# Request to the Commission

1. Elevate the priority of meaningful DRAM reform.
2. Review SSB1179 and understand the “whys” behind the language
3. Formally Endorse or Support Bill
4. Be willing to answer questions from legislators, the Governor’s Office and/or media if necessary

# Contact

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President/CEO

Iowa Restaurant Association

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