

# *IOWA ALCOHOLIC BEVERAGES COMMISSION*

## **MINUTES**

Iowa Alcoholic Beverages Division  
1918 SE Hulsizer Rd.  
Ankeny, IA 50021  
Boardroom  
October 17, 2014 9:00 AM

### **Commission Members Present:**

Rick Hunsaker: Chairperson  
Tami Doll: Vice-Chair  
Jay Wilson: Secretary  
Gary Nystrom: Member

### **ABD Staff Present:**

Stephen Larson: Administrator  
John Lundquist: Assistant Attorney General  
Tim Iversen: Chief Operating Officer  
Karen Freund: Regulation and Licensing Bureau Chief  
Stephanie Strauss: Executive Officer  
Heather Schaffer: Compliance Officer  
Bobby Bailey: Field Auditor  
Erin Bothwell: Administrative Assistant

### **Guests Present:**

Jessica Dunker: Iowa Restaurant Association  
Troy Hargrove: Beam  
Sam Crowder: Southern Wine  
Charles McGrigg: Wine Institute  
Scott Oeltjenbruns: Johnson Brothers  
Sheila Douglas: (Via Phone)

### **CALL TO ORDER**

Chairperson Rick Hunsaker called the meeting to order at 9:03 AM, and roll was taken. There was a quorum.

## **APPROVAL OF AGENDA**

**MOTION: A motion was made by Commissioner Wilson and a second by Commissioner Doll to approve the agenda for the October 17, 2014 Commission meeting.**

**Motion approved unanimously.**

Chairperson Rick Hunsaker recognized Administrator Larson for the 2015 Legislative session overview.

### **2015 Legislative Session and Overview**

Administrator Larson provided a virtual tour of the legislative website (<https://www.legis.iowa.gov/>) and gave an overview of the rules regarding the legislative lobbying process.

Administrator Larson encouraged the Commission to tour site and offered additional assistance to each Commissioner, if the request is made.

### **2015 Legislative Issues**

Administrator Larson reviewed with the Commission emerging issues that may arise in the 2015 legislative session. Listed below are the issues that were discussed.

#### **Cider**

A discussion took place between Commission members, ABD staff and guests regarding cider. A main question discussed was why high alcohol content beer manufactures could not make high alcohol content cider. It went back to the definition of the product and by the alcohol content it would be considered wine, it would fall under the definition of wine and would be taxed as wine. If it was changed to be classified as beer there would be implications such as what the definition of wine would be and possible tax implications that the state would like to consider.

Anything under 5% alcohol by weight (ABW) is classified as a beer in a manner of how the alcohol is derived. The manufacturing process needs to be considered with alcoholic beverages above 5% ABW. The higher alcohol ciders are classified as wine and there is nothing in Iowa that prevents a brewer from obtaining a wine license.

Brewers could obtain a native wine manufacturing permit (for \$25) to brew cider with higher alcohol content. However, if they hold wine and beer manufacturing permits they could not have a retail permit. If they were allowed to also obtain a retail license, it would disrupt the three tier system.

Breweries and brewpubs who produce high alcohol content beer may want to also make cider. The definition of high alcohol content beer does not allow for the use of fermented fruit, therefore cider with more the 5% ABW (alcoholic beverage weight) cannot be made by a brewer or taxed as beer. Rather, high alcohol content cider meets the definition of wine and is taxed as such.

### **Growlers for off premises sales**

Retailers who are licensed to sell only for off-premises consumption want to fill and sell growlers for off-premises consumption. A discussion took place between Commission members, ABD staff and guests regarding growlers and the three tier implications. Staff will research states that have growler laws (how long it took to pass, when it passed and the total law language).

### **Brewpub-Self distribution**

There has been discussion among some brewpubs about self-distribution rights for the beer they make. This would require a law change would allow a brewpub to operate in all three tiers. A discussion took place between Commission members, ABD staff and guests regarding brewpub-self distribution.

### **Micro-Distilled Spirits Permits**

Micro-distillers want to increase the amount of spirits sold from the manufacturing location for off-premises and to be able to sell spirits by the glass. A discussion took place between Commission members, ABD staff and guests regarding Micro-Distilled Spirits Permits and increasing the production cap for a micro-distillery (50,000 gallons). Staff will provide more information on what other states have done with this issue.

### **Powdered Alcohol**

Administrator Larson updated the Commission on recent developments regarding powdered alcohol. As of right now powdered alcohol has been approved by the FDA but no further action has yet to be taken by the TTB. Discussion focused on how the Division will address powdered alcohol when/if it becomes an issue and asked for the guidance of the Commission. The Administrator will provide the Commission updates as they become available.

### **Special Events**

An increasing number of community events now include the tasting and or sale of alcoholic beverages. A request has been made for the Division to clarify for industry members and event organizers the allowable practices.

A discussion took place between Commission members, ABD staff and guests regarding special events and if a special license may help resolve this confusion. It was suggested that the Division collaborate with the Department of Inspections and Appeals and the Iowa Economic Development Authority. The industry and event organizers would also like to streamline the process of obtaining licenses and have clear cut requirements in common language.

### **Dram Shop Liability Insurance**

This issue was brought up in regards to finding solutions for victims of over consumption accidents. Various ideas were discussed, including the possibility of creating a victim's fund. Staff will send out information collected by the Division on coverage amounts for dram shop insurance written with aggregate limits in Iowa.

Chairperson Hunsaker asked if there were additional legislative issues to discuss, and hearing none, the discussion on this topic ended.

**MOTION: A motion was made by Commissioner Nystrom and a second by Commissioner Doll to recess until 1:00 PM.**

**Motion approved unanimously.**

**MOTION: A motion was made by Commissioner Nystrom and a second by Commissioner Doll to come out of recess at 1:00 PM.**

**Motion approved unanimously.**

Administrator Larson provided an overview of the administrative rules process, and reviewed the schedule for rule making, the Iowa rulemaking process, the purpose and specific procedures to develop administrative rules, and Executive Orders 71 and 80.

Administrator Larson shared with the Commission members the sections of 185-16 that may represent areas where there may already be consensus for changes to the trade practices rule. These sections included 16.1(7) cost adjustment factor, 16.3(123) Product displays; 16.13(123) Retailer advertising utensils, consumer souvenirs, wearing apparel; and 16.16(123) Participation in retail association's activities.

The discussion continued to an examination of 185—16.10(123) Tastings, samplings and trade spending. It was determined that the rules for consumer sampling need to be the same for wine, beer and liquor and should include information on the length of time samples are given and amount that is allowed to be served. This is an area that should be looked at and work on.

Another topic discussed was 185—16.15(123) Stocking and product rotation. The Division is working on drafting a letter that will be mailed out to industry and retailers. 185— 16.17(123) Sponsorships and special events was also discussed.

After the discussion, the Commission decided to move forward with a motion to direct the Division to address 185—16(123).

**MOTION: A motion was made by Commissioner Doll and a second by Commissioner Wilson to direct the Administrator and staff to begin the rule making process regarding the reorganization of Chapter 16 with special attention to 16.10 (Tastings, samplings and trade spending), 16.15 (Stocking and product rotation) and 16.17 (Sponsorship and special events).**

**Motion approved unanimously.**

Commissioner Doll and Commissioner Wilson will be on a stakeholder committee regarding trade practices.

**Next Meeting Date: November 12, 2014 @ 1:00 PM in Council Bluffs, IA.**

**ADJOURNMENT**

**MOTION: A motion was made by Commission Nystrom and a second by Commissioner Doll that the commission meeting be adjourned.**

**Motion approved unanimously.**

The meeting adjourned at 2:47 PM