

# AGENDA

## IOWA ALCOHOLIC BEVERAGES COMMISSION MEETING

Old Supreme Court Chamber (Room 103)

Iowa State Capitol

September 22, 2016 – 1:00 PM

Dial in Number: 1.866.685.1580

Conference Code Number: 0009991572

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

- I. Announcements / Opening Remarks
- II. Approval of Agenda – **ACTION ITEM**
- III. Approval of June 23, 2016, and July 27, 2016, Minutes – **ACTION ITEM**

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

- IV. Administrative Rules Update
  - a. Adoption of Administrative Rules – Growlers and Tastings – **ACTION ITEM**
- V. Financial Management Update
  - a. FY16 Highlights
  - b. FY16 Annual Report Timeline
- VI. Attorney General’s Report
- VII. Comprehensive Review of Iowa Code Chapter 123
  - a. Update and Next Steps

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

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

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

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

- 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.



Terry E. Branstad *Governor of Iowa*  
Kim Reynolds *Lieutenant Governor*  
Stephen Larson *Administrator*

September 22, 2016

**TO:** Alcoholic Beverages Commission  
**FR:** Stephen Larson, Administrator  
**RE:** Rulemaking – 185 IAC 4 Liquor Licenses – Beer Permits – Wine Permits;  
185 IAC 16 Trade Practices

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This memo provides an update on the rulemaking activities of the Alcoholic Beverages Division (Division).

### **185 IAC 4 Liquor Licenses – Beer Permits – Wine Permits**

At its June 23, 2016, meeting, the Alcoholic Beverages Commission (Commission) was informed that **185 - 4.6(123) Filling and selling of beer in a container other than the original container by class "C" beer permit holders**, the newly adopted growler rule, unintentionally prevented class "C" beer permit holders and industry members from offering tastes of beer to consumers under any circumstances. After discussing all possible courses of action, the Commission instructed Division staff to provide a proposed corrective amendment to the rule.

On July 22, 2016, the Commission received, reviewed, and approved the Division's proposed corrective amendment. The Commission directed the Division to begin the formal rulemaking process to amend **185 - 4.6(123) Filling and selling of beer in a container other than the original container by class "C" beer permit holders**.

Notice of Intended Action was published in the Iowa Administrative Bulletin as ARC 2679C on August 17, 2016. The period for public comment ended on September 6, 2016, and no written or oral comments were received. The Division appeared before the Administrative Rules Review Committee on September 13, 2016. The first possible adoption date for the Noticed rule was September 21, 2016. A timeline showing the adopted filing deadline and first possible effective date is attached to this memo.

### **185 IAC 16 Trade Practices**

The Division has not initiated the rulemaking process to update **185 IAC 16.15(123) Sponsorships and special events**.

IOWA ALCOHOLIC BEVERAGES DIVISION PROPOSED RULE-MAKING DOCKET

Written submissions on all proposed rules may be inspected at the offices of the Iowa Alcoholic Beverages Division, located at 1918 SE Hulsizer Road, Ankeny, IA 50021 during regular business hours. Written requests related to proposed rules may be mailed to the attention of the RULES COORDINATOR, at same address.

PENDING RULE-MAKING PROCEEDING	SUBJECT MATTER	NOTICE SUBMISSION DEADLINE*	NOTICE PUBLICATION DATE	ARC	END DATE FOR WRITTEN COMMENT PERIOD	PUBLIC HEARING TO RECEIVE ORAL COMMENT	ADMINISTRATIVE RULES REVIEW COMMITTEE/ HEARING Y/N	FIRST POSSIBLE ADOPTION DATE**	ADOPTED FILING DEADLINE	ADOPTED & FILED PUBLICATION DATE	ARC	FIRST POSSIBLE EFFECTIVE DATE
185-4.6	Filling and selling of beer in a container other than the original container by class "C" beer permit holders	July 29, 2016	August 17, 2016	2679C	September 6, 2016	September 9, 2016	September 13, 2016	September 21, 2016	September 23, 2016	October 12, 2016		November 16, 2016

\* Actions prior to notice submission: Share with Commission and Stakeholders, Consideration of comments received, Commission approval to file Notice, I-GOV ARC pre-clearance.

Item 1. Amend paragraph **4.6(5)“a”** as follows:

*a.* Beer shall ~~not~~ only be consumed on the premises of a class “C” beer permit holder for a tasting in accordance with rule 185—16.7(123).

Item 2. Amend paragraph **4.6(5)“h”** as follows:

*h.* An original container shall only be opened ~~by the permittee or the permittee’s employees~~ on the licensed premises for the limited ~~purpose~~ purposes of filling or refilling a growler as provided in this rule, or for a tasting in accordance with rule 185—16.7(123).



**Financial Overview of Final FY16 Numbers Including Hold  
Open Period**



## ABD Metrics July 1, 2015 - June 30, 2016

### Final FY16 Numbers Including Hold Open Period

Metric	FY2015	FY2016	Actual	5 Year Average	4 Year Average
Total Liquor Sales YTD	\$277,706,515.00	\$288,908,790.00	4.03%	5.50%	4.50%
12 Month Moving Average June	\$23,142,209.00	\$24,075,732.00	4.03%	5.50%	4.50%
Split Case Fee	\$1,426,902.00	\$1,493,939.00	4.70%		
Bottle Deposit Revenue	\$2,385,737.00	\$2,597,867.00	8.89%		
Substance Abuse Reversion	\$19,539,339.00	\$20,328,191.00	4.04%		
Liquor Profits Reversion	\$89,697,323	\$91,460,077	1.97%		
Total General Fund Reversion	\$109,236,662	\$111,788,268	2.34%		
Average Monthly Order Volume	4,174	4,624	10.78%		
Average Monthly Case Volume	168,792	174,333	3.28%		
Average Monthly Bottle Volume	1,730,761	1,841,006	6.37%		
Total Freight Cost per Case	\$1.33	\$1.25	-6.02%		
Driver Cost per Case	\$0.72	\$0.70	-2.78%		
Total Warehouse Operation Cost Per Case	\$0.82	\$0.88	7.32%		
Warehouse Worker Cost per Case	\$0.74	\$0.80	8.11%		

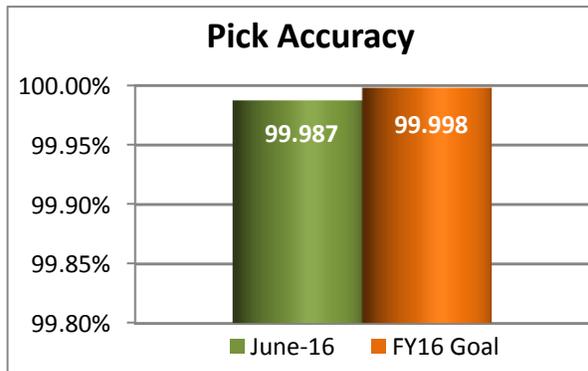
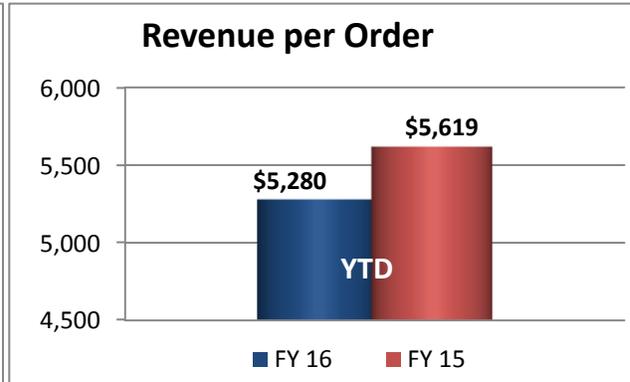
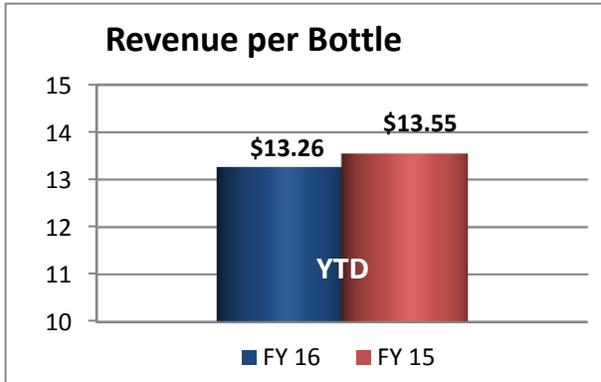
### Key Performance Indicators (KPIs) Benchmarks

Metric	ABD FY2015 Actual	ABD FY2016 Actual	Best in Class Benchmark	Median Industry Benchmark
Distribution Cost as a % of Sales	3.07%	3.23%	2.04%	5.00%
Distribution Cost as a % of Cost of Goods Sold	4.70%	4.93%	<1.6%	6.05%
Distribution Cost Per Unit Shipped	\$0.410	\$0.420	\$0.30	\$1.04

Iowa ABD  
Monthly Financial Meeting

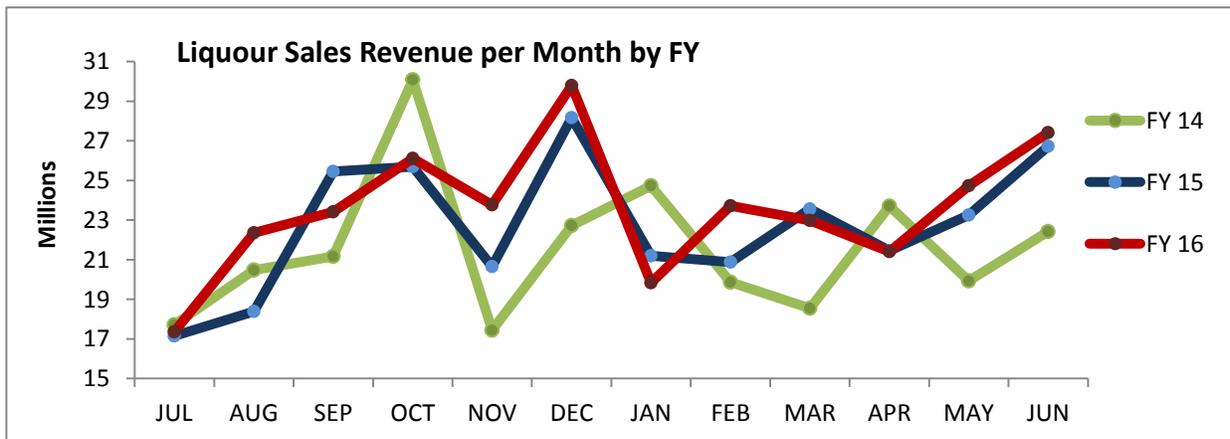
**FY 2016 YEAR END COMPARISON - YEAR OVER YEAR- CASH BASIS**

Category	FY 2016	FY 2015	% Change
Liquor Sales	288,908,790	277,706,515	4.03%
Split Case Fee	1,493,939	1,426,902	4.70%
Bottle Dep and Sur	2,597,867	2,385,737	8.89%
<b>Total Revenue</b>	<b>293,000,596</b>	<b>281,519,154</b>	<b>4.08%</b>
Orders	55,491	50,098	10.76%
Bottles	22,092,802	20,769,142	6.37%



### July-June Average Sale Days Comparison

Jul - Sep	0
Oct - Dec	0
Jan-Mar	1
Apr	-2
May	2
Jun	0
<b>Total For FY</b>	<b>1</b>

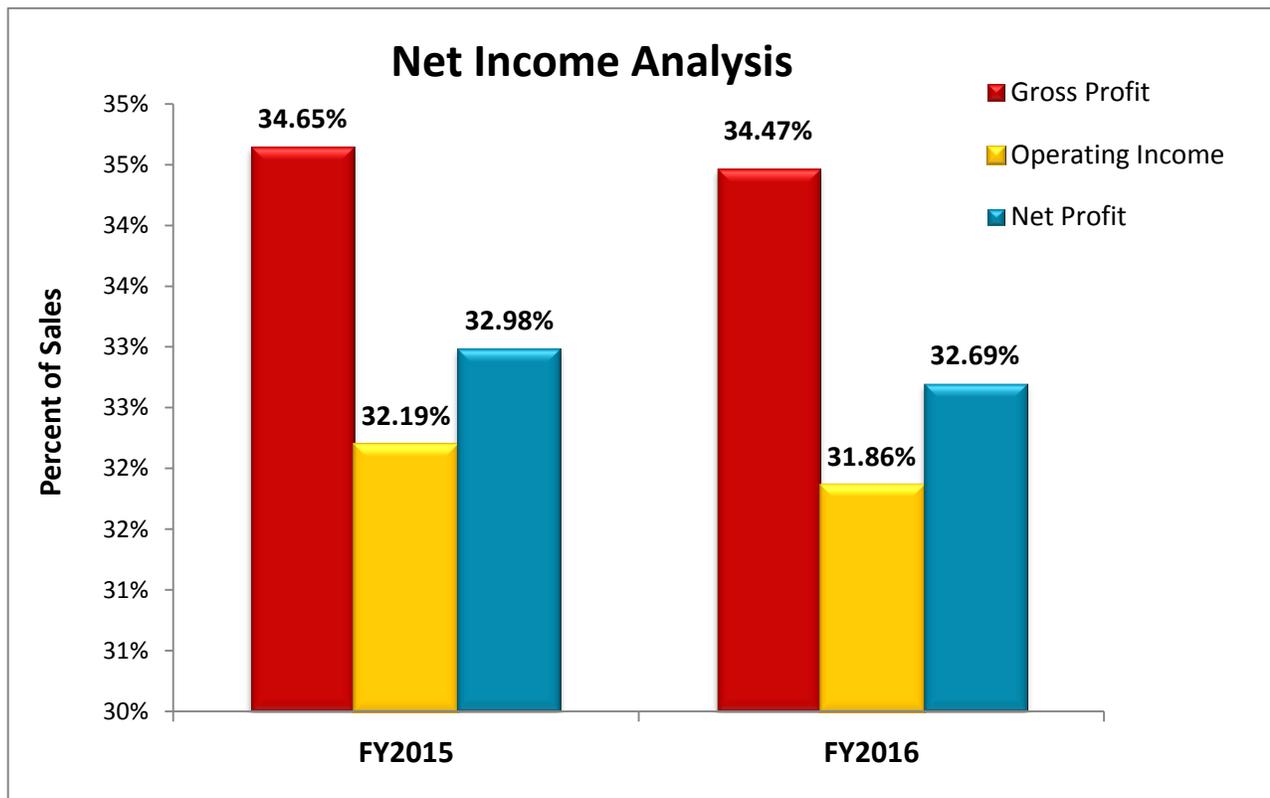


## Net Income Analysis YTD July - June FY2016 Final Numbers Including Hold Open \*

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

Category	FY2015	FY2016	% Change	Amount Change
Gross Profit	96,213,786	99,572,907	3.49%	\$ 3,359,121.00
Operating Income	89,403,135	92,054,848	2.97%	\$ 2,651,713.00
Net Profit	91,591,578	94,452,410	3.12%	\$ 2,860,832.00
Net Sales	277,706,515	288,908,790	4.03%	\$ 11,202,275.00

Percent Of Sales	FY2015	FY2016	% Change	Amount Change
Gross Profit	34.65%	34.47%	-0.52%	-0.18
Operating Income	32.19%	31.86%	-1.03%	-0.33
Net Profit	32.98%	32.69%	-0.88%	-0.29



**Iowa ABD**  
**Profit and Loss Statement-Accrual Basis**  
**Final FY16 Numbers Including Hold Open Period**

	YTD FY 2015	YTD FY 2016	FY16 vs. FY15 % Chg.	FY16 vs. FY15 Amount Chg.
<b>Liquor Sales Revenue</b>	<b>277,706,515</b>	<b>288,908,790</b>	<b>4.03%</b>	<b>11,202,275</b>
<b>Cost of Sales</b>				
Bailment	184,001,456	191,821,836	4.25%	7,820,380
Less: Bailment Fees	(2,025,505)	(2,092,003)	3.28%	(66,498)
Less: Special Handling Fees	(405,492)	(324,638)	-19.94%	80,854
Less: Defective Products	(77,730)	(69,312)	-10.83%	8,418
<b>Total Cost of Sales</b>	<b>181,492,729</b>	<b>189,335,883</b>	<b>4.32%</b>	<b>7,843,154</b>
<b>Gross Profit</b>	<b>96,213,786</b>	<b>99,572,907</b>	<b>3.49%</b>	<b>3,359,121</b>
<b>Gross Profit %</b>	<b>34.6%</b>	<b>34.5%</b>	<b>-0.29%</b>	<b>-0.10%</b>
<b>Operating Expenses</b>				
Freight Expenses	2,703,541	2,625,272	-2.90%	(78,269)
Warehouse Expenses	1,662,697	1,850,231	11.28%	187,534
Other Expenses Related To Distribution	1,930,246	468,688	-75.72%	(1,461,558)
<b>Total Operating Expenses</b>	<b>6,296,484</b>	<b>4,944,191</b>	<b>-21.48%</b>	<b>(1,352,293)</b>
<b>General and Administrative Expenses</b>				
Warehouse Administration	552,411	638,630	15.61%	86,219
Product Administration	387,387	471,049	21.60%	83,662
Accounting	438,952	459,861	4.76%	20,909
Information Technology	1,027,739	2,241,770	118.13%	1,214,031
Buildings and Grounds	353,049	451,766	27.96%	98,717
<b>General and Administrative Expense Total</b>	<b>2,759,538</b>	<b>4,263,076</b>	<b>54.49%</b>	<b>1,503,538</b>
<b>Income from Operations</b>	<b>87,157,764</b>	<b>90,365,640</b>	<b>3.68%</b>	<b>3,207,876</b>
<b>Other Revenues</b>				
Split Case Fee	1,426,902	1,493,939	4.70%	67,037
Bottle Deposit/Surcharge	2,385,737	2,597,867	8.89%	212,130
Recycling	18,111	23,409	29.25%	5,298
Fuel and Lease Reimbursement	11,944	29,296	145.28%	17,352
Lease Revenue	79,950	81,617	2.09%	1,667
<b>Total Other Revenues</b>	<b>3,922,644</b>	<b>4,226,128</b>	<b>7.74%</b>	<b>303,484</b>
<b>Other Expenses</b>				
Bottle Deposit Fee	534,945	563,914	5.42%	28,969
Recycle Surcharge Fee	1,203,458	1,266,757	5.26%	63,299
Liquor Refunds	(4,202)	(2,105)	-49.90%	2,097
Substance Abuse Transfer	19,539,339	20,328,191	4.04%	788,852
Sunday Sales Transfer to IDPH	907,891	944,257	4.01%	36,366
<b>Total Other Expense</b>	<b>21,273,540</b>	<b>22,156,757</b>	<b>4.15%</b>	<b>883,217</b>
<b>Net Profit</b>	<b>69,806,868</b>	<b>72,435,011</b>	<b>3.76%</b>	<b>2,628,143</b>
<b>Return on Sales</b>	<b>25.1%</b>	<b>25.1%</b>	<b>0.00%</b>	<b>0.00%</b>



**Financial Overview YTD through August FY17**



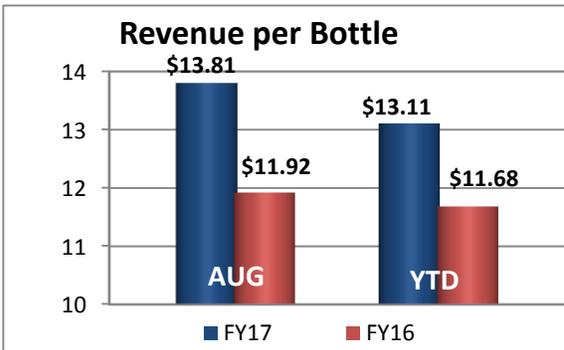
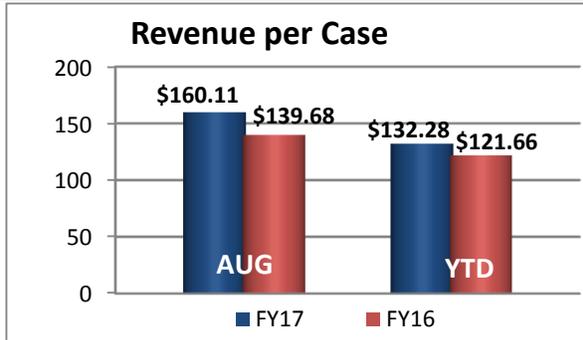
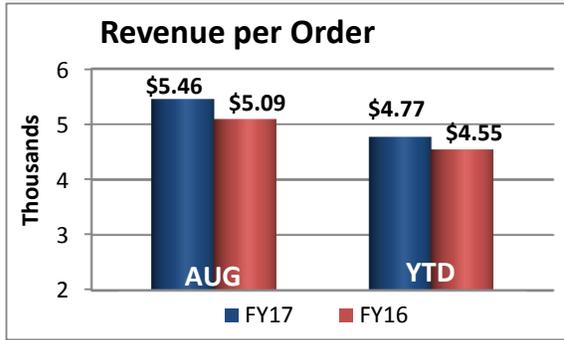
## ABD Metrics July 1, 2016 - August 31, 2016

### FY 17 Current YTD Financial Analysis

Metric	FY2016	FY2017	Trend	5 Year Average	4 Year Average
<b>Total Liquor Sales YTD</b>	\$39,711,241.00	\$43,464,410.00	9.45%	5.50%	4.50%
<b>12 Month Moving Average August</b>	\$23,490,342.00	\$24,388,496.00	3.82%	5.50%	4.50%
<b>Split Case Fee</b>	\$213,499.00	\$232,113.00	8.72%		
<b>Bottle Deposit Revenue</b>	\$357,652.00	\$403,965.00	12.95%		
<b>Substance Abuse Reversion</b>	\$2,794,731.00	\$3,058,756.00	9.45%		
<b>Liquor Profits Reversion</b>	\$13,000,000	\$13,000,000	0.00%		
<b>Total General Fund Reversion</b>	\$15,794,731	\$16,058,756	1.67%		
<b>Average Monthly Order Volume</b>	4,448	4,622	3.91%		
<b>Average Monthly Case Volume</b>	165,554	166,693	0.69%		
<b>Average Monthly Bottle Volume</b>	1,723,847	1,849,164	7.27%		

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

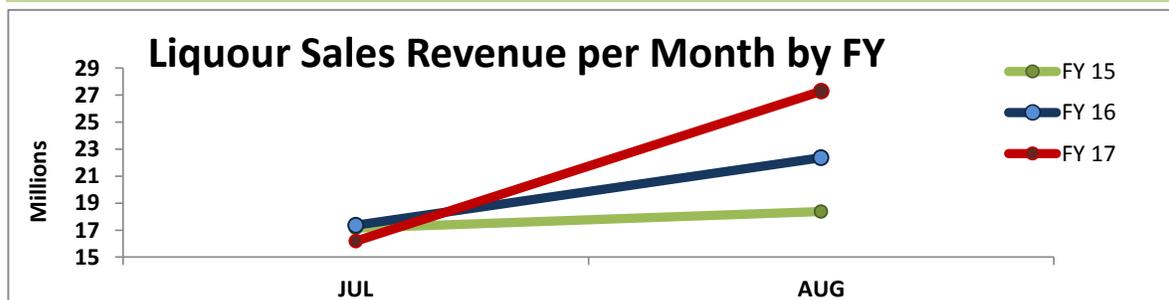
Category	FY 2017	FY 2016	% Change
Liquor Sales	27,281,631	22,356,614	22.03%
Split Case Fee	147,015	118,489	24.07%
Bottle Dep and Sur	258,069	203,341	26.91%
<b>Total Revenue</b>	<b>27,686,715</b>	<b>22,678,444</b>	<b>22.08%</b>
Orders	5,071	4,454	13.85%
Cases	172,926	162,361	6.51%
Bottles	2,005,018	1,729,633	15.92%



JUL-DEC Average Sale Days Comparison	
JUL	-2
AUG	2
SEP	-2
OCT	-1
NOV	1
DEC	-1
<b>Total For FY through DEC</b>	<b>-3</b>

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

Category	FY 2017	FY 2016	% Change
Liquor Sales	43,464,410	39,711,241	9.45%
Split Case Fee	232,114	213,500	8.72%
Bottle Dep and Sur	403,966	357,653	12.95%
<b>Total Revenue</b>	<b>44,100,490</b>	<b>40,282,394</b>	<b>9.48%</b>
Orders	9,245	8,857	4.38%
Cases	333,387	331,109	0.69%
Bottles	3,698,329	3,447,695	7.27%

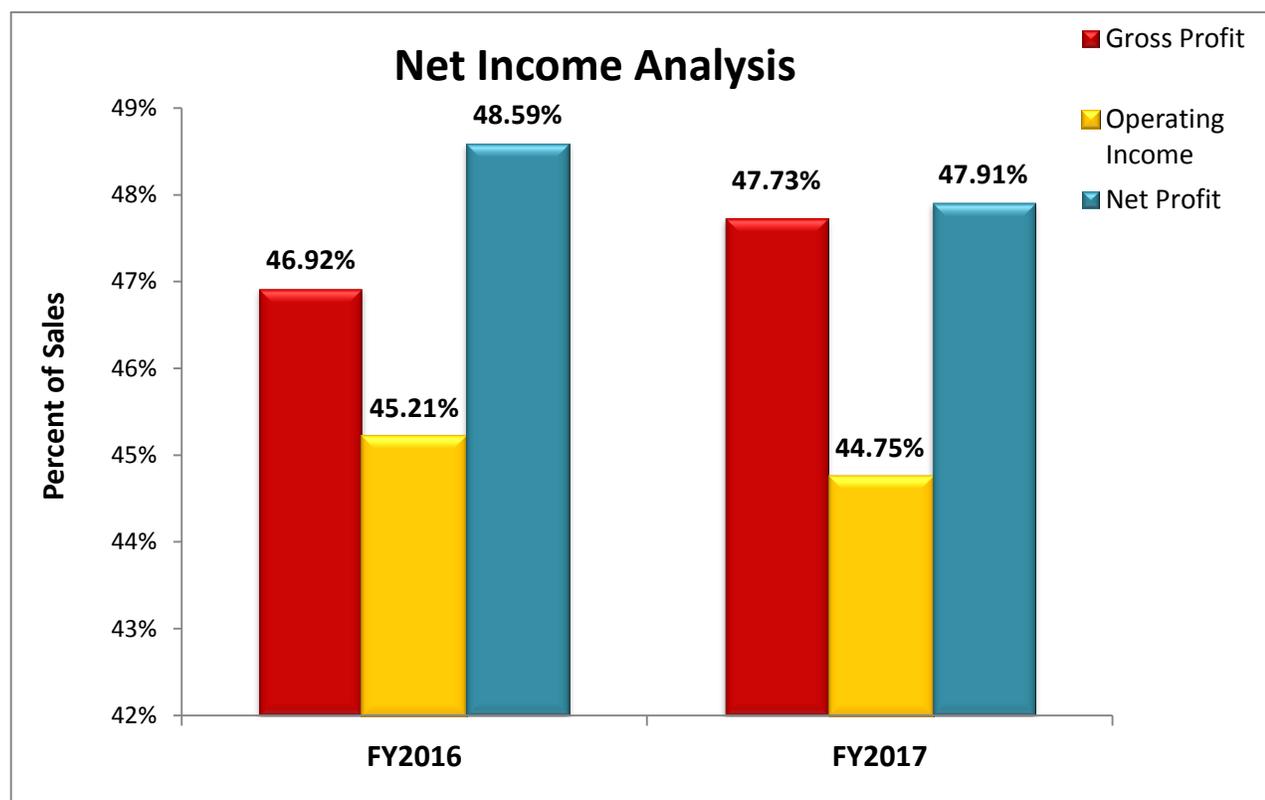


## Net Income Analysis YTD August 2017\*

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

Category	FY2016	FY2017	% Change	Amount Change
Gross Profit	18,631,485	20,745,241	11.35%	\$ 2,113,756.00
Operating Income	17,953,477	19,450,322	8.34%	\$ 1,496,845.00
Net Profit	19,295,677	20,823,130	7.92%	\$ 1,527,453.00
Net Sales	39,711,241	43,464,410	9.45%	\$ 3,753,169.00

Percent Of Sales	FY2016	FY2017	% Change	Amount Change
Gross Profit	46.92%	47.73%	1.73%	0.81
Operating Income	45.21%	44.75%	-1.02%	-0.46
Net Profit	48.59%	47.91%	-1.40%	-0.68



Iowa ABD  
FY 17 Profit and Loss Statement-Accrual Basis  
Through August 31, 2016

	August FY 2016	August FY 2017	August FY17 vs. FY16 % Chg.	August 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>22,356,614</b>	<b>27,281,631</b>	<b>22.03%</b>	<b>4,925,017</b>	<b>39,711,241</b>	<b>43,464,410</b>	<b>9.45%</b>	<b>3,753,169</b>
<b>Cost of Sales</b>								
Bailment	14,344,367	15,591,362	8.69%	1,246,995	21,351,291	23,007,386	7.76%	1,656,095
Less: Bailment Fees	(159,548)	(169,666)	6.34%	(10,118)	(236,421)	(250,958)	6.15%	(14,537)
Less: Special Handling Fees	(14,863)	(23,470)	57.91%	(8,607)	(26,323)	(29,386)	11.64%	(3,063)
Less: Defective Products	(6,994)	(6,275)	-10.28%	719	(8,791)	(7,872)	-10.46%	919
<b>Total Cost of Sales</b>	<b>14,162,962</b>	<b>15,391,951</b>	<b>8.68%</b>	<b>1,228,989</b>	<b>21,079,756</b>	<b>22,719,170</b>	<b>7.78%</b>	<b>1,639,414</b>
<b>Gross Profit</b>	<b>8,193,652</b>	<b>11,889,680</b>	<b>45.11%</b>	<b>3,696,028</b>	<b>18,631,485</b>	<b>20,745,241</b>	<b>11.35%</b>	<b>2,113,756</b>
<b>Gross Profit %</b>	<b>36.65%</b>	<b>43.58%</b>	<b>18.91%</b>	<b>6.93%</b>	<b>46.92%</b>	<b>47.73%</b>	<b>1.73%</b>	<b>0.81%</b>
<b>Operating Expenses</b>								
Freight Expenses	138,538	261,586	88.82%	123,048	269,431	397,797	47.64%	128,366
Warehouse Expenses	128,193	227,764	77.67%	99,571	199,693	289,110	44.78%	89,417
Other Expenses Related To Distribution	-	-	#DIV/0!	-	-	-	#DIV/0!	-
<b>Total Operating Expenses</b>	<b>266,731</b>	<b>489,350</b>	<b>83.46%</b>	<b>222,619</b>	<b>469,124</b>	<b>686,907</b>	<b>46.42%</b>	<b>217,783</b>
<b>General and Administrative Expenses</b>								
Warehouse Administration	28,371	255,020	798.88%	226,649	43,512	271,014	522.85%	227,502
Product Administration	25,244	44,861	77.71%	19,617	39,524	58,234	47.34%	18,710
Accounting	29,670	57,916	95.20%	28,246	45,572	72,641	59.40%	27,069
Information Technology	39,711	137,991	247.49%	98,280	44,919	155,309	245.75%	110,390
Buildings and Grounds	28,072	42,826	52.56%	14,754	35,357	50,815	43.72%	15,458
<b>General and Administrative Expense Total</b>	<b>151,068</b>	<b>538,614</b>	<b>256.54%</b>	<b>387,546</b>	<b>208,884</b>	<b>608,012</b>	<b>191.08%</b>	<b>399,128</b>
<b>Income from Operations</b>	<b>7,775,853</b>	<b>10,861,716</b>	<b>39.69%</b>	<b>3,085,863</b>	<b>17,953,477</b>	<b>19,450,322</b>	<b>8.34%</b>	<b>1,496,845</b>
<b>Other Revenues</b>								
Split Case Fee	118,489	147,015	24.07%	28,526	213,500	232,114	8.72%	18,614
Bottle Deposit/Surcharge	203,341	258,068	26.91%	54,727	357,653	403,965	12.95%	46,312
Recycling	1,427	1,749	22.56%	322	1,947	1,781	-8.53%	(166)
Fuel and Lease Reimbursement	-	-	0.00%	-	-	-	0.00%	-
Lease Revenue	-	-	0.00%	-	-	-	-	-
<b>Total Other Revenues</b>	<b>323,257</b>	<b>406,832</b>	<b>25.85%</b>	<b>83,575</b>	<b>573,100</b>	<b>637,859</b>	<b>11.30%</b>	<b>64,759</b>
<b>Other Expenses</b>								
Bottle Deposit Fee	53,795	59,299	10.23%	5,504	53,795	59,299	10.23%	5,504
Recycle Surcharge Fee	121,362	132,593	9.25%	11,231	121,362	132,593	9.25%	11,231
Liquor Refunds	-	537	0.00%	537	(1,869)	537	0.00%	2,406
Substance Abuse Transfer	1,221,475	1,138,751	-6.77%	(82,724)	1,221,475	1,138,751	-6.77%	(82,724)
Sunday Sales Transfer IDPH	944,257	927,378	-1.79%	(16,879)	942,388	927,378	-1.59%	(15,010)
<b>Total Other Expense</b>	<b>2,340,889</b>	<b>2,258,558</b>	<b>-3.52%</b>	<b>(82,331)</b>	<b>1,394,763</b>	<b>1,331,180</b>	<b>-4.56%</b>	<b>(63,583)</b>
<b>Net Profit</b>	<b>5,758,221</b>	<b>9,009,990</b>	<b>56.47%</b>	<b>3,251,769</b>	<b>17,131,814</b>	<b>18,757,001</b>	<b>9.49%</b>	<b>1,625,187</b>
<b>Return on Sales</b>	<b>25.8%</b>	<b>33.0%</b>	<b>28.22%</b>	<b>7.27%</b>	<b>43.1%</b>	<b>43.2%</b>	<b>0.03%</b>	<b>0.01%</b>

## **Annual Report Requirements**

The Division is required to prepare an annual report each year to the Governor as required by Iowa Code section 123.16. The report contains agency information from the previous fiscal year (July 1 through June 30). Additionally, the report includes all funds on hand and the sources from which the funds are derived as well as the total quantity and kinds of liquor sold and comparisons to sales reports from previous years. Additionally, the annual report reflects the number of alcohol licenses and permits issued, license and permit fees collected by the Division and the number of licenses suspended or revoked.

### **123.16 Annual report.**

The commission shall cause to be prepared an annual report to the governor of the state, ending with June 30 of each fiscal year, on the operation and financial position of the division for the preceding fiscal year. The report shall include but is not limited to the following information:

1. Amount of profit or loss from division operations.
2. The current balance of the beer and liquor control fund, and the amount transferred from the fund to the treasurer of state during the period covered by the report.
3. All other funds on hand and the source from which derived.
4. The total quantity and particular kind of alcoholic liquor sold.
5. The increase or decrease of liquor sales from the previous reporting period.
6. The number of liquor control licenses, wine permits, and beer permits issued, by class, the number in effect on the last day included in the report, and the number which have been suspended or revoked during the period covered by the report.
7. Amount of fees paid to the division from liquor control licenses, wine permits, and beer permits, in gross, and the amount of liquor control license fees returned to local subdivisions of government as provided under this chapter.

[C35, §1921-f53; C39, §1921.053; C46, 50, 54, 58, 62, 66, 71, §123.53; C73, 75, 77, 79, 81, §123.55]

85 Acts, ch 32, §48; 86 Acts, ch 1246, §748; 2013 Acts, ch 35, §22; 2015 Acts, ch 30, §204 C2016, §123.16

Former §123.16 transferred to §123.8; 2015 Acts, ch 30, §204

Section transferred from §123.55 in Code 2016 pursuant to directive in 2015 Acts, ch 30, §204

Thu May 19 07:34:39 2016 Iowa Code 2016, Section 123.16 (15, 8)

## **Fiscal Year 2016 Annual Report-Timeline**

October–November – Drafting of annual report by ABD staff.

November 14 – Draft of annual report is submitted to the Administrator.

November 23 – Administrator forwards final draft to the Commission for review.

Post-Thanksgiving – Telephonic meeting of the Commission to approve annual report.

December 5 – Annual report is submitted to Governor and Lt. Governor.



## **Comprehensive Review of Iowa Code Chapter 123 Working Group Meeting Dates**

- September 28, 2:00 – 4:00 p.m.
- October 12, 2:00 – 4:00 p.m.
- October 27, 2:00 – 4:00 p.m.
- November 10, 2:00 – 4:00 p.m.
- November 29, 10:00 a.m. – 12:00 p.m.
- December 13, 2:00 – 4:00 p.m.

All meetings will be held at the FFA Enhancement Center on the DMACC campus (1055 SW Prairie Trail Parkway, Ankeny, IA 50023).



## **Comprehensive Review of Iowa Code Chapter 123 Working Group Meeting**

Urbandale Public Library  
3520 86<sup>th</sup> St., Urbandale, IA 50322  
September 9, 2016

### **MINUTES**

**Working Group Members Present**

Debi Durham, Co-Chair; Director, Iowa Economic Development Authority  
Stephen Larson, Co-Chair; Administrator, Iowa Alcoholic Beverages Division  
Jay Wilson, Member; Chair, Iowa Alcoholic Beverages Commission/Iowa Grocery Industry  
Robert Fahr, Member; President, Iowa Wholesale Beer Distributors Association  
Dave Ropte, Member; President, Iowa Brewers Guild  
Cassie Bott, Member; President, Iowa Wine Growers Association  
Garrett Burchett, Member; Iowa Micro-distillery Industry  
Rick Przebieda, Member; Chair, National Alcohol Beverage Control Association Industry  
Advisory Committee  
Matt Johnson, Member; Chairman of the Board, Iowa Restaurant Association  
Matt Hanlin, Member; Independent Class “E” Licensee – Benz Beverage Depot  
Jeff McGinness, Member; Specialty Retailer – WineStyles – Tasting Station, Inc.  
Roxann Ryan, Member; Commissioner, Iowa Department of Public Safety  
John Gray, At-Large Member

**Working Group Members Absent**

Rick Hunsaker, At-Large Member

**Alcoholic Beverages Division Staff Present**

Stephanie Strauss, Government Relations  
John Lundquist, Assistant Attorney General  
Robert Bailey, Public Information Officer  
Erin Bothwell, Education and Outreach Program Planner  
Jake Holmes, Education and Outreach Program Planner  
Tyler Ackerson, Assistant to the Administrator

**Economic Development Authority Staff Present**

Jennifer Klein, Legislative Liaison and Compliance Counsel  
Tina Hoffman, Marketing and Communications Director

**Members of the Public Present**

Adam Pudenz, Hubris Brewing Co.  
Jacob Mason, Hubris Brewing Co.  
Brad Epperly, Nyemaster Goode  
Howard Beck, Illinois Casualty Company  
Tim Lanphier, L&L Distributing  
Jeff Quint, Cedar Ridge  
Nathan Cooper, Iowa Wholesale Beer Distributors Association  
E. John Broadbent, Broadbent Distillery  
Craig Patterson, Travel Federation/Iowa Behavioral Health Association

Michael DuPre, LS2 Group  
J. Wilson, Iowa Brewers Guild  
Steven Becker, Twisted Vine Brewery  
Tim Negrete, Mistress Brewing Company  
Libbey Patton, Clear Lake Area Chamber of Commerce  
Bob Wersen, Tassel Ridge Winery  
Sharman Wersen, Tassel Ridge Winery  
Jake Heard, Iowa Senate Republicans  
Jeremy Thompson, Sazerac  
Ron Mark, Summerset Winery  
Mackenzie Nading, House Republicans Caucus Staff  
Brittany Telk, House Republicans Caucus Staff  
Peter Faber, Barn City Brewing  
Mike Brewington, Iowa Beverage Systems  
Theresa Kehoe, Senate Democrats  
Tom Cope, Iowa Distillery Alliance  
Pete McRoberts, Iowa Brewers Guild  
Sam Crowder, Southern Glazer's  
Matt Eide, Iowa Wine Growers/Kum & Go  
Michael L. White, ISU Extension  
Meagen Wentz, Prairie Ridge/AC4C  
Alex Brewington, Iowa Beverage Systems  
Wes Ehrecke, Iowa Gaming Association  
Christin Mechler, Legislative Services Agency  
Tim Coonan, Davis Brown Law Firm  
Jessica Dunker, Iowa Restaurant Association  
Brian Guillaume, House Democrats  
Natasha Sayles, Winefest Des Moines  
Justin Garretson, East Grove Farms Winery  
Lance Lange, Faegre Baker Daniels/Templeton Rye  
Charley Campbell, Kum & Go  
John Cacciatore, DISCUS  
Paula Feltner, Iowa Wholesale Beer Distributors Association  
Erin Murphy, Lee Newspapers  
Karie Terhark, AC4C  
Brienne Pfannenstiel, Des Moines Register

## **CALL TO ORDER**

Co-Chair Debi Durham called the meeting to order at 2:02 p.m. She introduced herself and recognized Co-Chair Stephen Larson for his opening remarks.

## **OPENING REMARKS**

Co-Chair Larson delivered and submitted his opening remarks for the record. They read as follows:

*Thank you, Director Durham.*

*Good afternoon and welcome to our kickoff meeting. Thank you all for being here.*

*I'll begin by stating what I believe to be the obvious---every one of us has a common interest in alcohol laws, how they work and, most importantly, the public policy aspects of these laws.*

*It's also obvious that questions are being raised and discussions are continuing throughout this state – as well as across the country – with similar content and concerns, such as: Iowa's alcohol laws do not work; they are outdated; they are no longer relevant; laws need to be changed to allow business to grow, to advance tourism, to allow consumers greater access and convenience.*

*The alcoholic beverages industry is changing and much of this shift is the result of consumer demand for new products, convenience, the emergence of technology and new business models that apply pressure to the limits of the three-tier system.*

*The market place has changed and will continue to change. So, as this task force proceeds, we must be thoughtful and methodical with our approach. We must ensure that all stakeholders can bring forth the pros and the cons as well the risks and the rewards.*

*As we develop recommendations, our first measurement must be the public good and that we have in place a responsible system of checks and balances that do not hinder the interests of public health, law enforcement, local authorities, manufactures, distributors or retailers.*

*In Iowa, there are many who believe that our alcohol laws continue to work and that whatever change occurs does not create unintended consequences, and that the three-tier system, which is so important, is maintained.*

*But it's time to enter into a process of determining which laws are still relevant and which laws are not, and to put forth to the public and policy makers why that is the case. We must be cautious of the recent trends to deregulate or worse, ignore, alcohol policies that have proven to be effective since the repeal of Prohibition. Tied house restrictions, the three-tier system and the states' rights to determine alcohol policy have all proven to be largely successful.*

*Director Durham and I appreciate that the task force process that begins officially today is supported by Governor Branstad and Lt. Governor Reynolds. Their support and direction will help to fuel this committee's success.*

*The policies and regulations established after Prohibition have led to a more level playing field for all industry stakeholders while also providing a more orderly and responsible business model.*

*Opportunities do exist for public policy changes to occur.*

*You have all been chosen because of your proven leadership skills and the fact that most of you have spent considerable time in this industry. You all have skin in the game and are here to listen to other perspectives openly and without prejudice.*

*Our industry is evolving – not only in Iowa but across the nation. Pressure from younger consumers wanting everything immediately – and delivered to their doors – and an explosion of entrepreneurial spirit in wine making, beer brewing and distilling have led to a much different landscape than existed when Prohibition was repealed and the federal government determined that liquor regulation was best at the state level.*

*So, once again, Iowa is taking a step as a national leader – this time in reviewing our laws to determine what can be done to make them better without endangering the three-tier system and a regulatory framework that truly has been effective while also ensuring that our laws work to keep our communities safe and healthy. To that end, we must be sure to include local authorities and prevention specialists as part of our conversations. Remember, alcohol is a dangerous drug that needs to be regulated responsibly and those feeling the most impact from alcohol-related problems are often our neighbors.*

*Despite the conclusions to which some in the press have jumped, there is no agenda or specific expectation set out for this group. We are here to listen and to weigh various possibilities with the confidence that all of you have the experience and maturity needed to begin to peel the layers of this regulatory onion.*

*Director Durham and I plan to submit recommendations to the Governor and Lt. Governor at the beginning of the next legislative session. However, my wish is that we keep this group together for a longer period because there is simply so much to consider. I hope that all of you will want to be in this for the long haul.*

*I end my remarks with this final statement. I also believe to be the obvious there may never have been a time where the need to regulate alcohol has been more important to our communities, families and a growing number of businesses. This industry – OUR industry – is changing rapidly and we must be prepared to deal with these changes effectively and fairly.*

*Again, thanks very much for your willingness to serve the state and our industry. I believe that both will benefit greatly from your contributions.*

Co-Chair Larson then recognized Co-Chair Durham for her opening remarks. Co-Chair Durham noted that conversations have been taking place for a number of years regarding having a comprehensive review of Iowa Code chapter 123. She noted the importance of the review being transparent and interactive, which is why Basecamp will be used as a central hub for information sharing and discussion throughout the course of the project. Documents germane to the project, as well as various other documents regarding policies in other states will be uploaded to Basecamp. Access to Basecamp will be given upon request.

Co-Chair Durham listed the objectives of the comprehensive review. The first is to remove redundant and outdated language from chapter 123 and clarify the law. The second is to review the number and types of alcohol licenses and explore ways to streamline the licensing process and reduce red tape. The third is to address impediments to business growth and development in the state of Iowa, in particular regarding breweries, wineries, and distilleries throughout the state.

Co-Chair Durham noted that any changes to current law need to be done in a comprehensive manner as opposed to previous piecemeal legislative solutions to various niche issues which were sought without regard for the overall impact to the three-tier system. She noted that the debate over changes needs to be done in the open and with an understanding of the consequences that would result from changes being made to tiers of the three-tier system.

Co-Chair Durham emphasized that the comprehensive review is not intended to “implode the three-tier system.” Instead, it is an opportunity to challenge parts of the three-tier system in a comprehensive way where all voices are heard. She also emphasized the importance of all changes being responsible, and noted that the working group would be having frequent conversations with members of the public health community.

Co-Chair Durham concluded her remarks by noting that she’s positive that the group will be able to reach a consensus on a responsible plan for changes that will encourage economic growth.

## WORKING GROUP MEMBERS' INTRODUCTIONS AND REMARKS

Members of the working group were given the opportunity to introduce themselves and share remarks.

**Robert Fahr**, president of Fahr Beverage, Inc. in Waterloo and president of the Iowa Wholesale Beer Distributors Association. Mr. Fahr delivered and submitted his remarks for the record. They read as follows:

*I'm Bob Fahr, President of Fahr Beverage Inc in Waterloo and am currently serving my second term as President of the IWBDA.*

*I have been involved in the beer industry my entire life. My Grandfather was a beer wholesaler in Cherokee immediately after Repeal. After a short time, he found his true calling was the farm, and he went back to that. My parents founded our Company in 1958 after buying the beer division from Capitol Tobacco. At that time they represented two breweries, today we represent 41.*

*I began my career as a child cleaning breakage and have been involved with the company in every position since then. I have been fulltime since graduating from college in 1974.*

*I have been around the discussions/legislative activities of the industry my entire life and professional career. Since they are our guiding documents and laws, I'm very familiar with Chapter 123 and 185 along with the historical reasons for changes that have been made to these codes.*

*Our business, as well as the entire alcohol beverage industry, has been built around the three-tier system. We understand that alcohol is an intoxicating substance and regulations surrounding its manufacture, distribution and sale are not intended to maximize its sale, but are designed for the regulation of importation and sale in a controlled market place.*

*We applaud the economic development initiative put forward by the Governor and EDA. We are very proud of the quality jobs provided by the beer distribution industry that, on average, pay almost \$51,000 per year to lowans, which is more than double the average for other industry tiers; and as compared to the Iowa average wage of \$41,000. Another economic factor we're proud of is our products are the consumer of millions of bushels of Iowa corn.*

*What we support: Goals of the three-tier system without further exceptions; strong and consistent enforcement of existing alcoholic beverage and tax law; listening to the needs and wishes of our friends in other segments of the industry; clarifying language that is unclear or does not reflect intent in law or rules*

*As we enter this review of the alcohol industry, we need to ask, "What was the 3-tier system designed for?" Promote temperance and moderation; generate tax revenues and collect them efficiently; provide market access for producers; provide consumer choice.*

*"What was the 3-tier system designed to prevent?" Vertical integration (operation in all three tiers); local monopolies (tied houses); consumption incentives; a return to more restrictive alcohol control or prohibition.*

*As we proceed we need to understand the market. Per capita alcohol consumption is flat, so an increasing number of market participants are jockeying for market share in a pie that is not growing, which increases competition, consumer choice and innovation. This is undoubtedly a good thing for consumers. However, this increases pressure on the industry to ask for exceptions to laws and regulations designed to apply to all industry members equally.*

**Garrett Burchett**, owner of Mississippi River Distilling Co. in LeClaire and representing the Iowa micro-distillery industry. Mr. Burchett shared that he and his brother, Ryan, started Mississippi River Distilling Co. in 2010. He said that since then the Iowa micro-distilling industry has seen tremendous change, but so has the industry in states surrounding Iowa. The laws in surrounding states have grown more favorable to the business practices Mississippi River Distilling Co. would like to engage in, thus creating pressure on the company to consider relocating to another state.

Mr. Burchett stated that he has attempted to seek legislative changes to allow Iowa micro-distilleries to sell drinks by the glass for on-premises consumption, to increase the number of bottles allowed to be sold for off-premises consumption, and to increase production limits on micro-distilleries. He noted that similar changes were made to the beer and wine industries in the past and said he feels there is room for distilleries to receive the same privileges.

**Matt Hanlin**, owner of independent retailer Benz Beverage Depot in Cedar Rapids. Mr. Hanlin said he had no specific law changes he came to the table seeking, but was excited to participate in the process and help wherever he could.

**Jeff McGinness**, director of franchise development and general counsel for WineStyles Tasting Station. Mr. McGinness described WineStyles as a locally- and family-owned franchise system of boutique wine stores and wine bars. He noted that WineStyles is the only national franchise system that operates this specific business model, mostly due to the difficulty in understanding and complying with varying alcohol laws by state.

Given the need to understand various states' alcohol laws, Mr. McGinness said his business is intimately familiar with allowable business practices in other states as well as Iowa. He said he recognizes both the inhibitors and promoters of growth within the laws, as well as the need to balance the needs of public safety and public health.

Mr. McGinness said that he would like the working group to explore ways to promote growth of small businesses. Simultaneously, he would like to explore ways to protect growing in-state small businesses from outside interests. He cited interstate shipping laws and caps on craft beer production and alcohol content as examples.

**Roxann Ryan**, commissioner of the Iowa Department of Public Safety. Ms. Ryan said she approaches the review from the angle of public safety. She said that her primary interaction with Iowa's alcohol laws is through encounters with underage drinking, but noted that through prior experience she found the alcohol laws to be unnecessarily complex. She also expressed concern regarding an increase in the number of deaths within the state connected to high levels of intoxication.

**Rick Przebieda**, chair of the National Alcohol Beverage Control Association (NABCA) Industry Advisory Committee. Mr. Przebieda noted that he has been working in the alcohol industry for 35 years, specifically within the spirits side of the industry.

Mr. Przebieda explained that the Industry Advisory Committee is a group of 15 companies selected by the NABCA board of directors to serve a three-year term. The companies range in size from large, multi-national, publicly-traded companies to mid-sized, privately-owned companies. The Industry Advisory Committee serves as an information resource, particularly for issues affecting control states.

Mr. Przebieda applauded the review effort and noted that other states have successfully examined their alcohol laws and found ways to create a level playing field for those within the alcohol industry. He said that his goal is for any law changes made to allow for the transparent and responsible sale of spirits.

**Matt Johnson**, owner of Barley's in Council Bluffs and chairman of the board of the Iowa Restaurant Association. Mr. Johnson said he has been in business for 17 years, 15 of those at his current location, and has witnessed many changes to Iowa's alcohol laws.

Mr. Johnson said his goal is to update those alcohol laws that are making business difficult within his industry, particularly in a border city. He said that he has witnessed businesses leaving Iowa for Nebraska due to more favorable laws in Nebraska. He cited Iowa's dram shop insurance laws and rules pertaining to glassware as impediments to business.

**Cassie Bott** with Fireside Winery, Ackerman Winery, and president of the Iowa Wine Growers Association. Ms. Bott said her family opened Fireside Winery 10 years ago and recently acquired Ackerman Winery. She said she has served with the Iowa Wine Growers Association for six years.

Ms. Bott said that as the review takes place she hopes that the native wine industry in Iowa is able to keep certain privileges it has acquired over the years, such as self-distribution and being able to sell their products at farmers' markets. She said she would like to see opportunities for native wineries to grow their businesses in rural areas. She also said she

would like to see native wineries be able to sell wine by the glass at additional locations, as well as breweries to have the ability to sell native wine in their taprooms. She stressed that the group must do its due diligence to ensure that the public is being served safely.

**John Gray**, lawyer from Sioux City. Mr. Gray noted his experience with chapter 123 while trying cases, particularly those related to dram shop insurance. He also described himself as an advocate for consumers, serving as an at-large member of the working group and as an avid fan of craft beer.

**Dave Ropte**, owner of 515 Brewing in Clive and president of the Iowa Brewers Guild. Mr. Ropte described a “craft brew renaissance” occurring in Iowa over the past decade, with breweries looking much different today than when Iowa’s alcohol laws were originally written. He said some of the largest beer manufacturers currently operate under a brew pub license, while many smaller beer manufacturers operate under brewery licenses. He said he would like to see the laws changed to align more with today’s business models.

Mr. Ropte said he would like to see more clarity within the law, citing confusion over what can and cannot be done under current law. He also said he would like to see small business growth encouraged in a responsible manner.

**Jay Wilson**, vice president of wine, spirits, and beer with Hy-Vee and chair of the Iowa Alcoholic Beverages Commission. Mr. Wilson noted that he would be wearing two hats throughout the law review process: One as the chair of the Alcoholic Beverages Commission, and the other as a member of Iowa’s grocery industry.

Mr. Wilson encouraged the working group to approach its task with public safety at the forefront, but to also view topics from the perspective of the consumer rather than from the perspective of industry members. He noted that ultimately any action taken by the working group would affect consumers inside and outside of Iowa.

**Rick Hunsaker**, at-large member from Carroll. Co-Chair Larson noted that Mr. Hunsaker was unable to attend the kickoff meeting, but would be serving as an at-large member. He gave a brief background on Mr. Hunsaker, highlighting his 10 years of service on the Iowa Alcoholic Beverages Commission and economic development efforts in western Iowa.

## **MEMBERS OF THE PUBLIC INTRODUCTIONS**

Co-Chair Durham gave all members of the public in attendance the opportunity to introduce themselves (see Members of the Public Present, pp 1-2).

## **PUBLIC COMMENT**

Co-Chair Durham opened the floor for public comment. The following comments were received:

Justin Garretson, East Grove Farms Winery, commented that his winery produces meads and honey wines and experiences difficulty in which types of products they can produce. Currently, East Grove Farms Winery is licensed as a winery allowing them to produce meads

with an alcohol content of 7 percent or higher. Given this floor, there is a segment of low-alcohol meads that the winery is able to sell in Iowa, but not produce. Additionally, they are restricted from making a certain type of mead due to the inability to use barley in the production process due to the license that they hold.

Mr. Garretson also expressed that he would like to see breweries be able to serve his products in their tasting rooms. Currently, breweries are unable to serve the products because they are classified as a wine and breweries are restricted to selling only beer in their tasting rooms.

Adam Pudenz, Hubris Brewing Co., said that he is exploring opening a brewery in the Carroll area. He emphasized that he would like to work closely with local businesses, including a nearby winery, but feels that the current alcohol laws prohibit him from doing so. He urged the working group to consider allowing a brewery to also manufacture spirits.

Libbey Patton, Clear Lake Area Chamber of Commerce, expressed frustration over laws impacting a local beer and wine festival. She urged the working group to take a look at ways laws could be changed to decrease the negative impact they are having at the local level on community events.

Meagan Wentz, Prairie Ridge/AC4C, said she works closely with local retailers to encourage server training for employees. She pointed out that currently server training is optional under Iowa law, and encouraged the working group to consider making server training mandatory. Ms. Ryan added that the Department of Public Safety convened a commission to research impaired driving in Iowa and found that server training was highly regarded as a preventative measure. Mr. Fahr noted that Iowa beer wholesalers have provided server training free of charge in most cases throughout the state for years, as well as developing free ride home programs.

Discussion took place among the working group members regarding server training. A question was asked as to whether there were dram shop insurance premium reductions tied to server training. Howard Beck, Illinois Casualty Company, indicated that most insurance companies offer some type of discount or recognition of server training with their dram shop policies.

Jessica Dunker, Iowa Restaurant Association, commented that if mandatory server training is considered then a thorough review of dram shop laws and whom they apply to must also take place. Co-Chair Larson indicated that due to the complex nature of dram shop insurance laws, a review of those laws would be best undertaken by the Iowa Insurance Division and that the working group would not be addressing dram shop during its review.

### **NEXT MEETING DATES**

Co-Chair Durham announced the future meeting dates, times, and locations (if confirmed):

September 28, 2:00 – 4:00 p.m., Urbandale Public Library

October 12, 2:00 – 4:00 p.m., Location to be determined

October 27, 2:00 – 4:00 p.m., Location to be determined

November 10, 2:00 – 4:00 p.m., Location to be determined

November 29, 10:00 a.m. – 12:00 p.m., Urbandale Public Library

December 13, 2:00 – 4:00 p.m., Location to be determined

She also announced that agendas would be provided before each meeting indicating the topics that would be covered at each meeting. Co-Chair Larson encouraged working group members and attendees to send any agenda item suggestions, as well as court cases germane to alcohol law, industry studies, and any other relevant information to be posted to Basecamp to Tyler Ackerson for review.

#### **ADJOURNMENT**

Co-Chair Durham adjourned the meeting at 3:10 p.m.