

IOWA ALCOHOLIC BEVERAGES COMMISSION

MINUTES

Iowa Alcoholic Beverages Division

September 2, 2020 - 11:00 a.m.

Dial In Number: 1.517.317.3129

Access Code Number: 371.894.925

Commission Members Present

Christine Riesenbeck-Spratt: Chair (via phone)

John Pauli: Member (via phone)

Jay Wilson: Secretary (via phone)

Gary Nystrom: Member (via phone)

Rachel Eubank: Member (via phone)

Division Staff Present

Stephen Larson: Administrator

Herb Sutton: Bureau Chief, Business Operations

Brenda Emelo: Executive Assistant

Lauren Connelly: Administrative Assistant

Anthony Robben: IT Support OCIO

Division Staff via phone

Leisa Bertram: Comptroller

Joshua Happe: Bureau Chief, Regulatory Compliance

Tyler Ackerson: Rules Coordinator

Alexis Miner: Licensing

Nathan Beyer: Administrative Assistant

Nicole Scebold: Product Management

Chuck Crabtree: Program Planner

Denise Roberg: Education & Outreach

Erin Verduyn: Administrative Assistant

Jake Holmes: Education & Outreach

Jason Hohn: Administrative Actions

Jessica Ekman: Tobacco Compliance

Jodi Christensen: Safety Officer

Lolani Lekkas: Administrative Actions

Madelyn Cutler: Administrative Assistant

Scherael Thurston-Shell: Administrative Actions

Dominique McNab: Clerk Specialist

Jonathan Mader: Accountant

Sheila Warrick: Education & Outreach

Janet James: Administrative Assistant

Stephanie Strauss: Government Relations

Martin Moen: OCIO IT Manager

Brandon Trapp: Regulatory Compliance

Nick Gregory: Regulatory Compliance

Paul Swesey: Regulatory Compliance

Sara Jacobson: OCIO

Guests Present via phone

Jeremy Thompson: Sazerac
Marty Rynne: Sazerac
Andrew Deloney: Johnson Brothers
David Adelman: Iowa Wholesale Beer Distributors
Matthew McKinney: Iowa Distilling Company
Scott Oeltjenbruns: Johnson Brothers
Stuart Oxer: Red Boot Distillery
Kevin Hyberger: Deutsch Family
John Cacciatore: DISCUS
Jim Obradovich: Capital Group
Julie Simon: Senate Democratic Caucus
Jacob Sabel: Heaven Hills Brands
Michael Edwards: McCormick Distilling Company
Doug Struyk: Anheuser Busch
Michael Jurgens: Brown Forman
Sam Crowder: Southern Glazer's Wine & Spirits
Jennifer Husmann: Iowa Alliance of Coalitions for Change
Tom Cope: Lobby Iowa
Terry Doherty: E&J Gallo Winery
Brad Epperly: Nyemaster
Eric Goranson: Goranson Consulting
Jessica Dunker: Iowa Restaurant Association
Tom Athey: Heaven Hills Brands
Stacie Schroeder: AC4C
Jenny Dorman: Anheuser Busch
Tara Meier: Ruan
John Lundquist: Assistant Attorney General
Nicole Eilers: Iowa Winegrowers
Joseph Roszman: Campari
Sara Allen: Cornerstone
Kate O'hare-Hayes: Cornerstone
Lynn Walding: Diageo
Scott Petersen: Ruan
Kyle Doyle: Iowa Distilling Company
Marty Wadle: Ruan
Alex Besch: Iowa Wholesale Beer Distributors Association

CALL TO ORDER

Chairperson Spratt called the meeting to order at 11:01 am and roll was taken. The record reflects there was a quorum.

APPROVAL OF AGENDA

MOTION: A motion was made by Commissioner Nystrom and seconded by Commissioner Eubank to approve the agenda for the September 2, 2020 Commission meeting.

Motion approved.

APPROVAL OF MINUTES

MOTION: A motion was made by Commissioner Wilson and seconded by Commissioner Eubank to approve the minutes for the August 4, 2020 Commission meeting.

Motion approved.

ADOPTION OF ADMINISTRATIVE RULES

Commissioner Spratt invited Rules Coordinator Tyler Ackerson to present for adoption the rules published under Notices of Intended Action ARC 5078C and ARC 5111C.

Mr. Ackerson announced that ARC 5078C is the first in a series of rule makings that the Division must present before the Commission due to legislation that passed in 2018 and 2019, which resulted in a number of changes to Iowa Code chapter 123. The Division must follow up to ensure that the rules are in line with the new statutes.

ARC 5078C is non-substantive in nature and simply removes references to pieces of legislation and replaces those with the proper code sections. Mr. Ackerson advised that there were no public comments received during the public comment period and, if adopted, the changes would become effective October 28, 2020.

Mr. Ackerson then invited the Commission to place a vote in favor of the proposed changes for ARC 5078C.

MOTION: A motion was made by Commissioner Nystrom and a second by Commissioner Eubank to adopt the changes for ARC 5078C.

A roll call vote was taken with the following results:

Commission Spratt: yes

Commissioner Nystrom: yes

Commissioner Wilson: yes

Commissioner Eubank: yes

Commissioner Pauli: not present

The Commission adopted the changes in ARC 5078C.

Mr. Ackerson then reviewed ARC 5111C. Mr. Ackerson announced that this rule making was required after the passage of House File 2540, which allowed wine retailers to fill and sell growlers of wine or native wine subject to the rules of the Division. It also allowed certain beer retailers to begin taking orders for beer growlers electronically or over the phone rather than only in person.

The rule making would adopt a new rule to establish how wine retailers may fill, seal, and sell wine growlers. The container requirements and the allowable sealing methods for wine growlers would be the same as what is allowed for beer growlers.

ARC 5111C also amends the beer growlers rule to reflect the updated statute, allowing certain beer retailers to take orders for growlers electronically or over the phone.

There were no public comments received during the public comment period and there were no changes since the rule was published as a Notice of Intended Action. Mr. Ackerson advised that if ARC 5111C is adopted, the changes would become effective October 28, 2020.

Mr. Ackerson then invited the Commission to place a vote in favor of the proposed changes in ARC 5111C.

MOTION: A motion was made by Commissioner Wilson and a second by Commissioner Nystrom to adopt the changes for ARC 5111C.

A roll call vote was taken with the following results:

Commissioner Spratt: yes

Commissioner Nystrom: yes

Commissioner Wilson: yes

Commissioner Eubank: yes

Commissioner Pauli: not present

The Commission adopted the changes in ARC 5111C.

PUBLIC COMMENT

Commissioner Spratt opened the floor for public comments. There were no public comments.

OLD BUSINESS

None

NEW BUSINESS

Mr. Ackerson proposed scheduling a Cocktails To-Go Emergency Rulemaking meeting September 11, 2020.

Mr. Ackerson announced that the Division is getting close to finalizing the rule that addresses the filling, sealing, and selling of cocktails to-go. Mr. Ackerson explained that the alcohol bill, House File 2540 which passed earlier this year, allowed cocktails to be sold to-go and also gave the Division emergency rule-making authority. The emergency rule-making authority means that when the Division files the rule it becomes effective immediately upon filing or on a specified date, rather than going through the normal rule-making process which could take more than 100 days.

Mr. Ackerson also explained that prior to filing the emergency rule, the Commission would need to adopt the rule making and would therefore need to schedule a separate meeting dedicated to the discussion of

the adoption of the cocktails to-go emergency rule. The Commission set a meeting for September 11, 2020.

Administrator Larson provided a brief report by announcing that the leadership team would provide a high level overview of business operations, financial management, education, data analytics, sales trends, licensing, and compliance.

Administrator Larson emphasized updates regarding the deferment of beer and wine tax, Administrative Actions, the Alcoholic Beverages Division's strategy for governing and the regulatory components of ongoing proclamations.

Leisa Bertram, Comptroller, provided an update regarding the deferment of beer and wine tax. Ms. Bertram announced that the current proclamation continues to defer the collection of these taxes. The totals for FY20 that were not deferred will be reported in the Gap package for FY21 as receivables that were not collected in the fiscal year. For the beer tax, a total of \$5,412,000 has been deferred, the beer tax is collected into the general fund. For the wine tax, a total of \$2.67 million, which goes into the Alcoholic Beverages Division fund. There are also native wine and native beer tax amounts that are collected by the Iowa Economic Development Authority. \$36,000 is currently for native beer and \$75,000 in native wine taxes. The total amount deferred overall is currently \$8,195,106.00.

Ms. Bertram advised that a request was sent to the Department of Management to look into beer and wine tax deferment. The request includes information on how much has been deferred, what the totals are supposed to be as far as deposits, as well as a request for an end date. Ms. Bertram will provide an update as more information becomes available.

Ms. Bertram also commented on Direct Shippers reports. These reports are submitted to the Alcoholic Beverages Division by mail, and include a physical check. The Alcoholic Beverages Division was advised to move forward with depositing these funds, which resulted in a total of \$146,000 in Direct Shipper payments. All uncollected funds will be reported in FY21 accordingly.

Ms. Bertram announced that the Alcoholic Beverages Division is currently working on the Annual Report, and commented that the report will include footnotes to account for the effects of the proclamations.

Ms. Bertram gave closing remarks and invited Bureau Chief, Josh Happe to provide an update for Regulatory Compliance.

Mr. Happe provided a high level overview concerning the enforcement initiatives related to Governor Reynolds' proclamation. The regulatory team has received over 337 COVID-19 related complaints and has conducted 618 investigations across the state. The team was able to identify 22 cases that require additional investigative work, 5 of those investigations have been moved to Administrative Actions.

Mr. Happe recognized the investigators for their hard work during this difficult time.

Mr. Happe advised that most licensees are doing their best to adhere to proclamation guidelines.

Mr. Happe gave closing remarks and invited Lolani Lekkas to provide an update for Administrative Actions.

Ms. Lekkas announced that the Administrative Actions Unit has received 3 cases from the Regulatory team as of August 31, 2020. One of the cases has been settled, which resulted in a 21 day suspension,

pending compliance by the licensee. Another case may be closed pending further investigation and findings.

Ms. Lekkas gave closing remarks.

Administrator Larson emphasized the importance of collaborating with local authorities and law enforcement.

Administrator Larson gave closing remarks and announced that the team would plan to provide additional updates at the September 11, 2020 meeting as requested by Mr. Ackerson.

Commissioner Spratt opened the floor to public comments or questions.

PUBLIC COMMENT

No additional public comments were made.

NEXT MEETING DATES

Friday, September 11, 2020 at 10:00 a.m. This will be a tele-meeting.

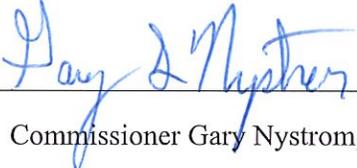
Thursday, November 19, 2020 at 1:00 p.m. This will be a tele-meeting.

ADJOURNMENT

MOTION: A motion was made by Commissioner Spratt and seconded by Commissioner Nystrom to adjourn the meeting.

Motion approved.

The meeting adjourned at 11:40 a.m.



Commissioner Gary Nystrom, Secretary