

IOWA ALCOHOLIC BEVERAGES COMMISSION

MINUTES

Iowa Alcoholic Beverages Division

September 11, 2020 - 10:00 a.m.

Dial In Number: 1.517.317.3117

Access Code Number: 166-643-381

Commission Members Present

Christine Riesenbeck-Spratt: Chairperson via telephone

Gary Nystrom: Secretary

Rachel Eubank: Member via telephone

Jay Wilson: Member via telephone

John Pauli: Member via telephone

Division Staff Present

Stephen Larson: Administrator

Herb Sutton: Bureau Chief, Business Operations

Brenda Emelo: Assistant to the Administrator

Lauren Connelly: Administrative Assistant

Anthony Robben: OCIO

Stephanie Strauss: Executive Officer

Division Staff (via telephone)

Joshua Happe: Bureau Chief, Regulatory Compliance

Leisa Bertram: Comptroller

Martin Moen: IT Manager

Lolani Lekkas: Administrative Actions

Erin Verduyn: Administrative Assistant

Madelyn Cutler: Administrative Assistant

Nicole Scebold: Product Management

Alexis Minder: Licensing

Tyler Ackerson: Rules Coordinator

Dominique McNab: Clerk Specialist

Scherael Thurston-Shell: Compliance Officer

Brian Drewry: Compliance Officer

Chuck Crabtree: Program Planner 2

Deanne Krumm: Compliance Officer

Jake Holmes: Education & Outreach

Jessica Ekman: Tobacco Compliance

Jonathan Mader: Accounting

Guests Present (via phone)

Lynn Walding: Diageo
Winn Atkins: Diageo
Jennifer Husmann: ASAC
Jeremy Thompson: Sazerac
Jessica Dunker: Iowa Restaurant Association
John Lundquist: Assistant Attorney General
Kevin Hyberger: Deutsch Family Wine & Spirits
Ryan Brown: Ruan
Stuart Oxer: Red Boot Distillery
Kyle Doyle: Iowa Distilling Company
Angel Banks-Adams: Legislative Services Agency
Scott Petersen: Ruan
Joe Roszman: Campari Group
Andrew Deloney: Johnson Brothers
Scott Oeltjenbruns: Johnson Brothers
Marty Wadle: Ruan
Lyle Stutzman: Johnson Brothers
Terry Doherty: E&J Gallo Winery
David Adelman: Cornerstone
Katelyn OHare-Hayes: Cornerstone
Deb Scrowther: Iowa Department of Management
Greg King: Southern Glazer's Wine and Spirits
Lance Cheney: Ruan
Nicole Eilers: Iowa Wine Growers Association
Mike Jurgens: Brown Forman Corporation

CALL TO ORDER

Chairperson Spratt called the meeting to order at 10:00 a.m. and roll was taken. There was a quorum.

APPROVAL OF AGENDA

MOTION: A motion was made by Commissioner Nystrom and seconded by Commissioner Wilson to approve the agenda for the June 23, 2020 Commission meeting.

Motion approved.

APPROVAL OF MINUTES

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

Motion approved.

ADMINISTRATOR'S REPORT

Administrator Larson began his report by introducing DeMario Luttrell as Public Service Manager. Mr. Luttrell will assist Bureau Chief, Josh Happe, within the Regulatory Compliance Department and will oversee the Alcohol Compliance unit.

Mr. Luttrell gave opening remarks and announced that the regulatory team will primarily focus on COVID-19 related enforcement initiatives. Mr. Luttrell reported that as of this week, ABD has received 378 complaints and has conducted over 618 onsite inspections. From these, 23 resulted in formal investigative cases; 13 stemmed from complaints and 10 from onsite inspections. 7 additional cases were turned over to Administrative Actions due to insufficient evidence and there are 9 pending investigations.

Mr. Luttrell invited Lolani Lekkas to provide a brief update regarding Administrative Actions.

Ms. Lekkas announced that the Administrative Actions unit has filed 3 hearing complaints and there were 5 additional COVID-19 cases submitted for review. Ms. Lekkas gave closing remarks and invited the Commission to ask questions. There were no questions.

Administrator Larson emphasized the importance of developing efficient strategies for conducting inspections, gathering sufficient evidence, collaborating with the Attorney General's office regarding due process, appeals, hearings and public records. Administrator Larson invited the Commission to voice any concerns regarding ABD's due process.

Administrator Larson invited Leisa Bertram, Comptroller, to present the financial management report.

Ms. Bertram reported the following:

- August sales period is now closed, which resulted in a total of 34 million in sales for the month.
 - 22.7% increase over previous years.
- Beer & Wine tax deferment
 - Governor Reynolds' proclamation continues to defer beer and wine tax payments.
- YTD sales are now at 62 million; a 16.7% increase.

Commissioner Spratt invited Rules Coordinator, Tyler Ackerson to provide an update regarding Emergency Rulemaking for Cocktails To-Go.

Mr. Ackerson provided an overview of how ABD arrived at the final draft of the rule, a walkthrough of the rule itself and explained the rationale of certain provisions under the rule.

Mr. Ackerson also highlighted details from the meeting with the Department of Transportation (DOT) and the Department of Public Safety (IDPS) stating the following:

- Both departments are essential to this ruling because alcohol is being transported in the passenger area of motor vehicles and both departments are jointly responsible for enforcing Iowa Code Chapter 321 which is titled Motor Vehicles and Law of the Road.

- DOT is responsible for administering federal funds that are allocated to Iowa, so far we have reached 541 million dollars for 2020.
- If the state has vague or undefined ceiling methods for open containers that full funding amount can be jeopardized through penalties.
- The Iowa Department of Public Safety (IDPS) recommended that plastic containers, Styrofoam and paper cups should be prohibited due to ease of use and the ability to easily conceal these kinds of containers for consumption while driving.

Mr. Ackerson announced that the Iowa Restaurant Association was encouraged and invited to provide examples of containers and sealing methods their businesses are currently using in hopes of incorporating them into the rule. The association provided samples which were accepted by DOT and therefore drafted into the rule.

Mr. Ackerson followed by summarizing recommendations made by the Iowa Alliance of Coalition for Change; a group for public health and substance misuse across the state. The coalition plans to submit a proposal to be considered for the rule, this will include requiring food to be purchased in addition to a mixed drink or cocktail to-go. Mr. Ackerson also discussed container sealing methods and advised that ABD accepted the recommendation that the containers should bear a label stating it contains alcohol which would greatly assist law enforcement in identifying when a container contains an alcoholic beverage during roadside enforcement.

Mr. Ackerson revealed that the recommendations received from various state agencies exceeded what ABD felt was within our authority for rulemaking.

Mr. Ackerson reviewed three main themes through feedback received after the rule was sent to the Iowa Restaurant Association, Distilled Spirits Council, and all Class “C” native distilled spirits licensees. The themes are as follows;

- Could licensees simply ignore the rule and sell Cocktails To-Go in disposable cups with straw hole lids and just warn customers that they are open containers. All licensees need to follow this rule.
- Could Cocktails To-Go be prepared in advance of the sale or through batching and pre-filling. The law currently does not allow it and it would take a law change by legislature to allow either scenario. This cannot be authorized by ABD through rulemaking.
- Finally, stakeholders were hopeful that the rule would be less prescriptive and allow for new containers and sealing methods specifically for Cocktails To-Go as “innovation” occurs in the marketplace around this new sales privilege.

Mr. Ackerson then elaborated on how ABD has amended a previous rule regarding concealing methods due to new innovations and how ABD is willing to amend this rule to help accommodate new innovations with Cocktails To-Go as they arise.

- When the Beer Growler rule was first implemented, the containers that were being used were

- glass jugs. New container and sealing methods emerged - the crowler. As crowlers grew in popularity, we amended the beer growler rule to accommodate market innovation.

Mr. Ackerson believes that the rule is reasonable, and balances the legal and social responsibilities of protecting the public with the business needs of licensees.

Mr. Ackerson reviewed the context of rule:

Title of the rule: Filling and selling of mixed drinks

Similar to beer growlers/wine growlers – keeping consistency across the board.

Class C/ Class C Native Distilled licensees may fill and sell mixed drinks to go, House File 2540

Definitions of terms – sealed containers, mixed drinks, sealing methods, tamper evident,

- Sealed containers should be filled by licensees employees age 18 or older
- HF2540 requires that the sale of mixed drinks to go are immediately sealed and promptly taken from the premises.
- Consumers placing the order must be 21 or older as outlined in Iowa Code 123. 348.
- Sealed containers should be filled only with mixed drinks or in whole or in part or with native distilled spirits from an original container purchased from a Class E licensee. This is required according to Iowa Code 123.30 and Iowa Code 123.30 (2)
- The Department and Inspection Appeals website lists all of Iowa’s food safety requirements in order to assist licensees.
- The Department of Transportation requested that sealing methods are specific
 - Tamper evident methods
 - Plastic shrink-wrap cap or seal that must be broken in order to gain access to the contents of the container.
 - Commissioner Pauli asked if the sealing requirement with shrink-wrap is for a bottle or regular drink. Mr. Ackerson advised that this sealing method is versatile and can be used for various types and sizes of containers.

Administrator Larson gave closing remarks and gave the floor to Commissioner Spratt.

Commissioner Spratt invited meeting attendees to make any public comments.

PUBLIC COMMENT

Jessica Dunker (Iowa Restaurant Association) - “I would like to thank ABD’s team for their work on Cocktails To-Go. Even though no rule is perfect, the agency really did try to work with our industry needs in addition to the quick turnaround time and I just wanted to give a shout out to the Division.”

John Cacciatore (DISCUS) - “I would like to echo what Jessica Dunker stated and would like to thank Administrator Larson, Mr. Ackerson and ABD for their efforts regarding this process and the ongoing nature of this activity, we appreciate it very much.”

OLD BUSINESS

None

NEW BUSINESS

None

NEXT MEETING DATES

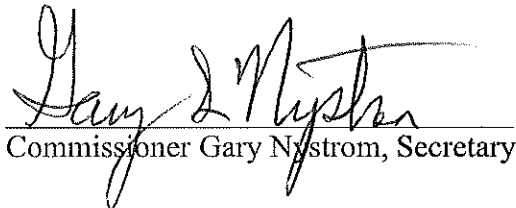
November 19, 2020 at 1:00 pm. This will be a tele-meeting.

ADJOURNMENT

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

Motion approved.

The meeting adjourned at 11:22am


Commissioner Gary Nystrom, Secretary