

IOWA ALCOHOLIC BEVERAGES COMMISSION

MINUTES

Iowa Alcoholic Beverages Division

August 4, 2020 - 1:00 p.m.

Dial In Number: 1.669.224.3319

Conference Code: 865.484.437

Commission Members Present

Christine Riesenbeck-Spratt: Chairperson via telephone

Gary Nystrom: Secretary

Rachel Eubank: Member via telephone

Jay Wilson: Member

John Pauli: Member

Division Staff Present

Stephen Larson: Administrator

Joshua Happe: Bureau Chief, Regulatory Compliance

Herb Sutton: Bureau Chief, Business Operations

Brenda Emelo: Assistant to the Administrator

Lauren Connelly: Administrative Assistant

Leisa Bertram: Comptroller

Martin Moen: IT Manager

Anthony Robben: OCIO

Stephanie Strauss: Executive Officer

Division Staff (via telephone)

Erin Verduyn: Administrative Assistant

Nicole Scebold: Product Management

Tyler Ackerson: Rules Coordinator

Dominique McNab: Clerk Specialist

Scherael Thurston-Shell: Compliance Officer

Guests Present (via phone)

John Lundquist: Assistant Attorney General

Jessica Dunker: Iowa Restaurant Association

Ryan Brown: Ruan

Stuart Oxe: 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 1:01 p.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 June 23, 2020 Commission meeting.

Motion approved.

Administrator Larson began his 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.

Mr. Sutton, Bureau Chief of Business Operations, was invited to provide the business operations report.

Mr. Sutton began his report by providing an overview for the closing of FY20 which included warehouse operations, increases in the number of Class E licensees and the impact on operations, supply chain disruptions resulting in out of stocks, and implementation of the price floor.

Mr. Sutton announced that FY20 was a successful year which resulted in sales of \$367 million. Ruan reported a \$15,000 surplus in inventory. At the June 23, 2020 Commission meeting, Mr. Sutton indicated that ABD was on target to reach 1,800 Class E licenses by the end of July. To date there are 1,796 of which 57% are convenient stores. The convenience store marketplace is continuing to represent the majority of Class E licensees. Ruan has been able to absorb the increase in deliveries with the same staffing levels. Mr. Sutton anticipates this trend will continue at a steady pace.

Mr. Sutton reported that out of stocks are anticipated due to disruptions in the supply chain. Of the top 200 products, 7 are affected and are scheduled for delivery. Mr. Sutton indicated ABD frequently receives over max requests from suppliers. 99% of the over max requests have been approved and are scheduled for delivery.

Mr. Sutton announced that the implementation of the price floor has been pushed back to January 1, 2021. Letters of intent were mailed out to stakeholders regarding the formation of a working group that will include suppliers. The goal of the group is to determine a pricing formula that is applied evenly across all brands.

Administrator Larson commented on the decision making process for implementation of the price floor, the pricing strategy, and the relation to public safety and ABD's responsibility as the governing agency.

Administrator Larson stated the price floor is a pricing strategy. Over the past 10 years there have been increased skus and diversity in reference to the types of alcohol and beverages available to Iowans. To develop a pricing strategy to bring diversity of price ranges into our portfolio which is made available to all of our retail customers with different business models. In addition to that there is the 4th tier which is bars, restaurants, and golf courses that sell to on premises in reference to certain brands that they would like to have in their portfolio. ABD is trying to determine if there is a formula or a basis to bring products in at a certain range within social responsibility. Discriminatory decisions can be appealed.

Mr. Sutton gave closing remarks and invited Leisa Bertram, Comptroller, to provide the financial management report.

Ms. Bertram summarized the financials for FY20:

- Sales are \$367 million which is an 8.17% change YTD, with June 2020 being the highest grossing sales on record coming in at 37 million dollars.
- Bottle deposits saw a 50% increase.
- Total orders also increased by 28%. Some of the causes for the increase include new store orders, add-ons, and specials.
- Crinc impact: Effects from ongoing proclamations are resulting in a huge influx, as retailers started taking cans back. It is the state's obligation to absorb those expenses.

Administrator Larson interjected that the state has an obligation to collect bottle deposits.

- Deferred Beer and Wine Tax payments have been extended to August 23, 2020 per Governor Reynolds. The amount of uncollected tax is estimated at \$6.5 million, which presents potential reporting issues for FY20 in terms of uncollected amounts versus funds being deposited or cashed in FY21.

Ms. Bertram reported that ABD reached the goal for the reversion estimate of \$133 million as of June 2020. Sales are continuing to grow steadily year over year. Ms. Bertram advised that a final reversion will be concluded at the end of August in order to finalize the numbers for FY20.

Commissioners Nystrom, Pauli, and Wilson verbalized concerns regarding uncollected tax amounts owed to the state.

Administrator Larson emphasized the context of the financial trends in relation to ongoing proclamations which were meant to give businesses options, such as the ability to defer beer and wine tax.

Mr. Martin Moen, IT Manager, was invited to present ABD's 5-year Strategic Information Technology plan to the Commission.

Mr. Moen began his report by announcing that the Governor's office had asked all state agencies to develop a 5-year plan to aid in budgeting for IT related expenses/projects. Mr. Moen announced that the Division has already developed a Strategic Plan and has advised the budget for FY21 has been presented to the Governor's office.

Mr. Moen reviewed key initiatives for the Strategic Plan, which involves the sales force system, the

ability to modernize the licensing system and make changes to the tobacco website. The objective is to continue to improve the I-Pledge, I-Pact age to purchase systems, shop portal reporting, data sharing, product availability and the scorecard.

Mr. Moen also stated that an additional initiative is to transfer mass data into the PowerBI system in order to streamline the reporting processes.

Mr. Sutton invited ABD Intern, Cameron Meador to present a synopsis of recent sales trends.

Mr. Meador announced that his presentation would include sales trends in comparison to the number of positive COVID-19 cases.

Mr. Meador created models to compare sales trends at the start of the COVID-19 pandemic. Mr. Meador's chart shows how the number of positive COVID cases have been impacting sales in Iowa. In one example, establishments similar to Central City Liquor saw a significant decrease in sales, while the grocery store sales increased. The data shows how sales shifted from these private distributors to the grocery stores. To conclude, the data showed multiple shifts that resulted in sales shifting from LC's to LE's licensees.

Administrator Larson highlighted that ABD's goal was to reinforce the impact that COVID had on the restaurant industry as well as to see where the buying power shifted. Administrator Larson also stated that the Division is looking at other trends such as public health, domestic violence, DUI's and if there are any connections to alcohol sales and consumption of spirits.

Administrator Larson invited Amanda Larsen, ABD Intern to provide a brief analysis concerning domestic abuse and alcohol bottle sales.

Ms. Larsen began her presentation by providing statistics on the number of cases of domestic abuse and homicides reported to the Des Moines Police Department compared to alcohol bottle sales for the City of Des Moines.

Administrator Larson declared that as ABD looks towards the future, one of the goals is to improve systems to provide local health departments as well as local authorities' information in reference to trends we are seeing that could potentially correlate with the consumption of alcohol.

Administrator Larson announced that the Division is participating in the Economic Advisory Working Group per the request of Governor Kim Reynolds. There are two sub groups, the Divisions Bureau Chief of Business Operations, Herb Sutton, is representing the Division on state government and Stephanie Strauss, Government Relations, is representing the agency on hospitality and economic recovery. Administrator Larson advised that there was nothing to report at this time and reiterated that the meetings are open to the public.

Administrator Larson invited Josh Happe, Bureau Chief of Regulatory Compliance to present the regulatory and compliance report.

Mr. Happe began his report by announcing the proclamation enforcement initiative related to COVID-19 set forth by the Governor's office. Mr. Happe emphasized that this initiative is a partnership with the Department of Inspections and Appeals, Department of Public Safety, the Iowa Department of

Revenue, and Iowa Lottery.

Mr. Happe advised that the Regulatory and Compliance team are receiving complaint based investigations in addition to working behind the scenes to substantiate proactive inspections in the marketplace. We are using the Department of Public Health data to determine hot spot areas. The state is set up in four quadrant areas, with personnel assigned in the area to work through complaints.

To date, the Division has received 35 proclamation violations and social distancing complaints. Mr. Happe stated that his team conducted over 200 investigations last weekend throughout the state and has spent considerable time educating licensees and local law enforcement regarding the proclamation enforcement guidelines.

Mr. Happe outlined the disciplinary steps for non-compliant establishments:

- 1st Offense: \$1,000 fine.
- 2nd Offense: 7 day suspension of license/permit.
- 3rd Offense: Revocation of liquor license/permit.

Mr. Happe pointed out that even with the progressive steps toward disciplinary actions, the Division and its partners; Department of Inspections and Appeals and local law enforcement, could choose to move forward with an immediate suspension depending on the severity of the violations following an investigation. Commissioner Pauli asked when you find a situation out there where somebody is not following the proclamation, how much of your time does this require to investigate?

Mr. Happe replied it takes time to determine facts in the situation. It does take time, there is nothing in the investigative world that is quick.

Commissioner Pauli asked if you are finding 5% or 10 cases and it takes them time to do, how much time is that going to take away from other things that your team was previously doing? Will this bog down regulatory compliance?

Mr. Happe responded there is a balance. We are still getting other complaints about Chapter 123. We have to prioritize.

Commissioner Pauli asked if a complaint has to go through local courts or just the administrative processes

Mr. Happe replied that complaints would go through ABD's administrative process. ABD will make the determination through facts and will file a complaint, which is separate then what the local authorities would do.

Mr. Happe announced that a form has been created for COVID-19 related complaints and is available on the Alcoholic Beverages Division home page www.iowaabd.com.

Commissioner Wilson asked out of the 35 complaints received how many of them were a Class C versus Class E, and how many were a consumer or business against business?

Mr. Happe replied complaints are coming in from both sources as well as a lot of anonymous

complaints. Additional investigative type work to see if these types are legitimate complaints. It is not so much licensee versus licensee it is more citizen's complaining about businesses.

Administrator Larson stated the Education and Outreach team have done a great job communicating the press interviews to licensees and local law enforcement.

John Barber, Iowa Wine Brewers Association stated that the proclamation looks like they are moving toward indoor seating whereas a lot of wineries offer outdoor seating. Is there any guidance that you can give us so we don't have any pitfalls?

Administrator Larson advised that Jake Holmes would contact John Barber directly.

Administrator Larson invited Stephanie Strauss to present the Government Relations report.

Ms. Strauss began her report by providing an update on the rule making schedule for 2020. The Division has two rules that have been published. The first rule making amends 185-9 PERSONAL IMPORTATION. It was published under Notice of Intended Action as ARC 5087C on July 15, 2020. The public comment period on this notice ends August 4, 2020. It will be ready to be adopted on August 19, 2020. There will be a brief meeting that will need to take place the morning of August 19, 2020 with the Commissioners.

The second rule amends 185-4 LIQUOR LICENSES—BEER PERMITS—WINE PERMITS. This rule making amends the existing beer growler rules to reflect recent law changes. Previously, all beer growlers had to be filled during face to face transactions, the law change allows some retailers to fill a growler when a sales transaction has been made online or over the telephone.

This rule also establishes identical sealing requirements for selling and sealing wine growlers. It was published under Notice of Intended Action as ARC 511C on July 29, 2020. Comments close on August 18, 2020. Ms. Strauss advised that the Division will schedule a Commission meeting in September to keep things on track.

Ms. Strauss also discussed rule making for mixed drinks. ABD is working in consultation with the Department of Transportation and the Department of Public Safety.

Ms. Strauss stated the Division still plans to do rule making on trade practices, and any other area that the Division thinks we need rules.

Administrator Larson stated he would contact Commissioner Spratt in August to set up a timeline to communicate to stakeholders about different trade practices. Administrator Larson advised the Division would have a recommendation to the Commission by October 1, 2020.

Ms. Strauss informed the Commission that she is working with Administrator Larson on the Legislative Packet for the 2021 Legislative session.

We do plan to file a draft bill to gain peace officer status for ABD Investigators and Compliance Officers. We also plan to proceed with filing a draft bill to identify funding streams to bring native distillers into the beer and wine promotion board.

PUBLIC COMMENT

Jessica Dunker, Iowa Restaurant Association

There are a couple of things I would like to point out to the Commission. The first is related to the enforcement action that ABD and DIA are engaged in. We have been very supportive of enforcement as an organization because we do receive a number of calls from operators who are frustrated when there are things that are not being done right. With that being said, we are going to pursue making a request that rather than the first infraction being a \$1,000 fine, that it be a warning with an opportunity to do correction as the first step. I do want to thank the agency for trying to work with us on some of these things but there is a lot of fear by operators who are doing things right that somehow there seem to be something that happens where they are reported and they are suddenly fined and they haven't been given an opportunity to receive a warning and understand how to mitigate things. There are a huge amount of issues in the marketplace where people don't understand what the rules are. We have not found that to be true with ABD but we have found that to be true with the police department across the state. Many of whom have gone into places and told them to do things like limit the number of people at a table to six, which is not in the proclamation. Or misunderstanding what they are enforcing. We are going to be asking for a little better understanding about how local law enforcement is being educated.

The second thing I would like to comment on is related to cocktails to-go. We have been in conversations with the Division and they have been very open to conversations with us but as we were pushing for cocktails to-go to become permanent, it was our hope that we would be granted the privileges that have been allowed in the previous proclamations. That included having employees of our establishments, not 3rd parties in place of our establishments, be able to deliver cocktails to-go. There seems to be some conflict in other places in the code that we are trying to work out and make that better or do something together. I just wanted to raise that awareness from the industry. Again thank you for all you do and thank you to ABD they did a lot of things and I wanted to publicly say thank you for that to mitigate damages to us. It doesn't mean that we haven't lost \$750 million in the last 4 months, we did, but the ABD has done all that they had legislative authority to help us and I want to thank Steve Larson, Stephanie Strauss and Tyler Ackerson who have really tried to be helpful.

OLD BUSINESS

None

NEW BUSINESS

None

NEXT MEETING DATES

November 19, 2020 at 1:00 pm at Iowa Alcoholic Beverages Division, Ankeny. This will be a tele-meeting.

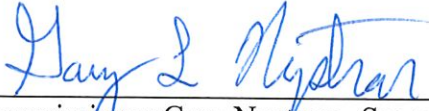
ADJOURNMENT

MOTION: A motion was made by Commissioner Spratt and seconded by Commissioner Spratt to

adjourn the meeting.

Motion approved.

The meeting adjourned at 3:22 p.m.



Commissioner Gary Nystrom, Secretary