



# ***IOWA ALCOHOLIC BEVERAGES COMMISSION***

***September 2, 2020***

**AGENDA**  
**IOWA ALCOHOLIC BEVERAGES COMMISSION TELEPHONIC**

Iowa Alcoholic Beverages Division  
September 2, 2020 – 11:00 PM – 12:00 PM  
Join from your computer, tablet or smartphone  
<https://global.gotomeeting.com/join/371894925>  
You can also dial in using your phone  
United States: +1 (571) 317-3129  
Access Code: 371-894-925

**Call to Order.....Chairperson Spratt**

- I. Introductions/Opening Remarks
- II. Approval of Agenda - **ACTION ITEM**
- III. Approval of Minutes - **ACTION ITEM**
  - August 4, 2020
- IV. Adoption of Administrative Rule - **ACTION ITEM**
  - ARC 5078C
- V. Adoption of Administrative Rule - **ACTION ITEM**
  - ARC 5111C

**Public Comment.....Chairperson Spratt**

**Old Business.....Chairperson Spratt**

**New Business.....Chairperson Spratt**

- I. Administrative Rules Update
  - Cocktails To-Go Emergency Rule Making Meeting

**Next Meeting Date.....Chairperson Spratt**

- November 19, 2020

**Adjournment.....Chairperson Spratt**

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.

**ALCOHOLIC BEVERAGES DIVISION[185]**

**Notice of Intended Action**

**Proposing rule making related to Iowa Code reference changes  
and providing an opportunity for public comment**

The Alcoholic Beverages Division hereby proposes to amend Chapter 9, “Personal Importation of Alcoholic Liquor, Wine, and Beer,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 123.10.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 123.10.

*Purpose and Summary*

The proposed amendments will make nonsubstantive changes to Chapter 9 due to the enactment of 2019 Iowa Acts, Senate File 618. The proposed amendments remove references to 2018 Iowa Acts, Senate File 2347, and insert references to the applicable Iowa Code sections. The proposed amendments also update the chapter’s statutory implementation references.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Granting or denying a request for the issuance of a waiver pursuant to Chapter 9 is final agency action under Iowa Code chapter 17A. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 185—Chapter 19.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on August 4, 2020. Comments should be directed to:

Tyler Ackerson  
Iowa Alcoholic Beverages Division  
1918 SE Hulsizer Road  
Ankeny, Iowa 50021  
Email: [ackerson@iowaabd.com](mailto:ackerson@iowaabd.com)

*Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 185—9.1(123) as follows:

**185—9.1(123) Tax liability.** The division makes no judgment or decision regarding any tax liability resulting from the personal importation of alcoholic liquor, wine, or beer as provided in Iowa Code section 123.10, ~~as amended by 2018 Iowa Acts, Senate File 2347, section 1; Iowa Code section 123.22, as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171, as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4~~ 123.122, as applicable.

ITEM 2. Amend rule 185—9.2(123), introductory paragraph, as follows:

**185—9.2(123) Personal importation in excess of the amounts provided—waiver.** The administrator may provide for the issuance of a waiver for an individual of legal age desiring to import alcoholic liquor, wine, or beer in excess of the amounts provided in Iowa Code section 123.22, ~~as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171, as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4~~ 123.122. The decision on whether the circumstances justify the issuance of a waiver shall be made at the discretion of the administrator upon consideration of all the relevant factors.

ITEM 3. Amend subrule 9.2(3) as follows:

**9.2(3) Request.** All requests for a waiver to import alcoholic liquor, wine, or beer in excess of the amount provided in Iowa Code section 123.22, ~~as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171, as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4~~, 123.122 shall be submitted in writing by completing a request for import authorization form and returning it to the division, as instructed.

ITEM 4. Amend subrule 9.2(9) as follows:

**9.2(9) Ruling.** A letter granting or denying a request for a waiver to import alcoholic liquor, wine, or beer in excess of the amount provided in Iowa Code section 123.22, ~~as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171, as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4~~, 123.122 shall be in writing and shall contain a description of the precise scope and duration of the waiver if one is issued.

ITEM 5. Amend subrule 9.2(13) as follows:

**9.2(13) Violations.** Violation of a condition in a waiver is equivalent to a violation of Iowa Code section 123.10, ~~as amended by 2018 Iowa Acts, Senate File 2347, section 1; Iowa Code section 123.22, as amended by 2018 Iowa Acts, Senate File 2347, section 2; Iowa Code section 123.171, as amended by 2018 Iowa Acts, Senate File 2347, section 5; or 2018 Iowa Acts, Senate File 2347, section 4~~, 123.122, as applicable. The recipient of a waiver under this rule who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the applicable Iowa Code ~~or Iowa Acts~~ section.

ITEM 6. Amend ~~185~~**Chapter 9**, implementation sentence, as follows:

These rules are intended to implement ~~2018 Iowa Acts, Senate File 2347, section 4, and Iowa Code~~  
sections 123.10, 123.22, 123.59, 123.122, and 123.171 ~~as amended by 2018 Iowa Acts, Senate File 2347.~~

**ALCOHOLIC BEVERAGES DIVISION[185]**

**Notice of Intended Action**

**Proposing rule making related to the filling and sale of beer and wine “growlers” and providing an opportunity for public comment**

The Alcoholic Beverages Division hereby proposes to amend Chapter 4, “Liquor Licenses—Beer Permits—Wine Permits,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 123.10 and 2020 Iowa Acts, House File 2540.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 123.123, 123.131, 123.132, 123.172 and 123.178 to 123.178B and 2020 Iowa Acts, House File 2540.

*Purpose and Summary*

This rule making is required due to enactment of 2020 Iowa Acts, House File 2540. The rule making proposes a new rule establishing how a container other than the original container, otherwise known as a “growler,” shall be filled with wine or native wine, shall be properly sealed so as to not be considered an open container under Iowa Code sections 321.284 and 321.284A, and shall be sold by class “C” liquor licensees; class “B,” class “B” native, and class “C” native wine permittees; and the licensee’s or permittee’s employees.

The rule making also amends rule 185—4.6(123), which establishes the requirements for the filling and sale of beer growlers, to remove the restriction that beer growlers must be sold via an in-person sale by class “B,” class “C,” and special class “C” liquor control licensees; class “B” beer permittees; and the licensee’s or permittee’s employees. Other nonsubstantive changes to the rule are also proposed.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 185—Chapter 19.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on August 18, 2020. Comments should be directed to:

Tyler Ackerson  
Iowa Alcoholic Beverages Division  
1918 SE Hulsizer Road  
Ankeny, Iowa 50021  
Email: [ackerson@iowaabd.com](mailto:ackerson@iowaabd.com)

### *Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 185—4.6(123) as follows:

**185—4.6(123) Filling and selling of beer in a container other than the original container.** ~~Liquor Class “B,” class “C,” and special class “C” liquor control license holders~~ licensees, class “B” and class “C” beer permit holders permittees, and ~~their~~ the licensee’s or permittee’s employees may fill, refill, and sell beer in a container other than the original container, otherwise known as a growler, subject to the requirements and restrictions provided in Iowa Code ~~sections~~ section 123.131 and as amended by 2020 Iowa Acts, House File 2540, section 14; Iowa Code section 123.132; and in this rule.

#### **4.6(1) Definitions.**

“Beer,” for the ~~purpose~~ purposes of this rule, means “beer” as defined in Iowa Code section 123.3(7) and “high alcoholic content beer” as defined in Iowa Code section ~~123.3(19)~~ 123.3(22).

“Growler,” for the ~~purpose~~ purposes of this rule, means any fillable and sealable glass, ceramic, plastic, aluminum, or stainless steel container designed to hold ~~only~~ beer or high alcoholic content beer.

“Original container,” for the ~~purpose~~ purposes of this rule, means a vessel containing beer that has been lawfully obtained and has been securely capped, sealed, or corked at the location of manufacture. For special class “A” beer permit holders, an “original container” includes a tank used for storing and serving beer.

~~4.6(2) Sales criteria and restrictions. All sales made pursuant to this rule shall be made in person. Beer packaged and sold pursuant to this rule shall not be delivered or direct shipped to consumers.~~

#### **4.6(3) 4.6(2) Filling and refilling requirements.**

- a. A growler shall have the capacity to hold no more than 72 ounces.
- b. A growler shall be filled or refilled only by the licensee or permittee or the licensee’s or permittee’s employees who are 18 years of age or older.
- c. A growler shall be filled or refilled only on demand by a consumer at the time of the ~~in-person~~ sale.
- d. A growler shall be filled or refilled only with beer from the original container procured from a ~~duly licensed wholesaler~~ class “A” beer permittee unless the beer being used to fill or refill a growler on the premises of a special class “A” beer permit holder was manufactured by that special class “A” beer permit holder on the permitted premises.
- e. A retailer may exchange a growler to be filled or refilled, ~~provided the exchange occurs at the time of the in-person sale.~~

*f.* The filling or refilling of a growler shall at all times be conducted in compliance with applicable state and federal food safety statutes and regulations.

~~4.6(4)~~ **4.6(3)** *Sealing requirements.* A filled or refilled growler shall be securely sealed at the time of the sale by the licensee or permittee or the licensee's or permittee's employees in the following manner:

*a.* to *d.* No change.

~~4.6(5)~~ **4.6(4)** *Restrictions.*

~~*a.*~~ Beer shall only be consumed on the premises of a class "C" beer permit holder for a tasting in accordance with rule 185—16.7(123).

~~*b.*~~ *a.* A growler shall not be filled in advance of a sale.

~~*c.*~~ *b.* A growler filled pursuant to this rule shall not be delivered or direct-shipped to a consumer.

~~*d.*~~ *c.* A growler filled pursuant to this rule shall not be sold or otherwise distributed to a retailer.

~~*e.*~~ *d.* A licensee or permittee or a licensee's or permittee's employees shall not allow a consumer to fill or refill a growler.

~~*f.*~~ *e.* The filling, refilling and selling of a growler shall be limited to the hours in which beer alcoholic beverages may be legally sold.

~~*g.*~~ *f.* A filled or refilled growler shall not be sold to any consumer who is under legal age, intoxicated, or simulating intoxication.

~~*h.*~~ *g.* An original container shall only be opened on the premises of a class "C" beer permit holder permittee for the limited purposes of filling or refilling a growler as provided in this rule, or for a tasting in accordance with rule 185—16.7(123).

*h.* A class "C" beer permittee shall only fill a growler at the time of an in-person sale.

~~4.6(6)~~ **4.6(5)** *Violations.* Failure to comply with the requirements and restrictions of this rule shall subject the licensee or permittee to the penalty provisions provided in Iowa Code chapter 123.

This rule is intended to implement Iowa Code sections 123.123, 123.131, and 123.132.

ITEM 2. Adopt the following **new** rule 185—4.11(123):

**185—4.11(123) Filling and selling of wine and native wine in a container other than the original container.** Class "C" liquor control licensees; class "B," class "B" native, and class "C" native wine permittees; and the licensee's or permittee's employees may fill, refill, and sell wine or native wine in a container other than the original container, otherwise known as a growler, subject to the requirements and restrictions provided in Iowa Code sections 123.178, 123.178A, and 123.178B as amended by 2020 Iowa Acts, House File 2540, sections 4, 5, 6, 7, 8, and 9, and in this rule.

**4.11(1) Definitions.**

"Growler," for the purposes of this rule, means any fillable and sealable glass, ceramic, plastic, aluminum, or stainless steel container designed to hold wine or native wine.

"Native wine," for the purposes of this rule, means wine manufactured in Iowa by fermentation of fruit, vegetables, dandelions, clover, honey, or any combination of these ingredients by a class "A" wine permittee.

"Original container," for the purposes of this rule, means a vessel containing wine or native wine that has been lawfully obtained and has been securely capped, sealed, or corked at the location of manufacture.

"Wine," for the purposes of this rule, means "wine" as defined in Iowa Code section 123.3(54).

**4.11(2) Filling and refilling requirements.**

*a.* A growler shall have the capacity to hold no more than 72 ounces.

*b.* A growler shall be filled or refilled only by the licensee or permittee or the licensee's or permittee's employees who are 18 years of age or older.

*c.* A growler shall be filled or refilled only on demand by a consumer at the time of the sale.

*d.* A growler shall be filled or refilled only with wine or native wine from the original container procured from a class "A" wine permittee.

*e.* Class "B" native and class "C" native wine permittees shall fill a growler with only native wine.

*f.* A retailer may exchange a growler to be filled or refilled.



g. The filling or refilling of a growler shall at all times be conducted in compliance with applicable state and federal food safety statutes and regulations.

**4.11(3) Sealing requirements.** A filled or refilled growler shall be securely sealed at the time of the sale by the licensee or permittee or the licensee's or permittee's employees in the following manner:

- a. A growler shall bear a cap, lid, stopper, or plug.
- b. A plastic heat shrink wrap band, strip, or sleeve shall extend around the cap or lid or over the stopper or plug to form a seal that must be broken upon the opening of the growler. A lid permanently affixed with a can seamer shall not require a plastic heat shrink wrap band, strip, or sleeve.
- c. The heat shrink wrap seal shall be so secure that it is visibly apparent when the seal on a growler has been tampered with or a sealed growler has otherwise been reopened.
- d. A growler shall not be deemed an open container, subject to the requirements of Iowa Code sections 321.284 and 321.284A, provided the sealed growler is unopened and the seal has not been tampered with and the contents of the growler have not been partially removed.

**4.11(4) Restrictions.**

- a. A growler shall not be filled in advance of a sale.
- b. A growler filled pursuant to this rule shall not be delivered or direct-shipped to a consumer.
- c. A growler filled pursuant to this rule shall not be sold or otherwise distributed to a retailer.
- d. A licensee or permittee or a licensee's or permittee's employees shall not allow a consumer to fill or refill a growler.
- e. The filling, refilling, and selling of a growler shall be limited to the hours in which alcoholic beverages may be legally sold.
- f. A filled or refilled growler shall not be sold to any consumer who is under legal age, intoxicated, or simulating intoxication.
- g. An original container shall only be opened on the premises of a class "B" or class "B" native wine permittee for the limited purposes of filling or refilling a growler as provided in this rule, or for a tasting in accordance with rule 185—16.7(123).

**4.11(5) Violations.** Failure to comply with the requirements and restrictions of this rule shall subject the licensee or permittee to the penalty provisions provided in Iowa Code chapter 123.

This rule is intended to implement Iowa Code sections 123.172, 123.178, 123.178A, and 123.178B.

## Schedule for Rule Making 2020

NOTICE† SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
<b>**Dec. 26 '19**</b>	Jan. 15 '20	Feb. 4 '20	Feb. 19 '20	Feb. 21 '20	Mar. 11 '20	Apr. 15 '20	July 13 '20
<b>**Jan. 8**</b>	Jan. 29	Feb. 18	Mar. 4	Mar. 6	Mar. 25	Apr. 29	July 27
Jan. 24	Feb. 12	Mar. 3	Mar. 18	Mar. 20	Apr. 8	May 13	Aug. 10
Feb. 7	Feb. 26	Mar. 17	Apr. 1	Apr. 3	Apr. 22	May 27	Aug. 24
Feb. 21	Mar. 11	Mar. 31	Apr. 15	Apr. 17	May 6	June 10	Sep. 7
Mar. 6	Mar. 25	Apr. 14	Apr. 29	May 1	May 20	June 24	Sep. 21
Mar. 20	Apr. 8	Apr. 28	May 13	<b>**May 13**</b>	June 3	July 8	Oct. 5
Apr. 3	Apr. 22	May 12	May 27	May 29	June 17	July 22	Oct. 19
Apr. 17	May 6	May 26	June 10	June 12	July 1	Aug. 5	Nov. 2
May 1	May 20	June 9	June 24	<b>**June 24**</b>	July 15	Aug. 19	Nov. 16
<b>**May 13**</b>	June 3	June 23	July 8	July 10	July 29	Sep. 2	Nov. 30
May 29	June 17	July 7	July 22	July 24	Aug. 12	Sep. 16	Dec. 14
June 12	July 1	July 21	Aug. 5	Aug. 7	Aug. 26	Sep. 30	Dec. 28
<b>**June 24**</b>	July 15	Aug. 4	Aug. 19	<b>**Aug. 19**</b>	Sep. 9	Oct. 14	Jan. 11 '21
July 10	July 29	Aug. 18	Sep. 2	Sep. 4	Sep. 23	Oct. 28	Jan. 25 '21
July 24	Aug. 12	Sep. 1	Sep. 16	Sep. 18	Oct. 7	Nov. 11	Feb. 8 '21
Aug. 7	Aug. 26	Sep. 15	Sep. 30	Oct. 2	Oct. 21	Nov. 25	Feb. 22 '21
<b>**Aug. 19**</b>	Sep. 9	Sep. 29	Oct. 14	Oct. 16	Nov. 4	Dec. 9	Mar. 8 '21
Sep. 4	Sep. 23	Oct. 13	Oct. 28	<b>**Oct. 28**</b>	Nov. 18	Dec. 23	Mar. 22 '21
Sep. 18	Oct. 7	Oct. 27	Nov. 11	<b>**Nov. 12**</b>	Dec. 2	Jan. 6 '21	Apr. 5 '21
Oct. 2	Oct. 21	Nov. 10	Nov. 25	Nov. 27	Dec. 16	Jan. 20 '21	Apr. 19 '21
Oct. 16	Nov. 4	Nov. 24	Dec. 9	<b>**Dec. 9**</b>	Dec. 30	Feb. 3 '21	May 3 '21
<b>**Oct. 28**</b>	Nov. 18	Dec. 8	Dec. 23	<b>**Dec. 23**</b>	Jan. 13 '21	Feb. 17 '21	May 17 '21
<b>**Nov. 12**</b>	Dec. 2	Dec. 22	Jan. 6 '21	<b>**Jan. 6 '21**</b>	Jan. 27 '21	Mar. 3 '21	May 31 '21
Nov. 27	Dec. 16	Jan. 5 '21	Jan. 20 '21	Jan. 22 '21	Feb. 10 '21	Mar. 17 '21	June 14 '21
<b>**Dec. 9**</b>	Dec. 30	Jan. 19 '21	Feb. 3 '21	Feb. 5 '21	Feb. 24 '21	Mar. 31 '21	June 28 '21
<b>**Dec. 23**</b>	Jan. 13 '21	Feb. 2 '21	Feb. 17 '21	Feb. 19 '21	Mar. 10 '21	Apr. 14 '21	July 12 '21

### PLEASE NOTE:

Rules will not be accepted by the Publications Editing Office after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator and the Administrative Code Editor.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more working days in advance of the deadline.

**\*\*Note change of filing deadline\*\***