

**IOWA ALCOHOLIC BEVERAGES COMMISSION**

MINUTES

October 19, 2022 - 10:00 AM  
Mississippi River Distilling Company  
303 N Cody Road  
Le Claire, IA 52753  
Dial In Number: 571.317.3116  
Access Code: 913.688.397

**Commission Members Present**

Gary Nystrom, Chairperson

Rachel Eubank, Vice Chairperson

Jay Wilson, Member

Sara Winkleman, Member

**Division Staff Present**

Stephen Larson, Administrator

Lolani Lekkas, Bureau Chief Administrative Affairs

Herb Sutton, Administrator, Department of Management

Tyler Ackerson, Executive Officer

Stephanie Strauss, Governmental Relations

DeMario Luttrell, Bureau Chief Regulatory Compliance

Leisa Bertram, Chief Financial Officer

Brenda Emelo, Executive Assistant to the Administrator

Anthony Robben, OCIO

Erin Verduyn, Product Management Liaison

**Guests Present**

Chris Cournoyer, Senator, District 49

Jennifer Sutton

Garrett Burchett, Mississippi River Distilling Company

Kyle Doyle, Iowa Distilling Company

Charanjit Singh, Riverside Liquor

Harpreet Singh, Two Brother's Locust

**Division Staff Present (via telephone)**

Madelyn Cutler, Administrative Assistant

Amy Serck, Receptionist

Scherael Thurston-Shell, Compliance Officer

Jason Hohn, Compliance Officer

Pam Koehn-Miller, Secretary

Monica Lundstrom, Administrative Assistant

Sheila Warrick, Administrative Assistant

Brandon Trapp, Investigator

Luke Marshall, Administrative Assistant

Averey Ruble, Intern

Chuck Crabtree, Program Planner

Tara Huntrods, OCIO

Nicole Scebold, Management Analyst

**Guests Present (via telephone)**

Jace Mikels, Iowa Senate

Brad Epperly, Nyemaster Goode

Xavier Leonard, LSA Fiscal

Jermey Thompson, Sazerac

Lillie Brady, Cornerstone

John Cacciatore, DISCUS

David Adelman, Iowa Wholesale Beer Distributors

Megan Adam, Carney and Appleby PLC

Hannah Welch, BrownWinick Law

John Lundquist, Assistant Attorney General

Eric Goranson, Iowa Restaurant Association

Maria Wagenhofer, LSA Fiscal

Tommy Athey, Heaven Hill Distilleries

Tom Perrick, ADSA

Tyler Rudd, Wine Institute

Lynn Walding, Diageo

3 Unidentified Callers

### **CALL TO ORDER**

Chairperson Nystrom called the meeting to order at 10:00 AM. Roll was taken and a quorum was met.

### **APPROVAL OF AGENDA**

MOTION: A motion was made to approve the agenda for today's (October 19, 2022) meeting by Commissioner Wilson and seconded by Commissioner Eubank. The motion was approved unanimously.

### **APPROVAL OF MINUTES**

MOTION: A motion was made to approve the minutes from the August 18, 2022 meeting by Commissioner Wilson and seconded by Commissioner Eubank. The motion was approved unanimously.

Chairperson Nystrom began the meeting by recognizing Senator Cournoyer. Senator Cournoyer thanked the Commission for holding the meeting in Eastern Iowa. She also expressed appreciation to ABD staff for providing information regarding SF 2374.

### **PUBLIC COMMENT**

John Cacciatore, DISCUS read a statement on behalf of Andy Deloney, Vice President, State Public Policy. DISCUS does not oppose a bailment increase of 25 cents per case effective January 1, 2023. Members did express concern over a \$1.00 increase and appreciated the opportunity to discuss their concerns and ideas.

Lynn Walding, Diageo stated that Diageo does not support the bailment increase, however, they will not oppose the 25 cent per case increase.

Garrett Burchett, Iowa Distiller's Alliance views a bailment increase as a tax increase.

### **ADMINISTRATOR'S REPORT**

Administrator Larson began his report by noting that the public comments that were made would be noted and available to the Commission. He then asked Lolani Lekkas, Bureau Chief of Administrative Affairs, to begin her report with updates on SF 2374 and GovConnect. Ms. Lekkas started her report by describing how SF 2374 was broken down into system and

non-system changes for implementation. The non-system based changes that have been implemented include the removal of the 100,000 proof gallon cap for native distilleries, allowing native manufacturers to apply for a Class “C” Liquor License, allowing brewpubs to sell all of their off-premises consumption beer through the brewpub, removal of the Direct Shipper bond requirement and allowing no more than 5 total cases of beer to be purchased by an on-premises retailer from an off-premises retailer in 24 hours. Currently, 12 of the 172 eligible native manufacturing locations have changed to the Class “C” Liquor License. ABD plans to work with licensees whose license types will no longer be available after January 1, 2023 to make their transition to a new license type as seamless as possible. ABD is beginning to work on system changes which include converting certain licenses in the current system into the new categories, converting all the license fees into the new structure and automatic renewal of the Class “E” Liquor License, Direct Shipper and Out of State Certificates, all of which were put forth in the new legislation.

The first roll out of GovConnect focused on Class “E” and Class “C” Liquor License holders. The next phase will add two additional licenses and is expected to go live November 14, 2022.

Mr. Ackerson started his remarks on the rules changes by noting that ABD did not meet the end of August filing deadline. ABD is still working to incorporate stakeholder recommended changes that were given during the informal comment period. It is believed that the current draft will provide clarity to wholesalers, manufacturers and retailers of what trade practices are allowed in addition to making it easier for wholesalers, manufacturers and retailers to do business in Iowa.

The new timeline to file the rules is by October 21, 2022. The rules will be published in the Iowa Administrative Bulletin on November 16, 2022 at which point the public comment period will begin. The comment period will end December 6, 2022. ABD will hold a virtual hearing on December 6, 2022, 1:00 pm - 3:00 pm for public comment. The Commission will need to meet on December 21, 2022 to adopt the rules. The December 21, 2022 date could change based on the public comments that are received on December 6, 2022. If the meeting is held on December 21, 2022 and the rules are adopted, they will then be published on January 11, 2023 and become effective February 1, 2023.

Administrator Larson reiterated that in creating these new rules, ABD has worked to listen to the comments that have been put forth by numerous partners to create the best working document possible. As the formal process begins, ABD will continue to have conversations with the public and the Commission, however, the final decision on the rules will be made by the Administrative Rules Committee.

DeMario Luttrell, Bureau Chief of Regulatory Compliance, began his remarks by noting that the bureau continues to conduct routine inspections throughout the state. During these inspections, there have been no major violations found with licensees. Routine inspections provide an opportunity to educate licensees. Feedback from licensees has been positive, especially in regard to the licensing system. August and September 2022 had the highest number of complaints forwarded from the public and law enforcement. Of the 26 complaints 65% have resulted in investigations being opened. There has been an uptick in the number of complaints regarding underage staff serving and selling alcohol. After the claims are validated, ABD is using these opportunities to educate licensees' staff on laws concerning age to sell.

Department of Management Administrator, Herb Sutton, started his remarks by discussing Ruan and the upcoming busy season. All driver and driver helper positions are filled and the warehouse is prepared for the holiday season. At the August 18, 2022 Commission meeting, workman's compensation was discussed. ABD has moved from paying \$158,000 in FY 23 to \$54,000 in FY24 and just \$2,200 in FY25.

Mr. Sutton next discussed two capital improvement projects. Fuel tanks have been replaced. The project ran a month long due to changes and supply chain shortages. The project went over budget due to unforeseen cleanup that needed to be done after the tanks were pulled out. The second project to be completed is warehouse racking. In 2023, approximately 170,000 square feet of the warehouse will be racked, adding 20,000 square feet. This project is slated to begin January 10, 2023. Trucks will arrive in the order that the racking is going to be installed and the assembly crew will work 6-10 hour days installing it. The anticipated completion date is April 30, 2023.

ABD held a Broker/Supplier meeting on October 11, 2022 where it was announced there was a pause on listing new products. This was done for two reasons: 1. the racking project and 2. there have been 600 new listings since January 1, 2022, which equates to over 3,000 SKUs in the warehouse. Holiday items are being accepted along with trade outs. It was also announced that there would be a proposed increase in the bailment fee. This is a handling fee and has not been changed in 20 years. Administrator Sutton expressed his gratitude for the healthy debate that has occurred since the announcement. Commissioner Eubank inquired about the time frame for the proposed bailment increase as well as what the next phase of discussion will include. Administrator Sutton replied that ABD is looking at a start date to start increasing the bailment fee of January 1, 2023. Bailment increase phases will be rolled out at Administrator

Larson's discretion. Administrator Larson commented that it was hoped that the meeting today would allow the Commissioners to provide direction and a chance to voice their thoughts on the subject. In terms of timing, there are options available including the new calendar year and new fiscal year. ABD's objective is to be mindful that moving forward, the work that is being done is memorialized. ABD's goal is to announce by Late October/Mid-November 2022 how the agency plans to move forward on this issue. Commissioner Nystrom stated he would like to see numbers in terms of how many cases are stored and sent back without paying for the space in the warehouse. Commissioner Nystrom noted that the Commission wants to continue to be a good partner with both the stores and the suppliers while still covering operating costs. Commissioner Wilson affirmed the need to keep the playing field level while recognizing that operating costs are rising. Commissioner Eubank asked for bailment fee comparison research from similar states and whether ABD feels this should be defined in law. Administrator Sutton stated that some states charge on the front end and for every case. Iowa only charges when the case is sold. Administrator Sutton noted that at \$1.00, Iowa is at the low end and at \$2.00 Iowa would be more in line with other states. Administrator Larson noted that ABD wants to work with the Attorney General and in-house lawyers to be transparent about the process and ensure that ABD is clear about how the decision was made. Ms. Lekkas noted that there is nothing directly stated in the statutes concerning a bailment fee. Commissioner Nystrom feels that it is best to not rush to a decision and that ABD take into consideration that economic conditions are not ideal for some to incur this change.

Leisa Bertram, Chief Financial Officer began the financial update by providing the FY22 year end sales update. Overall liquor sales were up \$15 million from FY21, a 3.75% increase. Both the split case fee and overall pick numbers were down, however, volume and deliveries

were up. ABD reverted \$150 million in FY22. FY22 also included a transfer of \$1 million to the Iowa Economic Development Agency which will increase to \$2 million in FY23. When looking at the Revenue Analysis, the numbers include collections of deferred license fees and a lowering of wine tax collected, due to higher collections in 2021 from deferred revenue of that tax. The largest expenses in FY22 were the purchasing of liquor for inventory and information technology. Operations' expenses paid to Ruan for both the warehouse and fleet have increased year over year because they are volume based expenses. The goal is to revert \$150 million in FY23. ABD is on target to meet this goal. The Sunday Sales transfer to IDPH was eliminated with the new legislation. Instead, going forward, IDPH will receive a \$1 million dollar transfer per year from ABD. Chairperson Nystrom asked if there are any trends of consumers purchasing lower priced alcohol instead of higher priced items. Ms. Bertram responded that ABD is not seeing any trends at this time. The current trend shows lower total gallons with higher revenues.

First quarter FY23 shows a four percent increase in liquor sales. The increase in the split case fee is due to the price increase that went into effect July 1, 2022. Revenue per delivery has decreased, which could be indicative of smaller stores placing smaller weekly orders. Although gallonage sales per month continues to trend downwards in the first quarter, the monthly and year-to-date sales per gallon have increased at 4.8 and 6.9 percent over FY22. Regarding beer and wine tax trends; beer tax has remained stable with any significant growth coming from the native beer category. Wine has been stable with a slight decrease from FY22 to FY23 and a larger decrease being noted with native wines. Taxes collected from the native wine and beer categories go to the Economic Development Authority.

Administrator Larson noted that he has requested an ABD audit each year. The agency's goal continues to be to reduce the number of audit findings from one year to the next. The

Commerce Department is set to release the FY20 findings in which ABD had two areas that were noted. The content for the annual report has been submitted to the publisher and ABD is set to receive a complete report to proof on November 8, 2022. ABD will have a final review and approval on November 15, 2022 with a printer's proof of the completed document on November 22, 2022. The Annual report is scheduled to be delivered to ABD on December 13, 2022 and to the Governor's office on December 14, 2022. The report will be released to the public on December 19, 2022.

Administrator Larson summarized that ABD's goal is to have greater analytics on consumption and consumption patterns. ABD, as well as the Governor's office, wants to know where and what Iowans are consuming. Over the next several months members of ABD will be meeting with various local authorities throughout the state to provide education on SF 2374 and the Public Nuisance Bill and to determine how best to help local authorities navigate the changes that are occurring.

Chairperson Nystrom asked that ABD research where the \$30 million that is reverted for substance abuse is going. Commissioner Eubank requested that ABD give the Commission a graphic breakdown of how the money is spent. Administrator Larson affirmed he would have this information available at the next meeting. Commissioner Wilson brought forth issues regarding keg registration at retailers. Commissioner Wilson asked ABD to look into going back to keg stickers and then logging the information later rather than the current system of logging the keg and then getting a getting a piece of paper to attach to the keg that does not adhere to the keg because it dissolves from the sweat of the keg.

### **OLD BUSINESS**

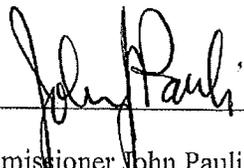
None

The next Commission meeting will be February 9, 2023. The meeting location and time will be provided on ABD's website.

**ADJOURNMENT**

MOTION: A motion was made by Commissioner Eubank to adjourn the meeting. The motion was approved unanimously.

The meeting adjourned at 11:43 am.

 2/10/23  
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Commissioner John Pauli, Secretary