

**IOWA ALCOHOLIC BEVERAGES COMMISSION**

**MINUTES**

April 26, 2023 - 1:00 PM  
Iowa Alcoholic Beverages Division  
1918 SE Hulsizer Road  
Ankeny, IA 50021  
Dial In Number: 571.317.3129  
Access Code: 562.057.437

**Commission Members Present**

Gary Nystrom, Chairperson

Rachel Eubank, Vice Chairperson

Jay Wilson, Member

John Pauli, Member

**Division Staff Present**

Stephen Larson, Administrator

Lolami Lekkas, Bureau Chief Administrative Affairs

Tyler Ackerson, Executive Officer

Stephanie Strauss, Governmental Relations

DeMatio Luttrell, Bureau Chief Regulatory Compliance

Brenda Emelo, Executive Assistant to the Administrator

Anthony Robben, OCIO

Madelyn Cutler, Rules Coordinator

Sara Jacobson, OCIO

Jonathan Mader, Accountant

Nicole Seebold, Management Analyst

Erin Verduyn, Product Management Liaison

Nate Beyer, Administrative Assistant

Chuck Crabtree, Program Planner

Lisa Gibson, Program Planner

**Guests Present**

Mary Mosiman, Director, Department of Revenue

John Lundquist, Assistant Attorney General

Andrea Chase, Fareway

Lance Cheney, Ruan

Paul Jensen, Ruan

**Division Staff Present (via telephone)**

Leisa Bertram, Chief Operations and Financial Officer

Amy Serck, Secretary

Monica Lundstrom, Administrative Assistant

Luke Marshall, Administrative Assistant

Jackie Bowlin, Storekeeper

Kortney Kyle, Storekeeper

Jessica Ekman, Executive Officer

Sheila Waffick, Administrative Assistant

Sara Kirk, Training Specialist

Jason Hohn, Compliance Officer

Scherael Thurston-Shell, Compliance Officer

Tara Huntrods, OCIO

**Guests Present (via telephone)**

Herb Sutton, Department of Management

Jeremy Thompson, Sazerac

Lynn Walding, Diageo

Jessica Dunker, Iowa Restaurant Association

Kris Rankin, Director of Van Buren County SAFE Coalition

David Adelman, Iowa Wholesale Beer Distributors

John Cacciatore, DISCUS

Jim Moran, LUXCO

Christie Jensen, Iowa Wine Growers Association

Mike Edwards, Democratic Operative

3 unidentified callers

**CALL TO ORDER**

Chairperson Nystrom called the meeting to order at 1:02 PM. Roll was taken and a quorum was met.

**INTRODUCTIONS/ANNOUNCEMENTS**

Chairperson Nystrom began the meeting by introducing incoming Commissioner Andrea Chase who will begin her term on May 1, 2023. Ms. Chase is the Assistant Vice President of Category Management for Fareway.

Chairperson Nystrom also introduced the Director of Revenue, Mary Mosiman.

Commissioner Jay Wilson was recognized for his ten years of service to the Commission and presented with a proclamation from Governor Reynolds and Lieutenant Governor Adam Gregg.

#### **APPROVAL OF AGENDA**

**MOTION:** A motion was made to approve the agenda for today's (April 26, 2023) meeting by Commissioner Pauli and seconded by Commissioner Wilson. The motion was approved unanimously.

#### **APPROVAL OF MINUTES**

**MOTION:** A motion was made to approve the minutes from the February 9, 2023, meeting by Commissioner Wilson and seconded by Commissioner Pauli. The motion was approved unanimously.

#### **ADMINISTRATOR'S REPORT**

Administrator Larson began his report by introducing Assistant Attorney General John Lundquist. Mr. Lundquist has worked with ABD since 1999. He offers legal guidance to the ABD and the Commission with an emphasis on Administrative Actions.

Administrator Larson then introduced ABD's warehouse and distribution partner Ruan's Lance Cheney, Vice President of Operations and Paul Jensen, Senior Vice President of Supply Chain Solutions. Mr. Cheney spoke of how Ruan provides integrated supply chain solutions to businesses in four areas: dedicated contract transportation, managed transportation, value added warehousing for large customers and brokerage. The partnership with ABD started in 2019 with 18 tractors and drivers and now there is a proposal to move to 22 tractors and drivers as the number of Class "LE" licensees has grown from 1,500 in 2019 to over 2,000 today. Moving forward in the partnership, Ruan is hoping to integrate freight visibility into ABD deliveries to

help Class "LEs" know when they will receive their delivery. The recently completed racking project has allowed for more storage capabilities and greater efficiency.

Mr. Jensen notes that one of the largest changes in the warehouse since 2019 was transitioning from a single shift warehouse to a multi-shift warehouse. He sees the partnership as granular and appreciates being able to have discussions about how to get better together. Mr. Jensen also expressed a need to increase speed to market and visibility of products as goals for the future in Iowa.

Bureau Chief Lolani Lekkas began the Administrative Affairs update by discussing the continued implementation of SF2374. The automatic renewal portion of the bill allows for several license and permit types to be able to opt-into the program, if they should choose to do so. To date, 661 licensees and certificate holders have enrolled in automatic renewal. Although licensees can enroll, it is up to the local authority if they choose to allow the licensees to auto renew. 80 Class "LE" licensees have applied for automatic renewal and have had the local authority deny that privilege. Another change within SF2374 was that native breweries, wineries and distilleries are now allowed to get a Class "LC" license that allows licensees to sell and serve beer, wine and liquor at their establishment. 76 establishments have chosen to take advantage of that change at this time. Ms. Lekkas signaled that there is an increase in special event licenses. In April alone, there have been 174 approved compared to 148 in April 2022.

The recent public nuisance law has been used in two filings by the City of Davenport in District Court. After Administrator Larson has been notified that a suit has been brought, Administrative Affairs is required to issue notice to the licensee of limited sales hours from 6 AM to 10 PM. The law only applies to on-premises locations and ABD has no role in the cases that are brought. The Administrative Actions team has been working to collect deferred renewal

fees from the Governor's COVID Proclamation. At this time, approximately 50 percent of those fees have been collected.

The Administrator referred to the recent trip ABD staff took to various Northwest Iowa communities when talking about awareness of the change in the law for automatic renewal. He noted that most local authorities fell into three categories: 1. they were aware of the change in the law 2. they were not aware of the change in the law or 3. they knew the law had changed, but local ordinances currently require yearly approval of the license. Commissioner Wilson asked that of the 80 licensees that were denied automatic renewal, was there consistency in why those denials were given. Ms. Lekkas responded that when looking at the reasons given for why the denials occurred, there was no set pattern. Administrator Larson stated that ABD would monitor denials to ensure that all businesses were treated equally. Chairman Nystrom noted that there are municipalities that require inspections before approving a license and that may be something to incorporate into the automatic renewal process going forward.

DeMario Luttrell, Bureau Chief of Regulatory Affairs began his update by noting, while investigations are based on the number of complaints filed, both compliance inspections and tax audits are on track to exceed those conducted in 2021 and 2022. Both compliance inspections and tax audits have had compliance rates above 70%. These in-person interactions allow ABD to talk to licensees and help bring them into compliance. In terms of complaints, underage sales continue to be the top complaint, accounting for 35% so far this year. This has been a continued theme and is one of the reasons ABD continues to foster strong relationships with law enforcement. There has also been a burgeoning trend of licensees receiving liquor from outside the 3-tier system. This is an area that will be emphasized in future checks.

The next area Mr. Luttrell spoke on was the review of the Bureau's Standard Operating Procedures. The focus of this review is procedures used when interacting with licensees in the field and ways to improve that interaction. Mr. Luttrell noted there are always opportunities to improve transparency, mitigate risk for employees, and create a process that fosters positive interactions.

Mr. Luttrell lastly spoke on the Bureau's specialized education and outreach program for law enforcement. This year the Bureau has given 61 presentations reaching 312 attendees at law enforcement academy training. Information gained through the program suggests that there is a high level of interest from law enforcement to collaborate with ABD, especially in enforcing underage sales. Funding obstacles often create limitations on conducting compliance checks for local enforcement so they are starting to view partnership and education from ABD as a resource. ABD is working to find grant opportunities to help fund alcohol compliance checks.

Accountant Jon Mader began the Financial Management Update by mentioning that there were two new months of data since the February 9, 2023 Commission. March 2023 sales year over year, fell slightly behind FY22 which was the highest March ever on record. The split case fee, bottle deposit and surcharge are both higher in FY23 than FY22. Deliveries were up by 230 in FY23 compared to FY22; however, orders, cases, bottles and picks are down for March. Fiscal year to date sales are ahead of last year by 3.12% or just over \$10 million. Split case fee, bottle deposit and surcharge are also trending upwards over last year. It is worth noting that there was a \$.25 raise on July 1, 2022, for the split case fee. Year to date, there have been 1,567 more deliveries this fiscal year than last. The number of picks is down due to more cases being picked than individual bottles.

When looking at gallons by month, March of FY22 was ahead of March FY23 by over 26,000 gallons. Year to date, FY23 is lagging behind FY22 by approximately 65,000 gallons. In terms of month sales per gallon and year to date sales per gallon, both numbers are up in FY23 compared to FY22 by 3.5 and 4.5%. Commissioner Pauli asked if ABD is seeing an increase on the wholesale price of liquor. Mr. Mader responded that he did not have that information, but in January 2022 ABD did start to see an increase in listing prices that affected ABD's revenue while volume started to drop. Commissioner Eubank asked if there could be a consumer drive towards certain price points that would expand the difference if the trend continues. Commissioner Wilson commented that Hy-Vee is not seeing that, instead consumers appear to be trying to stretch their dollar by going to different sizes of the same product. He noted Hy-Vee is seeing an increase in beer sales. The same is occurring with wine with more three liter boxes being sold compared to previous years. Administrator Larson noted that there has been some lag in price increases from suppliers and that the increases have not been across the board. ABD is reaching out to its data vendor SAS to get more data analytics on which categories are seeing price increases and which ones are not and then comparing it to consumption data. Commissioner Pauli asked if ABD was continuing to see high out of stock numbers. Management Analyst, Nicole Seebold, replied that there are still some outages, however, they are lower in number compared to when COVID hit. She also noted that the price increases over the last year have been \$1 to \$1.50.

Continuing his report, Mr. Mader noted in terms of cash basis for liquor sales, FY23 is ahead of FY22 by \$8.6 million. The split case fee and bottle deposit and surcharge fees are also up for FY23 compared to FY22. Mr. Mader mentioned that ABD now has over 2,000 Class "LE" licensees which is increasing deliveries per week. From February to March, 12 new stores were



added. The next point of discussion was the reversion goals. The actual reversion goal was previously at \$151 million for FY23 and has been bumped up to \$151.5 million. ABD is on track with \$37.8 million away from achieving that goal.

The split case fee will be increasing again this July 1 by \$.25 from \$.75 to \$1.00. This is the second phase of a two phase increase that was implemented July 2022 that puts Iowa more in-line with other States. Regarding the Building and Grounds, the security camera modernization inside the building is nearly complete. The new cameras both inside and outside will provide advanced focus and zoom capabilities. The next project discussed was the boiler replacement, which is still in the initial stages. There have been discussions with the Department of Administrative Services with regards to developing a request for proposal for bids for total replacement since this has been an issue since the building was opened. The current design has the exhaust from the boiler coming out below the fresh air intake. Current estimated costs put the project around \$250,000-\$300,000 for total replacement.

ABD is also in discussions with Ruan about a re-route for deliveries. Commissioner Eubank inquired about what type of notice would be going out concerning the changes in routing. Mr. Cheney responded that there would be written communication a few weeks before the change with follow-up as the change date gets closer. Chairperson Nystrom noted that it might be interesting to look at how many deliveries ABD made ten years ago compared to five years ago compared to today as well as the reversion amounts and the number of SKUs in the warehouse for the same periods.

Ms. Seebold began the Operations Update by announcing that the racking project in the warehouse was complete. This project opened 204 more pick slots and allowed for more organization in terms of pallet storage. ABD is having a third party do a capacity study this

summer on the warehouse. The completion of the racking project allowed the listing moratorium to be lifted on April 1, 2023. Brokers and suppliers can now do permanent listing presentations, either in person or virtual, for new permanent listings. Commissioner Pauli asked how many new SKUs had been listed since the moratorium was listed. Ms. Seebold noted there have been 20 listing presentations with 80 products presented and all have been accepted. Ms. Seebold stated that February 2023, was the largest delist with 300-350 products removed from the warehouse.

In April 2023 ABD sent out new bailment agreements to all suppliers with a request that it be reviewed, signed and returned to ABD by June 30, 2023. One of the biggest differences between the old form and the new is that the new form does not need to be renewed. ABD has approximately 250 suppliers and has received 25% of these forms back. Since the ABD barrel pick program started in 2022, 30 barrels have been approved for purchase, bottling and resale to all stores in Iowa whether by the bottle or by the case. The products' team will be traveling to Kentucky in June 2023 to visit four distilleries and pick barrels.

The website redesign update was given by Sara Jacobson of the Office of the Chief Information Officer (OCIO). The goal of the redesign, as set forth by the Governor's Office, is to have a more uniform and accessible feel to all State of Iowa websites. In terms of accessibility, it is being asked that all content be written for an eighth grade reading level. Currently, most pages on the ABD website are written at a college graduate level. It is also desired to make the website easier to navigate. The goal is to have most of these tasks completed by July 1, 2023 when ABD aligns under the Department of Revenue.

Administrator Larson concluded his report by giving updates on the Alignment with the Department of Revenue, changes to Administrative Rules and 2023 Legislation. The first stage of the Alignment was pre-integration. Regarding Administrative Rules, over the next 12 to 24

months the Commission will have a role in carrying out Executive Order 10. This order is asking each agency to halt new rule making and go through the current rules and identify redundancies and to make them clearer for people to understand and follow.

#### **NEW BUSINESS**

Prior to the adoption of ARC 6667C, Tyler Ackerson, Executive Officer, took the Commission through the changes that were put into the rules to bring Iowa in line with Federal Alcohol and Tobacco Tax and Trade Bureau (TTB) rules, unless Iowa law allows a difference, and to make the rules easier to understand what is and isn't allowed. Commissioner Wilson made a motion for the adoption of ARC 6667C which proposes to amend Chapter 16, "Trade Practices," Iowa Administrative Code Section 185. Commissioner Pauli seconded the motion. The motion passed with 4 ayes and no nays with Commissioner Winkleman not present. The final version of the adopted rules will be published on May 31, 2023 and become effective on July 5, 2023.

#### **PUBLIC COMMENT**

None

#### **OLD BUSINESS**

None

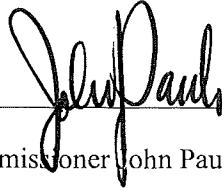
#### **NEXT MEETING DATE**

The next Commission meeting will be June 21, 2023, in Decorah. Information will be posted on ABD's website.

#### **ADJOURNMENT**

**MOTION:** A motion was made by Commissioner Wilson to adjourn the meeting and seconded by Commissioner Pauli. The motion was approved unanimously.

The meeting adjourned at 2:59 PM.

A handwritten signature in black ink, appearing to read "John Pauli", written over a horizontal line.

Commissioner John Pauli, Secretary