

IOWA ALCOHOLIC BEVERAGES COMMISSION

MINUTES

June 25, 2008
Board Room
Alcoholic Beverages Division

Members Present in the Board Room:

Jim Clayton
Gayle Collins
Scott Doll
Rick Hunsaker
Mary Hunter

Guests Present:

Sheila Douglas, Iowa Wholesale Beer Distributors
Tom Duax, Central City Liquor
Jerry Fleagle, Iowa Grocer's Association
Steve Kuzynowski, Department of Administrative Services
Ted Powers, Anheuser Busch
Julie Sietmon, Iowa Senate

Staff Present:

Lynn Walding
Jim Kuhlman
Judy Seib
Rick Swizdor
Brent Saron

Call to Order

Chairperson Scott Doll called the meeting to order at 1:30 PM with a quorum present.

Introductions & Announcements

Rick Swizdor has recently joined the Division as Accounting Manager and Tonya Dusold will start next week as the Division's Information Specialist.

Minutes of Previous Meeting (Available on the website)

A motion was made and seconded to approve minutes from the last Commission meeting.

Tobacco Enforcement & Education Program Update

Brent Saron reported that ABD has amended the due dates for compliance checks included in the 28E Agreements with local law enforcement. As a result, 999 retailers have been checked to date, compared with only 393 checked last year at the same time. Local law enforcement has 500 tobacco retailer education classes scheduled for the current fiscal year and to date 145 classes have been conducted. Brent stated that Vision Point has been selected to assist the Division in developing a storyboard for on-line training. However, no contract has been signed.

Discussion ensued between Mr. Saron and the Commission regarding project cost. Mr. Walding added that the Division would continue to support classroom-based training to meet the needs of retailers and local law enforcement. Mr. Saron indicated that the Division had distributed nearly 22,000 pieces of educational materials to retailers and law enforcement, substance abuse partnerships and the State of Iowa.

A guest questioned whether materials were sent to all licensed retailers. Mr. Saron responded that all tobacco-permitted retailers receive materials. Mr. Saron also explained that the educational materials have undergone a facelift and new materials, such as an ID check poster and penalty poster, have been developed to assist retailers in training clerks. Mr. Walding added that the ID card previously distributed by the Division has been distilled from five to two steps, simplifying the ID checking process for clerks. Mr. Walding indicated that the Division continues to see cases where the clerk checks and ID and still makes an illegal sale. Mr. Walding noted that several easily identifiable features remain on the Iowa driver's license until an individual turns 21.

Mr. Walding indicated that an increase in funding would allow the Division to contract with local law enforcement to conduct a full second check of all tobacco retailers within the contracting law enforcement agency's jurisdiction. Responding to a Commissioner's question, Mr. Walding indicated that the second check would be available to all participating law enforcement agencies.

Warehouse Improvement Update

Mr. Kuhlman updated the Commission on changes in warehouse operations over the past year. The Division has recently hired previous contract employees from a company called Merit Resources. Current staff consists of approximately 16 – 18 full time warehouse operations workers. Staff evaluates routing needs on a periodic basis to determine if there is a way to take a few miles off or add deliveries to a route. Since state law does not limit the number of class "E" licenses that can be issued in Iowa, revisiting the routing system is an ongoing project as new stores enter the business and existing customers exit the business.

Mr. Kuhlman indicated that a significant improvement in the accounting consists of a system where customers and ABD transport drivers conduct a joint case and bottle count upon delivery. The new system saves the drivers' time, avoiding drivers and customers breaking down multiple-pallet orders.

Additionally, the Division has obtained scanners and printers for our drivers for us, where the driver downloads all the customer's invoices electronically onto a hand-held scanner. In the event that a discrepancy is identified via the case and bottle count at the point of delivery, the driver can indicate the necessary invoice change on the scanner, where the updated information is electronically uploaded.

A general discussion ensued among Commissioners and guests regarding the Division's error rates (which, according to Mr. Kuhlman are something less than one-half of one percent.); the ability of the Division to pay warehouse operations workers for low error rates. Tom Duax, a liquor licensee and one of the Division's customers indicated that ABD warehouse operations staff does a good job at picking 99.99% of the time.

A general discussion ensued regarding the implementation costs of the new scanner system. Mr. Kuhlman indicated that hardware costs were approximately \$60,000, costs that will be recouped via lower error rates. Scanners have also reduced accounting staff time from 4 -5 hours to 45 minutes per day processing invoice corrections. As a service to customers, the Division has moved from a quarterly pick-up of defective merchandise to a weekly pickup at the point of delivery.

Mr. Walding indicated that looking at the warehouse part of the operation, the Division originally ran significant overtime over the initial holiday season after taking over the operation from the bankrupt private vendor, in large part, due to a sizeable uptick in sales volume, which was up double digits in August. As the Division gains experience regarding staffing needs and sales level off, overtime costs in the warehouse will be greatly reduced.

Mr. Walding also pointed out that the Division recently restored the 24 hour delivery schedule. A routing package effective Monday, December 3, 2007 will build in break times for drivers and only affects 60 customers. The Division will work with UPS to learn how they make their operation effective through training and standardization. Commissioner Doll and Mr. Walding discussed how the out and back system currently utilized by UPS could be applied to the ABD operation.

Mr. Kuhlman presented three different reports, detailing sales of Templeton Rye. The first report, a daily sales report, illustrates the previous day's sales, along with how the sales compare with the current month and current year to date. Mr. Walding pointed out that case count in dollars and cases will be added to the report as a second tab. Currently, case sales are up but the dollar amount is only up 4.2%, meaning that what we are selling is not as valuable. Mr. Kuhlman indicated that the drop may be a result of customers trading down at the mid-category point. Mr. Duax indicated that his business is \$100,000 ahead of where he was last year.

Concluding, Mr. Kuhlman noted that compared to last year we are a little soft so far, usually if we are going to make our money it is in the first 6 months of the year because after December sales are lower at that point as far as the rest of the year goes. We are still going to be up this year, no doubt about that. I just don't think we will see double digit growth like we did the last couple three years.

DAS Projects

Mr. Kuhlman indicated that the Division has been installing a new heating and air conditioning system. The facility is approaching 28 years of age and the latest construction projects represent an overall effort at getting the facility up to speed with new furniture, computer equipment, lighting, carpeting and paint. The current heating and cooling system was built at the height of the energy crises back at the end of the Carter administration. At that time, systems were built to utilize electricity instead of natural gas. The facility was built so that all of the office area had electric heat but the warehouse was heated with ceiling hung units.

The new system utilizes chillers and boilers in both the front office and warehouse facility, enabling the warehouse to maintain a temperature in the summer months at 15 degrees below the outside temperature. The new conditioning system in the warehouse will prevent moisture from absorbing into the cardboard, lowering humidity in the warehouse area of the building.

In order to update electric service to the facility, the Division is working with Mid American Energy to bring in a new transformer. The Division will also replace internal systems controls, electric panels and boxes to get all electric service up to date and code compliant. The project will include updating the Division's smoke and security alarms systems, including replacing the now defunct security camera system. Old sodium based lighting will be replaced in the warehouse with a more efficient fluorescent based lighting. The warehouse facility will receive new material moving equipment including pallet jacks and forklifts. Most of the current equipment has completed 14 years of a standard 10 year life span.

A commissioner questioned whether the Division would redesign where the trucks enter the truck yard. Mr. Kuhlman indicated that the Division plans to reconfigure the truck yard and had already installed a new gated and guard rail running along the fence area. The current yard is designed for 45 foot trailers and cannot easily accommodate the new 53 foot trailers that have become an industry standard. The Division may potentially install a second driveway.

Bathrooms and break areas in the warehouse facility will be updated to comply with the Americans with Disability Act and other codes. The Division, as part of the implementing the new heating and cooling system, in an effort to seal the building's envelope has caulked all joints.

Mr. Walding noted that when he first took over as Administrator of the Division, the property was run down, as very little spending on up-keep had been expended for the age of the

building. The warehouse portion of the facility had not been adequately maintained, in part, because of the relationship between the state and the private contractor charged with operating the liquor distribution system. The Division has received Governor's Office approval the Division's building improvements.

Mr. Kuzynowski is a mechanical engineer with the Department of Administrative Services (DAS), who worked 18 years in the private sector for General Mills. Mr. Kuzynowski's main duty at General Mills was to oversee all new automated building systems and engineering systems for building and operations in the production or warehouse. What Mr. Kuzynowski has been with the state for two years and was asked by DAS to take the same approach with the state's facilities and work to lean out the state's operation and building operations in terms of equipment and efficiency.

Mr. Kuzynowski outlined the calculus by which building deficiencies are identified. The Division's annual maintenance and repair cost report was presented. Annual utility cost, we have a very old building nothing works as it should and when it is working there is no efficiency rating to it whatsoever we can't even see that it is 10% efficient, the proposed system is going to bring us to 85% or better efficiency rating we may even see 90-95% just depending on conditions. When we look at our 25 year cost of ownership we look at 7.2% versus 3.1%, once again we are also showing that we are physically responsible for the future and making sure that our system that we are putting in today follows throughout the future and keep yielding a savings year by year, we just want to make sure we have something solid to take to the Governor's office so we can start our projects.

A general discussion ensued over the type of heating that will be utilized in the facility once the current system is replaced. Mr. Kuzynowski noted that the new system will utilize a hydraulic thermal concept with a forced air behind it. So it is going to work like your home does you have a central air and central heat it is going to work the same exact way once again we are zoning, and we are dealing with the front dock area as our trouble zone because of the dock doors always being open and the air is coming in, so what we do is we treat that as a few different zones and we are always watching those and the system is always monitoring as those systems start getting colder and we see the need for heat to be sent back there, we send it only to that area which helps our energy cost as opposed to the doors open the building recognizes that there is cold air coming in and the whole heating system turns on to compensate for it so we have high energy bills as a result.

Mr. Kuzynowski noted that the Division's roof replacement project would increase the R value to 30 - 35, carrying the building 25 - 30 years down the road. The river rock will be removed from the roof and will be replaced by a state of the art, Firestone manufactured, roofing system. Air handlers and other stacks will be removed, eliminating the opportunity for leaking in the future. Current leaks stem from windows and other types of perforation coming through the roof.

Mr. Kuhlman noted that the roofing project involves taking 2 million pounds of river rock off the roof. Big Creek State Park and Academy Roofing, the vendor working on the roofing project, will take and re-use most of the rock.

Mr. Walding added that Mid-American Energy will conduct a separate energy audit of the building after the aforementioned improvements are completed and will calculate the level of energy savings realized by the changes. Savings will determine the level of rebate the Division will receive from Mid-American energy.

According to Mr. Kuzynowski, every project the state commences involves a partnership with Mid-American Energy, which has a group that does all modeling and calculates rebates. What the state does is look for rebates through Mid American on anything new that we put in buildings and find a tax credit, either energy rebate or cash rebate. Generally that is around 10 – 15% of a project cost. Daylight harvesting which is what we are going to do here. We are coming out higher right now than other current state project. With our rebate program we are doing better than a brand new building right now.

According to Mr. Walding, a couple of other aspects of the program to emphasize are the bakers' certificate program. AB's warehouse facility down in Saint Louis is bakers certified and represents a goal for ABD to strive towards.

Mr. Kuzynowski added that the Division is dealing in consumer goods. The AIB or American Institute of Baking and what they do is come in and rank a facility on different standpoints, your housekeeping, pest control, organization, along with a long list of criteria. If you pass, you get a plaque – you are not only showing your distributors and everyone you are selling your product to or selling your product to that you are really concerned about the product they are bringing into their homes and making sure we have the cleanest, best taken care of program that we can put into a facility.

Mr. Walding indicated that he has challenged Mr. Kuzynowski to identify a method for ABD to generate energy. We looked at DAS to put a wind turbine up here, of course they told me about all of the problems that posed. For one the debates It has is why can't we go to a wind turbine farm build it there and generate enough energy to compensate for our needs here and sell to Mid American, so the point being is that we are going to look for new ways we can to as efficient as possible.

Mr. Kuzynowski noted that Mid American is willing if we spend money on generators on any of that type of power they will pay us to use that and they will pay us very well to use it, so Mr. Kuhlman has asked me in the future to look at that and see if I find any other things that we can do to benefit ourselves as far as our energy costs.

Mr. Walding noted that a change to the will-call pick up process is forthcoming. Right now the customers come to get product they phone into our garage, we open up the big door and in comes the cold air it used to blow right into the warehouse then we put in a rapid door that took care of that we have designed additional back doors. Trash will be removed outside the dumpsters and all that will be external to the building and then will call will have a ramp, you'll back up to the ramp with your truck.

Mr. Kuzynowski indicated that three additional doors, two of the doors will have permit trash containers, automatic compacting trash containers one for corrugated and one for regular office trash. The cost there of course our corrugated volume is going to go up quite a bit esp.

when we are talking automation and things in the future and then they will call ramp we want to make it really easy for folks to come in with their trucks, pull into a door on a ramp and not have to walk through a garage or a facility our people know what they are there for and that way they can get their product loaded into their truck. Once they do it once they will know exactly where to come every time.

Mr. Walding noted that everything we have talked about so far is phase 1, Phase 2 is in the planning stages now just starting the planning stage we don't know where it is going to lead I had mentioned the potential of automation and who knows maybe even a reconstruction of a new building. What Steve will do is start turning numbers as to what it means & what is justifiable. We are looking at the prospect of a driveway coming in and relocating the garage to the back so that cars would come in and go around rather than what they currently do. Liquor volumes as they have been we went from 100,000 in sales 5 years ago to almost 190 million in sales it has been significant and as that volume grows how much longer can we stay in this facility? So that is something we will be looking at before we do the automation system.

Mr. Kuzynowski indicated that a lot of trucks coming in and we really don't have the docking space here so the feasibility and studies that are going on right now are putting in a receiving drive add new dock doors on the west side of the building and have that be for receiving only. That way we take that truck traffic away from our doors that we need to load our trucks and have our trucks move in and out and we put that traffic out in the back of the building and have the largest space for them to operate in so they can come straight out and don't have to avoid hitting things. Then we will be able to hold a lot of trucks and avoid some of the problems with them backing up traffic out in the street. 1 more thing as far as what we are doing here too we are going to be putting in an IP solutions system as well, it is a Siemens system that is going to operate the whole building everything will be operated through this IP solutions that means our security, building systems, fire, there will be nothing that Lynn will not be able to do. We are going to a badge type of system that is used at the capitol complex. Where everyone will be able to swipe into places and it will be recorded and videotaped we can also do this with the truck drivers. It will have readers on the trucks so when they pull into the gate it will recognize it and open so they won't have to press a button any longer. This is a full complete never been done in a state building yet but it used in a lot of other places and we will be the first to have something this unique. They will also be able to hook into the GPS system so we will be able to see every turn that a driver makes and we can pull that into the system and we can get mileage/against fuel so if things don't add up we can look back and see what the case may be.

Mr. Walding added that next time you we will be back to talk about phase two.

Legislative Update

Mr. Walding noted that the 2007 legislative session will be coming back in a few more weeks. The issues we are looking at are direct shipment, since we have dealt with the forum's the whole fight about the industry being able to bring in out of state product is dying down the big issue now is being able to retain their ability to sell directly and that was one of the recommendations that you had to allow the Iowa wine industry to be able to sell wine directly

to consumers. The reason this is coming up is that a lot of states have had challenges and such when they looked at the issue have decided that rather than allowing other states to ship in they will just completely do away with it, so no direct shipments including state wineries. I think that is what has elevated the concern I have since then had meetings with the wine growers association we went over this issue with them and they all seem to be on board the next phase is we may be back to talk about converting Iowa to a respiratory state which we talked about last time to a direct shipment state so any state could ship wine into Iowa Potentially. Anyone who would ship in has to pay tax they would be subject to our license program, no exemptions. If we can find common ground that is what we will go to the session with this year.

Mr. Walding noted that the 2nd item we talked about dealt with the issue of about moving our EFT transfer up from 72 hours to 24 hours. The reason we in large part was because of the risk that the state ran, the bank stepped in and had priority over us we lost about 50K collectively, so that is why we moved it up.

Mr. Walding indicated that another pressing issue is state wide tobacco licensing. The question came up why can't we have state wide licensing? Right now the licenses are issued to divide municipality it is done once a year on July 1. What we are proposing is a state license part of your liquor application so it would simply be a check off if you wanted an additional license, we are not proposing any increase in the fees it would make it simpler for the retailer to have their tobacco license in conjunction with their liquor license.

A Commissioner questioned Mr. Walding as to whether the change in permitting would result in any loss of revenue from Municipality? Mr. Walding responded that we would say that the license fee would go towards the municipality just like most but not all the alcohol fees go to.

Mr. Walding responded to a Commissioner question that the local authority would do less work and still collect the fees. It will just make things easier. The 4th thing is the substance abuse transfer, right now we are required to transfer money to the general public but also to the substance abuse fund it kind of catches us throughout the year. Rick has implemented a system where we do it evenly throughout the year, what we have been doing up until recently is that we waited until the end of the year, that made it hard to project numbers so we worked out some of those issues by spreading it out. It would be easier if we just transferred money to the general fund, so we are not trying to increase or decrease the amount of money going to the substance abuse but rather just simply it goes into a fund and the legislature then takes it out. So it would simplify the process, we raised that with the department of management and also the Governor's office.

Mr. Walding questioned Ms. Douglas as to whether she had any comments for the Commission regarding the wine issue. Ms. Douglas replied, "Not really, just taking your lead on that & I know we have talked a lot about it before in board meetings."

Mr. Walding noted that we now get UPS counters send us reports on what is being shipped into Iowa. & it is startling how much is coming in from out of state. So retailers like Tom and others that pay a hefty license fee to be in this business, who would when they sell wine is taxed and these out of state wineries are not paying tax to us. 1 of the things we are looking at

is, 1 of the things I forgot to mention is enforcement. We think we made a pitch to the governor's office to get enforcement back.

An unidentified guest questioned, "Why don't you find the addresses of the people purchasing wine and tax them? Mr. Walding replied that we already have that, there is no authority. Under the current law they are not required to pay the tax. If you brought a bottle back from Illinois then you don't have to pay the tax on it.

Ms. Seib stated that a lot of the wine that is coming in is from out of state retailers who think that they are covered under the resperoiocaty law because some states do cover retailer and others don't.

Mr. Walding added that his plan is to work with the common carriers, UPS, DHL & FEDEX, and cut off their sources of shipment. They have not completely done it yet; I will continue to have meetings out of state retailers can't ship into Iowa. I have asked the county attorney's office in Johnson to go after 1 that did do it, I have asked the attorney general's office to do it and they haven't. We do not have criminal prosecutorial powers here so we can't touch you when you bring it in, we don't have jurisdiction over wineries or retail out of state we only have jurisdiction over Iowa Wine retailers. It is somewhat troubling. Our version of the proposed law would only allow out of state direct shipment from a winery not an out of state retailer & the wine institute tells us that they would go along with that type of law.

Mr. Walding indicated that the Division would know if consumers were paying the tax because they would have to file a report with the accounting section on how much was shipped in so we would have verification. The problem is when the winery does it there is no cross balance check, we never really know. There is no reporting so that is why we look at the forums and how we can maybe clean them up.

Commissioner Doll questioned Mr. Walding as to the likelihood of the Division obtaining resources for enforcement of trade law, to which Mr. Walding responded, I have made a pitch to the Governor's office identifying funding for it and what we have identified is at least getting back to what we were in 2003 and start from there. We are constantly getting complaints from wine wholesalers or retailers about what competitors do and it is kind of difficult to not have anyone to send out to do it. Judy is pretty much the only person, we have Deb H. to do regulations and that is all & it is getting overwhelming with 10,000 licensees to keep track of. It is frustrating when a retailer comes to me with a violation and we can only do so much about it. Des Moines Register called me about the issue a reporter for the register is looking into it and his point is, the states make all this money on product why aren't they spending some on enforcement? So we will see what he does on it.

Iowa City's 21-Only Ordinance Referendum

Mr. Walding stated that licensing in Iowa is a concurrent authority between the state and the municipality. We must follow due process, when a city wants a bar shut down in the community they become frustrated when the state does not do it immediately. The due

process is an important factor the establishment; they must get a hearing in order to be fair. Mr. Walding questions to the Commission whether or not they would like to be included on these discussions from bar owners or if they would prefer if the agency conducts the forums on our own?

The commission's response is that they would like to see how the process happens and see how a particular situation is handled.

Mr. Clayton notes the alarming number of possession charges. Iowa City has started tracking these possession tickets and if a particular bar receives multiple violations they will receive a letter from the Police Department stating that if it continues they will not be recommended when their license renewal is due. The Due process on some bars takes over a year and in the meantime the bar owner is still doing the same illegal things. Mr. Walding notes that the whole process from start to finish can take a couple of years. Mr. Clayton also adds that in some cases the bar owners will never get caught because they sell the bar and walk away with the cash. Mr. Walding States that the system effectively works but we could a better job of is educating about the process. Because we cannot base a decision to deny a license on the knowledge that it is a trouble bar, the city needs to document specific cases.

Mr. Hunsaker stated that it would be a good idea to have a forum since it really helped with the wine forum they had. So that when there is an issue we can hear what everyone thinks about it. Mr. Walding asks if we should have one meeting or multiple. Mr. Hunsaker Responds that just one meeting would be difficult from a geographical standpoint. Mr. Walding then asks if we would want to do it in conjunction with the Commission Meetings. The commission agreed.

Mr. Kuhlman asked if other states that have been active in Nuisance bar type ordinance. Ms. Seib responds that we have a nuisance section in our statute that the county attorney could go after & Des Moines has effectively used the nuisance section of the code before. In the Loco Joes incident the city came up with an effective course of action, they threatened to go after whole building and the establishment was evicted. Local authorities have a misconception that if they deny a license, ABD will automatically issue one. By statute we cannot, that is where due process comes in. One reason it takes so long to have a hearing on an issue is because of the 60 day grievance period which we could change our rule on.

Mr. Clayton stated that Iowa City lost the 21 year old ordinance because of same day voter registration. 5,000 of out of state students are registered in other states and could not be networked in our system, therefore they were given an absentee ballot and able to vote. Four bars put approx. \$20,000 in a fund and the students did not file the ethical forms that are required to show the use of funds. Mrs. Seib asked what the turnout was for non-students. Mr. Clayton responded that there would have been a record turnout for an off year city election even without the student votes. Lynn asks where Iowa City goes from here now that the ordinance has come and gone. Mr. Clayton responds that in this case we are going to arrange some stings and the police chief is going to be more diligent in communicating with bar owners.

Mr. Walding added that we did a pseudo intoxication test at the Responsible Retail Forum; Ms. Gehl can tell us more about it.

Mrs. Gehl responded that the Responsible Retailing Forum came to Iowa City and they trained a core of actors from the community to simulate high level intoxication including; falling down, slurring, all the behavioral queues. The night that I was present, 24 of the 26 pseudo intoxication cases preformed, on a Tuesday night sold to the inspector. This included both on and off premise locations primarily in the Downtown area. Mr. Walding added that Mrs. Gehl, Mr. Kuhlman and I met with Sally Mason before the election about the issue and what goes. And one of the issues we left with her was what happens if it doesn't pass what are you going to do?

Mr. Clayton stated that there will be a higher expectation in the University of Iowa. This will be done by putting Friday classes back in place and possibly even Saturday classes. The biggest night in town now is Thursday because there are no classes on Friday. The dormitories are also treated just like in town; the fines are the same \$300.00. The funds from these fines are spent on substance abuse and alternative activities. Harsher penalties will also be enforced, 17% of the graduates have a police record related to alcohol, 1st violation parents will be notified, 2nd violation substance abuse program, 3rd you may be on some kind of sanction. It will be more of a 2 strikes and you're out policy you don't get your boarding or tuition back; you are removed from the campus for 1 year. Mr. Clayton adds that the people making the money still are not being punished & that cover fees also remain an issue certain bars charge upwards of \$20.00 for a cover fee.

Mr. Doll asked if there is any new business

Upcoming Meetings

The next meeting will be Wednesday July 25, 2008 at 1:30 PM in the ABD board Room.

Adjournment

Motion: Commissioner Doll moved the meeting to adjourn
Commission member seconded the motion and the
motion
carried uniamously.

The meeting adjourned at 5:32 P.M.

GAYLE COLLINS, Secretary