

# **INTERIM JOINT COMMITTEE ON LICENSING, OCCUPATIONS, AND ADMINISTRATIVE REGULATIONS**

## **Minutes of the 3rd Meeting of the 2019 Interim**

**September 11, 2019**

### **Call to Order and Roll Call**

The 3rd meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Wednesday, September 11, 2019, at 3:00 PM, in Room 129 of the Capitol Annex. Senator John Schickel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Adam Koenig, Co-Chair; Senators Julian M. Carroll, Denise Harper Angel, Christian McDaniel, and Dan "Malano" Seum; Representatives Tom Burch, Thomas Huff, Matthew Koch, Nima Kulkarni, Chad McCoy, Jerry T. Miller, Kimberly Poore Moser, Ruth Ann Palumbo, Phillip Pratt, Sal Santoro, and Buddy Wheatley.

Guests: Tom Veit and Angie Thomas, Real Estate Appraisers Board; H.E. Corder, Marc Manley and Tony Cotto, Kentucky Real Estate Authority; Karen Lentz, Kentucky Association of Beverage Retailers, Gay Dwyer, Kentucky Retail Federation, Charles George, Wine & Spirits Wholesalers of Kentucky, Jeff Sandlin, Kentucky Malt Beverage Council, John Harris, Kentucky Beer Wholesalers Association, Adam Watson, Against the Grain Brewery, Kate Russell, Hopkinsville Brewing Company, Stephanie Stumbo, Goss Samford PLLC, Allen Dossey, Kentucky Winery Association, and Bart Baldwin, Bart Baldwin Consulting.

LRC Staff: Tom Hewlett, Bryce Amburgey, Jasmine Williams, Melissa McQueen, and Lisa W. Moore

### **Minutes**

The minutes from August 21, 2019, meeting were approved without objection.

### **Consideration of Administrative Regulations**

Mark Manley, Acting General Counsel, Kentucky Real Estate Authority, Tony Cotto, Executive Advisor, Kentucky Public Protection Cabinet, and Tony Veit, Executive Assistant, Kentucky Real Estate Appraisers Board, came to answer questions on the administrative regulations. Responding to a question from Senator McDaniel, Mr. Veit said

the \$450,000 is already being generated by about 1,600 licensed appraisers annually in Kentucky.

Chairman Schickel motioned to pass over administrative regulations 201 KAR 030:110 and 201 KAR 030:190 because there are no new fee increases. The administrative regulations were passed over with no objections from the committee members.

Tom Hewlett, Committee Staff Administrator, Interim Joint Committee on Licensing, Occupations, and Administrative Regulations, explained 201 KAR 030:330 to the committee. Chairman Schickel motioned to pass over the administrative regulation and there was no objection.

### **Kentucky Guild of Brewers**

Adam Watson, Against the Grain Brewery, said the Kentucky Guild of Brewers is pleased to report another year of continued growth, and increased economic impact. He thanked the Kentucky General Assembly for the support and legislative changes that have made the growth possible. The craft brewing industry has reached new levels of competitiveness, with changes in both the market place and customers' expectations and demands. It remains imperative to continue efforts to modernize and advance Kentucky's alcohol laws, improve the tax structure, and avoid pitfalls of those seeking to keep everything as it has always been.

Mr. Watson said Kentucky continues to rank toward the bottom among states in terms of brewers per capita. Tremendous potential for growth still exists. Kentucky remains an under saturated state as opposed to several others. Market demands for quality craft product continue to drive the opportunity for growth.

Mr. Watson said the focus remains on building the brands, assuring production of quality products, and enhancing customer service and tourism experiences. The primary goal is the production of high quality craft beer. The craft beer industry is about creating synergies with each other, industry partners, industry sectors, and our communities. This includes synergy with the General Assembly and policy makers to move Kentucky forward.

Mr. Watson said small independent American craft brewers contributed over \$76.2 billion to the United State economy in 2018, up from \$55 billion just two years ago. The craft beer industry supports more than 500,000 jobs. While overall beer sales by volume in 2018 had a loss of 0.8 percent, craft beer had a four percent increase in volume growth and production. According to the Unites States Department of Labor, wages in the beer industry remain among the highest of the 350 industries surveyed. The demand for local products increased ten percent as preferred products to consumers. Spiked seltzer, cans, crowlers and local craft beer are in demand.

Mr. Watson said Kentucky craft breweries led the nation in 2018 for growth with 69 active licensed craft breweries. Currently, 30 existing breweries have confirmed expansion activity, and 42 percent of existing Kentucky craft brewers are already expanding operations. In 2018, Kentucky craft beer had a \$657 million economic impact. So far in 2019, mid-year data shows its economic impact has increased to \$765 million. More Kentucky craft brewers are exporting than in 2018. Kentucky craft beer is now sold to more than 45 states and over 25 countries, but priority should remain on investment in Kentucky. Production numbers have also increased.

Mr. Watson said Kentucky craft breweries have created 133 new jobs so far in 2019, while employing over 1,000 Kentuckians. The breweries offer Kentucky tourism amenities such as tap rooms. Fifteen brewers also offer food, roof top experiences, farm, or other amenities that draw visitors to Kentucky microbreweries.

Mr. Watson said Kentucky microbreweries have already invested \$6.6 million this year in the Commonwealth in expansions in the form of additional equipment, new tanks, canning lines, buildings, improvements, and new brewery openings. Currently, of the known existing craft brewers that are expanding operations, an additional \$13 million will be invested in Kentucky breweries and operation by the end of 2020. He gave some specific, local examples, including Goodwood Brewing Company located in Frankfort, Kentucky. He offered to give any legislator that was interested a tour of any of the local facilities.

Kate Russell, owner and operator of Hopkinsville Brewing Company, shared her personal success story with the committee. Ms. Russell is a single mother of two children, a veteran, and a brewer. She employs 12 people, and is investing an additional \$250,000 to buy the building next door and increase the breweries capacity. She said it offers tap room sales and distributing to other licensed retailers. She also noted the brewery is not just her passion, but her livelihood, and how she provides for her family.

Mr. Watson said Kentucky craft brewers expansions have continued to lead to the location, creation, and expansion of even more new support industries and indirect jobs in Kentucky, as well as enhancing its tourism experience. The Kentucky craft beer festivals yield a big draw and enhance tourism. Attendance for the Annual Craft Bash was up 15 percent this year over last year, and over 1,700 visitors attended the festival, traveling from 21 different states.

Mr. Watson said Kentucky brewers partner with the Kentucky Department of Agriculture, Kentucky Proud and local farmers, Kentucky Tourism, Kentucky Arts and Heritage Cabinet, and Kentucky's Economic Development Cabinet. The Kentucky microbreweries have made over \$500,000 in local charitable donations to their communities supporting over 294 community organizations and charitable groups. The

Kentucky brewers donate approximately 10 million pounds of spent grain to help Kentucky farmers.

Kentucky craft beer has both a direct and indirect economic impact in the Commonwealth including: 1) investment of new dollars in Kentucky; 2) Kentucky based infrastructure and jobs; 3) industry revenue and sales; 4) wages and benefits to Kentuckians they employ; and 5) tax revenue (federal, state, and local). The ripple effect of beer benefits include: agriculture, manufacturing, construction, transportation, affiliate industries, service industries, and many other businesses whose livelihood depends on or is supported by the craft beer industry.

Mr. Watson said the craft brewing industry is concerned with several key issues both nationally and in Kentucky. They include: transparency; brewery and producer direct to consumer sales (shipping and limited self-distribution for small brewers); franchise reform; excise tax and tax reform; tariffs and trade; underage drinking and responsible consumption; preservation of existing privileges; independent distribution systems; access to materials; water quality; modernization of state's alcohol laws; and threats to the ability to be competitive.

Responding to a question from Representative Miller, Mr. Watson said craft brewers use a variety and vast quantity of ingredients, so it is difficult to source all of them in Kentucky. Currently, Kentucky Hops is coming along nicely, but the right strains that grow here and can compete with the ones grown in their natural habitat are still being perfected. Barley is beginning to be processed in Kentucky instead of being shipped from other states. Kentucky wants to use its own products and processing plants whenever possible.

Senator Seum said he is proud and often advocates for his local craft breweries. He noted they are great for tourism and stimulate the local economy.

### **Kentucky Winery Association**

Mr. Allen Dossey, President, Kentucky Winery Association (KWA), said the first item on the KWA's legislative agenda is to raise the Kentucky small farm winery gallon limit to 500,000 from 100,000. He noted this is important to be competitive with surrounding states. Indiana's limit is 1,000,000, and the Ohio, Missouri, and Iowa limits are 500,000.

The second item on the legislative agenda is to allow a Kentucky small farm winery to open earlier on Sunday in an effort to remain competitive with surrounding states. They would like to open at 11:00 a.m. on Sundays instead of the current time of 1:00 p.m. This would significantly help tourism sales. This would also put the statute for wineries equal to the laws for restaurants that serve alcohol.

The third legislative agenda item is to allow a Kentucky small farm winery the ability to self-distribute their wine if they produce less than 50,000 gallons. He said 15 states have such a program and this really helps small farm wineries to have a level playing field.

The KWA supports legislation that allows the “direct to consumer” shipping of wine into and out of Kentucky. They are fully in favor of direct shipping to consumers.

Mr. Dossey clarified that the KWA is not asking for any additional monies. They only want the flexibility to do their job to the best of their ability. He also noted there are viable reasons not to get a full winery license. For example, regular wineries are not allowed to have the wine tastings like the small farm wineries can.

Senator Schickel said the story of the Purple Toad winery in Paducah is a great success story. Mr. Dossey said they were biggest small farm winery in operation in Kentucky.

Responding to a question from Representative McCoy, Mr. Dossey said it is a state restriction that mandates the 1:00 p.m. opening time. It will require changing state law with a local mandate option for small farm wineries to open at 11:00 a.m. like most surrounding states.

Senator Seum mentioned that Senator Carroll has vast knowledge in the winery business, and was an original founder of the wineries in Kentucky.

Responding to a question from Representative Palumbo, Mr. Dossey said he would provide a list of the eight states allowing wineries to distribute their wine if they produce and sell less than 50,000 gallons.

Senator Carroll thanked the chairman and the committee for allowing the growth of the wine industry in Kentucky. He is proud that the wine industry is now active in all parts of the state. Mr. Dossey said there are 65 Kentucky-based wineries.

Responding to a question from Representative Moser, Mr. Dossey said when the original limits were incorporated in the wine industry, no one envisioned the tremendous growth that would occur. He said wine was underappreciated in this part of the country and there were very few wineries. He said 83 percent of wine in Kentucky is consumed and purchased by women, and the growth in the industry has superseded the limitations. Representative Moser said it is time to revisit the limits and revise accordingly.

### **Wholesale and Retail Tiers**

Mr. Charles George, Wine & Spirits Wholesalers of Kentucky, said Kentucky’s wine and spirits wholesalers, beer distributors, and alcohol retailers employ nearly 16,000

Kentuckians in 104 counties across the Commonwealth in jobs ranging from accounting and sales to logistics and truck delivery. The alcohol wholesale and retail industries generate nearly \$500 million in taxable wages and collect hundreds of millions of dollars for state and local governments, which helps to support families, communities, and schools. The industry is supported by over 8,000 businesses in the Commonwealth. He has much respect for the distillers, but the alcohol has to be distributed and sold in a safe manner.

Mr. John Harris, Kentucky Beer Wholesalers Association, discussed his family owned River City Distributing Company. He said they have 200 employees, and offer \$90,000 a year truck driving jobs, and a union environment. He said he is proud that he has a significant number of employees who have over twenty years in his business and will eventually retire from his company.

Ms. Karen Thomas Lentz, Kentucky Association of Beverage Retailers, said there are over 4,000 off-premise retailers, which include package stores, grocery stores, pharmacies, convenience stores, and general stores. There is approximately 3,713 employees, and a \$99.4 million total payroll. She noted there is over \$2 billion in products sold annually.

Ms. Lentz said there are over 800 retail package stores licensed to sell liquor by the package in Kentucky. She said approximately 85 percent employ fewer than ten employees, and are considered true family businesses. She said small retail package liquor will require a \$400-500,000 initial investment, and this is just for inventory, supplies, and start-up employees, not the building. It would take \$4 million or more to open a large party store. She noted that taxes are paid on all the inventory and they contribute significantly to the economic well-being of the community.

Mr. George said prohibition proved to be a huge failure. He said alcohol is a sensitive product, but the 3-tier system provides checks and balances. Three big benefits of the three tiers are consumer safety, tax collection, and product selection.

Mr. Sandlin, Kentucky Malt Beverage Council, said his company employs 62 full-time workers and offers a variety of jobs. He said employees with a Commercial Driver's License (CDL) are the most difficult to retain. He said the council utilizes 31 suppliers, with 8 being Kentucky craft suppliers, 3 Kentucky distilleries, and are a part of Purple Toad. He said they take the product into the retail stores and assist in pricing and displaying.

Gay Dwyer, Kentucky Retail Federation, said the Kentucky General Assembly passed legislation in 2000 to allow restaurants, who met certain criteria, to sell alcohol on Sundays. This was a game changer as it showed Kentuckians that selling alcohol on Sundays was not the end of the world in their community. Historically dry Kentucky counties are now trending on becoming wet, and there are only 15 counties left out of 120

that are completely dry. This is transformative and encouraged the committee members to remain open to change in order to modernize the system to help economic development. This could include selling wine in grocery stores, which is done in all Kentucky's surrounding states, plus 40 more. Kentucky's wine consumption is half of the national average and she feels wine sales would increase if it was available with food in the grocery stores.

Responding to a question from Representative Miller, Mr. George said the ABC Board's decision on serving alcohol in dry counties is still pending. Based on House Bill 256, sponsored by Representative Michael Meredith, it would allow the host of a wedding barn party to have alcohol as long as there are no sales. He said a final ruling from the ABC Board has not come to fruition to his knowledge.

With no further business before the committee, the meeting adjourned at 4:00 p.m.