

Red Tape Review Rule Report (Due: September 1, 20 24)

Department Name:	Revenue (Alcoholic Beverages Division)	Date:	9/1/2024	Total Rule Count:	40
IAC #:	185	Chapter/ SubChapter / Rule(s):	Chapter 4	Iowa Code Section Authorizing Rule:	123.10
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PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 4 describes the requirements that retail alcohol licensees and permittees must adhere to maintain their respective licenses or permits and the applicable violations involved to enforce the requirements. The rules are intended to help the licensees and permittees better understand the applicable license and permit requirements, in addition to processes and procedures involved for certain license privileges.

Is the benefit being achieved? Please provide evidence.

To the extent the Department proposes to re-promulgate rules, the Department has determined that the rules aid the public in better understanding the requirements that licensees and permittees must follow to maintain their respective licenses or permits and the applicable violations involved to enforce the requirements. The evidence for the benefit of the rules is demonstrated from the text of the rules themselves and the greater certainty they provide Iowans.

What are the costs incurred by the public to comply with the rule?

There is no cost to comply with these rules. Any costs to comply with the rules are associated with the underlying statute.

What are the costs to the agency or any other agency to implement/enforce the rule?

There are no costs to the agency of implementing the rules beyond those that would be required to administer the statute.

Do the costs justify the benefits achieved? Please explain.

There are no costs of the rules themselves. The cost of inaction would be confusion about the applicability of the outlined processes and procedures while maintaining compliance.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The outright prohibition of vending machines to dispense alcoholic beverages under rule 185—4.41(123) was identified as a significant area to review for less restrictive alternatives. The language was originally made part of the rule to address truly stand-alone machines that functioned similar to a soda vending machine. But, the rule has also applied to self-service machines in other contexts. The rule’s purpose is to prevent underage drinking and over-service in accordance with the law. However, the growing business model of self-service machines utilized by retail alcohol licensees was identified as a model that should no longer have a strict prohibition. Today’s self-service machines often include technology and security parameters that mitigate the risks the rule seeks to avoid. As a result, the Department frequently grants or denies rule waiver applications to allow this growing business model to operate in the state based on case-by-case review. The Department proposes to amend the rule to reduce the need for waivers. But, it is important to ensure any amendments to the rule include guardrails to protect the public health, safety, and welfare of Iowans. Language from other states that allow this business model was reviewed and incorporated into the amended rule language. Arkansas, Connecticut, Kansas, Michigan, Missouri, Oklahoma, Texas, and Washington all had statutory and administrative rule language that allowed for self-service machines with restrictions which were considered during the drafting process.

The remaining chapter rules have been revised where possible to rescind statutory text or obsolete language. The rules that will be re-promulgated have been determined to be necessary and reworded to provide clarity. For the remaining re-promulgated rules, there are no less restrictive alternatives to achieve the benefit of additional certainty.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

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Yes, Chapter 4 contains language that is outdated, inconsistent, redundant, and duplicative of statutory language.

RULES PROPOSED FOR REPEAL (list rule number[s]):

4.9, 4.16, 4.20, 4.21, 4.22, 4.23, 4.24, 4.27, 4.29, 4.30, 4.31, 4.33, 4.37, 4.38, 4.39, 4.40

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

4.1 is amended to comply with 2023 Iowa Acts, Senate File 514, and remove unnecessary language.
4.2 is amended to update outdated language and provide clarity.
4.3 is re-promulgated in its entirety.
4.4 is amended to provide clarity.

4.5 is amended to update outdated language, remove restrictive terms, provide clarity, and remove language duplicative of statute.

4.6 is amended to update outdated language, remove restrictive terms, and provide clarity.

4.7 is amended to update outdated language, provide clarity, and remove language duplicative of statute.

4.8 is amended to remove restrictive terms and provide clarity.

4.10 is amended to comply with 2022 Iowa Acts Senate File 2374 and 2023 Iowa Acts House File 433, remove restrictive terms, and update outdated language.

4.11 is amended to update outdated language, remove restrictive terms, and provide clarity.

4.12 is amended to provide clarity.

4.13 is amended to update outdated language and provide clarity.

4.14 is amended to provide clarity.

4.15 is amended to update outdated language, and adopt rule language from 185—4.27 to provide clarity on similar subject matter.

4.17 is amended to provide clarity.

4.18 is amended to update outdated language and provide clarity.

4.19 is amended to provide clarity.

4.20 is amended to updated outdated and unnecessary language and remove language duplicative of statute.

4.25 is re-promulgated in its entirety.

4.26 is amended to remove unnecessary language and to provide clarity.

4.28 is amended to provide clarity and remove language duplicative of statute.

4.32 is amended to update outdated language and provide clarity.

4.34 is re-promulgated in its entirety.

4.35 is amended to provide clarity.

4.36 is re-promulgated in its entirety.

4.41 is amended to be less restrictive, update outdated and inconsistent language, and provide clarity between a new growing business model and what has existed under the current definition of a vending machine.

The text of the proposed rules will be published with the Regulatory Analysis in the Iowa Administrative Code Bulletin in the coming weeks.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	16
Proposed word count reduction after repeal and/or re-promulgation	1,264 words removed
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	117 terms removed

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

185—4.36