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IN THE MATTER OF THE PETITION FOR  
WAIVER BY:

K and M Advising, LLC  
d/b/a Steer N Stein  
3000 East Grand Avenue  
Booths B050 and F050  
Des Moines, Iowa 50317

Retail Alcohol License No. LC0051314

W24-003

**RULING (AMENDED)**

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Pursuant to Iowa Code chapter 17A.9A and Iowa Administrative Code chapter 185—19, the Iowa Department of Revenue (“Department”)<sup>1</sup> makes the following ruling on the Petition for Waiver submitted by Michael Krantz on behalf of K and M Advising, LLC d/b/a Steer N Stein (“Petitioner”):

### **COURSE OF PROCEEDINGS**

The Petitioner is a limited liability company that holds a class “C” retail alcohol license for its business, Steer N Stein, located at 3000 East Grand Avenue Booths B050 and F050, Des Moines. Mr. Krantz shares ownership of the Petitioner with Kimberly Krantz. Mr. Krantz now petitions the Department for a waiver of Iowa Administrative Code r. 185—4.41. Furthermore, Mr. Krantz was previously granted the use of 12 taps through waiver ruling W24-003 and requests an additional 32 taps for use through his Micro Matic self-pour draft system.

### **RELEVANT FACTS**

The Petitioner desires to operate a Micro Matic self-pour draft system on its premises. The self-pour system contains a total of 44 taps that are located within the Petitioner’s business and are intended to be accessed and used by the Petitioner’s customers.

According to information provided by Mr. Krantz in his waiver petition and follow up communication, the Micro Matic self-pour draft dispensing system allows the Petitioner’s employees to activate a RFID operating chip (chip) that is located on the bottom of a 20-ounce, reusable cup (cup). A customer can purchase a cup and add a beer package to the chip that can be used at any of the dispensing system taps to dispense beer. The Petitioner’s employees are required to make contact with the customer to add more ounce dispensing privileges to the chip.

Each customer consuming beer from the Micro Matic self-pour draft dispensing system purchases a cup initially. The chip is activated when a customer purchases a cup with a beer package. The Petitioner’s employees then verify the customer’s name and age before activating the chip. The chip allows

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<sup>1</sup> Effective July 1, 2023, and pursuant to 2023 Iowa Acts, Senate File 514, the Alcoholic Beverages Division became a part of the Iowa Department of Revenue

the customer to self-pour up to three 20 ounce pours from the Micro Matic self-pour draft dispensing system taps. The chip collects data on the amount of beer dispensed, and deactivates after the preselected amount (60 ounces) has been dispensed from the system, requiring the Petitioner's employee to deem the patron eligible to purchase up to three more servings. The Petitioner also requires a wrist- band to be issued to the customer as another identifier of being of age to purchase a beer package. The Petitioner changes the color of the issued wrist-band daily.

The dispensing system is constantly monitored by the employees and via surveillance cameras. With the increase or taps from 12 to 44, the petitioner has added additional camera coverage for additional support to ensure the safe and appropriate use of the taps. At the end of the business day the dispensing system is deactivated. If a customer returns on a different business day, an employee of the Petitioner shall confirm the age and identity of the customer trying to re-use the chip to pour and consume the remaining ounces on a chip.

### **SUMMARY OF LAW**

The Department's administrative rules prohibit alcoholic beverages from being dispensed from a vending machine. Specifically, Iowa Administrative Code r. 185—4.41 provides that:

A retail alcohol licensee shall not install or permit the installation of vending machines on the licensed premises for the purpose of selling, dispensing or serving alcoholic beverages. A vending machine is defined as a slug-, coin, currency- or credit card-operated mechanical device used for dispensing merchandise, including single cans of beer or other alcoholic beverages, and includes a mechanical device operated by remote control and used for dispensing single cans of beer or other alcoholic beverages. A vending machine is not a unit installed in individual hotel or motel rooms used for the storage of alcoholic beverages and intended for the personal use of hotel or motel guests within the privacy of the guests' rooms.

Unless waived, this rule prohibits the Petitioner's use of the Micro Matic self-pour draft dispensing system at its place of business. The purpose of this rule is to prevent underage consumption and over consumption of alcoholic beverages in unsupervised settings.

The Department may, in its sole discretion, issue an order waiving in whole or in part the requirements of a rule if it finds, based upon clear and convincing evidence, that all of the criteria set forth in Iowa Administrative Code r. 185—4.41 have been met. The criteria include:

- a.* Application of the rule would result in hardship or injustice to the person for whom the waiver is requested.
- b.* Waiver from the rule on the basis of the particular circumstances would not prejudice the substantial legal rights of any person.
- c.* Provisions of the rule subject to the request for a waiver are not specifically mandated by statute or another provision of law.

- d. Where applicable, substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

If granted, a waiver “shall provide the narrowest exception possible to the provisions of a rule.” *See* Iowa Administrative Code r. 185—4.41. The burden of persuasion rests with the Petitioner to demonstrate by clear and convincing evidence that the Department should exercise its discretion to grant a waiver from a rule. *See* Iowa Administrative Code r. 185—4.41.

### **CRITERIA FOR WAIVER**

#### **The application of the rule would impose an undue hardship on the person for whom the waiver is requested:**

The application of Iowa Administrative Code r. 185—4.41 would pose a financial burden to the Petitioner. The Petitioner has invested a substantial amount of capital to purchase the vending machine and software. The Petitioner’s business relies on the Micro Matic self-pour draft dispensing system to allow the Petitioner to reduce the burden of labor and staffing shortages in a business model that operates within the vast customer base of the Iowa State Fairgrounds.

#### **The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person:**

There is no prejudice in the substantial legal rights of any person by the granting of this waiver. Waivers have previously been submitted and granted concerning the rule in question. An evaluation of these criteria will be made on a case-by-case basis for future waiver requests.

#### **The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law:**

No provisions of Iowa Code chapter 123 or other applicable statutes prohibit the waiver of Iowa Administrative Code r. 185—4.41.

#### **Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested:**

So long as the Petitioner’s employees, in the supervision and operation of the Micro Matic self-pour draft dispensing system, take all necessary precautions to prevent underage consumption and the service of intoxicated patrons, the public health, safety, and welfare will not be compromised or otherwise placed at risk should the Department grant the renewal of the requested waiver in this case.

### **IT IS THEREFORE ORDERED:**

The requirements of Iowa Administrative Code r. 185—4.41 that prohibit the use of vending machines for the dispensing of alcoholic beverages are waived for the use of the Micro Matic self-pour

draft dispensing system, containing no more than **44 taps**, upon the premises located at 3000 East Grand Avenue Booths B050 and F050, Des Moines, Iowa, subject to the following conditions:

- Only an employee of Steer N Stein may authorize the Micro Matic self-pour dispensing system and activate a chip to dispense beer. Individual customers shall not be authorized to independently purchase beer through the Micro Matic self-pour dispensing system without the assistance and involvement of an employee from Steer N Stein.
- The Micro Matic self-pour dispensing system shall only dispense beer as defined in Iowa Code sections 123.3(6) and (22).
- Steer N Stein shall employ an adequate number of employees to ensure each person consuming beer is of legal drinking age and no person being served beer is intoxicated.
- Steer N Stein employees shall exercise all necessary care to ensure that each purchase through the Micro Matic self-pour dispensing system is made by a person of legal drinking age and that all beer dispensed through the Micro Matic self-pour dispensing system is only consumed by persons of legal drinking age.
- Steer N Stein employees shall exercise all necessary care to ensure that no person served beer through the Micro Matic self-pour dispensing system is intoxicated.
- The Micro Matic self-pour dispensing system shall require each chip to pause patron service after 60 ounces of beer has been dispensed from the system, requiring a Steer N Stein employee to deem the customer eligible for more servings prior to the customer's continued use of the device. The chip shall be programmed to pause patron service after every 60 ounces of beer dispensed. This amount (60 ounces) is similar with previously granted waivers for a similar device that dispenses beer.
- The Micro Matic self-pour dispensing system shall be operated in the manner detailed in the petition for waiver from Mr. Krantz.

Upon consideration of comments received from the city of Des Moines, this waiver is granted, but will terminate upon the cancellation of the retail alcohol license covering the premises located at 3000 East Grand Avenue Booths B050 and F050, Des Moines, Iowa.

This waiver is contingent upon the Micro Matic self-pour draft system being operated in the manner described in the petition for waiver request, in addition to the explanation outlined in this waiver, including the conditions set forth above. The approval of this waiver is conditioned upon the city of Des Moines authorization of the operating procedures as detailed in the petition for waiver. Any modifications to the above-listed description or operating conditions are not approved. A new petition for waiver shall be submitted to the Department to seek approval to modify the above-listed description and/or operating conditions. Deviation from the above-listed description or operating conditions without Department

approval shall render this waiver null and void and subject the Petitioner to the penalty provisions of Iowa Code section 123.39, including fine, license suspension, and/or license revocation.

The waiver granted through this ruling is location and license specific. A separate waiver must be obtained from the Department for each licensed premises upon which a retail alcohol licensee desires to use the Micro Matic self-pour draft system or other similar device prior to installation. The Department reserves the right to re-examine the grant of this waiver at any time as circumstances warrant.

**DATED** this 6th Day of August, 2024, in Ankeny, Iowa.

IOWA DEPARTMENT OF REVENUE

A handwritten signature in black ink, appearing to read 'S. Hoerr', with a long horizontal line extending to the right.

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Sam Hoerr  
Division Administrator

Copies to:

John Lundquist  
Assistant Attorney General  
Agency Council Division  
1305 E. Walnut St., Second Fl.  
Des Moines, Iowa 50319

Meg Norberg  
Des Moines Assistant City Attorney  
400 Robert D. Ray Drive  
Des Moines, Iowa 50309



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**RELEVANT FACTS**

The Petitioner desires to operate a Micro Matic self-pour draft system on its premises. The self-pour system contains a total of 12 taps that are located within the Petitioner’s business and are intended to be accessed and used by the Petitioner’s customers.

According to information provided by Mr. Krantz in his waiver petition and follow up communication, the Micro Matic self-pour draft dispensing system allows the Petitioner’s employees to activate a RFID operating chip (chip) that is located on the bottom of a 20-ounce, reusable cup (cup). A customer can purchase a cup and add a beer package to the chip that can be used at any of the dispensing system taps to dispense beer. The Petitioner’s employees are required to make contact with the customer to add more ounce dispensing privileges to the chip.

Each customer consuming beer from the Micro Matic self-pour draft dispensing system purchases a cup initially. The chip is activated when a customer purchases a cup with a beer package. The Petitioner’s employees then verify the customer’s name and age before activating the chip. The chip allows the customer to self-pour up to three 20 ounce pours from the Micro Matic self-pour draft

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dispensing system taps. The chip collects data on the amount of beer dispensed, and deactivates after the preselected amount (60 ounces) has been dispensed from the system, requiring the Petitioner's employee to deem the patron eligible to purchase up to three more servings. The Petitioner also requires a wrist-band to be issued to the customer as another identifier of being of age to purchase a beer package. The Petitioner changes the color of the issued wrist-band daily.

The dispensing system is constantly monitored by the employees and via surveillance cameras. At the end of the business day the dispensing system is deactivated. If a customer returns on a different business day, an employee of the Petitioner shall confirm the age and identity of the customer trying to re-use the chip to pour and consume the remaining ounces on a chip.

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- a.* Application of the rule would result in hardship or injustice to the person for whom the waiver is requested.
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### **IT IS THEREFORE ORDERED:**

The requirements of Iowa Administrative Code r. 185—4.41 that prohibit the use of vending machines for the dispensing of alcoholic beverages are waived for the use of the Micro Matic self-pour



draft dispensing system, containing no more than **12 taps**, upon the premises located at 3000 East Grand Avenue Booths B050 and F050, Des Moines, Iowa, subject to the following conditions:

- Only an employee of Steer N Stein may authorize the Micro Matic self-pour dispensing system and activate a chip to dispense beer. Individual customers shall not be authorized to independently purchase beer through the Micro Matic self-pour dispensing system without the assistance and involvement of an employee from Steer N Stein.
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The waiver granted through this ruling is location and license specific. A separate waiver must be obtained from the Department for each licensed premises upon which a retail alcohol licensee desires to use the Micro Matic self-pour draft system or other similar device prior to installation. The Department reserves the right to re-examine the grant of this waiver at any time as circumstances warrant.

**DATED** this 2nd Day of July, 2024, in Ankeny, Iowa.

IOWA DEPARTMENT OF REVENUE

A handwritten signature in black ink, appearing to read 'S. Hoerr', with a long horizontal line extending to the right.

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Sam Hoerr  
Division Administrator

Copies to:

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Des Moines, Iowa 50319

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