



STATE OF OKLAHOMA  
ALCOHOLIC BEVERAGE LAWS ENFORCEMENT COMMISSION

MINUTES OF THE ABLE COMMISSION MEETING

March 25, 2016

The filing of the meeting and posting of the agenda was in accordance with the Oklahoma Open Meeting Act. Notice of the meeting was filed with the Secretary of State on February 19, 2016. The agenda was posted on March 22, 2016, on the front and back doors of the 36<sup>th</sup> Street and Santa Fe Avenue building, the door of the ABLE Commission's Office Reception area, and on the ABLE Commission website.

Chairman Bryan Close called the meeting to order at 10:00 a.m. at the Office of the Alcoholic Beverage Laws Enforcement (ABLE) Commission at 3812 North Santa Fe Avenue, Suite 200, Oklahoma City, OK 73118. A quorum was met with the presence of the following board members: Bryan Close; Devin Graves; Robert Heidlage; Clarence Warner; Joe Forrest; James Maisano; and Harry J. "Trey" Kouri, III. Others present were: Steven Barker, Assistant Attorney General and ABLE General Counsel; Danny Shadid, Attorney; Rick Hughes and Collin Graham, Oklahoma Restaurant Association; Randy Malone, Attorney; Mrs. Jeanie Heidlage; and the following ABLE employees: Director Keith Burt; Administrative Law Judge Luke Simms; Captain Brent Fairchild; Captain Joe Daniels; Lieutenant Erik Smoot; Karen Pilkington, Administrative Assistant; Director Burt's Assistant, Kathy Sharp; and Office Assistant, Margaret Hooley.

Commissioner Warner made a motion to approve the minutes from the February 19, 2016 Board Meeting subject to two corrections presented at the board meeting. Commissioner Maisano seconded the motion. A roll call vote was taken and recorded as follows:

Devin Graves - Yes  
Robert Heidlage - Yes  
Clarence Warner - Yes  
Joe Forrest - Yes  
James Maisano - Yes  
Harry J. "Trey" Kouri, III - Yes  
Bryan Close - Yes

Director Keith Burt gave his report which covered the following topics:

- Director Burt thanked the Commissioners for rescheduling the March meeting in order to obtain a quorum.
- Reported that Captain Maureen Shanta was out with an injury she received while teaching a Council on Law Enforcement Education and Training (CLEET) class.
- Updated the Commissioners on Governor Fallin's executive orders for the year.

- Recognized Assistant Attorney General and ABLE General Counsel Steven Barker to explain why the ABLE Commission can not comply with Executive Order 2016-03 regarding listing felony convictions on employment applications.
- Recognized Karen Pilkington and stated that she would be available to help any of the Commissioners that needed assistance filing the Financial Disclosure Statement which is required by the state and must be filed no later than May 15<sup>th</sup>.
- Recognized Assistant Attorney General and ABLE General Counsel Steven Barker, who gave an update on Case No. 12-63-7393, Citizen Potawatomi Nation v. ABLE Commission. He informed the Commissioners that post-trial requests for relief have been filed and a decision from the Arbiter is expected by April 15<sup>th</sup>.
- Recognized Assistant Attorney General and ABLE General Counsel Steven Barker, who gave an update on Initiative Petitions 783, 785 and 786. Initiative Petition 783 was withdrawn on March 7<sup>th</sup>; Initiative Petition 785, presented by the Retail Liquor Association, is currently being challenged in the State Supreme Court; and Initiative Petition 786, filed by Oklahoman's for Consumer Freedom, is also being challenged in the State Supreme Court.
- Recognized Captain Joe Daniels and Lieutenant Erik Smoot, who presented a shortened version of the Target Responsibility for Alcohol Connected Emergencies (TRACE) investigation class that is presented to other law enforcement personnel.
- Director Burt stated that Logan County voted March 1, 2016 to allow liquor by the drink on Sundays. The vote was approved 61.38% to 38.62% and now allows liquor by the drink sales on every day but Easter and Christmas.
- Reported on the implementation of Governor Fallin's Executive Order 2016-01. The Commission is currently in the process of adapting the phone systems with the Office of Management and Enterprise Service (OMES) and anticipates completion by July 1<sup>st</sup>.
- Reminded the Commissioners that the next meeting will be in three weeks on April 15<sup>th</sup>.

Captain Brent Fairchild presented the enforcement report to the Commissioners:

- Reported the Too Much Too Lose (2M2L) agents assisted the Tulsa Police Department and the Oklahoma Highway Patrol (OHP) on a DUI checkpoint resulting in over 200 citations being issued, gave a presentation at the Tulsa Mayor's Alcohol Awareness Summit, assisted with a mock Reality Party in Ada, attended 10 coalition meetings, and conducted 22 Responsible Beverage Service and Sales (RBSS) training sessions.
- Stated that the Oklahoma City agents completed 110 assignments, completed 2 TRACE investigations, and investigated a complaint involving refilling, refusal of entry, and employees without licenses.
- Reported the Tulsa agents worked on a gambling case in Osage County, assisted the Attorney General's Office with tobacco violations, and completed Driving Under the Influence (DUI) Enforcement and bar checks in Wagoner County.
- Reported that the McAlester agents attended National Liquor Law Enforcement Association (NLLEA) Grant Training, spoke to the McAlester Lions Club and McAlester Rotary Club, presented a program at the Marlow High School Drivers Education class, conducted one TRACE investigation, conducted Responsible Beverage Service and Sales (RBSS) training sessions, and instructed at OHP and CLEET Academies.

Director Keith Burt gave the Budget Report which covered the following topics:

- Reported that the February Gross Revenue Fund collections missed the estimate by 18%, which is 25.2% below last year's collections, and that gross production tax collections were 83.4% below the estimate.
- Stated that ABLE collections were up almost 30% from last year and up over 6½% for the year. Director Burt attributed the large collection increase not only to the extra day in February due to Leap Year, but also robust license and registration collections.
- Reported that the State Board of Equalization certified \$5.8 billion for FY2017 appropriations. There will be about 19% less to appropriate for FY2017 than FY2016, if estimates are correct.
- Stated the majority of agencies were reduced 7¼% for the beginning of FY2016. Agencies were cut another 3% on January 1<sup>st</sup> and 4% on March 1<sup>st</sup>. The two additional cuts resulted in a total of about \$198,100 less funds available to the ABLE Commission in 2016.
- Commented that the Rainy Day Fund has a balance of \$385.3 million. The Legislature could use up to \$144.4 million to offset 2016 cuts. Within the last week, the Legislature used \$78.6 million when it disbursed \$51 million to the Department of Education and \$27.6 million to the Department of Corrections, leaving a remaining balance of over \$300 million.
- Thanked Vice Chairman Kouri for meeting with Senator Stephanie Bice earlier this week on legislative issues, thanked Commissioner Forrest for meeting with Senator Jolly, and thanked Commissioner Warner for his research on historical ABLE Commission collections data and suggestions for additional funding.

Assistant Attorney General and ABLE General Counsel Steven Barker, gave an update on the legislative bills that could effect the ABLE Commission that included HB1714, HB1967, HB2675, HB2756, HB2864, SB58, SB383, and SJR68.

Commissioner Heidlage voiced concerns over the guidelines in which administrative cases are being handled and requested that the subject be placed on the next agenda for discussion.

Commissioner Warner stated that the Commission needs to prepare a budget for what the agency needs next year reflecting where fees could be raised to offset the increases in operations if additional licensees are added.

Chairman Close asked for any comments from the public.

Attorney Danny Shadid addressed concerns over SJR68 removing the ABLE Commission from the Constitution. He also stated that Senator Clark Jolly does not want the ABLE Commission to exist, but that Senator Stephanie Bice's 276 page legislation does remove any language that would eliminate the Commission. He discussed articles from John Maisch, Executive Director of the Institute for Responsible Alcohol Policy, stating that the article dated March 20, 2016 conflicted with an earlier article written by Mr. Maisch in April 10, 2010 for the Oklahoma Bar Journal.

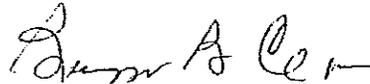
Attorney Randy Malone gave a synopsis of Initiative Petition 785 stating that it keeps the ABLE Commission in the Constitution, permits grocery stores to receive one free license and allows for an additional three licenses, does not allow convenience stores to receive a license,

requires all manufacturers to sell to all wholesalers in the state, and creates funding for the ABLE Commission by splitting brand registration fees between the Commission and the Department of Mental Health. Mr. Malone also gave a synopsis on Initiative Petition 786, which he referred to as the "Wal-Mart Petition." This petition allows all grocery and convenience stores to receive a retail wine license, permits franchising, quantity discounts and direct shipping.

Chairman Close asked for any additional comments. Hearing none, he asked for a motion to adjourn.

Commissioner Maisano made a motion to adjourn the meeting. Commissioner Kouri seconded the motion. A roll call vote was taken and recorded as follows:

Devin Graves – Yes  
Robert Heidlage - Yes  
Clarence Warner - Yes  
Joe Forrest - Yes  
James Maisano - Yes  
Harry J. "Trey" Kouri, III - Yes  
Bryan Close – Yes



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Bryan Close, Chairman

BC/mks