



STATE OF OKLAHOMA
ALCOHOLIC BEVERAGE LAWS ENFORCEMENT COMMISSION

MINUTES OF THE ABLE COMMISSION MEETING
May 15, 2020

The filing of the meeting and posting of the agenda were in accordance with the Oklahoma Open Meeting Act. Notice of the meeting was filed with the Secretary of State on October 18, 2019. The agenda was posted on May 12, 2020 on the front and back doors of the 36th Street and Santa Fe Avenue building, the door of the ABLE Commission's Office Reception area, and on the ABLE Commission website.

**** This public meeting utilized teleconference as authorized through Senate Bill 661, signed into law on March 17, 2020. Members of the public joined the teleconference from remote locations by calling 405-888-8380 to access live audio of the meeting, pursuant to 25 O.S. Section 307.1 as amended. The ABLE Commission also followed all guidance issued by Attorney General Mike Hunter with respect to Senate Bill 661 and the use of teleconference for this meeting. The Commission took a roll call at approximately 15 minute intervals in an effort to ensure a quorum of the Commission was maintained throughout the meeting.**

Commission members appearing in person at the Commission office:

Chairman Joe Forrest
Commissioner Dee Collins

Commission members appearing remotely:

Commissioner Devin Graves – Altus, OK
Commissioner James Willyard – Pryor, OK
Commissioner Jonathan Brooks – Okmulgee, OK
Commissioner Harry J. "Trey" Kouri, III – Oklahoma City, OK

Commission staff appearing in person at the Commission office:

Director A. Keith Burt
Deputy Director Steven Barker
Assistant Director Brent Fairchild
Administrative Law Judge/Human Resources Director Matt Stewart
Captain Erik Smoot
Office Assistant Shae Isaacs

Commissioner Collins made a motion to approve the minutes from April 17, 2020 Commission meeting. Commissioner Kouri seconded the motion. A roll call vote was taken and recorded as follows:

Commission members voting in person at the Commission office:

Chairman Joe Forrest – Yes

Commissioner Dee Collins – Yes

Commission members voting remotely:

Commissioner Devin Graves – Yes

Commissioner James Willyard – Yes

Commissioner Jonathan Brooks – Yes

Commissioner Harry J. “Trey” Kouri, III – Yes

Chairman Forrest welcomed visitors listening remotely through the teleconference system.

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

- Director Burt recognized Human Resources Director Matt Stewart regarding highly probable fraudulent unemployment claims. Human Resources Director Stewart stated that, to date, there have been a total of one hundred and four fraudulent unemployment claims made against the ABLE Commission, with more expected to be received in the future. Thirteen of those claims utilized the identities (including social security numbers) of current ABLE employees and two retired ABLE employees. He stated that he informed those employees of the fraudulent claims and measures that can be taken to mitigate future identity theft activity directed against them. He said that ABLE has been working with Oklahoma Employment Security Commission’s Chief Fraud Investigator, Brett Hanson, in an effort to have these claims flagged as fraud as quickly as possible and inform the appropriate law enforcement authorities about these claims for further investigation as necessary. Human Resources Director Stewart said that more information will be provided once it is available.
- Director Burt gave an update on fiscal year 2021 budget outlook. Director Burt stated that in March 2020 the ABLE Commission was expecting a potential 1% to 2% budget cut for fiscal year 2021. With the Oklahoma financial position worsening, the Oklahoma legislature passed a \$7.7 billion budget that was vetoed, but then overridden by the Legislature. Under this budget, the ABLE Commission has approximately a 4% reduction for fiscal year 2021. It may have been a greater cut, but for the Rainy Day and other funds being utilized to fill the shortfall. In the event the economic conditions worsen in the coming months, fiscal year 2021 may entail further cuts. More information will be provided in the Director’s report on this year’s budget.
- Director Burt recognized Deputy Director Steven Barker regarding an update on the direct shipping annual report. Deputy Director Barker stated that every year the direct shipping permit holders are to submit an annual report regarding the amount of wine shipped into the State of Oklahoma, which is due by February 15. At the filing deadline of this year, February 15, 2020, of the seven hundred and nine active direct shipping licensees, there were one hundred and nine that had not filed the report. After some investigation, it was found that many of the permit holders that have not filed were confused about the filing process. The ABLE Commission has been diligent in informing them about the process and what is needed by sending reminder letters, emails, and making phone calls. Since the reminders, there are now forty five license holders that still have not submitted the required documentation. The next step, starting May 20, 2020, ABLE will begin taking disciplinary action against the licensees if their reports are still not provided. More information will provide more information once available.
- Director Burt stated that the ABLE Commission is proud of its continued involvement with the Oklahoma Emergency Response team. The Director of the Oklahoma Department of Emergency Management, Mark Gower, has been busy with his agency coordinating efforts during this trying time. The ABLE Commission had deployed eight agents to work the food banks in Tulsa, Oklahoma City, and Moore. These ABLE agents have returned to their normal duties enforcing liquor laws, as many bars have reopened. There is still one ABLE employee that is assisting with unemployment claims at the Oklahoma Employment Security Commission.

- Director Burt gave an update on the reopening guidance for bars, taverns, nightclubs and other drinking establishments primarily servicing alcoholic beverages that may reopen, beginning on May 15, 2020. Director Burt provided the Commissioners with a document for employer guidance for Oklahoma's Open Up and Recover safety plan, released by the Office of Management and Enterprise Services (OMES). The document includes recommended guidelines for temperature checks, sanitation and disinfecting. It also includes information on how businesses can make a plan, implement the plan, along with maintaining and potentially revising the plan. Director Burt stated that maintaining social distancing is still very important as the businesses reopen, which includes seating arrangements and limiting parties to 10 or less unless in a private area. The three page guide will be posted on the ABLE Commission website.
- Director Burt said that the ABLE Commission has been working with the OMES Information Technology Division in regards to migrating data from ABLE's antiquated online system to a more user friendly program. There has been communication with three vendors and meetings with two of them. We are expected to start implementing about a fourteen month process beginning in the fall of 2020. The Commission will be updated on the progress as it becomes available.
- Director Burt stated that the next ABLE Commission meeting scheduled for June 19, 2020, will most likely be moved to an earlier date, due to the Commission potentially needing to implement emergency rules related to an alcohol bill that may be passed. Information will be posted on our website and filed with the Secretary of State if a new meeting date is needed.

Assistant Director Brent Fairchild presented the following Enforcement Report to the Commissioners:

- Assistant Director Fairchild stated that despite the atmosphere of the COVID-19 pandemic, the ABLE agents have remained committed to ABLE's mission and maintained good attitudes towards the situation in performing their duties. ABLE has remained logged into the Oklahoma Emergency Operations Center to virtually monitor activities related to the COVID-19 response and attended multiple trainings.
 - ABLE agents were assigned shifts with food bank locations from March 31st to May 1st. Lieutenant Tipton relayed a positive report from the agents that worked at the food bank.
 - ABLE agents have been in the field responding to complaints and licensee questions concerning the exceptions regarding their business operations. Agents are attempting to work with them by phone to educate them.
 - ABLE agents continued efforts to conduct location inspections while maintaining social distancing.
 - All enforcement personnel has recently participated in the annual firearms training and qualifications. The training was conducted and completed at the McAlester Police Department and Oklahoma County Sheriff's Department gun ranges.
 - The enforcement computer system has been undergoing updates and is now up running thanks to retired Assistant Director Maureen Shanta and Lieutenant Tipton.
 - ABLE agents assisted the Mayes County Sheriff's department on a drug search warrant and the location was suspected of operating an illegal moonshine still. The agents processed the still and several criminal charges were filed.
 - ABLE agent Cody Rekstad of Tulsa District assisted the Payne County Sheriff's department with an individual that was threatening suicide. The situation was resolved without anyone being harmed.
 - ABLE received a complaint concerning a Tulsa establishment selling alcoholic beverages to-go without the proper stipulation of the patron having to place a food order with the liquor. The order was paid through an online service under the business name and the instructions were to pick up the beverage at a location away from the licensed premise. The off-premise site was the private residence of a partner of the license holder. There were several citations issued.
- Director Burt stated that on May 7, 2020, the State Treasurer, Randy McDaniel, reported gross receipts for April were down approximately 32% from April 2019. When the final numbers were reported, the April 2020 collections missed the projections by a record 44%. OMES Director Steven Harpe said that missing the April estimate was not surprising, but called the magnitude of it "notable". Director Harpe also stated that

postponing the income tax deadline from April to July, energy prices dropping, and the coronavirus – related shutdown of businesses across the state, Oklahoma has encountered a “threefold economic gut punch”. ABLE has been working on over two decades of robust collections and year over year gains experienced an almost 25% decrease from April 2019 collections. Even after 2 months of dismal collections, we are still up 9.95% for the year over 2019 with two months to go. Collections for the first half of May 2020, are down over 20%. The recent impact of the COVID-19 virus on state and national budgets has been devastating. In April 2020, there was a warning from the OMES to expect a 6.2% cut to our fiscal year 2020 appropriation. Since it was nine months into the fiscal year 2020, there was expected 25% less in the monthly allotments for April, May, and June. Director Burt thanked the leadership in finding ways to deal with the financial challenges this fiscal year. The ABLE Commission has received full allotments for April and May and hopes to get a full allotment in June.

Deputy Director Steven Barker gave a brief synopsis and update on the 2020 Legislative Session.

Chairman Forrest moved to agenda item #5: Discussion and possible vote to amend, extend, revoke, or otherwise address the Director’s emergency authorizations of April 17, 2020 concerning alcohol delivery by retailers, event cancellations, and to-go-sales. Commissioner Kouri made a motion to accept staff’s recommendations to: (1) immediately cease the guidance concerning event cancellations and returns issued March 17, 2020; (2) end the allowance of the late renewal of on-premise licenses without late penalty effective June 15, 2020; and (3) extend the March 24, 2020, authorization to allow for curbside and delivery sales until June 19, 2020 or the effective date of Senate Bill 1928, whichever occurs first. Commissioner Collins seconded the motion. A roll call vote was taken and recorded as follows:

Commission members voting in person at the Commission office:

Chairman Joe Forrest – Yes
Commissioner Dee Collins – Yes

Commission members voting remotely:

Commissioner Devin Graves – Yes
Commissioner Jonathan Brooks – Yes
Commissioner Harry J. “Trey” Kouri, III – Yes

Chairman Forrest moved to #6 on the agenda, comments from the public:

Local attorney John Maisch commented about his concern with Senate Bill 1928 regarding alcohol beverage delivery and how long it may potentially be extended. He also expressed his appreciation regarding ABLE and their assistance to businesses during the pandemic.

Brett Robinson of the Brewers Association also expressed his concern with the senate bill 1928 and how alcohol delivery may affect the alcohol industry.

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

Commission members voting in person at the Commission office:

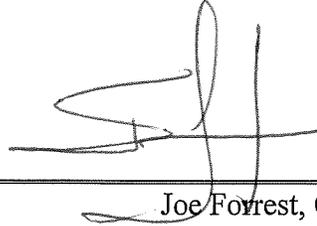
Chairman Joe Forrest – Yes
Commissioner Dee Collins – Yes

Commission members voting remotely:

Commissioner Devin Graves – Yes

Commissioner Jonathan Brooks – Yes

Commissioner Harry J. “Trey” Kouri, III – Yes

A handwritten signature in black ink, appearing to be 'JF', is positioned above a horizontal line. The signature is stylized and somewhat abstract.

Joe Forrest, Chairman