



Washington State Liquor Control Board

Tribal Workgroup Minutes April 23, 2009

ATTENDEES

Tribes

Ron Allen, Jamestown S'Klallam
Chris Masse, Miller Nash LLP
Mardee Rodrigues, Muckleshoot
Jerry Allen, Jamestown S'Klallam
Rion Ramirez, Port Madison Enterprises
Amy Pivetta Hoffman, Skokomish
Nathan Schreiner, Squaxin
Robert Finkbonner, Lummi
Kelly Croman, Marine View Ventures
Lynn Claudon, Snoqualmie

Liquor Control Board

Lorraine Lee
Ruthann Kurose
Roger Hoen
Pat Kohler
Rick Garza
Alan Rathbun
Pat McLaughlin
Pat Parmer
Mona Moberg
Holly Longo

Governor's Office

Peter Bogdanoff
Craig Bill
Rebecca George

Lorraine Lee, Chair for the Liquor Control Board and Ron Allen, Chair for the Jamestown S'Klallam Tribe thanked everyone for attending and started the meeting explaining the plan for the afternoon. Based on the principles of the Centennial Accord the intent is to identify issues and concerns around licensing and store siting in an effort to work together.

Two workgroups have been formed. The first group will look at liquor licensing and the second group will focus on liquor store siting. The expectation of these workgroups will be to meet and have ongoing discussions throughout this calendar year.

Alan Rathbun, Director of the Licensing Division for the Liquor Control Board gave a presentation on the liquor licensing process. Below are the issues/concerns that were identified following his presentation:

- The master business licensing process does not adequately address issues unique to Tribes, such as federal law exemptions from most state licensing and registration requirements. Working through these issues with other agencies, automatically triggered by the application for a liquor license, is time consuming for Tribes, sometimes delaying liquor license issuance and increasing Tribe's costs. This is part of a global licensing issue.
- Tribes often have to complete application by hand versus on-line because so many fields in the electronic version don't apply to the tribes. If you miss a field the system won't allow you to continue. This is part of the master license process and we may need to involve Department of Licensing in order to address the issue. In the alternative, we could look at models used by another agency to license Tribal businesses outside of the master license process while still applying relevant state law.

- Tribes have the legal authority to impose excise and other taxes on liquor sales in Indian Country, and some may have adopted liquor tax ordinances. However, it is not economically feasible to apply both state and Tribal liquor taxes. How can tribes be enabled to charge an excise tax (or other taxes)?
- “Casino/Resort” license is not defined in LCB license type which creates issues for the tribes.
- Identification of tribal entity is difficult on form (based on “name” entered on application does not always make clear that the application is for a tribe). Maybe a code could be inserted to designate tribes. An “owner” field is on the form but is not apparent if it can be used to designate tribe.
- When tribes apply for a license there may be confusion among agencies or the public about the scope of state law that applies to the Tribal licensee and whether there is an “implied waiver of sovereign immunity.” This confusion is not addressed in the master license process. At least one other state agency has addressed this issue by using alternative licensing mechanisms.
- This Board is uncertain if, when a tribal member applies for a license, is it implied they have coordinated the application request with the Tribal government (e.g. obtained necessary Tribal licenses, met other requirements of Tribal law)? LCB needs to know who to contact at the tribe level to verify the jurisdictional questions.
- Some of the terms and significance are not clear to LCB such as reservation, fee land, trust land, etc. LCB needs a way to learn the terms and significance. This is a key issue to be addressed in a sub-workgroup.
- A key issue that was identified was that it is difficult for the State to determine who may speak on behalf of each Tribe and what mechanism each Tribe uses to communicate its official approval or position (e.g. Tribal Council, Business Council, other Tribal entity or individual; is a Resolution required?). We need a better understanding on who has the authority.
- The Tribal Ordinance may be a resource when establishing requirement of liquor sales.
- The tax issue needs to be addressed even though it is a longer term issue and will take time to resolve and not within LCB’s authority.

Rick Garza, Deputy Director for the Liquor Control Board gave a brief history presentation on why the state controls and regulates alcohol. Information and examples were provided about how Tribes regulate alcohol sales in Indian Country.

Pat McLaughlin, Director of the Business Enterprise Division for the Liquor Control Board gave a presentation on how liquor stores are selected and pricing models. Below are the issues/concerns that were identified following his presentation:

- The Board store siting policy (an informal policy) allows some tribes to have multiple stores where others are limited to one store and some not allowed a store. Some tribes that have been denied stores currently want one or more stores. May want to survey other tribes for input on whether they want future stores.
- How can the store model be changed to allow tribal restaurants to buy alcohol from tribal liquor stores without paying a higher price than at a state liquor store?
- It was pointed out that there were different approaches used for tribal stores who “own” the product versus contract store who obtain alcohol on “consignment”.

- LCB requested to develop a matrix of pricing models to see the differences between state, military, contract, and tribal stores.
- Should the state step back from the current siting policy to allow room for new tribal stores (recognizing that the state has an interest in ensuring that areas are not over-served and the tribes have an interest in operating stores that have been foreclosed by unilateral siting action by the state)? It would be important to recognize the implications if the model is changed (for state stores, there are union implications; for contract stores, personal financial implications).
- A key issue is perceived differences between the LCB policy and tribe government and economic development needs.
- The tribes would like to see consistency or a formal policy and equity among tribes for the number of liquor stores allowed.

Lorraine and Ron asked their respective staff members to work on a more in-depth discussion with issues we've captured and would like the workgroups activated.

Lorraine explained the workgroups will come back together and share recommendations.

Ron identified "point of contact" for the tribes: Chris Masse, Kelly Croman and Rion Ramirez.

Lorraine and Pat Kohler identified "point of contact" for LCB: Rick Garza, Pat McLaughlin and Alan Rathbun.

Action Items Identified:

- LCB explain the military pricing formula (is the "price minus" a subsidized model? If not, what is the rationale for not offering Tribal governments similar pricing?).
- Follow-up on impact to the sales of surrounding stores by Jamestown S'Klallam.
- Create a pricing matrix between State, Contract, Tribal and Military stores and explain basis for differences.

Next Steps:

- Issues/Concerns sent to workgroup participants
- Point of Contact members prioritize issues
- Meeting schedule established

Meeting adjourned at 4:25 p.m.