

ARKANSAS TOBACCO CONTROL MEETING MINUTES

NOVEMBER 4, 2010

The Arkansas Tobacco Control Board met on Thursday, November 4, 2010 for its monthly meeting in the Main Street Mall building, located at 101 E. Capitol Avenue, Little Rock, Arkansas, beginning at 10:00 a.m. in Suite 401. There were 6 - Board members present -Ms. Carol Dyer, Mr. John Hauge, Mr. Steve Lightle, Mr. Danny Tate, Dr. Laura Sisterhen and Dr. Tommy Wagner, with 1 - Member absent, Mr. Kevin Case, and 1 - Open Position.

Mr. Steve Lightle, the Chairman, began the meeting with a "Welcome" to those attending. He then asked for a motion to approve the October 7, 2010 board meeting minutes. A motion was made and approved with 6 - Yes votes, 1 - Member absent and 1 - Open position.

The Chairman then moved on to "Old Business". Mr. Roland Darrow, Staff Attorney, reminded the Board that at the July 8, 2010 meeting, the Board approved to start the rule making process on proposed changes to Section 17 - Tobacco Forfeiture. A member of the state Rules Committee requested a minor change be made. Mr. Darrow explained the update and asked the Board for approval. After the Board reviewed the proposed change, a motion was made and approved to accept the change to Section 17 - Tobacco Forfeiture with 6 - Yes votes, 1 - Member absent and 1 - Open position.

This amended draft will go back to the Rules Committee on October 15, 2010 for their review and approval. With the Committee's approval, the Rule will be effective on November 15, 2010.

Next on the agenda was "New Business". Mr. Darrow introduced a Consent Order for Murphy USA. The agency has reached an agreement with them as follows for being in violation of §4-75-708(a) Selling Below State Minimum:

Case #2010-270	A fine of \$5,000.
Case #2010-293	A fine of \$5,000.
Case #2010-307	A fine of \$5,000.
Case #2010-453	A fine of \$2,000.

The Board considered a total fine of \$17,000. After discussion, a motion was made to approve the Consent Order on Murphy USA as presented with 6 – Yes votes, 1 – Member absent and 1 – Open position.

There was not a Default List or Hearings for the Board to consider. Therefore, the Chairman moved on to “New Retail Permits Issued” and called on Mr. Thomas, the Director, to submit the report for consideration. After Board review, a motion was made and approved to accept the “New Retail Permits Issued” report dated October 7, 2010 through November 4, 2010 as submitted with 6 – Yes votes, 1 – Board member absent and 1 – Open position.

Next Mr. Darrow introduced a new Wholesale Tobacco Permit application for Harold Levinson Associates, Inc. in Farmingdale, New York. After discussion a motion was made to approve the Wholesale Tobacco Permit application for Harold Levinson Associates, Inc. with 6 – Yes votes, 1 – Board member absent, and 1 – Open position.

The Director presented the “Accepted Offers of Settlement for Board Approval” report and asked for a motion to approve from the Board. After review, a motion was made to approve the “Accepted Offers of Settlement for Board Approval” report dated November 4, 2010. The motion passed with 6 – Yes votes, 1 – Member absent and 1 – Open position.

The Chairman asked Mr. Thomas for “Staff Reports”. Mr. Thomas called on Mr. Greg Sled, Deputy Director, to provide those reports. He stated there were 613 checks in October for 6.53% of non-compliance. He referred the Board members to a graph showing Sales to Minors Compliance Check activity from November 2008 through October 2010. Mr. Sled said there would be agency training in Pine Bluff on November 10th and in Fort Smith on November 18th. He also reported that there has been a good response to the training and attendance numbers were up.

In regard to the FDA Contract, Mr. Thomas has appeared before all the committees required in the process of setting up this program and gained their approval. Mr. Sled said a request to lift the hiring freeze on the personnel positions has been submitted. A letter will be mailed out to all Arkansas retailers the week of November 8th making the retail community aware of this new program in the state. Besides checking Sales to Minors, there will also be inspections of the store.

Mr. Thomas reported on Budget Hearings at the Capitol. The agency's budgets have gone before the Budget Committee and were being held. A few members were opposed to the Sales to Minors compliance checks being performed by this agency. Other members of the committee praised the effectiveness of the Arkansas Tobacco Control program.

The Chairman then asked if there were any "Court Updates". Mr. Arnie Jochums, Assistant Attorney General, reported a letter was received from the Arkansas Supreme Court and it will hear oral arguments on December 9, 2010 concerning *McLane v Arkansas Tobacco Control Board* in Case #10-498.

Mr. Lightle announced the next meeting date of December 2, 2010. All business of the Board had been conducted and the meeting adjourned.

Minutes prepared by

Janis L. Campbell

November 10, 2010