

Illegal Tobacco Task Force Meeting #46 Minutes

Meeting Date: Thursday, February 17, 2022

Meeting Time: 10:30AM

Meeting Location: WebEx conferencing, dial (408) 418-9388, Meeting ID# 2344 053 6494

Board Members Present: John Hayes (Co-Chair), Detective Captain Brian Connors (Co-Chair), Patricia Henley, Michael Sweeney, Susan Terrey, Anna Lumelsky and Nicholas Ogden.

Call to Order:

- Meeting was called to order at 10:33AM by Mr. Hayes.
- Mr. Hayes informed all participants that this meeting will not be recorded by WebEx and that notes will be taken to complete the minutes. He reminds everyone to mute their phones and/or computers to limit background noise.

Opening Remarks:

- Mr. Hayes thanks everyone for attending and indicates that this meeting will primarily be about the Annual Report due on March 1st.

Approval of the minutes for Meeting #45 on January 11, 2022:

- Mr. Hayes emailed a copy of the minutes for Meeting #45 to the Task Force members prior to this meeting. He asks the Board if there are any corrections or edits to the minutes and hearing none, he asks for a motion to approve. Sue Terry so moves. Detective Captain Connors seconds the motion. Mr. Hayes states that with no objection, the minutes are approved.

Review and Discussion of draft ITTF Annual Report to Legislature:

- Mr. Hayes speaks about the draft Annual Report which is 15 pages and shares his screen with the Task Force members. Mr. Hayes asks if everyone would please comment on each section so that changes can be made either on the spot as discussed or at the next meeting scheduled for February 28th.
 - ▶ Regarding #1, Task Force - Mr. Hayes indicates that page 4 was not changed at all, with only footnotes updated, and asks the Task Force if anyone has any changes. No comments and/or changes stated.
 - ▶ Regarding #2, Results and Trends - Mr. Hayes indicates some changes. The data for seizures is new this year. The Task Force did not previously track seizure data because the different agencies all used different metrics to document seizures. Now that the Task Force agencies have adopted a uniform set of metrics, seizure data should be more reliable moving forward. See Page 5.
 - A. Page 6 includes a chart of revenue collections from 2016 to 2021, ENDS was added to this chart. FY 2020 state law included only \$1.7 million in revenue because the new law taxing ENDS only became effective with one month left in FY20. See the DOR tax collection report.

Ms. Henley asks about footnote 14 and if the data is from the blue book report? Mr. Hayes responds that the data is correct because it was confirmed through DOR records but will check the citation. Mr. Hayes asks if anyone has any questions about this section or about this data. Ms. Henley also asked about footnote 18 citation. Mr. Hayes advised Ms. Henley

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to email a revision to footnote 18 to include data link for Massachusetts, as opposed to CDC – which will be clearer.

▶ RE Page 7 – continuation of trends – other tobacco products/Mr. Hayes describes the decreases and asks the Task Force if there are any questions or comments. There were none stated. Mr. Hayes added that there is not a lot of data on ENDS due to the law being new and asks if there are any questions about that. There were none stated.

▶ The paragraph on Page 7 before paragraph C seizure data – Mr. Hayes states that it talks about the drop in tobacco excise tax and why. Mr. Hayes states that the paragraph “Leading” (flavored vs. non-flavored) shows more reasons for decline. Mr. Hayes asks the Task Force if they have any questions or comments.

Ms. Henley asked if this is Massachusetts data or just national data. Mr. Hayes responds that this is national data (Federal Trade Commission), but that if Massachusetts specific data exists, to please send an email. Ms. Henley indicates that there is Massachusetts menthol sales data to send. Mr. Hayes asks the Task Force if anyone has any objections to this. None were stated.

B. Trends for Tobacco Seizure Data – Mr. Hayes gives a description and asks the Task Force if there are any issues with this. None were stated.

▶ Mr. Hayes highlights the seizure charts showing Figures 2 and 3 and mentions footnote 22 which indicates that DOR/MEB changed their tracking system during FY21 and that is why some data is missing. Mr. Hayes asks the Task Force if there are any questions about this data and how it was reported. None were stated.

▶ The paragraph right after Figure 3, Mr. Hayes gives description and asks if there are any questions. Ms. Henley questions the use of “strong incentive” and asks if that wording is necessary. Mr. Hayes says that it is ok to strike the word “strong” and asks the Task Force if anyone has any objections with doing so. None were stated.

Ms. Henley also asked about the decline in seizures for OTP and the wording of consumers travelling across the border wherein she felt there did not need to be emphasis on crossing the border being put into the report. She asks if this is because of a storage issue. Mr. Hayes replies that this is not due to a storage issue, but due to more ENDS, menthol cigars, and cigars seized as opposed to smokeless tobacco in the past. Mr. Hayes indicates that the lack of seizures is a reality during the past year and asks about wording for the possible reasons identified in the report. Ms. Lumelsky responds and asks what the 3 reasons for seizure decline are. Mr. Hayes states that a lack of seizures at retailers could be due to prior significant enforcement efforts by Task Force targeting OTP (smokeless tobacco), a decline in consumer demand, or cross-border smuggling by individuals. Ms. Lumelsky suggests adding those reasons and Mr. Hayes indicated that new wording will be added. Ms. Henley mentioned that she will provide smokeless use data. Mr. Hayes mentioned that if it applies then it will be added. Mr. Hayes states that he will send out revised wording. Mr. Hayes asks the Task Force if there are any other questions in this regard. Ms. Henley states that her office is gathering out of state data and might have other trends information to add. Victor from SICPA speaks up and makes comment about changes in consumer habits due to the pandemic and other factors and that may be affecting the data. Mr. Hayes thanks Victor for the information and indicates that Task Force will examine the data with that in mind.

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▶ Regarding #3 – Summary of Task Force that continues on Page 9 - Mr. Hayes asks the Task Force if there are any questions about the testimony of DEP Environmental Analyst Matthew Barber. None were stated. Mr. Hayes stated the Task Force agencies will be contracting with Hazmat licensed contractors.

▶ Figure 4 shows DOR Tobacco Inspections for 2020 to 2021 by MEB and CIB. Mr. Hayes asks the Task Force if there are any questions about this data. None were stated.

▶ Page 11, Bullet points – Mr. Hayes describes how this highlights more significant seizures and asks the Task Force if there are any questions or comments. None were stated.

▶ Figure 5, Local Board of Health Inspections – Mr. Hayes speaks about footnote #29 and indicates that there could be multiple violations for a single LBOH inspection and asks Ms. Henley if the breakdown was there in 2020. Ms. Henley indicates that the data for 2020 did not include a breakdown of violations but does for 2021. Mr. Hayes asks the Task Force if anyone has any questions or comments about the data. None were stated.

▶ Moving onto the paragraph after the charts and bullets, Mr. Hayes indicates there is a process in place to share information with DOR and he thanks Ms. Henley for working with DOR to put together.

▶ Ms. Henley speaks about footnote #30 regarding changes in the wording. She states that she will send it to Mr. Hayes because the print is too small to see now. Mr. Hayes states that this wraps up the civil side of the report.

▶ Page 13 & 14 – Criminal Investigations – Mr. Hayes says that this has to do with prosecutions by the AG office, State Police investigation, and CIB, and asks the Task Force if there are any questions and/or comments. Detective Captain Connors defers to Ms. Lumelsky regarding a possible typo. Detective Captain Connors brings attention to the 3rd bullet regarding NH Man and whether the monetary amount should be changed from \$540k to \$1M. Ms. Lumelsky says that the \$540k amount is correct and that the extra amounts were seized subsequent to the initial search warrant. Mr. Hayes states that the \$1M (additional seized money) could be added in a new sentence in the same bullet point, but Detective Captain Connors agreed to leave the wording as is. Detective Captain Connors also noted that the bullet about technical equipment should be changed and he would send Mr. Hayes the new language. Mr. Hayes asks the Task Force if there are additional comments about the Criminal investigations. None were stated.

▶ Mr. Hayes speaks about the new ITTF Referral Form found on the DOR/ITTF website and how we have seen it being used.

▶ Mr. Hayes talks about the next section and how it summarizes how we are using all the tools. He asks The Task Force if there are any questions or comments. None were stated.

▶ Section IV – Legislative Actions - Mr. Hayes states there were no changes to this. Mr. Hayes mentioned about last year's budget increase and that this year remained the same. He asked the Task Force if there were any questions or comments. None were stated.

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▶ Section V – Anticipated Barriers – Mr. Hayes indicates that storage space has been a challenge, but the state police storage location should be fully operational within a couple months. Mr. Hayes asks Detective Captain Connors if that was accurate. Detective Captain Connors replied yes, the storage location should be open sometime in March. Mr. Hayes spoke about the increase in DOR personnel which has resulted increased inspections and seizures, providing a storage challenge for DOR. Mr. Hayes asked the Task Force if there were any questions or comments. None were stated.

▶ Section VI – Conclusion – Mr. Hayes indicated this section contained challenges from the past year, changes in existing laws, and moving forward with resources. Mr. Hayes asked the Task Force if there were any questions or comments. None were stated.

Update from Member Agencies:

- Mr. Hayes asked if there were any updates. None were stated.

Other Business:

- Mr. Hayes indicated that the next meeting on February 28th will be to vote on the Annual Report, as well as other items to discuss.

Closing Remarks:

- Mr. Hayes indicates there is nothing else to add and asks for a Motion to Adjourn. Ms. Henley moves to adjourn. Detective Captain Connors seconds that motion. Mr. Hayes states that with no objections, the meeting is adjourned at 11:35 AM and thanks everyone for attending.