

Illegal Tobacco Task Force

Notice of Public Meeting

Meeting Date: Thursday, January 12th, 2017

Meeting Time: 10:30 AM

Meeting Location: 100 Cambridge Street, 2nd floor, Room A, Boston, MA

Members will discuss proposed legislative changes to the state's laws relating to tobacco and continue a discussion relating to federal product labeling requirements relating to tobacco products.

- A. Opening Remarks/Approval of Last Meeting Minutes
- B. Housekeeping Items
- C. Discussion of Proposed Legislative Changes/Amendments
- D. Discussion of Tobacco Product Labeling Requirements
- E. Discussion of Annual Legislative Report
- F. Upcoming Meetings
- G. Wrap Up/Closing Comments

Due to security at the Saltonstall Building, those interested in attending the meeting should allow for additional time to check-in.

If any member of the public wishing to attend this meeting seeks special accommodations in accordance with the American with Disabilities Act, please contact DOR Human Capital Development at 617-626-2355.

Date of Posting: January 9, 2017 @ 5:00pm

Illegal Tobacco Task Force Minutes

Meeting Date: December 8, 2016

Meeting Time: 10:30am

Meeting Location: 100 Cambridge Street, 2nd Floor, Conference Room A

Board Members Present: Kajal Chattopadhyay (Co-Chair), Steve Fennessey (Co-Chair), Michael Sweeney, David Solet, Tom Bocian, Amber Villa, Christy Fedor, Patricia Henley.

Others: Bensen Solivan, Peter French, Molly Parks, Alex Finkel, Alex Spelman, Sven Bergmann, Jenn Robertson, Paul Caron, Scott Delaney, Lisa Dell'Anno, Evan Garcia, Paul D'Amore, Brenda McConville.

Call to Order:

- Mr. Chattopadhyay called the meeting to order at 10:43am.
- Mr. Chattopadhyay asked the Task Force to take a moment to review and approve the minutes.
- A motion to approve the minutes was made by Mr. Solet. Ms. Villa seconded. Ms. Villa also pointed out an amendment to be made. Mr. Chattopadhyay made the change. The minutes were then approved as amended by unanimous vote.
- An update on the Financial ISAs was given by Mr. Chattopadhyay. He stated that Task Force funds have been transferred to member agencies pursuant to their individual ISAs with EOPSS and are available for use.

Review of Proposed Legislative Changes:

- Mr. Chattopadhyay led the Task Force through the review of the proposed legislative changes.
- The Task Force discussed the specifics of proposed G.L. 64C, § 33 involving malfunctioning stamping equipment. Mr. Caron, who represents wholesale distributors, requested automatic electronic authorization (without DOR approval) to allow stampers to obtain product from other stampers or use other stampers' equipment in situations where equipment was malfunctioning.
- According to Mr. Chattopadhyay, DOR and SICPA discussed the situation and found cases of malfunctioning stamping equipment to be rare. Most malfunctions could be prevented with regular maintenance and, in some cases, could be detected and prevented by SICPA beforehand through online equipment monitoring. DOR concluded that an expedited approval process involving notification of equipment malfunction to DOR and an expedited response by DOR would be a workable compromise.
- Ms. Garcia with DOR said the switch from 30 days (as proposed in the submitted legislation) to expedited review is a good compromise and stated that DOR still must retain oversight authority over stampers in cases of malfunctioning equipment.
- The Task Force also discussed proposed G.L. 64C, § 38A relating to the mechanics and role of clerk magistrates in issuing civil warrants for seizure of contraband tobacco products.

Presentation – Seized Contraband Forfeiture Auctions by Jeff Cohen, ATF Associate Chief Counsel:

- Via a live video feed, Mr. Cohen made a presentation to the Task Force regarding ATF's procedures allowing for the auction sale of seized contraband tobacco under federal law.
- Prior to 2006, under the Contraband Cigarette Traffic Act (CCTA), Mr. Cohen stated that ATF was able to auction contraband tobacco products that were seized by federal agents as part of their investigations. Proceeds received from the forfeiture auctions were deposited into the DOJ asset forfeiture fund for use in law enforcement operations. Following 2006 amendments to the CCTA, current federal law now prohibits the resale of seized product in most cases.
- In certain cases where a party makes a claim to seized tobacco, ATF may petition the court or the parties might agree to an auction sale of the tobacco products. Proceeds are set aside until the case has been completed and then are distributed in accordance with the final case disposition.
- According to Mr. Cohen, other seized items, such as cars used in trafficking, bank accounts, property and funds used in wire fraud are subject to civil forfeiture.
- Several Task Force members had questions regarding who attended the auctions, whether they were required to bid in person, who conducted the auctions and any negative implications from auctioning seized tobacco.
- Mr. Bergmann, a representative from Altria, mentioned that Altria opposes the auction sale of seized tobacco products and has taken steps to stop several auctions as they have identified safety issues with reselling seized product. Altria will step in to assist with destruction rather than resale, according to Mr. Bergmann.
- Ms. Henley with DPH also expressed opposition to the auction sale of seized tobacco, stating that DPH has concerns about the introduction of cheap product to the public.
- Mr. Chattopadhyay suggested the Task Force explore the auction proposal in greater detail at its next meeting.

Presentation – OTP Stamping by Sven Bergmann, Altria:

- Mr. Chattopadhyay introduced Mr. Bergmann of Altria.
- During his presentation, Mr. Bergmann outlined the legal authority with which OTP stamping must comply, such as federal labeling requirements and FDA requirements regarding how stamps are applied, de-sleeving of product and stamp visibility.
- Some of the main concerns also defined by Mr. Bergmann included difficulties with packaging, (including de-sleeving and re-sleeving) and the analysis of the cost of OTP stamping machines compared with the expected revenue gains from OTP stamping.
- Mr. Bergmann recommended that the Task Force research and review what other states are doing (like Ohio) to better understand the anticipated impact of OTP stamping in Massachusetts.
- Mr. Finkel with SICPA also added that SICPA would be willing to assist once the ground work is established.

Meeting was adjourned at 12:53pm by Mr. Chattopadhyay.