



Maryland Alcohol and Tobacco Commission

MARYLAND ALCOHOL AND TOBACCO COMMISSION APRIL MINUTES

DATE: April 15, 2021

TIME: 3:00 P.M.

PLACE: Maryland Alcohol and Tobacco Commission Headquarters
(Meeting conducted via Microsoft Teams, recorded at 3:00 p.m. for replay)

*ATC Executive Director Anthony Hatcher confirmed with Vice Chair Barbara Wahl that there was a quorum present of the Commissioners.

PRESENT: Vice Chair Barbara Wahl
Secretary Robert Poole
Commissioner Elizabeth (Betty) Buck
Commissioner Eric Morrissette

OTHERS: Anthony Hatcher, Acting Executive Director, Alcohol and Tobacco Commission (ATC)
Jeffrey Kelly, Director, Comptroller of Maryland, Field Enforcement Bureau (FEB)
Murray Singerman, Office of the Attorney General
Karyle Fogan, Executive Associate (FEB)

CALL TO ORDER

Vice Chair Barbara Wahl called the meeting of the Maryland Alcohol and Tobacco Commission to order at 3:00 p.m.

APPROVAL OF THE MINUTES

Vice Chair Barbara Wahl called for a motion to approve the meeting minutes for March 18, 2021 and Commissioner Elizabeth (Betty) Buck moved to approve and Eric Morrissette 2nd. the motion and unanimously approved the previous month's meeting.



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EXECUTIVE DIRECTOR REPORT

Anthony Hatcher, Acting Executive Director of the Alcohol and Tobacco Commission reports the activities of the (ATC) and Field Enforcement Bureau (FEB) since the last meeting. In cooperation with other allied agencies there were 2 arrest for the smuggling of untaxed cigarettes into the State of Maryland which resulted in the confiscation of 29,840 packs of cigarettes and 2 vehicles. There were retail violations that occurred through inspections that were conducted by agents of the Field Enforcement Division (FED) in the last month. We had a confiscation of 48 cans of beer that were confiscated from a retailer for purchasing from Other than a Maryland Wholesaler (OTW). There were 4 arrests resulting in the confiscation of untaxed tobacco products from retail stores which included 20,686 Sticks which would be cigars and other tobacco products and in addition 70 packs of cigarettes that were untaxed. There was one case that Agents made confiscations and as a result controlled dangerous substance (CDS) but no charges were made by the ATC and the County's States Attorney decided to file the charges for the CDS only to the persons at that location. Yesterday, April 14, 2021 Agents of the Field Enforcement Bureau along with members of the Prince George's County Liquor Board and Bowie Police Department conducted a search and seizure warrant on a unlicensed Hookah Tobacco shop in Bowie, Maryland, and as a result of that raid they found 36 sticks of Hookah Tobacco, 5 bottles of liquor and 2 bottles of wine. There is one defendant pending charges who is the owner of the establishment and the charges are being forwarded to the office of the Attorney General because there was a violation dealing with the submission and remission of sales and use tax that was not taking place. ATC Executive Director Anthony Hatcher concluded that this completes the information that he had for the activities of the last month for the Field Enforcement Division (FED).

ATC RULES OF PROCEDURE

Murray Singerman, Office of the Attorney General

Murray Singerman reported on the rules for the ATC and he said that he collated for the members of the board to ensure compliance and for efficiency for three major sources. He said when you look at the way the rules that control the way an open meeting should occur and the way the Alcohol and Tobacco Commission should work specifically, they are dispersed, and you find them in the Alcoholic Beverages Article and you find them in the General Provisions Article which is the Open Meetings Act. The Open Meetings Act has been construed and interpreted by the compliance board of the Opens Meeting Act which is located currently with the Attorney General's Office. When you put all of this together you would have about one hundred and fifty pages of provisions and interpretations that would not lend itself to easy compliance, so Assistant Attorney General Singerman said that he put together 5 to 6 pages and by following those rules should keep the ATC Commission compliant and doing the right thing. He said you will also see referenced in these rules the Roberts Rules of Order where they do not conflict.



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Also, should the Commission decide to close a meeting, which is controlled by statute, that there are fifteen categories that you would have to locate for the reasoning to close a meeting. For example: If you wanted to have a discussion about personnel and it is a private conversation, you can close that meeting but there is a whole procedure that you would have to go through, and all of that is referenced in Assistant Attorney General Singerman's 6 page ATC Rules of Procedure that he prepared for their use.

The Roberts Rule of Order which Murray Singerman referenced has a different procedure for closing and it does not comply with the Maryland Statute. This would be a means for the Commission to operate according to law and distribute them to the members, and any discussion that you want to have about any particular rules that they could have the discussion today and at the next monthly meeting they can vote to adopt them. His 6 page ATC Rules of Procedure has six sections, one is about Composition, one for the officers, the notice and Agenda requirements and how the meeting should be conducted, closing a meeting and a miscellaneous section and making clear the laws and rules of the retention of documents. This is the best way to proceed so that the Commission will have an idea of what may be an issue, and can call if they have a question and it would be best if they inquire prior to a meeting.

Vice Chair Barbara Wahl asked if anyone had a chance to review these rules and asked if there were any questions. No one had any questions or comments. Vice Chair Wahl said at the next meeting, they will have these procedures on the Agenda to vote to Adopt if there aren't any further Amendments, and Vice Chair Wahl said that it looks thorough and will be helpful.

MARYLAND GENERAL ASSEMBLY UPDATE

Alcohol and Tobacco Commission Acting Executive Director Anthony Hatcher Reported

ATC Acting Director Anthony Hatcher said that he provided every member of the Commission a breakdown of the Statewide Legislative Bills that he found that have passed in both houses and are waiting for the Governor's signature.

HB12/SB205

These bills related to alcoholic beverages sale and delivery for off premises consumption. What this Bill does is it allows a retail establishment to deliver to customers alcoholic beverages for consumption, but it could only be accomplished in conjunction with the delivery of food.

This Bill has a two-year sunset provision and it goes into effect July 1, 2021 and will expire June 30, 2023 if no further action is taken by the legislature to extend it.



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HB185

It prohibits the requirement of a customer to have to purchase more than one drink when entering an establishment and this was explained as dealing with issues like up in Baltimore on the block where they have a four or five drink minimum when you come into an establishment, so this would prohibit that and is effective on October 1, 2021.

HB1232/SB821

Deals with manufacturers licenses and off-site permits, both Bills passed and are in the hands of the Governor and is emergency legislation that goes into effect upon the signing by the Governor, and has a sunset provision ending December 31, 2022. It repeals certain provision relating to brewing companies, winery and distillery off-site permits, and it merges existing off-site manufacturer permits into one universal permit, so instead of defining it per each classification, it's now under one permit covers all, allowing for the holder of the off-site permit to deliver its products to individuals in the state, allows a brewery special event permit, alters the volumes of beer that a license holder may produce and distribute annually and this is a correction provision set in 2020 legislative session and failed to make it to print and this corrects that issue.

HB1324/SB883

Are co-filed bills for the same topic, both have passed their respective houses and are in the hands of the Governor, it's tobacco tax and sales and use tax out of state sales of premium cigars, pipe tobacco and tobacco smoking devices. Creating a new section of law 16.9 of the business regulations which will require the ATC to develop a new license to comply with the section of the law as it's going to be defined and allows for a remote tobacco seller license and this is going to take effect on July 1, 2022, which gives one year to prepare for this. The purpose of the bill was to collect the appropriate taxes on premium Cigars and Pipe Tobacco sold into the state by out-of-state providers. It removes tobacco pipes from the definition of OTP and sets a 12% sales tax rate. Under previous definition it would have required a 53% sales tax rate on those pipes, so this corrects that.

SB787

Deals with digital advertising, gross revenues, income, sales and use tax, tobacco taxes, and other issues, and this was emergency legislation and it goes in effect and was signed by the governor, and it set a start date for the new tax rate as March 14, 2021 along with the provisions that were provided in the HB732 of the 2020 session which was vetoed by the governor and then overrode at the beginning of the legislative session for 2021, which set the current tax rates that we have now dealing with Cigarettes, OTP and ESD's, the tobacco tax went from \$2.00 a pack and went up another \$1.75 bringing it to \$3.75 a pack.



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The tax rate of OTP was Increased from 30% of wholesale cost to 53% of wholesale cost and ESD changed from 6% to 12% sales tax, and for the ESD liquid's that were less than or equal to 5 millimeters change from a 6% to a 60% sales tax and that is a conclusion of the bills that ATC Director Anthony Hatcher found that were Statewide related. There are a whole number of local license bills that were passed that are still pending.

Commissioner Buck asked if he knew if any of those increased taxes are ear marked for anything. Director Anthony Hatcher said that he doesn't have any other information on how it is ear marked other than the general funds.

Robert Poole asked about the property that is seized such as automobiles and cash etc., how is that property handled and then what happens to the proceeds. ATC Director Hatcher said that the proceeds would go to the general fund and with the vehicles they make a decision on whether or not to file for forfeiture of the vehicles and that decision is based on whether or not those vehicles have any liens against them, they would weigh the cost of that lien to pay it off versus the profits that would be made in selling it at auction and those funds would go to general fund. **Robert Poole** also asked could the state use the vehicles for enforcement operations. ATC Director Hatcher believes that the vehicles would have to be sold at auction.

Eric Morrissette had a question about **HB185** and asked what the enforcement mechanism is there for HB185. Director Hatcher said that would be mostly for the local liquor boards and the enforcement of it would not come from the Alcohol and Tobacco Commission (ATC).

Commissioner Eric Morrissette also asked a question about **HB1232**

What is the cost of the universal permit/license referred to in HB1232?

The question was answered to be about \$25.00 and this is so that all counties have the same rules and same price.

Vice Chair Barbara Wahl asked Director Hatcher as the Bills start to go into effect with the dates mentioned that in the future if staff on board who could engage in activities to do a before and after comparison of experiences to see if the impact that they're hoping will actually be what happens or if anything unexpected might come up. Which would be a little further down the road.

ATC Director Hatcher said going forward, with the next legislative session, the plan would be to incorporate this information to the commissioners on a regular basis and any issues that need to be addressed and would then forward the information to where it needs to go.



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NEW BUSINESS

Vice Chair Barbara Wahl

Discussed the nomination of a Chairperson since losing Len Foxwell as the Chair at the last meeting. We are waiting until they have an appointment of their new member to bring them up to the five members and then they will nominate a chair at that time.

ATC Director Hatcher

Reported that he has been in contact with the appointments office and they are still vetting the applicants that they have, and they have not decided yet.

LEGISLATIVE AND MANDATED REPORTS

ATC Executive Director Anthony Hatcher Reports

It's an item on for new business for next month's meeting to consider what items that we might want to start addressing of the *mandated reports and surveys* that the commissioners are supposed to start addressing within the legislation or the bill that was passed on the purpose of the commission, so between now and the next meeting you should review those requirements in the law that the commission is supposed to take care of and prioritize what we want to start to talking about.

Vice Chair Barbara Wahl asked if anyone had any questions.

Commissioner Elizabeth (Betty) Buck asked about the date for the next meeting.

DATE AND TIME OF NEXT MEETING

The next monthly Commission meeting is scheduled for Thursday, May 20, 2021 at 3:00 p.m.

ATC Director Anthony Hatcher will request Mr. O'Leary to post the next scheduled meeting on the website for the public to view.

ADJOURNMENT

Vice Chair Barbara Wahl moved to adjourn the meeting and Eric Morrissette 2nd to adjourn the meeting.

The meeting was adjourned at 3:22 p.m.

