

## Alcoholic Beverage Control Stakeholders Meeting

February 8, 2017, 10:00 am – 12:00 pm

### AGENDA

#### 1. Welcome

Acting Director Ramona Prieto welcomed the stakeholders, shared the Department's vision, discussed the need for partnership between the Department and stakeholders, and encouraged feedback and questions. The Department's executive staff was introduced to the stakeholders.

#### 2. Departmental Overview Presentation

Public Information Officer John Carr presented a PowerPoint program featuring the history of and services provided by the Department. Stakeholders were encouraged to sign up for our LISTSERV® to receive current information by going to [www.abc.ca.gov](http://www.abc.ca.gov).

#### 3. Strategic Planning Process

Acting Chief Deputy Directors Sunshine Garside and Helena Williams provided a brief update on the Department's Strategic Planning Process and thanked the stakeholders for their recent input. Acting Chief Deputy Director Garside reaffirmed the Department's commitment to continued collaboration amongst all the stakeholders in order to provide the highest level of public safety and service through education, licensing, and enforcement.

#### 4. ABC's Fund Balance

Administrative Division Chief Randall Deems provided an overview of ABC's declining fund balance and proposed fee increase of 11.48 percent for license renewals and original general licenses. Additional action will be needed in the following year to bring expenditures and revenues into alignment, but in the meantime the current action will allow for a manageable reduction in the fund balance to an appropriate level. ABC is evaluating and will be asking for stakeholder input on technology solutions in the effort to improve service to licensees and the public.

#### 5. Legal Perspective and Updates

General Counsel Matthew Botting provided an update on tied house litigation pending before the 9th Circuit Court of Appeal. The full court heard arguments on a case in January. There is no timetable for a decision from the Court.

Chief Counsel Jacob Rambo provided an update on the reorganization of the Office of Legal Services and changes to processing procedures for discovery, public records requests, and accusations. He also provided an overview of the recent published Court of Appeals decision regarding Rule 141.

Sign up for our LISTSERV® to receive news releases, important announcements and industry advisories

@ <http://www.abc.ca.gov/subscribe.asp>

Follow us on Twitter @ [https://twitter.com/ca\\_abc](https://twitter.com/ca_abc)

Follow ABC on Facebook @ <https://www.facebook.com/CaliforniaABC>

## Alcoholic Beverage Control Stakeholders Meeting

February 8, 2017, 10:00 am – 12:00 pm

### AGENDA

#### 6. Legislation and Regulation

General Counsel Matthew Botting gave an overview of pending legislation for 2017. He provided a status update on proposed Rule 61 and the proposed revisions to Rule 144. Final adoption of both rules is anticipated soon.

Director of Legislation and Governmental Affairs LaKenya Jordan introduced herself to stakeholders, discussed her new role with ABC, and welcomed input and collaboration from all stakeholders.

#### 7. Trade Practices and Tied House

General Counsel Matthew Botting discussed an increase in Third-Party providers using mobile platforms that involve both suppliers and retailers. Some of these business models are legal and some may not be. For example, the alcohol delivery apps may be legal if the third-party provider charges a fee for the delivery service only. The delivery service is not therefore selling the alcohol without a license. Regarding third-party promotional apps, things get a bit more complicated and the Department tries to assess business models on a case-by-case basis.

General Counsel Matthew Botting also addressed the need for Out-of-state Beer Manufacturers who have a presence in California to hold a Type-10 license.

In closing, he explained the Department has received many questions regarding the ABC Act as it relates to retailers bagging alcoholic beverages. Nothing in the act requires that alcoholic beverages be placed in a bag prior to being removed from the premises. There may be local ordinances or conditions that require that alcohol be placed in a bag.

#### 8. Outreach and Assistance

Southern Division Chief Kathleen Barnes discussed the Department's current social media presence and encouraged stakeholders to like our Facebook and follow our Twitter accounts to gain more information on ABC practices. She explained how the department is using social media to get information out as fast as possible, including training, enforcement actions, current trends and community outreach efforts.

Northern Division Chief Chris Albrecht spoke of plans for enhanced public safety and customer service, prioritized recruitment efforts and techniques, additional training directives and opportunities, exploration of additional avenues for operational partnership and enhanced grant programming. He also spoke of the future of E-pay and on-line application efforts, continued training and job preparedness for Licensing staff, plans for policy review/update for improved consistency and plans for having operating conditions available to the public on-line in the future.

Sign up for our LISTSERV® to receive news releases, important announcements and industry advisories

@ <http://www.abc.ca.gov/subscribe.asp>

Follow us on Twitter @ [https://twitter.com/ca\\_abc](https://twitter.com/ca_abc)

Follow ABC on Facebook @ <https://www.facebook.com/CaliforniaABC>

**Alcoholic Beverage Control Stakeholders Meeting**

**February 8, 2017, 10:00 am – 12:00 pm**

**AGENDA**

**9. Miscellaneous – Stakeholder’s Topics of Concern**

**Question:** Are objective standards used in determining Public Convenience or Necessity (PC or N) findings. If so, are there specific “PC or N” hearings and are they open to the public.

**Answer:** Chief Counsel Jacob Rambo explained the “PC or N” findings are governed by statute. Local jurisdictions may have laws and ordinances specific to “PC or N” findings in the specific municipality. “PC or N” findings, by ABC are subject to a public licensing hearing as part of the entire investigation, whereas “PC or N” finding by local jurisdictions are not.

**Question:** In CCR Rule 141 regarding Minor Decoys, does the Department have plans to remove or update subsection “(b)(2) of CCR Rule 141” regarding the appearance of a minor?

**Answer:** General Counsel Matthew Botting explained how CCR Rule 141 has been challenged over the years and that the licensees have the right to challenge the case based upon compliance with the rule. He further stated that the Department continuously evaluates the rules and can make considerations at future rulemaking hearings/processes when appropriate.

**Question:** What is ABC’s involvement on city/county Conditional Use Permits (CUP) conditions?

**Answer:** General Counsel Mathew Botting explained that the Department generally doesn’t take a position on business operations conditioned by a city/county.

**Question:** What are the challenges for the Department in cases for service to obviously intoxicated persons?

**Answer:** Division Chief Chris Albrecht recognized the low number of accusations involving cases for service to obviously intoxicated persons. He explained that the standard for a violation of service to an obviously intoxicated person is very subjective and there is much to consider. He reiterated the Department’s commitment to public safety and continued collaboration with the stakeholders to promote education to prevent such problems. He also explained that the Department is currently receiving grant funding to conduct Place of Last Sale investigations. These investigations involve ABC receiving information from local DUI programs that identify ABC licensed locations where alleged DUI violators had their last drink. ABC investigates these locations for sales to obviously intoxicated individuals.

**Question:** What more can the Department do to assist industry members with navigating social media advertising?

**Answer:** General Counsel Matthew Botting discussed how hard it is to determine a “bright line” on this topic and explained how even slight variations can change the position of a possible violation. He explained that currently no summit is planned and Acting Director Prieto explained that when industry training is planned, please consider a representative of ABC attending to speak on current trends. Please give the Department as much advance warning as possible to schedule an ABC participant in the training.

Sign up for our LISTSERV® to receive news releases, important announcements and industry advisories

@ <http://www.abc.ca.gov/subscribe.asp>

Follow us on Twitter @ [https://twitter.com/ca\\_abc](https://twitter.com/ca_abc)

Follow ABC on Facebook @ <https://www.facebook.com/CaliforniaABC>



**Alcoholic Beverage Control Stakeholders Meeting**

**February 8, 2017, 10:00 am – 12:00 pm**

**AGENDA**

**Question:** Does the Department support mandatory responsible Beverage Service training for licensee employees?

**Answer:** Director of Legislation and Governmental Affairs LaKenya Jordan acknowledged that responsible beverage service training was good and the Department was interested in it but couldn't take a position on any possible pending legislation.

**Question:** What is the status of the Booze Buster phone application that was awarded a prize last year?

**Answer:** Public Information Officer John Carr explained that it was an open project that the Department was working on but was not sure of the current timeframe given the work necessary to enhance the Department's information technology systems.

**Question:** What is the Department doing to increase enforcement operations and increase awareness?

**Answer:** Acting Chief Deputy Director Sunshine Garside explained that the Department was creating more media notifications after operations are completed to raise awareness of our actions. Deputy Division Chief Michael Korson explained that with the pay increase for agents, the staffing levels have risen. As such, the Department is now able to engage in more enforcement operations and he requested that the stakeholders please notify us of problem locations so the Department can focus enforcement operations. Deputy Division Chief Korson explained that enforcement is more effective and communities are safer when we collaborate with stakeholders.

**Question:** Does the Department plan to increase Trade Enforcement Unit (TEU) investigations?

**Answer:** Deputy Division Chief Joe McCullough explained how recent legislation had added additional agents to the Trade Enforcement Unit and there are now agents working in both Northern and Southern Divisions. Chief Counsel Jacob Rambo explained how the Office of Legal Services is working directly with TEU on all cases to assist in the enforcement actions and prosecution.

**Question:** Will the Department reconvene the Responsible Beverage Service (RBS) advisory board, in order to provide consistent standards in training by private RBS trainers? And, when will the Department update the outdated list of RBS training companies listed on the ABC website?

**Answer:** General Counsel Matthew Botting explained that AB 2121 was not signed by the Governor and explained the past history of legal issues with the certifications of the RBS trainers when not authorized by statute. Pending legislation was discussed and it was explained that this new legislation could dictate the Department's role relative to the possibility of mandatory

Sign up for our LISTSERV® to receive news releases, important announcements and industry advisories

@ <http://www.abc.ca.gov/subscribe.asp>

Follow us on Twitter @ [https://twitter.com/ca\\_abc](https://twitter.com/ca_abc)

Follow ABC on Facebook @ <https://www.facebook.com/CaliforniaABC>

**Alcoholic Beverage Control Stakeholders Meeting**

**February 8, 2017, 10:00 am – 12:00 pm**

**AGENDA**

training. In regards to the outdated information, the Department is continuously evaluating and working to provide updated information on the website.



Sign up for our LISTSERV® to receive news releases, important announcements and industry advisories

@ <http://www.abc.ca.gov/subscribe.asp>

Follow us on Twitter @ [https://twitter.com/ca\\_abc](https://twitter.com/ca_abc)

Follow ABC on Facebook @ <https://www.facebook.com/CaliforniaABC>