

Minutes of the Alcoholic Beverage Control Board August 19, 2020

On the 19th day of August 2020, the ABC Board did convene at Little Rock, Arkansas for its regular monthly meeting and in attendance were Chairperson Freddie Black, Steve Smith, Pam Depriest, Jamie Anderson and Alex Blass.

The Board considered the Director's Decisions, Private Club Resume, Violation Resume, Warning Letters and Inactive Status Letters. Board member Jamie Anderson made a motion to approve, Steve Smith seconded the motion and the motion passed with a 5-0 vote.

Next, A.B.C. Division Director Doralee Chandler was introduced by Chairperson Black. Director Chandler stated that she was there to review changes made in A.B.C. Rules and M.M.C. Rules that were due for public comment.

The first Rule introduced for comment pertained to Title 2, Permits to Manufacture and Wholesale. Amendment 100 of the Arkansas Constitution established four Casino licenses under which controlled beverages may be sold or provided and is governed by the Arkansas Racing Commission. This rule change modified the A.B.C. Rules to allow wholesalers to continue to sell product to alcohol permitted locations, as well as to Casino licensed locations. Public comment was welcomed on this rule, but none were offered.

Chairperson Black asked if the Board had a motion to approve this Rule in its final order and Board Member Steve Smith made a motion to accept the change in Rule, Pam DePriest seconded the motion and the Board voted 5-0 to approve the Rule in its final order.

The second Rule introduced comment pertained to Distillers or Liquor Manufacturers Operations. Director Chandler stated that Subtitle K, Rule 2.85, is a new addition resulting from Act 740 of 2019. The Act amends the Distiller or Liquor Manufacturer permit and defines operations, and specifically authorizes off-premises and on-premises sales of vinous liquor and authorizes vinous liquor tasting events, and Subtitle K reflects those legislative changes of Act 740. Public comment was welcomed on this change, but none were offered.

Chairperson Black asked for a motion to approve this Rule in its final order and Board Member Steve Smith made a motion to approve the change in Rule, Pam DePriest seconded the motion and the motion passed to accept the Rule in its final order by a 5-0 vote.

The third Rule introduced by Director Chandler pertained to the Oversight of Medical Marijuana Transporters and Distributors and are rules put in place by the Medical Marijuana Commission to set the regulatory and operational requirements for medical marijuana transportation and distribution in Arkansas. Public comment was welcomed on this change, but none were offered.

Chairperson Black asked for a motion to approve this Rule in its final order and Board Member Pam DePriest made a motion to approve the change in Rule, Alex Blass seconded the motion and the motion passed by a 5-0 vote.

Chairperson Black and Director Chandler discussed the potential impact that the change in Medical Marijuana Transporters Rule could have for private security transport companies. Director Chandler informed the Board that any potential applicant for a transporter license would have to meet certain M.M.C. requirements and the number of applicants would be determined by market demand for that service.

Chairperson Black and Director Chandler discussed how the Casinos would apply for an alcohol permit. Director Chandler said that A.B.C. would not be issuing permits to Casinos and that the Casino License, which is overseen by The Racing Commission, will allow them to sell and provide controlled beverages.

The next item introduced by Director Chandler was a request for conditional approval of an exception for the application submitted by The Hangout. The Hangout was scheduled to open on September 2nd, 2020, but at the time of the Board meeting, the 30-day comment period was not set to expire until August 24th, which would delay consideration of their application until the next Board meeting. A motion was made by Alex Blass to accept the request for the exception to allow conditional approval upon no objections being filed by the public after the required 30-day posting period, which is set to expire on August 24th. He further added an allowance for The Hangout to open as scheduled on September 2nd upon no objections from the public. Jamie Anderson seconded the motion and the motion passed by a 5-0 vote.

Chairperson Black set the next ABC Board Meeting on September 16th, 2020 at 9:00 a.m., which is the third Wednesday of August.

The next item the Board considered was the appeal of the Director's Order against permit no. 00126, Restaurant Mixed Drink held by permittee Samantha Elbe d/b/a Applebee's Neighborhood Grill & Bar of Little Rock located at 4426 Central Avenue, Hot Springs. The Director's Order, which was issued on February 26, 2020, imposed a fine of \$1,500.00 and 120 days of probation for Furnishing Alcohol to a Minor. A.B.C. Staff Attorney Michael C. Lewis called Blake Zavadil, an A.B.C. Enforcement Agent and Cpl. Susan E. Turner of the Hot Springs County Sheriff's Department to testify. Both Agent Zavadil and Cpl. Turner testified that Cpl. Turner and a 20-year old cooperating minor went into Applebee's on January 21, 2020 and that the cooperating minor ordered two bottles of Bud Light from operator Charlene Lemmon and then Ms. Lemmon served the cooperating minor two Bud Lights. Ms. Lemmon did ask for the cooperating minor's I.D. but still sold to the minor, even though the I.D. presented showed her to be under the legal age. The Permittee, Samantha Elbe described to the Board how she had taken steps to increase training for her servers on how to avoid serving to minors. She also described how Covid-19 had adversely affected her business and asked that the Board take that into consideration. Board members asked questions and discussed with Ms. Elbe and

Agent Zavadil on how Arkansas identification cards are oriented vertically for underage individuals as opposed to being horizontal for those that are of legal age. The Board members also discussed the impact of the Covid-19 shutdown on businesses.

Steve Smith made a motion to find that the operator for the permittee furnished alcoholic beverages to a minor in violation of the ABC rules, but that the financial hardship caused by the Covid-19 pandemic be taken into consideration and the \$1,500.00 fine levied by the Director be lowered to \$500.00 with 120 days of probation. Alex Blass seconded the motion and the motion pass by a 5-0 vote.

The last item introduced to the Board was a request presented by Director Chandler that a supplemental resume be considered which would include the application for a permit by Jordan Wright d/b/a Wright's Barbeque, LLC for a location in Bentonville, Arkansas. She explained that the applicant had initially submitted his proof of publication in a format that could not be accessed by A.B.C. personnel, but had now sent his proof of publication into A.B.C. this morning and in a desire to avoid the application having to wait until the next Board meeting, she was asking for it to be considered today. Steve Smith made a motion to approve the supplemental resume that included the application for Jordan Wright d/b/s/ Wright's Barbeque, LLC of Bentonville, Arkansas. Jamie Anderson seconded the motion to approve and the motion passed by a 5-0 vote.

The meeting was then adjourned.

Freddie Black, Chairperson

Doralee Chandler, Director