



**STATE OF OKLAHOMA
ALCOHOLIC BEVERAGE LAWS ENFORCEMENT COMMISSION**

MINUTES OF THE ABLE COMMISSION MEETING
December 15, 2023

The filing of the meeting and posting of the agenda were in accordance with the Oklahoma Open Meeting Act. The notice of the meeting was filed with the Secretary of State on October 5, 2022. The agenda was posted on December 13, 2023, on the front and back doors of the 50 Northeast 23rd Street building in Oklahoma City, the door of the ABLE Commission's Office Reception area, and the ABLE Commission website.

Commissioner Usry called the meeting to order at 10:00 a.m. at the office of the Alcoholic Beverage Laws Enforcement (ABLE) Commission at 50 Northeast 23rd Street, Oklahoma City, OK 73105. A quorum was met with the presence of the following Commission members: Robert "Bob" Usry; Matthew Crook; A. Ainslie Stanford II; and Austin Benton.

The visitors that were in attendance were: Assistant Attorney General James Crawford, Office of the Attorney General; McKenna Perrin, Office of the Oklahoma Secretary of State; Christine Chalmers, Oklahoma State Bureau of Investigation; Stephanie Montes, Oklahoma Department of Mental Health and Substance Abuse; Collin Graham, Oklahoma Restaurant Association; J.B Jarboe, Southern Glazers Wine & Spirits; Brett Robinson, Alex Adkins, Spencer Guinn, and Heidi Shadid, Beer Distributors of Oklahoma; Randy Malone, Oklahoma Beverage Law; Justin Naifeh, Republic National Distributing Company; Samantha Guinn, Institute for Responsible Alcohol Policy; Dirk Van Veen and Robert Jernigan, Retail Liquor Association of Oklahoma; Ellen Spiropoulos, Phillips Murrah Law Firm; Todd Cox, Traditions Spirits; and Tyler Talley, Quorum Call.

The following ABLE Commission employees in attendance were: Executive Director Brandon Clabes; Assistant Director/General Counsel Lori Carter; Deputy General Counsel Leif Arvidson; Chief Law Enforcement Agent Todd Peck; Captain Erik Smoot; Captain Greg Bynum; Captain Kent James; Captain Scott Smith; Lieutenant Ray Fells; Lieutenant Cody Rekstad; Agent Steven Lanier; Licensing Supervisor Carla Clanton; Executive Secretary Shae Isaacs; and Legal Administrative Assistant Kimberly.

A roll call of the following ABLE Commissioners was announced: Commissioner Robert "Bob" Usry, Commissioner Matthew Crook, Commissioner A. Ainslie Stanford II, and Commissioner Austin Benton. A quorum was then established for the ABLE Commission meeting December 15, 2023.

Assistant Attorney General James Crawford acknowledged that the ABLE Commission is compliant with the Open Meeting Act. A notice of the meeting and agenda were posted 48 hours prior to the meeting and in accordance with Oklahoma statute 25 O.S. §311.

Commissioner Usry moved to agenda item #5, recognition of Lieutenant Cody Rekstad for 5 years of service to the State of Oklahoma. The Commission thanked and congratulated Lieutenant Rekstad on this service.

Commissioner Usry moved to agenda item #6, recognition of Agent Steven Lanier for 10 years of service to the State of Oklahoma. The Commission thanked and congratulated Agent Lanier on this service.

Director Clabes introduced newly hired Deputy General Counsel Leif Arvidson. Assistant Director Carter gave a brief synopsis of the duties for Mr. Arvidson and he was welcomed to the Commission.

Director Clabes introduced newly hired Customer Service Representative Yvonne Zuniga and welcomed her to the Commission.

EXECUTIVE DIRECTOR'S REPORT FOR DECEMBER 2023:

Director Brandon Clabes provided the following information to the ABLE Commission:

- Director Clabes met with many different entities, committees, agencies and conferences including: ABLE Brand Registration Division; Oklahoma Department of Mental Health and Substance Abuse (ODMHSA); Oklahoma State Bureau of Investigations (OSBI); Lincoln County Annual Christmas Awards Banquet; "Tree of Life" dedication at Penn Square Mall; Department of Public Safety (DPS); Rose State College Board of Regents meeting, Office of Management and Enterprise Services (OMES), ACCELA representatives, along with members of the media, several constituents and concerned citizens of the public.
- The GeoSafe program has been approved by the OMES information technology department and is online and being utilized by ABLE commissioned personnel. GeoSafe is a law enforcement locator system that provides another layer of security for our agents by showing their location in real time.
- Assistant Director Carter attended a National Attorney General's conference in Arizona and sat on a panel discussing vape registration.
- Chief Peck is continuing with on agency wide policies through Lexipol. All proposed policies are reviewed through an internal policy committee and then our legal division prior to dissemination.
- Director Clabes and other ABLE staff attended the training for The Association of County and City Information Systems (ACCIS) report writing software. The program is anticipated to become active as of January 1, 2024.
- Assistant Director Carter, Assistant General Counsel Leif Arvidson, and Captain Greg Bynum met with Ellen Spiropolous from Phillips Murrah law firm regarding business licensing.
- Director Clabes also met with the following individuals: Lincoln/Pottawatomie County District Attorney Adam Panter; Lincoln County Sheriff Charlie Daughtery; Senate Appropriations Committee Chairperson Senator Roger Thompson; Senator David Bullard, Representative Kevin Wallace; House Appropriations Chairperson, Representative Kevin Wallace.
- Director Clabes continues to work toward training in different areas for enforcement and civilian staff.
- The next ABLE Commission meeting will be in 4 weeks on January 19, 2024.

- The Licensing Supervisor and Project Manager, Carla Clanton, presented a PowerPoint presentation and covered the following topics: status of quotes for purchase order for renewal of the ACCELA maintenance and MAS contract; the top 5 issues with the Accela licensing system and their status and the dates; and the new ACCELA features added to the system. Ms. Clanton also provided to the Commissioners a copy of monthly applications services reporting contract for November 2023. The latest count of registered ABLE licensed users that have registered in the new online system is 169,284.

OSBI Human Resources manager Christine Chalmers presented her ABLE Commission personnel report consisting of the following topics: Recruitment; OLERS Board Approval status for new agents; newly hired employees; open positions for the agency; and status of new ABLE Commission applicants.

The Enforcement Report was presented to the Commissioners:

- Chief Law Enforcement Agent, Todd Peck, presented his written report to the Commissioners comprising of the following: meetings attended; development of a plan to modernize evidence/property and ABLE's evidence storage procedures; working with OMES Surplus to determine which equipment is obsolete and can be sent to surplus; in the beginning stages of developing a plan to establish a relationship with Bureau of Indian Affairs and potentially get agents SLEC (Special Law Enforcement Commission Request) certified; along with the activity numbers of the ABLE enforcement districts across the state.
- The following ABLE Commission Captains presented an update of their respective departments and tasks that have been completed since the last Commission meeting: Captain Kent James, Tulsa District; Lieutenant Ray Fells, McAlester District; Captain Scott Smith, Oklahoma City District; Captain Erik Smoot, Alcohol and Tobacco Education Unit; and Captain Greg Bynum, Trade Practices Unit and Brand Registration.

Assistant Director/General Counsel Lori Carter presented the following legal report to the Commission:

Assistant Director Carter stated that there are 44 cases settled for November. For the month of December, there are 18 cases resolved with 4 cases pending. Assistant Director Carter stated that she, along with Director Clabes, had a meeting with the Oklahoma Senate Appropriations Chairman in preparations for the upcoming Senate Budget Hearing anticipated for January 2024. She also provided an update for bill request change that may allow to have the Commission meeting at a different location than the ABLE offices. She traveled to Tempe, Arizona for a speaking engagement with the National Association of Attorney Generals regarding how Oklahoma is operating with the newly required vape registry. Assistant Director Carter also provided clarification of certain licensing issues that have been in question and continues to track bills and interim studies with the House and Senate that may affect the ABLE Commission.

Chief Financial Officer/Comptroller Jennifer Treadwell presented the financial report's PowerPoint presentation and covered the following topics: cash balances, cash balance comparison; revenue as of November 30, 2023; revenue comparison; transfer of revenue as of November 30, 2023; fiscal year 2023 expenditures; fiscal year 2024 expenditures as of November 30, 2023; and refunds for November 2023.

Assistant Director Carter provided the following statement regarding the current issue about mandatory taste testing and consumption of alcohol while on duty as prohibited by §37A sector 6-109(1) and possible discussion regarding administrative rule-making and the legality of the practice:

“On December 1, 2023, our agents cited a popular restaurant for fourteen (14) counts of employees consuming alcoholic beverages while on duty. We have previously received credible tips from a source that stated that employees were consuming alcohol while on duty, and some were exhibiting signs of intoxication. This employee is now incredibly fearful for their job as a result of this complaint. These citations carry a penalty of one hundred and fifty dollars (\$150.00) per count and are contained within the minor penalty schedule. (Which is completely contrary compared to some things that are going on in social media.) Oklahoma statutes provide no licensee or employee shall consume or be under the influence of alcoholic beverages during the hours he/she is on duty. If we, the ABLE Commission, receive a credible complaint alleging that employees are consuming alcohol while on duty or that they are exhibiting signs of being intoxicated while working, the ABLE Commission has a statutory duty to thoroughly investigate the situation and protect the public. In fact, Oklahoma law requires Sheriffs, Marshalls, Police Officers and ABLE Agents to diligently enforce all provisions of the Oklahoma Alcoholic Beverage Control Act. Please, keep in mind that this is an ongoing investigation, and we cannot fully comment on the allegations.

In addition, these citations are a starting point for an administrative determination by an administrative law judge. As such, there has been no finding of liability or guilt at this point in the process. The case is still being developed and processed so no fines have been issued and no regulatory action has been taken against this business. However, we feel the need to address information in two (2) press releases that were distributed by industry players in support of this popular local restaurant. First, they claim that this is a new interpretation of law. This is NOT new interpretation of law. It is simply our response to a public safety concern. We have an obligation to enforce the law and cannot turn a blind eye towards employees drinking while on duty. Second, we are not anti-business. We are pro public safety. Alcohol is a very dangerous and addictive drug. It's cheaper, it's legal and it killed one-hundred and seventy eight (178) of our fellow Oklahomans in 2022. Even one (1) life lost is too many. Our statutory mandate and our public mission is to protect the public from it's dangerous affects so that employees and servers and patrons, those that are leaving their jobs at the end of the night get home safely and so does the public, and that includes you and I. Finally, the industry has asked how they can legally, lawfully, and safely conduct employee wine tastings so that their servers will be well educated on the products they sell and serve. They have also asked how bartenders can sample the alcoholic beverages that they are serving to their customers, as they claim this is an industry standard practice to test the quality and make of the drink. Servers and bartenders are testing your glass of wine and your mixed beverage before you get it. Servicing alcohol to employees and allowing them to consume samples, however small, is definitely a public safety concern that commands the attention of public health agencies, public safety agencies, health and labor departments and industry participants. In fact, we can argue that employees never need to sample wine or cocktails before they are served because (an alcoholic beverage guide) can provide a brief description that they can communicate to their patrons. Servers, do not need a personal experience to convey the full bodied character of a wine. Moreover, there is no logical reason that bartenders need to have actually tasted a martini to tell if it's too dry or not. That's what the patron should do. Moreover, there are multi-layered health concerns that should be considered from bartenders or servers that are consuming samples of wine or mixed drinks before they are served. That is why we are proposing that all interested stakeholders, be at the table to discuss the best approach moving forward to address this. We, the ABLE Commission, will always work diligently with industry, the legislature, and other law enforcement and state agencies to promote practices and educate business owners. In fact, we met with the Oklahoma Restaurant Association and representatives of wholesalers, just last week and this week, to discuss the value of educating servers and the safety concerns involving employees sampling drinks and tasting wine while on duty. We believe that there are several statutory changes that can help clarify what business owners can and cannot do to educate their staff, while keeping the public safe at the same time and we welcome the opportunity to work with the manufacturers, wholesalers and trade associations, like the Oklahoma Restaurant Association, and other state agencies to make that good policy is enacted and that the law is followed, and employees and the public are protected.”

Commissioner Usry moved on to Item #16, comments from the public:

- Collin Graham with the Oklahoma Restaurant Association made a statement in response to the Assistant Director Carter's communication regarding Item number 15, the ABLE Commission's stand on the current issue about mandatory taste testing and consumption of alcohol while on duty.

Commissioner Usry moved on to Item #14, Executive Session to discuss ABLE Personnel Action pursuant to 25 O.S. § 307 (B)(1). Commissioner Crook made a motion to move into Executive Session. Commissioner Benton seconded the motion. A roll call vote was taken and recorded as follows:

Commissioner Robert “Bob” Usry – Yes
Commissioner Matthew Crook – Yes
Commissioner A. Ainslie Stanford – Yes
Commissioner Austin Benton – Yes

Commissioners entered Executive Session at 11:04 a.m.

Commissioners exited Executive Session at 11:30 a.m.

Commissioner Usry called the meeting to order at 11:31a.m. and called for a motion to return from Executive Session. Commissioner Benton made the motion to return from Executive Session. Commissioner Crook seconded the motion. A roll call vote was taken and recorded as follows:


Commissioner Robert “Bob” Usry – Yes
Commissioner Matthew Crook – Yes
Commissioner A. Ainslie Stanford – Yes
Commissioner Austin Benton – Yes

No action was taken in Executive Session

Commissioner Stanford made a motion to adjourn the meeting. Commissioner Benton seconded the motion. A roll call vote was taken and recorded as follows:

Commissioner Robert “Bob” Usry – Yes
Commissioner Matthew Crook – Yes
Commissioner A. Ainslie Stanford – Yes
Commissioner Austin Benton – Yes

The meeting was then adjourned at 11:33 a.m.



Jonathan Brooks, Chairman