



## **Tribal Advisory Council**

### **Meeting Minutes**

**July 13, 2012, 10:00 a.m. – 12:00 p.m.**

**Liquor Control Board**

**Distribution Center**

**4401 East Marginal Way South**

**Seattle, Washington 98134**

#### **Tribal Advisory Council Members in Attendance:**

<p><b>Council Members:</b> (Please refer to sign-in sheet)</p>	<p><b>Liquor Control Board (LCB):</b> Sharon Foster, Board Chair Ruthann Kurose, Board Member Chris Marr, Board Member Pat Kohler, Administrative Director Rick Garza, Deputy Administrative Director Alan Rathbun, Licensing Director Brian Smith, Communications Director Steven Johnson, Deputy Chief of Enforcement Jennifer Dzubay, Captain, Non-Retail Enforcement Margee Thompson, Finance Division Samantha Trotter, Board Office</p>
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#### *Welcome and Introductions*

**Ron Allen, Tribal Chair/CEO Jamestown S’Klallam Tribe, TAC Co-Chair**

**Ruthann Kurose, LCB Board Member, TAC Co-Chair**

Ron Allen, Tribal Chair/CEO of the Jamestown S’Klallam Tribe and TAC Co-Chair welcomed TAC members and other guests along with TAC Co-Chair and LCB Board Member Ruthann Kurose. Approximately six attendees participated via conference call.

#### *Tribes and Sale of Spirits Post I-1183: Introduction*

**Kelly Croman, Marine View Ventures**

Kelly Croman commented on the evolution of the working relationship between Tribal groups and the Liquor Board, post I-1183. She expressed appreciation for the open dialogue between parties, noting that she felt that the legal positions of Tribes and the Liquor Board had become relatively aligned.

*Tribes and Sale of Spirits Post I-1183: I-1183 and the 17% Fee*

**Rick Garza, LCB Deputy Administrative Director**

Rick provided the group with a handout detailing RCW 66.24.630 and WAC 314-02-106 (see attached). Both the RCW and WAC detail the obligation for Spirits Retail Licensees to pay the Board seventeen percent of all spirits sales. This language, as originally written into Initiative 1183, does not take into account the unique status of Tribes, and Federal preemption of state law regarding the taxation and regulation of activities that take place on tribal lands.

*Tribes and Sale of Spirits Post I-1183: 17% Fee and Legal Issue Related to Federal Law*

**Rion Ramirez, Port Madison Enterprises**

**Mary Tennyson, Senior Assistant Attorney General**

Rion Ramirez noted that, based on traditional analysis, any product purchased on Tribal lands is tax/fee exempt. He thanked the LCB for their recognition of that analysis.

Senior Assistant Attorney General Mary Tennyson acknowledged the challenge of applying I-1183 in the case of Tribal retailers. Federal law does not allow the states to require tribes to collect state taxes on sales to their members that occur on the reservation, nor to require tribes to pay license fees that are designed to raise revenue for the state, as opposed to fees that are designed to cover the state's cost of regulating the licensee. The interim solution will be a Memorandum of Agreement, addressed later on in the meeting. She affirmed Rion's statement regarding Tribal exemption from taxes and fees, noting that Federal law sets a precedent for that exemption.

*Tribes and Sale of Spirits Post I-1183: Costs*

**Leslie Cushman, Marine View Ventures**

**Pat Kohler, LCB Administrative Director**

Leslie Cushman, from Marine View Ventures, introduced the concept of regulatory cost recovery. Per Leslie, as Tribes are considered exempt from paying the 17% fee because it is imposed on the tribe as a retailer, and the tribe makes its sales on the reservation, discussions with the LCB became centered around the Board's ability to recover costs associated with regulating Tribes. The goal was to find a practical and simplistic way to calculate regulatory costs, which the law allows the state to collect from tribes who sell liquor.

Pat provided a handout to attendees outlining the calculations involved in determining those regulatory costs (see attached). Since implementation of I-1183 the LCB's core functions have become Licensing and Enforcement. Given those two functions, and the 2013-2015 budget associated with both the retail and non-retail portion of each, the cost per license for Tribes would equal approximately \$1,643. This cost includes all systems managed for Licensing and Enforcement, including Board operations, rulemaking, policy, IT, etc. The current Spirits Retail License application fee of \$166 is folded into the \$1643. The exact amount for the license will be topic of further discussion. Some attendees noted that a rounded amount may be easier to account for and process via the LCB Licensing Department.

*Note:* Per attendee request, Pat has provided a handout showing fees from the distributor and retailers for 5 years based on the February forecast (attached).

*Tribes and Sale of Spirits Post I-1183: MOA*

**Rick Garza, LCB Deputy Administrative Director**

**Chris Masse, Miller Nash**

A Memorandum of Agreement document was handed out to the group (attached). Per Chris Masse, the document is very much based on the draft template MOA developed over the last couple of years. Co-Chair Kurose reaffirmed that the principles contained within the MOA were agreed upon previously during the Tribal/WSLCB consultative process. It outlines the approach to be taken with Tribes holding Spirits Retail Licenses, where they will be responsible for payment of the LCB's regulatory costs associated with the license (the \$1643 figure noted above). The MOA notes that the fee requirements written into I-1183 are not applicable to Tribes. The \$166 license annual fee is included in the \$1643, and for those who have obtained a spirit retailer license, a portion of that fee has been retained as the initial annual license fee prorated to the license renewal date. After discussion, the consensus was that the fee should be set at \$1644 to allow for even dollar proration, and that the Board will notify each tribe for the amount due, based on the renewal date for its licenses, after the MOA is signed. It was further decided, by consensus, that any amount of the \$166 annual fee already applied towards the first year license will not be factored into the amount due at the time of MOA approval.

*Tribes and Sale of Spirits Post I-1183: TAC Resolution*

**Chris Marr, LCB Board Member**

LCB Board Member Chris Marr referred attendees to a TAC Resolution handout (attached), intended to convey why the TAC has come to the solution it has in regards to Tribal Spirits Retail Licensees. Chairman Allen asked for comments or concerns from the group, and based on the positive response, noted on the record that the resolution is officially recognized by TAC.

*What's Next: Communication Plan*

**Chris Marr, LCB Board Member**

**Deryl Brown-Archie, Muckleshoot Tribe**

Co-Chair Kurose introduced the LCB's Communications Director, Brian Smith to the group. Chris, Brian and Deryl emphasized the importance of being ready to answer questions on the agreed-upon approach to Tribes holding the Spirits Retail License. A FAQs document will be circulated to TAC Members for input in the near future. Member Marr suggested that the prevention work done by Tribes be included in the communications to other stakeholders.

*What's Next: Timeline, Next Steps*

**Ron Allen, Tribal Chair/CEO Jamestown S'Klallam Tribe, TAC Co-Chair**

**Ruthann Kurose, LCB Board Member, TAC Co-Chair**

Chairman Allen noted that the next step was for each Tribe to vet the MOA document with their respective councils. LCB representatives noted that the earlier the MOAs were received from Tribal groups, the better. A receipt date of September 1, 2012 would be ideal, with the first payment due October 1, 2012. If questions regarding the MOA arise during discussions with Tribal councils, TAC Members are encouraged to contact LCB Deputy Administrative Director Rick Garza: [rjg@liq.wa.gov](mailto:rjg@liq.wa.gov). Board Member Marr also encouraged attendees to contact the Board Office with questions: (360) 664-1717 or [st@liq.wa.gov](mailto:st@liq.wa.gov).

*Closing Comments*

**Ron Allen, Tribal Chair/CEO Jamestown S’Klallam Tribe, TAC Co-Chair**

**Ruthann Kurose, LCB Board Member, TAC Co-Chair**

TAC Co-Chairs Allen and Kurose expressed appreciation for the cooperative work done between Tribes and the LCB. They thanked all attendees for their participation.

*Please note:* As of the circulation date of these minutes, the next TAC meeting date has not been confirmed.

**Meeting adjourned at 11:55 a.m.**

**Handouts:**

1. RCW 66.24.630 and WAC 314-02-106
2. WSLCB Draft 2013-15 Budget
3. Fee Distribution Summary
4. Memorandum of Agreement
5. TAC Resolution