

NEVADA TAX COMMISSION MEETING  
MINUTES

Nevada Legislative Building  
401 S. Carson Street, Room 2135  
Carson City, Nevada

Legislative Counsel Bureau  
Grant Sawyer State Office Building  
555 E. Washington Ave., Room 4412  
Las Vegas, Nevada

July 13, 2017  
1:00 p.m.

Members Present:

James DeVold, Chairman  
Craig Witt, Commissioner  
Tony Wren, Commissioner  
Thom Sheets, Commissioner  
Francine Lipman, Commissioner – Via telephone  
John E. Marvel, Commissioner – Via telephone  
Ann Bersi, Commissioner – Via telephone

Members Absent:

George Kelesis, Commissioner

Chairman DeVold called the meeting to order at 1:03 p.m.

I. Public Comment –

Kurt Brown, Paladin LLC – Mr. Brown referred to an emergency shortage of marijuana. There are countless rumors and allegations as to how we got to this point. Mr. Brown stated there was not enough time to get applications submitted for distributors. The alcohol distributors want the marijuana establishments to be successful and capable of getting inventory. The Department confirmed in writing that Paladin LLC's application was complete. After the injunction was entered into by the Court, the Department began asking for additional information from Paladin, much of which was already provided. All additional information was provided to the Department. The Department issued Paladin a conditional license to distribute. Opening applications to anyone other than the alcohol distributors circumvents Judge Wilson's injunction and will not solve the current distributor problems.

Kevin Benson, Allison MacKenzie, on behalf of the Independent Alcohol Distributors of Nevada - We are not trying to hold up the marijuana market. We want the market open. We want a fair opportunity to serve the market. We object to the regulation. The emergency is of the Department's own making. This is not a legitimate emergency. With regard to people reverting to the black market, people have been buying from the black market for years, if it wasn't an emergency then, it isn't an emergency now. This is not an emergency.

Chairman DeVold asked how many members are included in the group of alcohol distributors.

Mr. Benson stated he is not authorized to discuss. It is a non-profit domestic corporation.

Commissioner Sheets asked if it is correct that you, Mr. Benson, and the undisclosed number of members that you represent believe the endorsement of an emergency measure from Governor Sandoval is incorrect.

Mr. Benson stated he believes that the Governor did not make the determination, but the Department did. He believes the basis for the decision is insufficient.

Claudio Ituriaga, of Sierra Well – Stated that suggesting that the product will be available on the black market is an irresponsible comment. People want to purchase their products from a safe environment. It would be devastation if people in the industry lost their jobs. Product cannot be moved to sell, it is hurting business and the patients need to buy it. He kindly asked that the Commission approve the regulation.

Jim Stollgren, independent alcohol distributor, family business – Mr. Stollgren asked that they have a little more time to get through the application process.

Mona Lisa Samuelson, Patient Advocate – The medical marijuana patients hope that you remain apathetic to their needs while you go through the recreational process. A ten percent discount to those that hold a medical card does not equate to a medical marijuana program. Patients require access to whole fresh plants, and need to be able to grow and process our own cannabis and cannabis edibles.

Stephanie Till, Public Relations Officer for K & H Consulting – Asked if the Department of Taxation makes it a habit of holding the hands of any other businesses through the licensure process.

Kimber Luciano thanked the Commission for the great job they are doing. She wanted clarify that the Department is still accepting applications for wholesale distributors. There has been sufficient notice, but it is a very involved and regulated industry. She does support the emergency regulation and would like it opened to all other liquor distributors not just the wholesale distributors.

## II. Consideration for Approval of Adoption of Emergency Regulations:

- 1) Adoption of Emergency Administrative Regulation to provide the criteria and process for determining whether there is an insufficient number of wholesale liquor distributors to support industry demand and serve the marijuana distribution market, pursuant to NRS 453D.210.

Director Contine gave a detailed overview of the emergency regulation. Since the Court's Order on June 20, 2017, the Department has been working extremely hard to license wholesalers. At the time of the Order, we had five applications. Since that time we have received an additional two applications. Yesterday we issued a license to Crooked Wine and today we issued a license to Rebel Wine. There are five applications still in review. A few of the applicants have denied inspections or are not ready for inspections at this time. Many dispensaries had product that they designated as recreational product and began selling on July 1. Since that time, the market has been very robust. Keeping up with the demand has been difficult and some have run out of product. This is what initially prompted the development of the regulation. The regulation is not meant to exclude anyone, but to create a structure to make the evaluation of the need for more applicants. There will be a budget shortfall if we do not collect the money.

Chairman DeVold asked for any questions from the Commission.

Commissioner Wren asked how many companies are compliant with 369.

Director Contine clarified that he is asking how many licensed wholesalers there are, and stated there are approximately 66.

Commissioner Wren asked how many distributors are needed.

Director Contine explained that Nevada is unique. Other states do not have the same model of distribution. In the medical marijuana context, there was one company that served the industry and distributed their own product. That is the model that has been in place. There is plenty of room in the market for several entities.

Chairman DeVolld asked for clarification on the timing.

Director Contine stated that it was a fairly quick timeline. We did the temporary regulation process and the adoption process while the Task Force meetings were occurring and the Legislature was in session. We have had numerous public meetings and everyone has been working very hard.

Chairman DeVolld asked if there is a concierge kind of program.

Director Contine stated the Department is reviewing applications and we are in constant contact with the applicants. We are licensing entities but there is a process that has to be followed. All marijuana establishments have to go through the process. The initiative states applicants must also work with local governments. The Department of Taxation has an interest in businesses operating within the law. We are doing everything we can to get the applicants licensed.

Chairman DeVolld asked if there is a sticking point where the application is being held up. Can we figure out how to get the applications pushed through.

Director Contine stated that a few of them are waiting on inspections. The inspection is required. Two of the applicants have declined inspections and we cannot skip the inspection. The others are in the process and we are communicating with them.

Commissioner Lipman asked if Director Contine has been in contact with the Governor, and asked for confirmation that she has given him all of the information needed for him to make an informed decision.

Director Contine stated that she has been in contact with the Governor and she believes he always makes informed decisions.

#### TESTIMONY:

Randy Black, Nevada Medical Marijuana and Nevada Made Marijuana – Regardless of what happens, 7 distributors cannot keep up with demand of 48 dispensaries. Please follow the Director's recommendation.

Rianna Durrett, Executive Director to the Nevada Dispensary Association – We are in support of the regulation. Ms. Durrett thanked the Tax Commission and the Department for approving the adoption of the temporary regulations. Without a solution to the distribution issue, the industry will be turned on its head. They look forward to working with the liquor distributors when they are licensed, but we feel it will be a while before they are prepared. There are different codes and regulations to be followed in the marijuana industry. Ms. Durrett asked that the Commission approve the regulation to keep the market competitive.

Robert Groesbeck, President of MM Development Company – Thanked the Department and Governor Sandoval for all of the hard work. The alcohol distributors backed the question, it was passed and then they disappeared. There was no secret. The marijuana industry has spent millions of dollars. Mr. Groesbeck is in support of the regulation.

Amanda Connor, Representative of the Nevada Cannabis Coalition – Ms. Conner thanked the Department. Ms. Connor's clients support the regulations. Her clients have put in numerous hours and have jumped through all of the hoops to meet every qualification. They were able to obtain zoning, pass inspections and meeting all qualifications from the time of May 15 - 31. We respectfully dispute the claim that there was not

enough time. The industry needs distributors. They hope you approve these regulations to ensure the success of a regulated marijuana industry.

Commissioner Lipman asked “How many dispensaries do you represent?”

Ms. Connor stated she represents over 25 establishments.

Shanna Perry, Purple Queen Promotions LLC – To set up a distribution company with anything less than a Brinks truck would be completely irresponsible. This product is just like having cash. This industry is too big not to have third party distribution. We need a third party and it is an emergency. Ms. Perry asked, if under her promoter’s license, her experience in the industry, and her team of security gentlemen that are retired military, would she be eligible to apply for a license.

Commissioner Sheets asked if the Department would take Ms. Perry’s comments into consideration.

Albert Gutierrez, Medicine Man – To answer the question previously asked by a commissioner, the application process is an open market. He feels that Colorado is over saturated with marijuana and the price of marijuana has dropped. An infrastructure will have to be put in place for the distribution networks. Mr. Gutierrez is in support of the regulation.

Michael Hagemeyer, representing Red Rock Wines – Mr. Hagemeyer is not in favor of the regulation. The ballot initiative was largely sponsored by the Regulate Marijuana Like Alcohol Committee. The ballot initiative and 453D both state marijuana is to be regulated like alcohol. In Nevada we recognize a three tier distribution system. You are glossing over the intended use of the three tier system. It ensures proper checks and balances, inventory control and additional tax revenue. The three tier system stops the big guys from shoving out the little guys. In May, the Department made a unilateral determination that there were an insufficient number of distributors to service the market. They reversed the decision under threat of litigation because there were a sufficient number of distributors in place, and eager to apply.

Commissioner Sheets asked “The 18 month exclusivity provision that the voters in the 453D legislation is rendered meaningless because your position is that nobody except a 369 distributor in a three tier system can ever distribute marijuana?”

Michael Hagemeyer stated there is an 18 month exclusivity for those 369 holders to be the distributors. Thereafter, it is unclear from a reading of 453D what is supposed to happen.

Jason Sturtsman, ILAC Consultant – A solution is needed quickly for MME’s to have the ability to get their products to cannabis consumers. The rollout in regulation for distribution of recreational cannabis should have been conducted differently. He is not opposed to alcohol distributors handling cannabis distribution. It was his hope that they would be a separate tier like independent testing facilities. From conversations with distributors, they are more than willing to allow MME’s to distribute their own product during the months they need to get prepared for inspections. If the decision today is that there are an insufficient number of distributors, please provide a solution which would allow MME’s to do their own distribution temporarily. By pushing alcohol distributors to the side, it will result in further distribution problems.

Nick Shook, Apothecary Shoppe - Thank you for all of the hard work that has been put in to make this a reality. When it comes to legislative intent, I believe that initially we the voters wanted this taxed and regulated like alcohol because we wanted it to be as legitimate as possible. My thought was by having the alcohol distributors, it would open the path to federal compliance. Where we are today, we are in a state of emergency. Mr. Shook stated he is worried about his employees because we have a ton of marijuana product that is stored in our facility. This has put a target on us. If they could get product more frequently, they would not have to keep so much at the facility. The timeline to process an application was more than sufficient. It is inexcusable to say there was not enough time for the application process. It was just a lot of

paperwork, background checks and a check for \$35,000. It is hard to believe the POD companies had their applications together, but the alcohol distributors did not. We have the logistics and the infrastructure to make everything legitimate. Mr. Shook supports the regulation.

Christi McAdams stated she works closely with the alcohol distributors that have applied. Ms. McAdams has had three years of experience in the marijuana industry. This is a way to circumvent the law and undermine the voice of Nevadans who voted, Judge Wilson and the justice system. They sent emails and called the Department. No alcohol distributors were invited to the working groups. The emergency was self-created. We have warehouse space, ten refrigerated cargo vans, industry specific software which exceeds state regulations and twelve account representatives. It seems that the Department has sidestepped all the time, money and effort we have spent to prepare for recreational sales. In regard to the statement about the concierge service, Ms. Contine's statement is untrue. We only had a few weeks to find a location, which would have been done months ago, but were mysteriously taken off the agenda. The statement about the MME's having the same amount of time is untrue. They had months and in some cases over a year. Their zoning had already been approved.

Chairman DeVold asked if they are a 369 license holder.

Christi McAdams stated yes, but they are not one of the seven included in the number of applicants, they have their application turned in, paid the \$20,000 and are currently waiting for the Department to approve what was on the agenda of July 5<sup>th</sup>. She clarified that this was the county commission meeting agenda and they were approved at that meeting.

Hanna Sweis – Mr. Sweis is very interested, but has not applied. Mr. Sweis stated there is a big investment and there are too many businesses. Once he is licensed, he will not have any business. He says that even the street vendors have a three tier system. They have suppliers, distributors and retailers. That means it works! He believes that each entity should only hold one type of license and that there are simpler solutions.

Margaret Arquella, West Coast Wine – Ms. Arquella stated she was part of the transportation working group. The Department has not tried to work with the distributors at all. She does not support the regulation.

Commissioner Sheets asked if she had to send emails and make calls to get on the working group and who chose the working group members.

Margaret Arquella stated she did email and call several times. She assumes it started with Director Contine's office.

Mona Lisa Samuelson stated the marijuana patients have had our grow rights taken from us, to be granted exclusively to commercial enterprise. You have built a billion dollar marijuanapalooza on the backs of the sick, injured and dying. The very least you can do is support the medical patients' right to use the marijuana plant in a medicinal manner.

Ben Sillitoe, Oasis Cannabis – Mr. Sillitoe stated he supports Rianna Durrett's comments. I don't think there are any massive conspiracy theories to keep the alcohol distributors out of the industry. We faced the same difficulties along the process. The roadblocks are just part of the process. The will of the voters is to legalize cannabis.

Andrea Rhodes, Nevada Wellness Center – We are here for a fix. After a week we have a shortage. He supports the regulation. We have patients and consumers that are more concerned with the price.

James Green, Retired Police Captain and owner of Shango Las Vegas – Mr. Green echoes Rianna Durrett's comments. We are out of product.

Commissioner Sheets asked how tourism is affecting business.

Mr. Green stated they are about 70% local so he doesn't really know how tourism will affect the industry.

Stephanie Till, K & H Consulting – There are concerns that the price of medical marijuana will be unaffordable if a solution isn't reached. She is in support of the regulation.

Julie Montero – Ms. Montero has concerns relating to the patients and that they do not have the product they need. Ms. Montero supports the regulation.

Cindy Brown – Medical marijuana patients have been fighting for 17 years to get what they need. They need live plants to take home and use. She is in support of the regulation.

Kimber Luciano stated she had other questions about distribution. The Commission gave her the phone number to contact the Department to get specific answers.

Jim Hartman – Stated he has a great deal of sympathy for the Commission as regulators. He faults the Commission for over delegating responsibility to Director Contine. He thinks they are moving too quickly. The Commission never had any say on the early start program. Other states have used the one year provision while Nevada stands alone at a six month provision. We want the Commission to do its work in being Nevada's force for safety and health.

Commissioner Sheets clarified the judge's ruling.

Joey Gilbert stated he supports the regulation and commends the Department for the work they have done. He pointed out that this is a new industry and we need to move forward.

Will Adler, Sierra Cannabis Coalition – Stated he supports the regulation. This is the framework for Question 2. Nevada set a gold standard for the medical industry and it should be carried over to the recreational industry.

Chris Molinari, Apothecanna – In other states, it is allowed to deliver direct to dispensaries. Part of the delivery process includes collections. There is a lot of cash changing hands. The alcohol industry does not have this factor to consider, which is why security and a Brinks truck is a valid comment. It is all cash. Ms. Molinari suggested making changes to deal with cash. Distribution in other areas is much simpler. She fully supports the emergency measure.

Chairman DeVold stated that the cash issue is a federal issue and will not be solved by the Tax Commission.

Marla McDade Williams – Coming to the defense of the Director in relation to the early start program, in the Governor's State of the State address he initiated a July 1 start date and the revenue from that. There is no limitation on the vertically integrated marijuana businesses. Ms. McDade Williams supports the regulation.

Kurt Brown, Paladin LLC – The alcohol beverage industry has dealt with cash since their inception. Some of the marijuana industry is not only cash, some have bank accounts. Mr. Brown stated he has experience servicing 350 accounts on a weekly basis, from Wal-Mart to Costco. Mr. Brown stated he has over 700 SKU's. Mr. Brown has no problem servicing the customers. When Mr. Brown was approached to sign the petition for the regulation of the marijuana industry, he was informed it was to be treated like alcohol. Paladin, LLC was one of the entities not ready for an inspection because he was on vacation and asked that the inspection be rescheduled for the next week.

Kevin Benson, Allison MacKenzie, on behalf of the Independent Alcohol Distributors of Nevada - The Department was essentially telling the alcohol distributors thanks but no thanks. It feels like the Department

did not want the alcohol distributors involved. He is perplexed about the medical patients not being able to get product. It seems the problem is further down the line by the cultivators. One of the issues was the notion that there is not enough sufficiency. What is sufficient? Part of the reason we object is that they have not had any time to prepare.

Shane Johnson, SJ3D Holdings – Three to five deliveries a day is probably light. They are not shipped into a central place. He could easily see 10 to 15 deliveries a day. He is in support of the regulation

Chairman DeVold asked each Commissioner if they had any questions. There were no questions.

Commissioner Marvel stated he believes this is a regulation they should promote.

Commissioner Sheets didn't have any specific questions, but did point out that during the hearing with Judge Wilson, zero distributors were licensed, and in his opinion, zero is insufficient.

Director Contine spoke briefly about the concerns raised and questions. She read each of the initiative points after "recreational marijuana should be regulated like alcohol". What is missing from the testimony is that this is a business. We are not trying to circumvent a process. We went through the process and made changes to the draft regulation according to what was said at the workshop. We are not keeping people away. We are reviewing every application and then waiting for the applicant to get the remainder of the information.

A motion was made by Commissioner Sheets to adopt the emergency regulation. Second by Commissioner Marvel. All in favor. Motion passes unanimously.

### III. Consideration for Ratification of Decision to Appeal an Order of the Court:

- 1) Consideration to approve and ratify the Department's decision to Appeal the Amended Order Granting Preliminary Injunction to the Nevada Supreme Court in *Independent Alcohol Distributors of Nevada v. Dep't of Tax'n*.

Bill McKean, Chief Deputy Attorney General, was present on behalf of the Department. Mr. McKean called for this agenda item as an abundance of caution. Mr. McKean stated there is a good reason to appeal. The original was filed by IADON and a second case was filed by Nassau. The second pleading was never served on the Department or the Attorney General. Judge Wilson consolidated the cases, which were mirrors of each other. Judge Wilson also added a \$5,000 bond.

Commissioner Sheets spoke about the distributors announcing that they will be seeking a restraining order on the action they just took. That means they intend to take action. This is a problem because of the narrow definition of what is meant in the regulation by insufficient.

Commissioner Marvel asked the Director what timing the Department needs to process and analyze the applications.

Director Contine stated the Department's team is analyzing the applications. We are not taking more than a week or so, unless they have not provided the requested information. On the sufficiency issue, the regulation states we will request information from them. We will do this by a survey electronically or some other way. This will depend on how long it takes to do the analyses. We have to give a three day notice. At a minimum it is a two week process.

A motion to ratify the Department's decision to appeal the Amended Order Granting Preliminary Injunction to the Nevada Supreme Court in the case of the Independent Alcohol Distributors of Nevada v. Department of Taxation was made by Commissioner Sheets. Second by Commissioner Witt. All in favor. Motion passes.

IV. Next Meeting Date: August 14, 2017

V. Public Comment –

Commissioner Lipman asked Director Contine about a concern regarding businesses shutting down.

Director Contine stated she has approached this by licensing people, gathering information and doing the analyses, and maintaining rights in the court case.

Director Contine thanked the Commissioners for attending the meeting on such short notice.

Commissioner Sheets asked that we check into a phone service where we control the callers.

VI. Items for Future Agendas

VII. Meeting adjourned at 4:23 p.m.