

SB 571 Rules Committee Meeting – Minutes

Date: 12-06-07, 3:00-5:00pm
Portland State Office Building, Room 1D
(Handout: Agenda)

In attendance:

Committee members: Karen Girard, Brian McMenamin, Dave Thomson, Mike Hanson, Toby Harris, Chuck Tauman, Jeffrey Fellows, Charles Ellis, Dana Kaye, Jane Stevenson, Ron Prinslow.

Staff: Jill Thompson, Debi Livengood

Attending by conference call: Danna Hastings, Jennifer Kue, Janet Jones.

**Please see the attached committee roster for committee members affiliations

1. Introductions

The meeting was brought to order by Jill Thompson, Policy Manager of the Tobacco Prevention and Education Program; members attending and on the phone introduced themselves and their affiliation.

2. Committee housekeeping items

Jill began the meeting by reminding attendees that the purpose of the meeting is: to continue with drafting Administrative Rules for SB571.

Members were asked to sign in and update their contact information as needed. Members were given an agenda, and reminded that they have copies of the draft materials to be reviewed , as it is a continuation of what we worked on at the last meeting.

Jill reported on various issues brought up for action at previous meetings:

- She has met with the fire marshal's office to review the issue of ventilation systems in cigar bars. She will report back to the committee at a later date.
- Various state agency representatives have gotten together and will continue to meet for the purpose of further discussion around smoking issues in residential treatment facilities, such as assisted and senior living facilities, group homes, and residential treatment facilities.
- Becky Callicrate (SPD) will no longer be a member of the committee.

3. Review minutes from November 29 meeting

Members received minutes from the previous meeting by e-mail only.

4. Review draft rules: Signs, cigar bars, smokeshops and enforcement

(Handout: Draft version of Implementation of the Oregon Clean Air Act..., Signs through Effective Date)

Major points of discussion included:

- Further discussion of “Signs”: at the last meeting the committee recommended that businesses be allowed to provide their own no-smoking signs. DHS will also have free signs available.
- At the last meeting we discussed smoke shop certification and recommended that DHS be responsible for the certification process. It will not be delegated to Local Public Health Agencies (LPHA).

Cigar Bar certification will be handled via written communication, not site visits. If complaints are brought against a cigar bar that has not been “certified” the complaint will go into the regular complaint process. If the certification fails, there needs to be language in the Rules that provides for lack of certification and failure of existing certification. There also needs to be language around revoking certification if it becomes necessary because of compliance issues.

- DHS will oversee the complaint process and delegate to LPHAs under an Intergovernmental agreement.
- Further discussions will Seniors and People with Disabilities (SPD) will clear up the issues around supported living situations where they are businesses **and** residents.
- The way that current complaints are processed was outlined, and timelines for steps were discussed.
- Minor changes were recommended under “Complaint Response, Initial complaint (b)” to exclude the reference to “employer or PIC” and change it to “business or organization”, so that the business will be held responsible, and not a person employed by the business.
- Second or subsequent complaint:

Complainant letters will continue to be sent; discussion followed about the value of these letters, and what information should be volunteered to complainants about the continuation of the process from this point forward, and whether counties would be required to send them out.

Timelines for the various parts of the process were discussed and it was recommended that the unannounced site visit timeline be changed from 10 days to 30 days from the date of 2nd, or subsequent, complaint.

The recommendation was made that the site visit regulations be broken into indoor and outdoor sections.

- Jill advised that there is provision for situations where we have repeated complaints, however, upon inspection have been unable to observe the violations.
- In the outdoor section these items will need to be covered:
 - there will be a 10 foot perimeter that must be maintained as smokefree, so tables in that area will need to be clearly marked as smokefree.
 - there needs to be further definition of “enclosed”, which will be discussed again at a future meeting.
- Under both indoor and outdoor:
 - A recommendation was made to clarify the 15-day window after which a follow-up inspection will be made (after a remediation plan goes into effect), from 15 calendar days to 15 **business** days, as it now states.
 - A recommendation was made to delete the time frame distinctions for how long larger business are given to comply with a remediation plan. Jill will go into old records and see what the thinking was when the various timeframes were established in case there are issues not thought of at this time.
- A question raised: If it appears that a business fails to comply with the remediation agreement and they are assessed fines and they still fail to comply, is there a model DHS has used in other areas that will assist with development of a solution in this type of situation.
- Record-keeping will continue to be centralized at DHS so that we can keep track of a business that has violations in multiple counties.
- Jill believes that in the case where a business can't be brought into compliance, the business could be closed down, with guidance from the Department of Justice.

- The process for revocation of a certification for a smoke shop or cigar bar needs to be developed.
- The legislature set the level of new higher penalty fees.

5. Current Outreach Education/Efforts

Cathryn Cushing, TPEP Media Coordinator, presented highlights of the media campaign about the new law for the purpose of educating businesses and the public, including mailings, materials, publications, paid advertising, and free press.

6. Review agenda for next meeting

December 20, 2007, 3:00-5:00pm. We have enough information at this time to begin review of what has been previously discussed and the recommendations made by the committee. There are some questions that have not yet been answered; particularly those areas that involve other agencies, such as the fire marshal and Seniors and People with Disabilities. Additionally, DHS must file a fiscal impact statement which the committee will need to review. A copy of the new agenda will be sent out prior to the next meeting.

Meeting adjourned.