

DRAFT
KAHNAWÀ:KE TOBACCO LAW
INFORMATION SESSION
KNIGHTS OF COLUMBUS HALL
29, Seskehkó:wa/September 2015
6:00 PM– 8:30 PM

RECORD OF DISCUSSION

FACILITATORS:

Leslie Beauvais-Skye (KLCC Interim Coordinator)
Ron Skye

RESOURCE PEOPLE – MCK/KTA Working Group

Gina Deer & Robert Patton (Tobacco Portfolio Chiefs)
Members of the KTA

RECORDERS:

Kim Beauvais
Caroline McComber

6:00 P.M. **OPENING** – Leslie Beauvais-Skye

6:05 P.M. **INTRODUCTION/MEETING GUIDELINES** – Leslie Beauvais-Skye

6:10 P.M. **READING OF THE KAHNAWÀ:KE TOBACCO LAW & FEEDBACK REPORT**- Members of the KTA

8:25 P.M. **NEXT STEPS** – Ron Skye

8:30 P.M. **CLOSING** – Leslie Beauvais-Skye

After Leslie Beauvais-Skye gave the opening she noted that there would be no decisions made tonight, instead the law would be read aloud in its entirety by the KTA who would also give a review of the feedback report followed by a question and answer period.

Brian Delormier outlined the feedback report explaining it is divided into three (3) sections:

Section One-Community Feedback - comprised of twenty-eight (28) questions and comments

Section Two-Organizational Stakeholders Feedback

Section Three-Comments of General Concern - general comments that were removed as they were not applicable to the Law itself

Reading of the Draft Kahnawà:ke Tobacco Law and reference made to Feedback Report

QUESTIONS AND ANSWER PERIOD

Section IV - SCOPE

A transportation certificate issued by the Commission is effective outside the Mohawk Territory of Kahnawà:ke, provided that the holder of the Transportation certificate is transporting tobacco products in compliance with the requirements of this Law.

Question: Whether the language for 4.3 is exactly as stated?

Answer: Section 4.3 is specific and applicable to the Mohawk Territory of Kahnawake exclusively.

Section VI – KAHNAWÀ:KE TOBACCO REGULATORY COMMISSION

Question: Concerning the General Commission members (3 candidates) – is this meaning that they have no interest in the tobacco industry? There is no issue of partnerships? There's no issue of that?

Answer: General Commission Members cannot have any personal or financial interest in the Tobacco Industry.

Question: Of the General Commission Members and the Industry Commission Members, what number of voters for each establishes the quorum?

Answer: Clarification was provided that half the membership plus 1 constitutes quorum.

6.31 Until such time as a Commission is elected pursuant to the provisions of this Law, a body of three (3) persons will be appointed as an Interim Commission by the Kahnawake Tobacco Association.

Question: Of the three Interim Commission appointees, would two appointees serve as quorum?

Answer: This is just for now to get the ball rolling. This is a draft, if the community decides they want five (5), then it will change.

Section VIII – CERTIFICATES AND OTHER FORMS OF AUTHORIZATION

Question: 8.6 - What if a person does not want to relinquish their outside certificate or permit?

Answer: Tobacco people right now still hold permits. No one right now holds an outside manufacturing permit. The only permits are retail permits. That was one of the issues.

8.11 – *The commission may amend or revoke a decision rendered previously when b) a party was unable to be heard at the time the decision was made;*

Question: So, the decision can be made ex parte (without their appearance)?

Answer: If a meeting was called and someone couldn't be there, for example if they were away working or on vacation. They come and say that if they were here the decision may have changed; we give them the chance to do it. It's not completely final, if there is something that had it been known before would have influenced the outcome, the decision may be changed.

Section X – COMMUNITY CONTRIBUTION FUND

Question: 10.5 – Is it going to be possible to establish and maintain an account at the Caisse Populaire?

Answer: This was put in long before Bill C-10, and it is something that will have to be worked out. The previous KTA had an account at the Caisse Populaire for the contribution fund and it worked very well.

10.3 - *The Commission will be the trustee of the Fund and is responsible for administering the Fund in accordance with the highest standards of honesty, integrity and professionalism.*

Question: Clarify 10.3?

Answer: Everybody on the Commission will have the authority to decide.

10.12 - *The Commission will design and administer the distribution of Contribution Stamps.*

10.14 - *The Commission will establish rules and procedures to ensure that Contribution Stamps are properly issued and affixed to tobacco products prior to importation, exportation, distribution or sale of the tobacco product within, to or from Mohawk Territory of Kahnawà:ke.*

Question: Clarify 10.12 & 10.14?

Answer: We are suggesting that it will all be happening at the manufacturing level, the contribution will already be factored in at that level. The contribution will be built into the price that the wholesaler pays

from the manufacturer. The retailer will no longer be able to go directly to the manufacturer, but will have to buy from wholesalers. Inspectors will go around checking all the Certificates of the operation holders and insuring that all products have Contribution Stamps affixed to products. Should someone have products not manufactured here, it will be their duty to call for and pay for stamps (this is to be part of regulations). All of the stamps will have serial numbers and everyone will have a permit number, so it's all tracked and traceable. How and when will all be worked out in the Regulations, but there won't be just one inspector.

Question: It seems as though there is protection against counterfeit issues.

Answer: That was one of the issues in all of our 26 plus meetings that we had. Anyone can check on anyone, so that's what we are going to be doing. That will be the job of the Commission and administration under them. And the issue of the Contribution Fund being in a safe place was brought up – say the Government doesn't like what we're doing – what will be the repercussions? Can they seize the money, can they freeze it? We can have our own bank, whatever we want. It's all stuff we can look at. We will call in professionals for whatever we can't do ourselves.

Question: There are not a lot of industry people here. Did they read this? Do they support this? I have a concern because there are 19 people here and not many people from the industry.

Answer: This is Kahnawà:ke, you know how it goes? When it comes to certain things in this law, things that people want to know about like price control and regulations, they will be here.

Question: Inspections will be tough. It will almost require one for every store 24/7. Controls were tried in the past. There were people bringing in products not manufactured here.

Answer: Times have changed, there are rarely any products being brought in from elsewhere. A lot of the things that are in the Law were put here over the years that it has been developed. Things can be changed if someone has a better idea, people can change it. That's what this (CDMP) is for.

Question: I didn't see in the Law anything about the counterfeit stamps?

Answer: This will be covered in the Regulations, not in the Law. Every section of the Law will have all the details outlined in the Regulations.

Question: Are tips still going to be able to be made?

Answer: Yes, everything we have now will continue.

Question: This is a lot of good work that's gone into this. I felt at one point that this wasn't going to work simply because of the position of Canada and Quebec and the way they're coming at this. My question part comment is; what is the role you're expecting of the Mohawk Council of Kahnawà:ke? I'm new on the scene again and I need to know, in a sense, what we're supposed to do if nothing regarding the document. I don't have a problem with this, this is good. The thing is where do you expect us to take this? What do you expect us to do with it in terms of relationship between Kahnawà:ke and the Quebec Government and the Federal Government? Talks are being renewed, we're going back to the table with Quebec and I don't mind dealing with this as long as I know it's passed, it's the Law now in Kahnawà:ke.

We did the same thing with the gaming industry, unfortunately it didn't work, but we still established ourselves and continued on because it wasn't something they could really touch. There was not as strong a Law out there as there is now. We did the same thing with the Peacekeepers. A lot of controversy inside and outside, but it passed, we moved ahead, we had an arrangement. We did the same thing with the hospital, some odd years ago, when it was unheard of that anything like that could happen, making arrangements with the government out there recognizing that we had the right to establish the hospital. In the past, the outside recognized, on a Nation to Nation level, that we have the right to determine our own laws – ABC, Mixed Martial Arts, Gaming (did not get recognized, but is tolerated), etc.

Answer: First we want this put in place by the community for the community. Show everybody in the community that it works, to the community's benefit. Once we show that it works, the money will be there to be able to go out and do what is necessary. The Constitutional challenge, if we decide to go that route. That's if the community decides to go that route, but at least we'll have the opportunity to have that choice.

We have to deal with our own community first. Once it's passed and running smoothly, then we can take it outside to the Federal and Provincial Governments because we're going to have to deal with them anyway. But there's no way they're going to give us any license of any kind without getting their portion of the tax, or they'll want it all. So what we're dealing with right now is the territory.

Question: Thanks for your response, but can you please answer the question posed by Chief Norton, as to what role you want the Mohawk Council to play?

Answer: So you ask ‘what do you want from us’? In the past, we were told “give us a law produced by the people and we will go out there and fight for you” – we’re not asking for anything that has not been said before (by the former Council).

Question: I work at a factory and do sell cigarettes from time to time. Do I have to pay something? If I don’t have a permit and I go sell cigarettes, do I get taxed or fined? Can someone deny me a permit?

Answer: If you don’t have a permit and sell, you’re breaking the law.

Question: If I go to apply for a permit is there a chance that I can get denied?

Answer: As long as you’re truthful, and you fill out an application it shouldn’t be a problem. Don’t lie on it. In fact it’s in the Regulations now, that anybody in the industry now is grandfathered in.

Question: So you’re saying you’re a wholesaler now?

Answer: yeah.

Statement: Anybody who is a wholesaler, retailer, manufacturer now is automatically grandfathered in. You just have to go fill out the application. Do all the paperwork. Don’t say you’re by yourself, you’re working for yourself and you’re working for somebody else. You know what I mean, stuff like that.

Question: There are different terms for transportation?

Answer: All that has to be put in the law right now even though it’s not going to be applicable right away.

Question: The transportation part, are you talking about from one side of town to the other?

Answer: Yeah, that’s already in there. You don’t need a transportation permit within the territory. You need a transportation permit if you are transporting to say Six Nations.

Question: I have a question with regard to community benefits and purchasing of stamps. What are the levies and how will they be applied? Are they going to be the same as what is currently required by CRA for 200 gram packages or packs? Or will they be substantially lower?

Answer: They will be anywhere from \$50 to \$100 per case.

Question: Ok so \$50 to \$100 a case is a bit different from Canada Revenue Agency excise tax of \$1100 a case.

Answer: This is just for community members; we’re not creating a tax.

Question: I'm asking because you're saying that at some point about dealing with the Federal and Provincial Governments and once you do that the Federal Government is going to want to levy \$1100 per unit.

Answer: Everything that happens here is for our community.

Question: What happens to people who do get assessed?

Answer: That is the political work Joe was talking about earlier.

Question: I have a question on giving up permits from outside – for a manufacturer located out of Alberta holding Federal permits and Provincial wholesale permits?

Answer: This is all about tobacco. Supplies are not covered in the law. If you want to make deals with Quebec and Canada, pay all the excise tax, pay all the Provincial tax, making a deal with Quebec and Canada.

Question: It's a pretty strong choice that has to be made – to give up Federal and Provincial permits for Kahnawà:ke permits. Now, you're going to have to pay excise to bring it into the country and then pay again in Kahnawà:ke?

Answer: This is only the way the tobacco industry will work within the territory of Kahnawà:ke. You said you're a manufacturer located in Alberta? So, you have to follow the laws over there. Whatever you want to manufacture over there is up to you, it's your business.

Question: Do you manufacture tobacco products here on the territory?

Answer: Yes.

Statement: Then you have to follow the law that's here. This is Kahnawà:ke, this is our law. What happens here in Kahnawà:ke will be up to you and all the people here and all the people in Kahnawà:ke. When we get to that part, please bring it up.

Question: What will happen when they start issuing levies again?

Answer: If you're signing up with a law that has nothing to do with us over here, to do business out there, and pay all the excise, then... Ok, I will speak personally for myself. Not on the law not on behalf of the KTA or anyone else. It's my personal belief. I will never be a tax collector for any outside government within the territory of Kahnawà:ke, no matter what it costs. If it means the end of everything, then so be it, but I'm not going to be a ring master for tax collection in this territory.

The law is our jurisdiction that belongs to the entire community of Kahnawà:ke, not just people in the industry, everybody. It's not up to us; it's up to the entire territory if they want to collect tax in this territory. It's a bigger question than just us that you're asking. It's a much bigger question. You can't ask that of us, you have to ask that of everybody. So when we get to that part of the law when you bring your questions to the people, the people that were here that understand what you're talking about, then you'll get your answers. But right now we can't give you that answer because it's not up to us at this table, it's up to everyone and not just the people in the industry – it's up to the whole community. If we go saying we're going to collect taxes because you want to stay in the industry and keep going, and the rest of the people say you can't do that. (interrupted off by another question)

Question: Well isn't that what contribution stamp funding is?

Answer: That's just to build a contribution fund for the community benefit. It's not a tax like you're talking about - \$1100 -\$1200 a case. That money is going towards defending the law, having an administration, to hire people, create jobs, and to give to people in need. It's a footing, that's all that's for.

Question: The Nation?

Answer: Or the Nation, schools, sports, whatever. We're not going as far as the Quebec and Federal Government laws do. They're the ones that tax everything. They tax everything to death. That's why they're trying to kill us, because we're not doing that here. We have the upper hand, we have the rights, and we have the Proclamation of 1763. There are all kinds of things that we have that we can fight. We brought it to the Iroquois Caucus. It's something that we should just fight and fight for it to win. Everybody is saying: 'you can't fight the devil before this is done', which is true. Do you think we're going to have a chance in outside court? That's why Joe is talking about having a sit down with the Quebec and Federal Government to try to work something out. The only thing that will be worked out is tax money. Bottom line, it's always about taxes. It's a bigger question than just the tobacco industry – to collect taxes on the territory of Kahnawà:ke.