

DRAFT KAHNAWÀ:KE TOBACCO LAW
FIRST HEARING
Knights of Columbus Hall
29, Kenténha /October 2015
6:00 PM– 8:30 PM

RECORD OF DISCUSSION

FACILITATORS:

Leslie Beauvais-Skye
Joe Delaronde
Ron Skye

RESOURCE PEOPLE:

Brian Delormier – KTA
Devery Bauersfeld – KTA
Randy Cross – KTA
Chief Gina Deer – MCK
Chief Robert Patton – MCK

CHIEFS IN ATTENDANCE:

Grand Chief Joseph Norton
Chief Christine Zachary-Deom
Chief Martin Leborgne

RECORDER:

Kim Beauvais

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

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

6:10 P.M. **DRAFT KAHNAWÀ:KE TOBACCO LAW** – Joe Delaronde & Ron Skye

DELIBERATION & DISCUSSION:

**SECTION I – JURISDICTION
TO
SECTION IV – SCOPE**

8:25 P.M. **NEXT STEPS** – Ron Skye → **Next Meeting:** 24, Kentenhkó:wa/November, 2015

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

Due to the number of participants at the Consultation and Information Session, it was agreed to have one group deliberate all of the sections of the Draft Kahnawà:ke Tobacco Law. The Kahnawà:ke Tobacco Association will answer questions from the community and address the community feedback report as it pertains to the sections within the law.

Selection of the Community Representatives will be done at the end of the First Hearing phase.

DISCUSSION:

SECTION I – JURISDICTION

- 1.1 **Consensus reached on 1.1.**

Our relationship with other peoples and other governments is, and will always be, defined by the Teioháte Kaswenta – the Two Row Wampum Treaty.

- 1.2 Agreed that *Teioháte* be reworded to *Tékeni Kaswenta*
Consensus reached on 1.2.
- 1.3 **Consensus reached on 1.3.**
- 1.4 **Consensus reached on 1.4.**
- 1.5 **Consensus reached on 1.5.**
- 1.6 **Consensus reached on 1.6.**
- 1.7 **Consensus reached on 1.7.**
- 1.8 **Consensus reached on 1.8.**

OUTCOME:

Consensus reached on Section I – JURISDICTION, with a minor change in wording in Section 1.2 from Teioháte to Tékeni Kaswenta.

SECTION II – PARAMOUNCY

- 2.1 **Consensus reached on 2.1.**
- 2.2 *For greater certainty, commencing the date on which this Law comes into effect, certificates or other forms of authorization issued by the Commission will supersede any license, permit, certificate or other authorization in relation to the tobacco industry previously issued by a governmental agency or authority other than the Commission.*
Q: Does it say anywhere in here that to try to get a license or permit from the outside would be considered illegal to this law?
A: It says that any outside permit within six months after the law comes into effect has to be relinquished (see sec 8.2).
Q: What happens if a person has an outside permit, and are dealing on the outside requiring that outside permit?

A: Only Quebec provincial permits on the territory there are no Federal permits on the territory. There are only Quebec provincial permits on the territory. If someone wants to sell tobacco they will need a permit from the KTA.

Q: If someone has a permit from Quebec to sell du Maurier; will this law affect them?

A: Yes, it will affect them. We are trying to promote the sale of our own brands, not outside brands. All permits will be relinquished and only local tobacco will be sold in the community stores.

Q: Small business people have asked what would happen to the mom and pop shops that sell du Maurier or other brands. They won't be able to sell those brands; if you take that away from them, they will not be able to make money.

A: That's correct. You used to be able to have a list to sign with your band number and people were able to get their taxes back and make money. That has been stopped, so it is not worth it to sell Quebec duty paid. We will not be a tax collector for the provincial government.

Consensus reached on Section 2.2.

PARKING LOT:

Q: Clarification on process as to why there is one group?

OUTCOME:

Consensus reached on Section II – PARAMOUNTCY with additional discussion on 2.2, but agreement with keeping.

SECTION III – INTENT AND PURPOSE

- 3.1 Inalienable / Unalienable are interchangeable terms with the same legal meaning. Address Feedback Comment #1: “Intent should mention the KTA, who it applies to and to who it does not apply to.” It is covered off in section 6.2.

Consensus reached to maintain the wording as is in 3.1.

- 3.2 a. **Consensus reached on 3.2 a.**
- 3.2 b. **Consensus reached on 3.2 b.**
- 3.2 c. **Consensus reached on 3.2 c.**

OUTCOME:

Consensus reached on Section III – INTENT AND PURPOSE

SECTION IV – SCOPE

- 4.1 a. **Consensus reached on 4.1 a.**

- 4.1 b. **Consensus reached on 4.1 b.**
- 4.1 c. **Consensus reached on 4.1 c.**
- 4.2 a. **Consensus reached on 4.2 a.**
- 4.2 b. **Consensus reached on 4.2 b.**

- **4.3 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.**
- **Q:** Is there a difference between transportation and Transportation Certificate? Maybe a definition is needed for both of these? We may have to have transportation certificate defined in the definitions, and the issue of outside the territory of Kahnawà:ke needs to be addressed.

A: this law was developed over years. It was included in the law because we envisioned being able to transport to other native territories. The transportation certificates will be detailed in the Regulations. This certificate will not be recognized off the territory. It is only for within Kahnawà:ke. People should not think this gives them the right to use it outside of Kahnawà:ke.
- Transportation may be covered in Export in definitions.
- At the Iroquois caucus we are trying to be able to trade between communities. We need to work out a deal with the provinces of Ontario and Quebec to be able to do this.
- We should be able to trade between native communities for all commodities
- Transportation and transporter is in the definitions.
- **Q:** Definitions Section has export and exporter, and transport and transporter, what is the distinction?

A: An exporter is a manufacturer etc. who wants to ship outside. A transporter is someone who wants to physically transport goods.
- Section 4.3 should state “once a negotiated settlement with the outside governments”, so that people don’t get the idea that they can go outside and transport without getting stopped.
- If you put “negotiated settlement” in there, it is in contradiction to the exercise of “our jurisdiction”, and may create problems later.
- Leave it as it is
- Agree with jurisdiction issue.
- We were hopeful at the time this was put in the law. Since then bill 59 and C10 have passed. Bill 59 restricts transportation, giving just fines.
- Perhaps have a definition for “transportation certificate”.
- Perhaps mention “coming into force at a later date” or “not in force”.
- Agree it should be in there for the future with a notation, but it needs to clearly state: “once an agreement is made with the outside government.”
- If you are going to make that comment, you will have to make that comment to everything we have in here. We don’t need approval from anybody but ourselves. Just keep it the way it is, otherwise the whole law becomes weakened. Our position is weakened. It’s important that we keep it the way it is. At this point, I’d like to go forward. We will be back at this table in a year, if we don’t like it, it can be changed then.
- We were saying to leave it the way it is but to put something in parenthesis to clarify that
- One of the problems is that, if people think they can leave the territory, who is liable and who is going to pay their fines if they are stopped?

A: If someone tries to get a transportation certificate, they won't get one unless there has been a negotiated settlement. I think it should be taken out completely, because it is creating too much of a problem. And to answer about liability, there will be a fund for defense created from the Contribution Fund. There will be three different funds set up; 1) Administrative, 2) Community Contribution, and 3) Legal fund.

Consensus reached on 4.3 to maintain the wording as is.

OUTCOME:

Consensus reached on Section IV – SCOPE