

Dudley Board of Health

Meeting Minutes

June 20, 2023

The regularly scheduled meeting of the Dudley Board of Health was called to order at 5:30PM by Chairman Jennifer Cournoyer and the pledge was recited.

***Members present:*** Jennifer Cournoyer – Chairman, Roberta Johnson, Heather Arnold

**Also Present:**

Joan Hamlet - Tobacco Control Alliance, Jodi Brighenti -Tobacco Control Alliance

Krishna Patel – Patriot Gas, Govind Patel – Patriot Gas, Kimberly Kroha – Attorney for Patriot Gas

Jennie Nguyen – Kwik Stop

Barat Patel – West Main Liquors

Vanita Patel- State Line Farms

Connor - CRMPC

**Documents physically identified, discussed, considered, or voted by the Board:**

Correction/Cease and Desist Orders for Patriot Gas, Kwik Stop, West Main Liquors, and State Line Farms. Annual Information Regarding Tobacco Control FY23-2022-2023.

Retail Ed Packet List 07/15/2020 and 04/26/2023.

Mass General Laws C.270 Section 28

Email regarding High Tea Wraps as Tobacco Flavor Enhancer

**Reorganization**

Tabled until July Meeting

**Patriot Gas Hearing – 3rd Tobacco Violation**

Jennifer Cournoyer – This regarding an inspection done on April 26, 2023, and the violation was offering for sale a flavored tobacco product or enhancer.

Joan Brighenti– As you can see by the violation order she went into the store for retail education. We have had two previous violations that they took responsibility for. This made it their third violation in 24 months. Sales to a minor were their other violations. They have cake brand products, and the flavors are snow cap and guava.

Kimberly Kroha – The request for an appeal is not because of the substance of the violation but the qualification of this as a third violation. There are prior violations all related to minor sales. The act that talks about the flavored tobacco says that any violations of that act should be handled the same way as section 6 under Chapter 270, but it doesn’t necessarily say that they should be stacked. Where there are different violations, we are asking that they be treated as a warning or a first violation. I understand not understanding the law is not typically a defense. This was put into place in the middle of a state of emergency during COVID. They truly believed they were ok selling these products. We really don’t feel this should be treated as a third violation.

Joan Brighenti – When this law went into effect the state did extensive training and was told everyone was stacking the violations with each other not treating them separately. Yes, the pandemic created a lot of chaos for everyone. Educational packets were mailed as well as hand delivered to the business personally to make sure they had them. We do these inspections Monday-Wednesday when there is more likely to be a manager there. All training courses have been cleared and we have a signature where the educational packet was delivered. We always give a business card as well, so they call if they have any questions on something they don’t understand. We feel like education was there and we don’t know what more we could have done to educate them. We strongly recommend a responsible finding from the board.

Jennifer Cournoyer – This is all regulated by the state. We were informed of these regulations back in 2019. I understand it was during the pandemic that you were given educational material. We were dealing with the pandemic as well. We still had to learn the information and go forward with it. I understand it’s the first occurrence of this violation type. This is still a violation even though it’s a different kind of violation than your previous ones. The law says it’s a violation regardless. Everyone knows it’s against the law to sell flavored products, that’s why everyone goes to CT. I don’t see the gray area of this violation.

Govind Patel – We weren’t hiding anything. Everyone tells us something different with different opinions. I think this should be a lesser punishment. It’s going to kill my business.

Jennifer Cournoyer – If we don’t follow through with what the state gives us for regulations then it becomes picking and choosing who gets fined and who doesn’t, and we can’t do that. The responsibility of any product that you put out is your responsibility. It’s not fair I understand that because you have employees, but the control alliance has provided the education to you. We cannot just go against the state regulations. We are here to enforce them. We cannot do less than the 30-day suspension that is in our bylaws.

Roberta Johnson – I make a motion to move forward with the third violation in a 36-month period to fine 5000.00 and a suspension of 30 days. Suspension July 1- July 30 and 21 days to pay the fine.

Heather Arnold – I second the motion.

Board votes – passes unanimously.

**Kwik Stop Hearing – 3rd Tobacco Violation**

Jeannie Nguyen – I am not here to dispute that we didn’t do it. This one is because we ordered it from Coremark, and I have a letter from the manufacturer stating that we were able to sell it. Thirty days is going to kill us. So, I feel we are not directly at fault.

Joan Brighenti – This letter came from a California distributor. They distribute nationally not just Massachusetts. They are not the manufacturer unfortunately. So, it’s like not having a manufacturer letter at all. We caution retailers to make sure it is a real manufacture letter. So, our recommendation would be to have the same finding as the last retailer.

Roberta Johnson – I make a motion to move forward with the penalty for a third violation in a 36-month period of 5000.00 fine and 30 day suspension. Fine to be paid in 21 days and suspension to be from July 1st- July 30th.

Heather Arnold – I second the motion

Board Votes – passes unanimously.

**West Main Liquors Hearing – 2nd Tobacco Violation**

Barat Patel – The manufacturer gave us a letter that says it’s good to sell in the state. They are asking for this, and we have it. Webster already canceled this violation. How can Dudley not cancel this violation.

Joan Brighenti – Their letter says right on it that it’s from the distributor not the manufacturer. It’s also missing the components that it’s a Massachusetts manufacturer letter that verifies that it’s flavor free. Any legitimate manufacturer that does business in Massachusetts is aware that they must provide that letter to get their products in the store.

Roberta Johnson – I make a motion to move forward with the penalty for second violation of 2000.00 fine and 7 days suspension. Fine to be paid in 21 days. Suspension set for July 1st- July 7th.

Heather Arnold – I second the motion.

Board votes – passes unanimously.

**State Line Farms Hearing – 2nd Tobacco Violation**

Vanita Patel – The first time they came in my father was working and he doesn’t speak English very well. So, I had no idea that they would come in and gave us a warning. I had the letter saying that we could sell it but when we got the violation, I removed them right away. My father has one store, and he works hard for all of it. I really feel it was just a misunderstanding.

Joan Brighenti – We gave the letter and a warning that day but then we received a phone call from the owner afterwards and explained everything as well over the phone. In our education material in 2021-2023 there is a letter that explains that they cannot have the dream fusion line. It was very specific. We also ask owners if there are any language barriers that we can work with them on. We have no notations of a request from this store to get the information in another language.

Jennifer Cournoyer – We are being consistent with everyone so nobody can come back and fight it.

Roberta Johnson – I make a motion to move forward with the penalty of a second violation which is a fine of 2000.00 and a seven-day suspension. Fine to be paid in 21 days and suspension to start on July 1st.

Heather Arnold – I second the motion

Board Votes – passes unanimously.

Roberta Johnson – Motion to adjourn.

Heather Arnold – Seconds the motion.

Board Votes – passes unanimously.

Respectfully submitted,

Amanda Jacobson

Board of Health Clerk