

M e m o r a n d u m

January 20, 2005

To : Honorable John Chiang, Chair
Honorable Claude Parrish, Vice Chairman
Ms. Betty T. Yee, Acting Board Member
Honorable Bill Leonard
Honorable Steve Westly

From : Kristine Cazadd, Acting Chief Counsel
Legal Department, MIC:83 *K Cazadd*

Subject : Report on Implementation of Limited Peace Officer Status

Chief Counsel Matters – February 8, 2005 Board Meeting

On August 24, 2004 the Board approved Limited Peace Officer status, as authorized by Assembly Bill (AB) 71, for 27 Investigations Division staff for a six-month period. The Board asked that staff return before the end of that period to report on the program.

Based on the program's success to date, summarized below, staff recommends that the Board continue Limited Peace Officer status for another six-month period. At the end of that period we will have a more complete picture of the program's success. At that time staff will again report to the Board and make a recommendation for the future.

In summary:

- The AB 71 enhanced enforcement program, and specifically implementation of Limited Peace Officer status, is proving successful and revenue recovery is nearing the levels projected in the Board's Budget Change Proposal.
- Procedures are in place to ensure accountability for access to criminal history data necessary for misdemeanor citations. In addition, procedures have been established for compliance inspection protocols, accountability for citation books, interaction with the California Highway Patrol for due diligence, and taxpayer appeals.
- California Law Enforcement Telecommunications System (CLETS) implementation is expected to be fully operational by February 2005.
- An extensive, on-going training program, designed to ensure that staff are up to date on policies and procedures and apply the law on a uniform basis, is in place. All staff currently designated Limited Peace Officer (LPO) have completed, at a minimum, Penal Code § 832, Search, Seizure and Arrest training, have received in-house training on citable codes and citation procedures, and have been instructed on educating taxpayers about AB 71 as part of the inspection process.
- Evaluation criteria for LPO's have been established, with evaluations scheduled for the first month of LPO 2005 inspection activity, followed by quarterly evaluations during the first year and annual evaluations thereafter.

- Investigations Division has established procedures for promptly handling any citizen complaints that may arise as a result of inspections.
- As part of the Board's extensive AB 71 public outreach and education efforts, during every inspection, staff advise the taxpayer of the citation, appeal and complaint process.
- All major population area District Attorneys have been contacted to obtain county misdemeanor intake requirements. Meetings with smaller counties will be completed in the next few months.
- On November 15, 2004, following the Board's November 11, 2004 approval of civil penalties and appeals procedures, staff began writing civil citations. As of December 31, 2004, staff have issued 103 civil citations on 168 statute violations.
- The inspection and citation process is functioning well. With additional LPO's, staff could increase the number of inspections to projected levels of 10,000 per year.

AB 71 implementation activities support honest distributors, wholesalers, and retailers who depend on the state to protect their interests, and deter cigarette and tobacco product tax evasion that has been traced to organized crime and terrorist groups.

The designation of Limited Peace Officer increases staff safety and effectiveness without compromising the rights of taxpayers and the public. Employees with Limited Peace Officer status will continue to adhere to the strictest code of conduct.

Maintaining Limited Peace Officer status for designated Investigations Division employees promotes AB 71's goals of enhancing compliance and deterring illegal trade in cigarette and tobacco products. Investigations Division staff must have Limited Peace Officer status to issue the misdemeanor citations authorized by AB 71. Such citations have greater deterrent effect than civil fines and promote enhanced compliance, higher revenues, and a fairer more competitive market for the California cigarette and tobacco products industry.

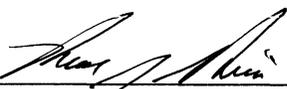
As stated above, staff recommends that the Board continue Limited Peace Officer status for an additional six months to allow more time to evaluate the program and that, at the end of that time, staff again report to the Board and make a recommendation for the future.

If you have questions or would like additional information, the contact is Mr. Gil Haas, Chief, Investigations Division at 916/324-2684.

KC:RS:mk

Attachment

cc: Mr. Ramon Hirsig
Ms. Jean Ogrod
Mr. Gil Haas, Jr.

Approved: 
Ramon J. Hirsig, Executive Director