

COMMISSION ON VASAP

QUARTERLY MEETING

Friday, June 5, 2020

Minutes

Attendance:

Commission Members:

Mr. Michael L. Wade, Chairman
Senator Richard H. Stuart
Delegate James A. Leftwich, Jr.
Delegate Jennifer D. Carroll Foy
Delegate Mark H. Levine
Delegate Don L. Scott, Jr.
The Honorable George D. Varoutsos
The Honorable Mary Jane Hall
The Honorable Gino W. Williams
Mr. John Saunders
Ms. Robyn Allen
Mr. Anthony Carmichael

Absent:

Ms. Pat Eggleston

Commission Staff:

Ms. Angela Coleman, Executive Director
Ms. Rosario Carrasquillo
Mr. Richard Foy
Mr. Christopher Morris
Ms. Charlene Motley
Ms. Keshana Pierce

Office of the Attorney General

Ms. Janet Baugh

Time and Place

The quarterly meeting of the Commission on Virginia Alcohol Safety Action Program (VASAP) was held on June 5, 2020. The meeting was called to order by the Mr. Michael L. Wade, Chairman at 10:06 a.m.

Ms. Coleman explained that in keeping with the directives of the governor's office, and in compliance with the Freedom of Information Act, the meeting was being held electronically due to safety concerns related to the COVID-19 pandemic. The attendance of Commission members was established by roll call.

Welcome

Mr. Wade welcomed everyone stating, "We are embarking upon a completely new process with the electronic meeting. We ask for your patience and appreciate your cooperation."

Approval of Minutes

A motion was made by Judge Williams, and properly seconded by Delegate Leftwich, to approve the Commission meeting minutes from December 13, 2019. All present at the time of the vote were in favor; none opposed.

Special Recognition

Mr. Wade recognized Delegate Michael P. Mullin for his dedicated service and commitment to the Commission on VASAP.

Remote Alcohol Monitoring Device Regulations

Mr. Morris provided an update regarding the remote alcohol monitoring device regulations that VASAP is required to develop by July 1, 2021 as a result of the passage of Senate Bill 439 by the Virginia General Assembly. The use of remote monitoring devices that is the subject of this legislation would only apply in certain DUI cases when the offender was convicted of a second or subsequent DUI, or the blood alcohol concentration at the time of the arrest was 0.15 or

above. Offenders could opt to submit to a remote alcohol monitoring device requirement in exchange for having no driving restrictions other than installation of an ignition interlock. Mr. Morris stated that a notice of intended regulatory action (NOIRA) has been initiated, and that a draft of the proposed regulations will be posted during the next stage of the regulatory process.

Ignition Interlock Installations

Mr. Morris stated that there are approximately 7100 ignition interlocks installed in Virginia at this time, which is fewer than would normally be expected, likely due to the COVID-19 situation. He anticipates that the numbers will increase as people begin to drive more and the courts reopen.

Executive Director's Report

Ms. Coleman presented the Executive Director's Report.

Meeting Space

Ms. Coleman stated that due to a number of recent circumstances, the normal Commission meeting space at the Capitol was not available. She thanked Vicki Kesler, Director of John Tyler ASAP for allowing use of their office space.

ASAP Budgets

Ms. Coleman explained that the June meeting of the Commission on VASAP is always important because that is when the ASAP budgets are approved for the upcoming fiscal year. The ASAP budgets are approved by their respective local policy boards before being submitted to the Commission office for review by the Senior Accountant and the Executive Finance Committee. The Executive Finance Committee then makes recommendations to the Commission on VASAP regarding each ASAP budget. Ms. Coleman noted that the challenges created by the COVID-19 pandemic during the past few months, resulting in the change of ASAP office hours and procedures, as well as the closure of the DMV field offices, has impacted local program revenues. A chart was displayed showing the differences in revenue for the

months of March and April in 2019 versus 2020 for all of the ASAPs, excluding Alexandria ASAP and Fairfax ASAP whose program revenues are supplemented by their city governments. According to the information sent to the Commission by the local programs, system average revenues decreased by 27% in March, and 23% in April. Twelve of the ASAPs received Paycheck Protection Loans from the federal stimulus package, totaling approximately \$509,000. These loans were critical to the financial solvency of several of the ASAPs. Decreased revenue by the ASAPs resulted in decreased funding for the state office as well. Ms. Coleman stated that a rebound in revenues is expected as the courts and the DMV service centers resume normal operations.

Due to the unusual fiscal environment, the Executive Finance Committee recommended that all ASAP budgets be approved for only a 90-day period at this time, rather than for a full year with the following required conditions: (1) an immediate hiring freeze, (2) no employee raises, and (3) no employee bonuses. During the course of the next 90 days, each ASAP will closely monitor its revenues and expenditures, and submit the data to the Commission office for review. It is hoped that the combination of the federal loans and the use of reserve funds will enable the ASAPs to remain solvent until the next Commission meeting in September; however, should the need arise for the Commission to supplement a program to ensure it makes its payroll and can pay its rent, then up to \$10,000 in funding may be provided. At the September meeting, the Commission can approve the budget and request a management review of any programs still requesting deficit funding. If deficit funding is recommended based on the management review, it can be approved for allocation during the October Commission meeting. Ms. Coleman stated that this suggested plan would enable the Commission office to gather more data and to assess the impact of COVID-19 on the local programs, thereby providing the Commission with a clearer picture of the situation.

Judge Williams moved, and Judge Hall seconded, that the recommendations of the Executive Finance Committee, as presented by Ms. Coleman, be approved. All present were in favor; none opposed.

Alcolock Ignition Interlock

The Alcolock USA Ignition Interlock Company will no longer be servicing clients in Virginia as of June 30, 2020. They have been a valued partner of the Commission on VASAP for a number of years. The decision to leave Virginia was purely a financial business decision. Should their situation change, they would be welcomed back to operate in Virginia. A smooth transition of Alcolock clients to other ignition interlock vendors is taking place at this time.

Chad Goodwin of Alcolock USA spoke to thank VASAP for the opportunity to partner with the Commission and the local ASAPs over the past 11 years.

Commendation of Local ASAPs

Ms. Coleman commended the local ASAP directors and staff for their hard work and flexibility to adapt quickly in response to the COVID-19 pandemic. The ASAPs demonstrated their ability to protect the safety of their employees and program participants while still maintaining essential operations with limited budgets.

VASAPDA Report

Jaime Moran, VASAP Director's Association President and Director of Bull Run ASAP, presented the VASAPDA report.

Ms. Moran reported that VASAPDA conducted a virtual meeting several weeks ago to discuss how the ASAPs are functioning during the COVID-19 restrictions, and the impact the reopening of the courts will have on operations.

Virginia Regulatory Petition 300

Ms. Cynthia Hites spoke regarding Petition #300 that she filed (as posted on the Virginia Regulatory Town Hall), recommending that the language in Virginia Administrative Code 24VAC35-60-70, F(3), be modified to read, "The ignition interlock device shall be alcohol specific, using technology that reacts to and measures ethanol, eliminating positive results from other substances."

Mr. Foy, representing the Commission, responded to the petition content. He noted that the subject matter under consideration had already been addressed in whole or in part in the Commission's consideration of petitions #272 and #282 submitted by David Hites, and petitions #267, #278, and #291 submitted by Cynthia Hites. Therefore, he recommended that the Commission take no action on the petition under consideration.

Delegate Levine asked whether interlocks can distinguish alcohol found in mouthwash from alcohol in an alcoholic beverage. Mr. Wade replied that there are mouthwashes on the market that do not contain alcohol, and that persons with ignition interlocks are told not to use such products containing alcohol. Mr. Foy added that if a person used a mouthwash with alcohol, it would yield a positive result as it should, but VASAP has procedures in place that permit drivers to retest within 15 minutes in order to allow sufficient time for residual mouth alcohol to dissipate.

A motion was made by Judge Hall, and seconded by Judge Williams that the Commission take no action on the petition. All present at the time of the vote were in favor; none opposed.

Public Comment

Joshua Atkins spoke about his experience using the ignition interlock and registering positive results, reportedly as the result of spilled windshield wiper fluid in his vehicle trunk. Mr. Wade stated that the Commission was just receiving public comments during the meeting and could not address his particular issues without having more information. Mr. Wade advised Mr. Atkins to contact the Commission about his case and directed Chris Morris to assist him.

Meeting Dates

Mr. Wade announced the following dates for future Commission meetings in 2020 to include the

addition of October 30th to make up for the March 27th meeting which was cancelled.

September 11, 2020

October 30, 2020

December 11, 2020

Adjournment

A motion to adjourn was made by Judge Williams and seconded by Judge Hall. All present at the time of the vote were in favor; none opposed.

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