

**OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE COUNCIL OF
THE CITY OF SAINT PAUL**

In Re: The Cigarette/Tobacco Licenses held by Reemo Corp. d/b/a Rice Street Tobacco for the premises located at 1196 Rice Street in Saint Paul.

**CITY'S
EXHIBIT LIST**

DATE: February 1, 2022

TO: Judge Barbara Case - Office of Administrative Hearings, 600 North Robert Street.

Exhibit No.	Description
Ex. No. 1-1-1-5	Amended Notice of Violation Recommendation for imposition of \$500 matrix dated 12/3/2021 (5 pages)
Ex. No. 2	Request for Adverse Action Coversheet (1 page)
Ex. No. 3	STAMP – Ownership and Zoning Information
Ex. No. 4-1-4-2	EClips – License Information
Ex. No. 5-1-5-3	Minnesota Statute section 297F.21
Ex. No. 6-1-6-2	Minnesota Statute section 297.08
Ex. No. 7-1-7-9	Saint Legislative Code Section 310.05(m)
Ex. No. 8-1-8-4	Saint Paul Legislative Code Section 310.06(b)(6)(a)
Ex. No. 9-1-9-3	Notice of Seized Contraband
Ex. No. 10	Djarum Packs Photo #1
Ex. No. 11	Djarum Packs Photo #2
Ex. No. 12-1-12-2	Minnesota Department of Revenue – Retail Inspection Log
Ex. No. 13-1-13-4	Minnesota Department of Revenue – Retail Inspection Report

Respectfully submitted the 1st day of February 2022

 /s.m.

Stephen Earnest, Assistant City Attorney
License No: 0402652
Office of the City Attorney
400 City Hall & Courthouse
15 West Kellogg Boulevard
Saint Paul, Minnesota 55102

STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Shawn McDonald, being first duly sworn, deposes and says that on the 3rd day of December, he served the attached **AMENDED NOTICE OF VIOLATION RECOMMEDATION FOR IMPOSITION OF \$500 MATRIX PENALTY** and a correct copy thereof in an envelope addressed as follows:

Reemo Corp
d/b/a Rice Street Tobacco
1196 Rice Street
St. Paul, MN 55117
Attn: Bilal Alsadi

Bilal Alsadi
13850 Guild Avenue
Apple Valley, MN 55124

Kerry Antrim, Executive Director
North End Neighborhood Organization
171 Front Avenue
St. Paul, MN 55117

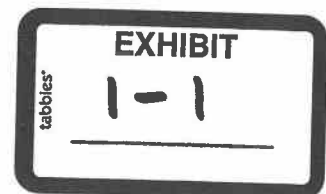
1188 Rice St LLC
13850 Guild Avenue
Apple Valley, MN 55124-7653

(which is the last known address of said person) depositing the same, with postage prepaid, in the United States mail at St. Paul, Minnesota.


Shawn McDonald

Subscribed and sworn to before me
This 3rd day of December 2021


Notary Public





SAINT PAUL
CITY ATTORNEY

OFFICE OF THE CITY ATTORNEY
LYNDSEY M. OLSON, CITY ATTORNEY

Civil Division, 15 Kellogg Blvd. West, 400 City Hall
Saint Paul, MN 55102
Tel: 651-266-8710 | Fax: 651-298-5619

December 3, 2021

**AMENDED NOTICE OF VIOLATION
RECOMMENDATION FOR IMPOSITION
OF \$500 MATRIX PENALTY**

Reemo Corp
d/b/a Rice Street Tobacco
1196 Rice Street
St. Paul, MN 55117
Attn: Bilal Alsadi

RE: Cigarette/Tobacco – Product Shop held by Reemo Corp. d/b/a Rice Street Tobacco for the premises located at 1196 Rice Street in Saint Paul
License ID #: 20180001947

Dear Licensee:

The Department of Safety and Inspections (“Department”) will recommend adverse action against the Cigarette/Tobacco – Product Shop license held by Reemo Corp. (“Licensee”) for the premises known as Rice Street Tobacco located at 1196 Rice Street (“Licensed Premises”)

Under Minn. Stat. 297F.21 (a) “Cigarette packages which do not have stamps affixed to them as provided in this chapter, including but not limited to (i) packages with illegible stamps and packages with stamps that are not complete or whole even if the stamps are legible, and (ii) all devices for the vending of cigarettes in which packages as defined in item (i) are found, including all contents contained within the devices.” are contraband.

Saint Paul Legislative Code Section 310 provides that adverse action may be taken against your licenses when:

Section 310.06 (b) (6) (a): “the licensee or applicant (or any person whose conduct may by law be imputed to the licensee of applicant) has violated, or performed any act which is a violation of, any of the provisions of these chapters or of any statute, ordinance or regulation reasonably related to

CITY OF SAINT PAUL
MELVIN CARTER, MAYOR

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the licensed activity, regardless of whether criminal charges have or have not been brought in connection therewith..."

The Department asserts the following facts along with attachments herein constitute proof of a violation of Minn. Stat. § 297F.21(a), Saint Paul Legislative Code §310.06 by a preponderance of the evidence.

Synopsis of alleged facts:

On November 8, 2021, the Department of Safety and Inspections (DSI) received a letter and Notice of Seized Contraband from the Minnesota Department of Revenue related to an inspection and seizure of contraband at the licensed premises on August 11, 2021.

During this inspection the following tobacco products were found and were seized as contraband under the authority granted in Minn. Stat. §297F.21(a). All time periods for judicially challenging the seizure have since expired:

5 Packs Djamrum Black Filtered Little Cigars

Pursuant to Saint Paul Legislative Code Section 310.05 (m)(2) the Department is recommending a \$500.00 matrix penalty.

You have four (4) options:

1. If you do not contest the imposition of the proposed adverse action, you may do nothing. If I have not heard from you by **December 10, 2021**, I will presume that you have chosen not to contest the proposed adverse action, and the matter will be placed on the City Council Consent Agenda for approval of the proposed remedy.
2. You can admit the violation and pay the \$500.00 matrix penalty. If this is your choice, send the payment directly to DSI at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **December 10, 2021**. A self-addressed envelope is enclosed for your convenience. Payment of the \$500.00 matrix penalty will be considered a waiver of the hearing to which you are entitled.

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3. If you wish to admit the facts but you contest the \$500.00 matrix penalty, you may have a public hearing before the Saint Paul City Council. You will need to send me a letter with a statement admitting to the facts and requesting a public hearing no later than **December 10, 2021**. The matter will then be scheduled before the City Council to determine whether to impose the \$500.00 matrix penalty. You will have an opportunity to appear before the Council and make a statement on your own behalf.

4. If you dispute the facts outlined above, you may request a hearing before an Administrative Law Judge (ALJ). You will need to send me a letter disputing the facts and requesting an administrative hearing no later than **December 10, 2021**. At that hearing both you and the City will appear and present witnesses, evidence and cross-examine each other's witnesses. After receipt of the ALJ's report (usually within 30 days), a public hearing will need to be scheduled. At that time, the City Council will decide whether to adopt, modify or reject the ALJ's report and recommendation.

Please note: If you choose an administrative hearing, the Department of Safety and Inspections reserves the right to request that City Council impose the costs of the administrative hearing, per Saint Paul Legislative Code § 310.05 (k).

If you have not contacted me by December 10, 2021, I will assume that you do not contest the imposition of the \$500.00 matrix penalty. In that case, the matter will be placed on the City Council Consent Agenda for approval of the recommended penalty.

If you have questions about these options, please feel free to contact Shawn McDonald, my Legal Assistant at (651) 266-8729.

Sincerely,

Stephen Earnest /s.m.

Stephen Earnest
Assistant City Attorney
License No. 0402652

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Saint Paul, MN 55102
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Cc: Bilal Alsadi, 13850 Guild Avenue, Apple Valley, MN 55124
Kerry Antrim, Executive Director, North End Neighborhood Organization, 171 Front Avenue, St. Paul, MN 55117
1188 Rice St LLC, 13850 Guild Avenue, Apple Valley, MN 55124-7653

Attachments:

- Minnesota Department of Revenue Seized Cigarette/Tobacco Product letter dated November 8, 2021
- Minnesota Department of Revenue Notice of Seized Contraband dated August 11, 2021
- Screenshots from DSI ECLIPS System
- STAMP Ownership-Zoning Information
- Minnesota Statutes Section 297F.21 Contraband

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Request for City Attorney's Office Action
From the Department of Safety and Inspections

Notice Information:

Date: 11/9/2021

To: Therese Skarda

DBA Address: 1196 Rice Street - Saint Paul, MN 55117

Approved by: Eric Hudak

Note: include city, state & zip for the DBA Address

DBA Name: Rice Street Tobacco

Sent by: Joseph Voyda

License Number: 20180001947

License Type(s) Note: List all licenses: Cigarette/Tobacco-Product Shop

-

License Holders Name: Bilal Alsadi

License Holders Address: 13850 Guild Avenue - Apple Valley, MN 55124

Note: include city, state & zip

Stamp Information (if different from Licensees information in Eclips) Note: include city, state & zip:

Property Owner Name: 1188 Rice Street LLC

Property Owner Address: 13850 Guild Avenue - Apple Valley, MN 55124

Council Ward: 5 District Council: 6

License Action Requested:

Type of Violation - i.e. Tobacco, Liquor, Auto Etc.: Tobacco

First Violation

Second Violation (within 12 months)

Third Violation (within 18 months)

Fourth Violation (within 24 months)

Requested Penalty: \$500.00

Is this an upward departure? Yes No Rationale for upward departure: -

-

Suspension

Revocation

Application: Approval Denial 45 Day Waiver

Brief Description of Action Rationale for License Conditions: -

Tobacco/Seized Product from the Department of Revenue - Product not have tax stamps affixed to package

-

Cause for Action:

Brief Description of violation(s) Basis for Imposition of Conditions: -

Tobacco/Seized Product from the Department of Revenue - Product not have tax stamps affixed to package

-

Ordinance Violation(s): MSS 297F

Ordinance Number(s): MSS 297F.21 - Contraband

License Condition Violation Number(s): -

Supporting Documentation Included:

Inspectors Report(s)

Snips for ECLIPS

Driver's License Information

Stamp Information

License Conditions

Photograph(s) or Snips of other Evidence

License Type Requirement Comments

Copy of Application Floor Plans/Site Plans

License Group Comments

Law Enforcement Data and Report(s)

Adverse Action Comments

CN: -

Other: Product tax stamp letter from the Department of Revenue - Mailed to DSI 8/18/2021

-



STAMP - Ownership / Zoning Information

[New Search](#)

[Help using this report](#)

Run Date: 11/09/21 09:49 AM

Last updated from Ramsey County data on:

House#:

Street Name:

Click on "Other Application" links below to access GISmo, MapIT, and Ramsey County Info

1194 Rice St / 1196 Rice St - Vacant Land / 1200 Rice St - 55102 - [Other Applications](#)

PIN: 302922220177

Census Tract: 30500

Census Block: 3026

Council Ward: 5

District Council: 6

Year Built:

Foundation Sq Feet:

Loan Company:

Land Value: 0

Building Value: 0

Unverified Usage:

ISP:

Units:

Zoning: B2

Legal Desc: STINSON'S RICE STREET, ADDITION SUBJ TO ESMT LOTS 10 THRU LOT 14 BLK 2

Owner:

1188 Rice St Llc
13850 Guild Ave
Apple Valley MN 55124-7653
612-750-4448



Properties For License 1196 RICE ST

Pay Print Warn Hist Summ Licensee REEMO CORPORATION DBA RICE STREET TOBACCO

License Licensee Lic. Types Insurance Bond Requirements

Licensee Name: REEMO CORPORATION
 DBA: RICE STREET TOBACCO
 Sales Tax Id: ***** Non-Profit: Worker's Comp: 00/00/0000
 AA Contract Rec'd: 00/00/0000 AA Training Rec'd: 00/00/0000
 AA Fee Collected: 00/00/0000 Discount Rec'd:

Other Agency Licenses Financial Hold Reasons

Other Licensing Agency Name / License Type	License #	Expiration	Reason	Active	Date

Contacts for this Licensee

Last Name	First Name	Title	Bus. Phone	Home Phone	Contact Address
REEMO CORPORAT			() -	(612) 750-4448	1196 RICE ST
ALSADI	BILAL	OWNER/CEO	(612) 750-4448	() -	13850 GUILD AVE

Background Check Required Contact Properties...

License # 180001947 Save Changes to History OK Cancel Help

Properties For License 1196 RICE ST

Pay Print Warn Hist Summ Licensee REEMO CORPORATION DBA RICE STREET TOBACCO

License Licensee Lic. Types Insurance Bond Requirements

Licensee Name: REEMO CORPORATION
 DBA: RICE STREET TOBACCO
 Sales Tax Id: ***** Non-Profit: Worker's Comp: 00/00/0000
 AA Contract Rec'd: 00/00/0000 AA Training Rec'd: 00/00/0000
 AA Fee Collected: 00/00/0000 Discount Rec'd:

Other Agency Licenses Financial Hold Reasons

Other Licensing Agency Name / License Type	License #	Expiration	Reason	Active	Date

Contacts for this Licensee

Contact Address	City	Zip	DOB	Last Check	Drive
1196 RICE ST	ST PAUL	55117	00/00/0000	00/00/0000	
13850 GUILD AVE	APPLE VALLEY	55124	03/18/1967	00/00/0000	D82404
			00/00/0000	00/00/0000	

Background Check Required Contact Properties...

License # 180001947 Save Changes to History OK Cancel Help

EXHIBIT
 4-1
 tabbies

License Group Comments Text

11/09/2021

Licensee: REEMO CORPORATION
DBA: RICE STREET TOBACCO
License #: 20180001947

11/9/2021 Sent to the CAO for AA - Department of Revenue Seized tobacco product \$500 fine JNV
10/25/2021 Received Notice of Seized Contraband from the MDR JNV
8/03/2021 Youth Tobacco compliance pass KY
4/06/2020 Sent letter dated 3-3-2020 in email from licensing manager and a follow up phone call for closure of product shop for executive order 20-20 Covid-19 JNV
6/11/19 Youth tobacco compliance check, pass. ARM
04/16/2019 Flavor and Price Compliance Check: Passed. DC
02/28/2019 \$500 FINE HAS BEEN PAID W/VISA# 2269. ZL
2/21/19 Attorney advised operator intends to pay \$500 fine. EVW
1/22/19 To CAO for adverse actionKS
1/7/19 recd. notice from MN Dept. of Revenue of seized tobacco product. KS
7/11/18 Open inspection of product shop JNV
7/11/18 Hold license for inspection of site KS
06/07/2018 Application on hold pending outcome of BZA variance application #18-069917 for separation from another Tobacco Product Shop. App. gray file 06/27/2018. JWF
6/5/2017 Distance requierments with in 2640 ft from other tobacco product shop. applications denied JNV

Adverse Action Comments Text

11/09/2021

Licensee: REEMO CORPORATION
DBA: RICE STREET TOBACCO
License #: 20180001947

2/28/2019 - Licensee owes \$500 fine payment
1/23/2019 - Sent Notice of Violation with a 2/04/2019 deadline to respond. JAK

License Group Conditions Text

11/09/2021

Licensee: REEMO CORPORATION
DBA: RICE STREET TOBACCO
License #: 20180001947

1. This license is issued for a retail use only, and the licensee shall conduct this retail cigarette/tobacco business in compliance with the "Minnesota Clean Indoor Air Act" (MN Stat. 144.411 - 144.417).
2. Licensee agrees to operate the business in a manner that is consistent with the Business Summary submitted by the licensee dated 5/25/2018 and floor plans submitted with the Department of Safety and Inspections (DSI). Licensee agrees to obtain prior written approval from DSI before making any substantive changes to their approved method of operation.
3. No sampling of tobacco products is permitted unless the space is made compliant with applicable code discipline requirements including the mechanical / ventilation code.
4. Licensee agrees to provide a detailed breakdown of all items sold, including total dollar amounts for individual items by category, at the time of license renewal if requested by DSI.
5. Licensee agrees to take appropriate measurements to ensure compliance with age limitations in accordance with the City of St. Paul legislative code chapter 324 tobacco, which include age restrictions of who may enter the establishment.
6. Temporary window signs placed between the height of four (4) to seven (7) feet above grade shall not cover more than thirty (30) percent of this window space area and cannot block views into the clerk or cashier station.



297F.21 CONTRABAND.

Subdivision 1. **Contraband defined.** The following are declared to be contraband and therefore subject to civil and criminal penalties under this chapter:

(a) Cigarette packages which do not have stamps affixed to them as provided in this chapter, including but not limited to (i) packages with illegible stamps and packages with stamps that are not complete or whole even if the stamps are legible, and (ii) all devices for the vending of cigarettes in which packages as defined in item (i) are found, including all contents contained within the devices.

(b) A device for the vending of cigarettes and all packages of cigarettes, where the device does not afford at least partial visibility of contents. Where any package exposed to view does not carry the stamp required by this chapter, it shall be presumed that all packages contained in the device are unstamped and contraband.

(c) A device for the vending of cigarettes to which the commissioner or authorized agents have been denied access for the inspection of contents. In lieu of seizure, the commissioner or an agent may seal the device to prevent its use until inspection of contents is permitted.

(d) A device for the vending of cigarettes which does not carry the name and address of the owner, plainly marked and visible from the front of the machine.

(e) A device including, but not limited to, motor vehicles, trailers, snowmobiles, airplanes, and boats used with the knowledge of the owner or of a person operating with the consent of the owner for the storage or transportation of more than 5,000 cigarettes which are contraband under this subdivision. When cigarettes are being transported in the course of interstate commerce, or are in movement from either a public warehouse to a distributor upon orders from a manufacturer or distributor, or from one distributor to another, the cigarettes are not contraband, notwithstanding the provisions of clause (a).

(f) A device including, but not limited to, motor vehicles, trailers, snowmobiles, airplanes, and boats used with the knowledge of the owner, or of a person operating with the consent of the owner, for the storage or transportation of untaxed tobacco products intended for sale in Minnesota other than those in the possession of a licensed distributor on or before the due date for payment of the tax under section 297F.09, subdivision 2.

(g) Cigarette packages or tobacco products obtained from an unlicensed seller.

(h) Cigarette packages offered for sale or held as inventory in violation of section 297F.20, subdivision 7.

(i) Tobacco products on which the tax has not been paid by a licensed distributor.

(j) Any cigarette packages or tobacco products offered for sale or held as inventory for which there is not an invoice from a licensed seller as required under section 297F.13, subdivision 4.

(k) Cigarette packages which have been imported into the United States in violation of United States Code, title 26, section 5754. All cigarettes held in violation of that section shall be presumed to have entered the United States after December 31, 1999, in the absence of proof to the contrary.

(l) Cigarettes subject to forfeiture under section 299F.854, subdivision 5, and cigarette packaging and markings, including the cigarettes contained therein, which do not meet the requirements under section 299F.853, paragraph (a).



Subd. 2. **Seizure.** Cigarettes, tobacco products, or other property made contraband by subdivision 1 may be seized by the commissioner or authorized agents or by any sheriff or other police officer, with or without process, and are subject to forfeiture as provided in subdivision 3.

Subd. 3. **Inventory; judicial determination; appeal; disposition of seized property.** (a) Within ten days after the seizure of any alleged contraband, the person making the seizure shall serve by certified mail an inventory of the property seized on the person from whom the seizure was made, if known, and on any person known or believed to have any right, title, interest, or lien in the property, at the last known address, and file a copy with the commissioner. The notice must include an explanation of the right to demand a judicial forfeiture determination.

(b) Within 60 days after the date of service of the inventory, which is the date of mailing, the person from whom the property was seized or any person claiming an interest in the property may file a demand for a judicial determination of the question as to whether the property was lawfully subject to seizure and forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the commissioner of revenue, and the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. If the value of the seized property is \$15,000 or less, the claimant may file an action in conciliation court for recovery of the property. If the value of the seized property is less than \$500, the claimant does not have to pay the conciliation court filing fee.

(c) The complaint must be captioned in the name of the claimant as plaintiff and the seized property as defendant, and must state with specificity the grounds on which the claimant alleges the property was improperly seized and the plaintiff's interest in the property seized. No responsive pleading is required of the commissioner, and no court fees may be charged for the commissioner's appearance in the matter. The proceedings are governed by the Rules of Civil Procedure. Notwithstanding any law to the contrary, an action for the return of property seized under this section may not be maintained by or on behalf of any person who has been served with an inventory unless the person has complied with this subdivision. The court shall decide whether the alleged contraband is contraband, as defined in subdivision 1. The court shall hear the action without a jury and shall try and determine the issues of fact and law involved.

(d) When a judgment of forfeiture is entered, unless the judgment is stayed pending an appeal, the commissioner:

(1) may authorize the forfeited property to be used for the purpose of enforcing a criminal provision of state or federal law;

(2) shall cause forfeited cigarette packages or tobacco products not used under clause (1) to be destroyed and products used under clause (1) to be destroyed upon the completion of use; and

(3) may cause the forfeited property, other than forfeited cigarette packages or tobacco products, to be sold at public auction as provided by law.

The person making a sale, after deducting the expense of keeping the property, the fee for seizure, and the costs of the sale, shall pay all liens according to their priority, which are established as being bona fide and as existing without the lienor having any notice or knowledge that the property was being used or was intended to be used for or in connection with the violation. The balance of the proceeds must be paid 75 percent to the Department of Revenue for deposit as a supplement to its operating fund or similar fund for official use, and 25 percent to the county attorney or other prosecuting agency that handled the court proceeding, if there is one, for deposit as a supplement to its operating fund or similar fund for prosecutorial



purposes. If there is no prosecuting authority involved in the forfeiture, the 25 percent of the proceeds otherwise designated for the prosecuting authority must be deposited into the general fund.

(e) If no demand for judicial determination is made, the property seized is considered forfeited to the state by operation of law and may be disposed of by the commissioner as provided in the case of a judgment of forfeiture.

Subd. 4. [Repealed, 1Sp2001 c 5 art 18 s 11]

History: 1997 c 106 art 1 s 21; 2000 c 490 art 10 s 20,21; 2000 c 496 s 1; 1Sp2001 c 5 art 18 s 6-8; 2008 c 154 art 7 s 3; 2008 c 366 art 14 s 7; 2012 c 283 s 3; 2018 c 182 art 1 s 88



297F.08 CIGARETTE STAMPS.

Subdivision 1. **Stamp put on by distributor.** Except as otherwise provided in this chapter, payment of the tax imposed by this chapter must be evidenced by stamps affixed to each package. Before delivering, or causing to be delivered, a package to any person in this state, a distributor shall firmly affix to each package of cigarettes appropriate stamps in amounts equal to the tax on those cigarettes as provided in this chapter.

Subd. 2. **Tax due; cigarettes.** Notwithstanding any other provisions of this chapter, the tax due on the return is based upon actual stamps purchased during the reporting period.

Subd. 3. **Time of affixing stamp.** In all cases where cigarettes are shipped into this state by any licensed distributor from outside this state, the appropriate stamps must be affixed to packages at the time the package enters the state.

Subd. 4. **Stamps; design, printing.** The commissioner shall adopt the design of two stamps. One stamp must be designed for application to cigarette packages destined for retail sale on an Indian reservation which is a party to an agreement under section 270C.19, subdivision 2, and only to those packages. A second stamp must be designed for all other cigarette packages subject to the provisions of this chapter. The commissioner shall arrange for the printing of stamps in such amounts and denominations as the commissioner deems necessary.

Subd. 5. MS 2018 [Repealed, 1Sp2019 c 6 art 11 s 20]

Subd. 6. **Section 16A.56 superseded.** The provisions of this chapter prescribing the powers and duties of the commissioner with relation to stamps supersede all the provisions of section 16A.56 in conflict.

Subd. 7. **Who may purchase.** The commissioner shall sell stamps to any person licensed as a distributor. The commissioner shall not sell stamps to any other person. The commissioner may prescribe the method of shipment of the stamps to the distributor as well as the quantities of stamps purchased.

Subd. 8. **Sale of stamps.** The commissioner may sell stamps on a credit basis under conditions prescribed by the commissioner. The commissioner shall recover the actual costs of the stamps from the distributor. The commissioner shall annually establish the maximum amount of stamps that may be purchased each month.

Subd. 8a. **Revolving account.** A cigarette tax stamp revolving account is created. The commissioner shall use the amounts in this fund to purchase stamps for resale. The commissioner shall charge distributors for the tax value of the stamps they receive along with the commissioner's cost to purchase the stamps and ship them to the distributor. The stamp purchase and shipping costs recovered must be credited to the revolving account and are appropriated to the commissioner for the further purchases and shipping costs. The revolving account is initially funded by a \$40,000 transfer from the Department of Revenue.

Subd. 9. **Tax stamping machines.** The commissioner shall require any person licensed as a distributor to stamp packages with a tax stamping machine, approved by the commissioner, which shall be provided by the distributor. The commissioner shall also supervise and check the operation of the machines and shall provide for the payment of the tax on any package so stamped. If the commissioner finds that a stamping machine is not affixing a legible stamp on the package, the commissioner may order the distributor to immediately cease the stamping process until the machine is functioning properly.

Subd. 10. **Resale or transfer of stamps prohibited.** No distributor shall resell or transfer any stamps purchased by the distributor from the commissioner. A distributor may transfer another state's stamped



cigarettes to another distributor for the purpose of resale in the other state. A distributor who has on hand any uncanceled stamps at the time of discontinuing the business of selling cigarettes may return them to the commissioner and receive a refund of the amount paid for the stamps. Stamps which have become mutilated or unfit for use, or are affixed to cigarettes being returned to the manufacturer, or are affixed to packages which, or the contents of which, have become damaged and unfit for sale, shall be replaced by the commissioner, upon application by the distributor owning the stamps or cigarettes if an investigation discloses that the stamps have not evidenced a taxable transaction, after compliance with rules or orders of the commissioner designed to prevent use of the stamps replaced.

Subd. 11. [Repealed, 2014 c 308 art 9 s 94]

Subd. 12. **Cigarettes in interstate commerce.** (a) A person may not transport or cause to be transported from this state cigarettes for sale in another state without first affixing to the cigarettes the stamp required by the state in which the cigarettes are to be sold or paying any other excise tax on the cigarettes imposed by the state in which the cigarettes are to be sold.

(b) A person may not affix to cigarettes the stamp required by another state or pay any other excise tax on the cigarettes imposed by another state if the other state prohibits stamps from being affixed to the cigarettes, prohibits the payment of any other excise tax on the cigarettes, or prohibits the sale of the cigarettes.

(c) Not later than 15 days after the end of each calendar quarter, a person who transports or causes to be transported from this state cigarettes for sale in another state shall submit to the commissioner a report identifying the quantity and style of each brand of the cigarettes transported or caused to be transported in the preceding calendar quarter, and the name and address of each recipient of the cigarettes. This reporting requirement only applies to cigarettes manufactured by companies that are not original or subsequent participating manufacturers in the Master Settlement Agreement with other states.

(d) For purposes of this section, "person" has the meaning given in section 297F.01, subdivision 12. Person does not include any common or contract carrier, or public warehouse that is not owned, in whole or in part, directly or indirectly by such person, and does not include a manufacturer that is an original or subsequent participating manufacturer in the Master Settlement Agreement with other states.

Subd. 13. **Bond.** The commissioner may require the furnishing of a corporate surety bond or a certified check in an amount suitable to guarantee payment of the tax stamps purchased by a distributor. The bond or certified check may be required when the commissioner determines that a distributor is (1) delinquent in the filing of any return required under this chapter, or (2) delinquent in the payment of any uncontested tax liability under this chapter. The distributor shall furnish the bond or certified check for a period of two years, after which, if the distributor has not been delinquent in the filing of any returns required under this chapter, or delinquent in the paying of any tax under this chapter, a bond or certified check is no longer required. The commissioner at any time may apply the bond or certified check to any unpaid taxes or fees, including interest and penalties, owed to the department by the distributor.

History: 1997 c 106 art 1 s 8; 1999 c 250 art 1 s 92; 2000 c 490 art 10 s 12-16; 2003 c 127 art 14 s 6,7; 1Sp2003 c 23 s 31; 2005 c 151 art 2 s 17; art 8 s 10,11; 2019 c 50 art 1 s 98; 1Sp2019 c 6 art 11 s 7,8



Sec. 310.05. - Hearing procedures.

- (a) *Adverse action; notice and hearing requirements.* In any case where the council may or intends to consider any adverse action, including the revocation or suspension of a license, the imposition of conditions upon a license, or the denial of an application for the grant, issuance or renewal of a license, or the disapproval of a license issued by the State of Minnesota, the applicant or licensee shall be given notice and an opportunity to be heard as provided herein. The council may consider such adverse actions when recommended by the inspector, by the director, by the director of any executive department established pursuant to Chapter 9 of the Charter, by the city attorney or on its own initiative.
- (b) *Notice.* In each such case where adverse action is or will be considered by the council, the applicant or licensee shall have been notified in writing that adverse action may be taken against the license or application, and that he or she is entitled to a hearing before action is taken by the council. The notice shall be served or mailed a reasonable time before the hearing date, and shall state the place, date and time of the hearing. The notice shall state the issues involved or grounds upon which the adverse action may be sought or based. The council may request that such written notice be prepared and served or mailed by the inspector or by the city attorney.
- (c) *Hearing.* Where there is no dispute as to the facts underlying the violation or as to the facts establishing mitigating or aggravating circumstances, the hearing shall be held before the council. Otherwise the hearing shall be conducted before a hearing examiner appointed by the council or retained by contract with the city for that purpose. The applicant or the licensee shall be provided an opportunity to present evidence and argument as well as meet adverse testimony or evidence by reasonable cross-examination and rebuttal evidence. The hearing examiner may in its discretion permit other interested persons the opportunity to present testimony or evidence or otherwise participate in such hearing.
- (c-1) *Procedure; hearing examiner.* The hearing examiner shall hear all evidence as may be presented on behalf of the city and the applicant or licensee, and shall present to the council written findings of fact and conclusions of law, together with a recommendation for adverse action.

The council shall consider the evidence contained in the record, the hearing examiner's recommended findings of fact and conclusions, and shall not consider any factual testimony not previously submitted to and considered by the hearing examiner. After receipt of the hearing examiner's findings, conclusions, and recommendations, the council shall provide the applicant or licensee an opportunity to present oral or written arguments alleging error on the part of the examiner in the application of the law or interpretation of the facts, and to present argument related to the recommended adverse action. Upon conclusion of that hearing, and after considering the record, the examiner's findings and recommendations, together with



such additional arguments presented at the hearing, the council shall determine what, if any, adverse action shall be taken, which action shall be by resolution. The council may accept, reject or modify the findings, conclusions and recommendations of the hearing examiner.

- (c-2) *Ex-parte contacts.* If a license matter has been scheduled for an adverse hearing, council members shall not discuss the license matter with each other or with any of the parties or interested persons involved in the matter unless such discussion occurs on the record during the hearings of the matter or during the council's final deliberations of the matter. No interested person shall, with knowledge that a license matter has been scheduled for adverse hearing, convey or attempt to convey, orally or in writing, any information, argument or opinion about the matter, or any issue in the matter, to a council member or his or her staff until the council has taken final action on the matter; provided, however, that nothing herein shall prevent an inquiry or communications regarding status, scheduling or procedures concerning a license matter. An interested person, for the purpose of this paragraph, shall mean and include a person who is an officer or employee of the licensee which is the subject of the scheduled adverse hearing, or a person who has a financial interest in such licensee.
- (d) *Licensee or applicant may be represented.* The licensee or applicant may represent himself or choose to be represented by another.
- (e) *Record; evidence.* The hearing examiner shall receive and keep a record of such proceedings, including testimony and exhibits, and shall receive and give weight to evidence, including hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.
- (f) *Council action, resolution to contain findings.* Where the council takes adverse action with respect to a license, licensee or applicant for a license, the resolution by which such action is taken shall contain its findings and determination, including the imposition of conditions, if any. The council may adopt all or part of the findings, conclusions and recommendations of the hearing examiner, and incorporate the same in its resolution taking the adverse action.
- (g) *Additional procedures where required.* Where the provisions of any statute or ordinance require additional notice or hearing procedures, such provisions shall be complied with and shall supersede inconsistent provisions of these chapters. This shall include, without limitation by reason of this specific reference, Minnesota Statutes, Chapter 364 and Minnesota Statutes, Section 340A.415.
- (h) *Discretion to hear notwithstanding withdrawal or surrender of application or license.* The council may, at its discretion, conduct a hearing or direct that a hearing be held regarding revocation or denial of a license, notwithstanding that the applicant or licensee has attempted or purported to



withdraw or surrender said license or application, if the attempted withdrawal or surrender took place after the applicant or licensee had been notified of the hearing and potential adverse action.

- (i) *Continuances.* Where a hearing for the purpose of considering revocation or suspension of a license or other disciplinary action involving a license has been scheduled before the council, a continuation of the hearing may be granted by the council president or by the council at the request of the licensee, license applicant, an interested person or an attorney representing the foregoing, upon a showing of good cause by the party making the request.
- (j) If the council imposes an adverse action as defined in section 310.01 above, a generic notice of such action shall be prepared by the license inspector and posted by the licensee so as to be visible to the public during the effective period of the adverse action. The licensee shall be responsible for taking reasonable steps to make sure the notice remains posted on the front door of the licensed premises, and failure to take such reasonable precautions may be grounds for further adverse action.
- (k) *Imposition of costs.* The council may impose upon any licensee or license applicant some or all of the costs of a contested hearing before an independent hearing examiner. The costs of a contested hearing include, but are not limited to, the cost of the administrative law judge or independent hearing examiner, stenographic and recording costs, copying costs, city staff and attorney time for which adequate records have been kept, rental of rooms and equipment necessary for the hearing, and the cost of expert witnesses. The council may impose all or part of such costs in any given case if (i) the position, claim or defense of the licensee or applicant was frivolous, arbitrary or capricious, made in bad faith, or made for the purpose of delay or harassment; (ii) the nature of the violation was serious, or involved violence or the threat of violence by the licensee or employees thereof, or involved the sale of drugs by the licensee or employees thereof, and/or the circumstances under which the violation occurred were aggravated and serious; (iii) the violation created a serious danger to the public health, safety or welfare; (iv) the violation involved unreasonable risk of harm to vulnerable persons, or to persons for whose safety the licensee or applicant is or was responsible; (v) the applicant or licensee was sufficiently in control of the situation and therefore could have reasonably avoided the violation, such as but not limited to, the nonpayment of a required fee or the failure to renew required insurance policies; (vi) the violation is covered by the matrix in section 409.26 of the Legislative Code; or (vii) the violation involved the sale of cigarettes to a minor.
- (l) *Imposition of fines.* The council may impose a fine upon any licensee or license applicant as an adverse license action. A fine may be in such amount as the council deems reasonable and appropriate, having in mind the regulatory and enforcement purposes embodied in the particular licensing ordinance. A fine may be in addition to or in lieu of other adverse action in the sole



discretion of the council. To the extent any other provision of the Legislative Code provides for the imposition of a fine, both provisions shall be read together to the extent possible; provided, however, that in the case of any conflict or inconsistency, the other provision shall be controlling.

(m) *Presumptive penalties for certain violations.* The purpose of this section is to establish a standard by which the city council determines the amount of fines, the length of license suspensions and the propriety of revocations, and shall apply to all license types, except that in the case of a violation involving a liquor license § 409.26 shall apply where a specific violation is listed. In the case of an adverse action filed for a violation of chapter 331A, the licensee shall be given a fine for each individual violation of chapter 331A. The total fine amount for violations of chapter 331A may exceed the maximum fine outlined below due to multiple violations in one (1) appearance. All penalty recommendations for chapter 331A violations shall be based on the food penalty guideline referred to in chapter 331A. These penalties are presumed to be appropriate for every case; however the council may deviate therefrom in an individual case where the council finds and determines that there exist substantial and compelling reasons making it more appropriate to do so. When deviating from these standards, the council shall provide written reasons that specify why the penalty selected was more appropriate.

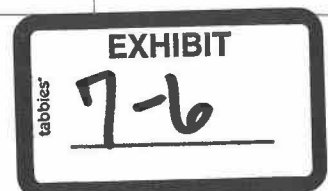
Type of Violation	Appearance			
	1st	2nd	3rd	4th
(1) Violations of conditions placed on the license	\$500.00 fine	\$1,000.00 fine	\$2,000.00 fine and 10-day suspension	Revocation
(2) Violation of provisions of the legislative code relating to the licensed activity	\$500.00 fine	\$1,000.00 fine	\$2,000.00 fine and 10-day suspension	Revocation



(3) Violation of provisions of the legislative code relating to the licensed activity, other than violations of the food code	\$500.00 fine	\$1,000.00 fine	\$2,000.00 fine and 10-day suspension	Revocation
(4) Failure to permit entrance or inspection by DSI inspector or police	5-day suspension	10-day suspension	15-day suspension	Revocation
(5) Commission of a crime other than a felony on the premises by a licensee or employee	\$700.00	\$1,500.00	5-day suspension	Revocation
(6) Commission of a felony on the premises by a licensee or employee	\$2,000.00	Revocation	n/a	n/a



(7) Death or great bodily harm in establishment related to violation of law or license conditions	30-day suspension	60-day suspension	Revocation	n/a
(8) Failure to pay license fees	Suspension	Revocation		
(9) Critical violations under <u>331A</u>	\$250.00	\$500.00	\$1,000.00, 5-day suspension	Revocation
(10) Non-critical violation under <u>331A</u>	\$150.00	\$250.00	\$500.00	\$1,000.00
(11) Taxi fail to display driver's license as required by <u>376.16(f)</u>	\$100.00	\$250.00	\$500.00	Revocation
(12) Taxi fail to display number of information and complaint office as required by <u>376.11(v)</u>	\$100.00	\$250.00	\$500.00	Revocation



(13) Violation of restrictions upon sidewalk café license under <u>106.01(b)</u>	\$200.00	\$400.00	\$800.00	Revocation
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(i) *Fines payable without hearing.*

- A. Notwithstanding the provisions of section 310.05(c), a licensee who would be making a first or second appearance before the council may elect to pay the fine to the department of safety and inspections without a council hearing, unless the notice of violation has indicated that a hearing is required because of circumstances which may warrant deviation from the presumptive fine amount. Payment of the recommended fine will be considered to be a waiver of the hearing to which the licensee is entitled, and will be considered an "appearance" for the purpose of determining presumptive penalties for subsequent violations.
- B. For adverse action initiated under chapter 331A of this Code, a fine may be paid without a hearing regardless of how many prior appearances that licensee has made before the council. The above council hearing requirement applies to violations under chapter 331A unless the fine recommended by the department of safety and inspections is equal to or less than the fine amount outlined in the above matrix. Payment of the recommended fine will be considered to be a waiver of the hearing to which the licensee is entitled, and will be considered an "appearance" for the purpose of determining presumptive penalties for subsequent violations. A non-critical violation under chapter 331A shall not be considered an "appearance" for purposes of determining presumptive penalties for non-331A violations. A council hearing is required if the department of safety and inspections recommends a fine that is an upward departure for the amount outlined above.

(ii) *Multiple violations.* At a licensee's first appearance before the city council, the council shall consider and act upon all the violations that have been alleged and/or incorporated in the notices sent to the licensee under the administrative procedures act up to and including the formal notice of hearing. The council in that case shall consider the presumptive penalty for each such violation under the "1st Appearance" column in paragraph (b) above. The occurrence of multiple violations shall be grounds for departure from such penalties in the council's discretion.

(iii) *Violations occurring after the date of the notice of hearing.* Violations occurring after the date



of the notice of hearing that are brought to the attention of the city attorney prior to the hearing date before an administrative law judge (or before the council in an uncontested facts hearing) may be added to the notice(s) by stipulation if the licensee admits to the facts, and shall in that case be treated as though part of the "1st Appearance." In all other cases, violations occurring after the date of the formal notice of hearing shall be the subject of a separate proceeding and dealt with as a "2nd Appearance" before the council. The same procedures shall apply to a second, third or fourth appearance before the council.

- (iv) *Subsequent appearances.* Upon a second, third or fourth appearance before the council by a particular licensee, the council shall impose the presumptive penalty for the violation or violations giving rise to the subsequent appearance without regard to the particular violation or violations that were the subject of the first or prior appearance. However, non-critical violations of chapter 331A shall not be counted as an "appearance" before the council in relation to any violation other than another violation of chapter 331A.
- (v) *Computation of time.*
 - (1) *Second appearance.* A second violation within twelve (12) months shall be treated as a second appearance for the purpose of determining the presumptive penalty.
 - (2) *Third appearance.* A third violation within eighteen (18) months shall be treated as a third appearance for the purpose of determining the presumptive penalty.
 - (3) *Fourth appearance.* A fourth violation within twenty-four (24) months shall be treated as a fourth appearance for the purpose of determining the presumptive penalty.
 - (4) Any appearance not covered by subsections (1), (2) or (3) above shall be treated as a first appearance. Measurement of the twelve-, eighteen-, or twenty-four-month period shall be as follows: The beginning date shall be the earliest violation's date of appearance before the council, and the ending date shall be the date of the new violation. In case of multiple new violations, the ending date to be used shall be the date of the violation last in time.
 - (5) Notwithstanding subsections (iv)(1), (2), (3) or (4) above, a second appearance before the council regarding a death or great bodily harm in a licensed establishment that is related to a violation of the law or license conditions shall be counted as a second appearance, regardless of how much time has passed since the first appearance if the first appearance was also regarding a death or great bodily harm in a licensed establishment. A third appearance for the same shall be counted as a third appearance regardless of how much time has passed since the first or second appearance.
 - (6) For the purpose of a second, third or fourth appearance under this section, "violation" shall mean either one of those violations listed in paragraph (m) or a violation of section 409.26(b).



(Code 1956, § 510.05; Ord. No. 17551, § 2, 4-19-88; Ord. No. 17559, §§ 1, 2, 5-17-88; Ord. No. 17659, § 1, 6-13-89; Ord. No. 17911, § 1, 3-10-92; C.F. No. 94-46, § 7, 2-2-94; C.F. No. 94-898, §§ 2, 3, 7-13-94; C.F. No. 94-1340, § 2, 10-19-94; C.F. No. 95-473, § 4, 5-31-95; C.F. No. 05-180, § 1, 4-6-05; C.F. No. 06-954, § 1, 11-8-06; C.F. No. 06-1072, § 1, 12-27-06; C.F. No. 07-149, § 73, 3-28-07; C.F. No. 07-1053, § 1, 11-28-07; C.F. No. 08-1208, § 1, 12-17-08; C.F. No. 10-665, § 1, 7-28-10; Ord. No. 11-93, § 1, 9-28-11; Ord. No. 11-94, § 1, 10-12-11; Ord 12-42, § 1, 8-22-12; Ord 12-85, § 1, 1-23-13)



Sec. 310.06. - Revocation; suspension; adverse actions; imposition of conditions.

- (a) *Council may take adverse action.* The council is authorized to take adverse action, as defined in section 310.01 above, against any or all licenses or permits, licensee or applicant for a license, as provided in and by these chapters. Adverse actions against entertainment licenses issued under chapter 411 of the Legislative Code may be initiated for the reasons set forth in subsection (b) below, or upon any lawful grounds which are communicated to the license holder in writing prior to the hearing before the council. Such actions shall be initiated and carried out in accordance with the procedures outlined in section 310.05; provided, however, that the formal notice of hearing shall be used to initiate the adverse action without the use of prior procedural steps.
- (b) *Basis for action.* Such adverse action may be based on one (1) or more of the following reasons, which are in addition to any other reason specifically provided by law or in these chapters:
- (1) The license or permit was procured by misrepresentation of material facts, fraud, deceit or bad faith.
 - (2) The applicant or one acting in his or her behalf made oral or written misstatements or misrepresentations of material facts in or accompanying the application.
 - (3) The license was issued in violation of any of the provisions of the zoning code, or the premises which are licensed or which are to be licensed do not comply with applicable health, housing, fire, zoning and building codes and regulations.
 - (4) The license or permit was issued in violation of law, without authority, or under a material mistake of fact.
 - (5) The licensee or applicant has failed to comply with any condition set forth in the license, or set forth in the resolution granting or renewing the license.
 - (6) a. The licensee or applicant (or any person whose conduct may by law be imputed to the licensee or applicant) has violated, or performed any act which is a violation of, any of the provisions of these chapters or of any statute, ordinance or regulation reasonably related to the licensed activity, regardless of whether criminal charges have or have not been brought in connection therewith;
 - b. The licensee or applicant has been convicted of a crime that may disqualify said applicant from holding the license in question under the standards and procedures in Minnesota Statutes chapter 364; or
 - c. The licensee or applicant (or any person whose conduct may by law be imputed to the licensee or applicant) has engaged in or permitted a pattern or practice of conduct of failure to comply with laws reasonably related to the licensed activity or from which an inference of lack of fitness or good character may be drawn.
 - (7) The activities of the licensee in the licensed activity created or have created a serious danger



- to the public health, safety or welfare, or the licensee performs or has performed his or her work or activity in an unsafe manner.
- (8) The licensed business, or the way in which such business is operated, maintains or permits conditions that unreasonably annoy, injure or endanger the safety, health, morals, comfort or repose of any considerable number of members of the public.
 - (9) Failure to keep sidewalks or pedestrian ways reasonably free of snow and ice as required under chapter 114 of the Saint Paul Legislative Code.
 - (10) The licensee or applicant has shown by past misconduct or unfair acts or dealings: physical abuse, assaults or violent actions done to others, including, but not limited to, actions meeting the definition of criminal sexual conduct pursuant to Minnesota Statutes sections 609.342 through 609.3451; sexual abuse, physical abuse or maltreatment of a child as defined in Minnesota Statutes section 626.556, subdivisions 2 and 10e, including, but not limited to, acts which constitute a violation of Minnesota Statutes sections 609.02, subdivision 10; 609.321 through 609.3451; or 617.246; neglect or endangerment of a child as defined in Minnesota Statutes section 626.557, subdivision 2; the manufacture, distribution, sale, gift, delivery, transportation, exchange or barter of a controlled substance as defined in Minnesota Statutes chapter 152; the possession of a controlled substance as defined in Minnesota Statutes chapter 152 in such quantities or under circumstances giving rise to a reasonable inference that the possession was for the purpose of sale or distribution to others; or by the abuse of alcohol or other drugs, that such licensee or applicant is not a person of the good moral character or fitness required to engage in a licensed activity, business or profession.
 - (11) The licensee or applicant has materially changed or permitted a material change in the design, construction or configuration of the licensed premises without the prior approval of the city council in the case of Class N licenses, the director in the case of Class T licenses, and the inspector in the case of Class R licenses, or without first having obtained the proper building permits from the city.
 - (12) The licensee or applicant has violated section 294.01 of the Legislative Code, or has made or attempted to make a prohibited ex parte contact with a council member as provided in section 310.05(c-2) of the Legislative Code.
 - (13) The licensee violated the law or any license condition and that violation is related to a death or great bodily harm, as defined in Minnesota Statute section 609.02, subd. 8, in or near the establishment.
 - (14) The licensee has failed to pay license fees within sixty (60) days of the date the fees are due. Licensee must pay any outstanding fees and delinquent fees in total. Failure to do so within sixty (60) days of the due date may result in revocation of the license. A revocation for this



reason, however, is not considered a revocation resulting from misconduct or unfitness of the licensee, evidence of violations of law involving licensed premises, evidence that the applicant had been involved in the operation of a nuisance, or fraud or deception in the license application. Therefore, the requirement of § 310.02(d) prohibiting re-application within one year of revocation shall not apply to revocations under this paragraph.

The terms "licensee" or "applicant" for the purpose of this section shall mean and include any person who has any interest, whether as a holder of more than five (5) percent of the stock of a corporation, as a partner, or otherwise, in the premises or in the business or activity which are licensed or proposed to be licensed.

With respect to any license for activities entitled to the protection of the First Amendment, notwithstanding the foregoing provisions, neither the lack of good moral character or fitness of the licensee or applicant nor the content of the protected speech or matter shall be the basis for adverse action against the license or application.

- (c) *Imposition of reasonable conditions and/or restrictions.* When a reasonable basis is found to impose reasonable conditions and/or restrictions upon a license issued or held under these chapters, any one (1) or more such reasonable conditions and/or restrictions may be imposed upon such license for the purpose of promoting public health, safety and welfare, of advancing the public peace and the elimination of conditions or actions that constitute a nuisance or a detriment to the peaceful enjoyment of urban life, or promoting security and safety in nearby neighborhoods. Such reasonable conditions and/or restrictions may include or pertain to, but are not limited to:
- (1) A limitation on the hours of operation of the licensed business or establishment, or on particular types of activities conducted in or on said business or establishment;
 - (2) A limitation or restriction as to the location within the licensed business or establishment where particular type of activities may be conducted;
 - (3) A limitation as to the means of ingress or egress from the licensed establishment or its parking lot or immediately adjacent area;
 - (4) A requirement to provide off-street parking in excess of other requirements of law;
 - (5) A limitation on the manner and means of advertising the operation or merchandise of the licensed establishment;
 - (6) Any other reasonable condition or restriction limiting the operation of the licensed business or establishment to ensure that the business or establishment will harmonize with the character of the area in which it is located, or to prevent the development or continuation of a nuisance.



The inspector may impose such conditions on Class R licenses with the consent of the license holder, or may recommend the imposition of such conditions as an adverse action against the license or licenses; the inspector has the same power with respect to Class T licenses. The council may impose such conditions on Class N licenses with the consent of the license holder, or upon any class of license as an adverse action against the license or licenses following notice and hearing as may be required. Such conditions may be imposed on a license or licenses upon issuance or renewal thereof, or upon and as part of any adverse action against a license or licenses, including suspension. Conditions imposed on a license or licenses shall remain on such licenses when renewed and shall continue thereafter until removed by the council in the case of conditions on Class N licenses or conditions imposed by adverse action, and by the inspector in the case of Class R and T licenses.

- (d) *Standards for multiple license determination.* In any case in which the council is authorized to take adverse action against less than all of the licenses held by a licensee, or applied for by an applicant, the following standards may be used:
- (1) The nature and gravity of the grounds found by the council to exist upon which the adverse action would be based;
 - (2) The policy and/or regulatory goals for the particular licenses involved, either as embodied in the Legislative Code or as found and determined by the council;
 - (3) The interrelationship of the licenses and their relative importance to the overall business enterprise of the licensee or applicant;
 - (4) The management practices of the licensee or applicant with respect to each of such licenses;
 - (5) The extent to which adverse action against less than all of the licenses or applications would result in difficulty in enforcing and monitoring the adverse action taken;
 - (6) The hardship to the licensee or applicant that would be caused by applying adverse action to all licenses or applications; and
 - (7) The hardship and/or danger to the public, or to the public health and welfare, that would result from adverse action against less than all of the licenses or applications.

(Code 1956, § 510.06; Ord. No. 17584, § 1, 8-25-88; Ord. No. 17657, § 15, 6-8-89; Ord. No. 17659, § 2, 6-13-89; Ord. No. 17901, §§ 2, 3, 1-14-92; Ord. No. 17917, §§ 2, 3, 3-31-92; Ord. No. 17922, § 1, 4-28-92; C.F. No. 94-500, § 3, 7-6-94; C.F. No. 94-1340, § 3, 10-19-94; C.F. No. 95-473, § 5, 5-31-95; C.F. No. 99-500, § 3, 7-7-99; C.F. No. 06-954, § 2, 11-8-06; C.F. No. 06-1072, § 2, 12-27-06)





August 18, 2021

ID: XX-XXX0479
 Letter ID: L2012371232
 Notice Date: **August 18, 2021**

Premier Wholesale Limited Liability Co.
 1196 Rice Street
 Saint Paul, MN 55117-4903

Notice of Seized Contraband

Seized Date and Time: 11-Aug-2021 12pm
Seized by: Steve Johnson & Jody True
Seizure Location: 1196 RICE ST
SAINT PAUL MN 55117-4903
Seized From: Premier Wholesale Limited

The Minnesota Department of Revenue seized the following property as contraband under the authority granted to the commissioner of revenue (Minnesota Statutes Chapter 297F)

Quantity	Unit	Product Description
5	Packs	Djarum Black Filtered Little Cigars

The property listed was seized as contraband under the authority granted in M.S. 297F. The specific section of the law under which this property is declared to be contraband is M.S. 297F.21, which state(s).

Subdivision 1. Contraband defined. The following are declared to be contraband and therefore subject to civil and criminal penalties under this chapter

Cigarette/Tobacco 297F.21

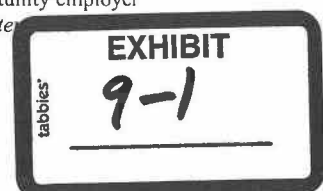
(a) Cigarette packages which do not have stamps affixed to them as provided in this chapter, including but not limited to (i) packages with illegible stamps and packages with stamps that are not complete or whole even if the stamps are legible, and (ii) all devices for the vending of cigarettes in which packages as defined in the item (i) are found, including all contents contained within the devices.

What must I do?

You must request a judicial review of this seized property within 60 days of the Notice Date. If you do not, the property that we seized will become property of the state of Minnesota.

How do I demand a judicial review?

1. File a civil complaint with the court administrator in the county where the seizure occurred.
2. Include proof that you served a copy of the complaint on the Department of Revenue.



3. List your name as “plaintiff” and the seized property as “defendant” in the title of the complaint.
4. State the grounds on which you allege the property was improperly seized and what your ownership interest is in the property.

You do not have to pay the court filing fee if it is determined you cannot afford the fee. If the value of the seized property is \$15,000 or less, you can file an action in conciliation court to recover the property. If the value of the seized property is less than \$500, you do not have to pay the conciliation court filing fee.

Steven Johnson
Revenue Tax Specialist
Phone: 651-556-4708
Email: steve.johnson@state.mn.us
Fax: 651-282-3933





November 8, 2021

Tobacco Licensing Division
375 Jackson Street #220
St Paul, MN 55101

Seized Cigarette/Tobacco Product

The Minnesota Department of Revenue recently seized cigarette and/or tobacco products as contraband under Minnesota Statute 297F.21 from a business located in your jurisdiction. Because all time periods for judicially challenging the seizure have expired, the property has been forfeited to the State.

Attached you will find a copy of our Notice of Seized Contraband. The notice lists the products we seized.

Why are you contacting me?

We are providing you information about our seizure of tobacco contraband so you may take any action against the city/county license as appropriate.

Contact me if you have any questions.

Sincerely,

Steve Johnson
Compliance Coordinator
Phone: 651-556-4708
Email: steve.johnson@state.mn.us

Supervisor Contact Information:
Dan Hughes
651-556-4750
dan.hughes@state.mn.us





tabbies[®]
EXHIBIT
10



tabbies®
EXHIBIT
||

Retail Inspection Log

Taxpayer Name 1188 Rice Street Market dba Riceland Tobacco	Was this inspection assigned? No
Date of Inspection 08/11/2021	Minnesota ID # 5223707 Loc: 001
Arrival Time @ Business 11:10am	Departure Time from Business 12:00pm
Time Invoices Requested 11:15am	Time Invoices Provided 11:15am
Clerk(s) Names Mohamed Alsadi	Owner(s) Name(s) Bilal Alsadi
Was there a seizure? Yes	Wholesale Value or # of sticks 60 sticks
Auditor(s) @ Retail Inspection Site Jody True and Steve Johnson	Was a Stamp Reader Used? Yes

Notes:

RTS Jody True and RTS Steve Johnson entered the business located at 1200 Rice Street in Saint Paul, Minnesota and introduced themselves to Mohamed Alsadi, the store clerk as Minnesota Department of Revenue employees and stated we that would be conducting a random cigarette/tobacco inspection.

RTS True provided the establishment with:

Fact Sheet #1 - "Random Compliance Checks of Cigarette and Tobacco Retailers"

Fact Sheet #2 - "License Requirements for Retailers"

Fact Sheet #3 - "Record Retention for Cigarette and Tobacco Product Invoices"

Postcard - "Do you suspect tobacco smuggling?"

Did the employee have any questions? No

Did I ask to see the tobacco license and document all license information on the CT105? Yes

Did I request from the store employee access to behind the sales counter and all storage areas? Yes

RTS True and RTS Johnson continued the inspection of the business and RTS Johnson discovered 5 packs of Djarum Black filtered little cigars with no Minnesota tax stamps adhered to each pack. RTS True explained to Mohamed that Minnesota defines filtered little cigars as a cigarette as they have a cigarette like filter, they are the same size and weight and packaged as a cigarette. Because of this definition, filtered little cigars require a Minnesota tax stamp. RTS True proceeded to show Mohamed the remaining filtered little cigars on display and in overstock that had Minnesota tax stamps affixed to the packs of filtered little cigars.

RTS True informed Mohamed that we would be seizing the unstamped filtered little cigars as they are considered contraband as they did not have tax stamps adhered therefore the tax had not been paid by the distributor as per Minnesota Statute 297F.21 (a) Cigarette packages which do not have stamps affixed to them as provided in this chapter, including and not limited to (i) packages with illegible stamps and packages with stamps that are not complete or whole even if the stamps are legible, and (ii) all devices for the vending of cigarettes in which packages are defined in item (i) are found, including all contents contained within the devices.



RTS True and Mohamed took pictures of the product being seized and Mohamed signed and made a copy of the signed CT-PRF. RTS True went over the 60-day appeal process with Mohamed and asked if he had any questions. Mohamed stated that he understood why the product was being seized and that he did not have any questions. RTS True stated that if any questions arise, that RTS True and RTS Johnson can be reached at the numbers on the business card provided.

If there was a seizure - Were the appeal Rights explained to the taxpayer? Yes

*** We later found out the correct business name is Premier Wholesale Limited Liability Co with an address of 1196 Rice Street, St Paul, MN. A revised M21 was sent to the business owner and City of St Paul keeping the same date as the seizure on the Notice of Seized Contraband form.



Retail Inspection Report

Time at Location Start 11:10 Invoice Request Time 11:15 Invoice Produced Time 11:15 End 12:00

Business Information

Business Legal Name: 1188 RICE STREET MARKET
 Minnesota Tax ID Number: 5223707 Loc. 001
 Retail License Number: 20180001947
 City: ST PAUL
 County: ST PAUL

Date Business as: Rice Street Tobacco
 Phone: Rice Land Tobacco
 License Effective Dates: Begin 6.5.21 End 6.5.22

Street Address: 1200 RICE STREET
 Owner/Clerk's Name: Bilal Al-Sadi - Owner

City: ST PAUL State: MN ZIP Code: 55117
 Owner/Clerk's Position at Business: Mohammed - employee

Are there weapons on the premises? Yes No
 Who orders the products and how are they delivered?
 If yes, what types of weapons and where are the weapons located?
 Who pays the invoices and how are the invoices paid?

Cigarettes/Tobacco Products

Cigarette Brand	Stamp Number	Stamp Number	Cigarette Brand	Stamp Number	Stamp Number
1 American Spirit			5 Parliament		
2 Camel	<u>52153</u>		6 Swisher		
3 Marlboro	<u>52290</u>		7 Winston		
4 Newport			8		

Tobacco and Other Products
 Moist Snuff Loose Tobacco Cigars/Cigarillos Premium Cigars e-Cigarettes/Vapor CBD or Hemp Products Other Products
Al Fakher

Suppliers

Cigarette Suppliers	Invoice Date	Number	Tobacco Suppliers	Invoice Date	Number
<u>Famer Bocken</u>	<u>7.28.21</u>	<u>8313161</u>	<u>Winner</u>	<u>8.11.21</u>	<u>195122</u>
			<u>Granite City</u>	<u>8.9.21</u>	<u>243111</u>
			<u>Twin Cities Dist.</u>	<u>5.31.21</u>	<u>7207</u>
			<u>BO ECIG City</u>	<u>8.7.21</u>	<u>3122</u>
			<u>ECIG City</u>	<u>8.7.21</u>	<u>15367</u>
			<u>SEMA Int'l</u>	<u>7.29.21</u>	<u>12270</u>

Inspection Checklist

Quality of stamps? Good Fair Poor
 Pen reader used? Yes No
 Phone card? Yes No
 Postcard, Fact Sheet 1-3 given? Yes No
 Update license attributes on Sales Tax account? Yes No

Dyed fuel? Yes No
 Pay at pump? Yes No
 Close license attributes? Yes No
 Sent corrective action letter? Yes No

Comments/Inspector

Issues? Yes No Seized 5 Dyrum Black Filtered White Cigars

Inspector Name: [Signature]

Date: 8/11/21



Seizure Checklist

Seizure (if applicable)

- Were cigarettes seized? Yes No
 - Was tobacco seized? Yes No
 - Were appeal rights explained? Yes No
 - Was seizure form copied? Yes No
 - Were pictures taken? Yes No
 - Was taxpayer informed that a certified copy will be mailed? Yes No
- Who purchased this product (contraband)? Bilal Asadi

Cigarette and Tobacco Seizure Information

When to Seize Product

Cigarettes (Including little cigars)

You may seize cigarettes if:

- they are not stamped
- they are stamped with other states' stamps (confiscated as contraband)
- the cigarettes are stamped with Native American stamps and the retailer is not located on a reservation (confiscated as contraband)
- the stamp is illegible, partial or fragmented
- the stamp is missing at least one of the five serial numbers used to identify which distributor purchased the stamp
- Minnesota does not appear on the Cigarette stamp
- the cigarettes are stamped, but the retailer cannot provide support (invoices) as to the distributor/subjobber the cigarettes were purchased (Possible Seizure - Call the assistant director or the compliance coordinator)
- the Fire Standard Complaint (FSC) label is absent (Possible Seizure - Call the assistant director or the compliance coordinator)
- the FSC is missing (cigarettes may be counterfeit)

Tobacco Products

You may seize tobacco if:

- invoices are not provided within one hour (use judgment on the one-hour time limit) for the product
- invoices provided do not account for the product at the location (confiscated as contraband)

If you have any doubt or questions regarding your inspection or decision to seize, contact one of the following:

Contact Information

Department of Revenue

- Compliance Coordinator: 651-556-4708 Cell Phone 651-338-9465
- Assistant Director Special Taxes: 651-556-6624
- Cigarette/Tobacco Supervisor: 651-556-4750
- Cigarette/Tobacco Lead Worker: 651-556-4869
- Criminal Director: 651-556-6652
- Criminal Supervisor: 651-556-6651

Minnesota State Fire Marshal Division

- Chief Deputy: 651-201-7202

Additional Notes



Product Receipt Form

Print or Type

1188 Rice Street Market Richmond Tobacco Bilal Alsadi

Business Name

Owner's Name

1200 Rice Street

5223707

Address

City

State

ZIP Code

Minnesota Tax ID Number

St Paul

MIN

55117

Description Here

5 Djaram Black 12 Flowered Little Cigars

Product Description

Multiple horizontal lines for product description.

The Minnesota Department of Revenue has seized the property listed on this receipt form as contraband under authority granted in Minnesota Statutes, section 297E.21. Within 10 days, we will send an official inventory of the seized property by certified mail to you (or the person who has a right, title, interest, or lien in the property). We will include information on how you can challenge the seizure in court by requesting a "judicial review."

Note: If you do not request a judicial review of the seizure within 60 days of the date on the official inventory notice, the property will be forfeited to the state of Minnesota.



Comments

I declare that this form is correct and complete to the best of my knowledge and belief.

Sign Here

Revenue Signature

Taxpayer Representative Signature

Date

Date

Revenue Signature

Taxpayer Representative Signature

Date

Date

[Handwritten Signature]

8/11/21

[Handwritten Signature]

8/11/21

[Handwritten Signature] Mohamed Alsaadi

This material is available in alternate formats
Minnesota Revenue, Mail Station 3331, St. Paul, MN 55146-3331
Phone: 651-556-3035. Email: cigarette.tobacco@state.mn.us

