

OFFICE OF THE CITY ATTORNEY
Sara Grewing, City Attorney



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

Civil Division
400 City Hall
15 West Kellogg Blvd.
Saint Paul, Minnesota 55102

Telephone: 651 266-8710
Facsimile: 651 298-5619

November 8, 2011

NOTICE OF VIOLATION

K-Mart Corporation
Dept 768 Tax B2-113A
3333 Beverly Road
Hoffman Estates, IL 60179

RE: Cigarette/Tobacco license held by K-Mart Corporation d/b/a K-Mart #3059 for the premises located at 245 Maryland Avenue East in Saint Paul
License ID #0016660

Dear Sir/Madam:

The Department of Safety and Inspections (DSI) has recommended adverse action against the Cigarette/Tobacco license held by K-Mart Corporation d/b/a K-Mart #3059 for the premises located at 245 Maryland Avenue East in Saint Paul. The basis for the recommendation is as follows:

On October 21, 2011, a tobacco compliance check was conducted at K-Mart #3059 located at 245 Maryland Avenue East. A seventeen year old female entered your store and asked to buy cigarettes. She was asked to show her identification, and did so. It correctly stated her date of birth, which indicated she was underage. Nevertheless, the clerk sold her a package of Newport cigarettes. Sale of tobacco to an underage person is a violation of Minn. Stat. § 609.685 and Saint Paul Legislative Code § 324.07(c).

This is the first (1st) violation for the sale of cigarettes to an underage person, therefore, per Saint Paul Legislative Code §324.11 (b) (1) the licensing office will recommend a \$200.00 matrix penalty.

At this time you have three options on how to proceed:

1. You can pay the recommended \$200.00 matrix penalty. If this is your choice, you should make payment directly to the Department of Safety and Inspections, at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **Friday, November 18, 2011**. Information should be directed to the attention of Christine Rozek. A self-addressed envelope is enclosed for your convenience. Payment of the \$200.00 matrix penalty will be considered to be a waiver of the hearing to which you are entitled.

K-Mart #3059
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2. If you wish to admit the facts but you contest the 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. I will need to receive your letter no later than **Friday, November 18, 2011**. The matter will then be scheduled before the City Council for a public hearing to determine whether to impose the \$200.00 matrix penalty. You will have an opportunity to appear before the Council and make a statement on your own behalf.
3. 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 by **Friday, November 18, 2011**. 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.

If you have not contacted me by Friday, November 18, 2011, I will assume that you are not contesting the imposition of the \$200.00 matrix penalty. In that case, the matter will be placed on the City Council Consent Agenda for approval of the recommended penalty.

Please be advised that the clerk who was identified as having made the sale on this date is also being charged a \$50.00 administrative penalty pursuant to Minn. Stat. §461.12, subd. 3. This is a separate action from this license matter.

If you have any questions, please feel free to contact me at (651) 266-8710.

Sincerely,



Kyle Lundgren
Assistant City Attorney

cc: Christine Rozek, Deputy Director of DSI
Candy Korhonen, Store Manager, K-Mart #3059, 245 Maryland Avenue East, St. Paul, MN 55117
Kerry Antrim, Executive Director, District 6 Planning Council, 171 Front Avenue, St. Paul, MN 55117

STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Julie Kraus, being first duly sworn, deposes and says that on the 8th day of November she served the attached the **NOTICE OF VIOLATION** and correct copy thereof in an envelope addressed as follows:

K-Mart Corporation
Dept 768 Tax B2-113A
3333 Beverly Road
Hoffman Estates, IL 60179

Candy Korhonen
Store Manager - K-Mart #3059
245 Maryland Avenue East
St. Paul, MN 55117

Kerry Antrim, Executive Director
District 6 Planning Council
171 Front Avenue
St. Paul, MN 55117

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

Julie Kraus
Julie Kraus

Subscribed and sworn to before me
this 8th day of November, 2011

Rita M. Bossard
Notary Public

