



August 22, 2022

**NOTICE OF VIOLATION  
RECOMMENDATION FOR IMPOSITION  
OF A \$500 FINE FOR TOBACCO YOUTH COMPLIANCE CHECK FAILURE**

Northern Tier Retail, LLC  
d/b/a Speedway #4023  
577 Smith Avenue South  
Saint Paul, MN 55107

RE: Cigarette/Tobacco license held by Northern Tier Retail, LLC d/b/a Speedway #4023 for the premises located at 577 Smith Avenue South in Saint Paul  
License ID #: 20100004236

Speedway #4023:

The Department of Safety and Inspections ("Department") is recommending adverse action against the Cigarette/Tobacco license held by Northern Tier Retail, LLC d/b/a Speedway #4023 ("Licensee") for the premises located at 577 Smith Avenue South in Saint Paul. ("Licensed Premises").

Minnesota Statute § 461.12, Subd. 5 states: "A licensing authority shall conduct unannounced compliance checks at least once each calendar year at each location where tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products are sold to test compliance with sections 609.685 and 609.6855."

Minnesota Statute §609.685, Subd. 4 allows for more stringent regulation for selling or furnishing tobacco, tobacco-related devices, or electronic delivery devices to someone under the age of 21.

Saint Paul Legislative Code section 324.10(b)(1) sets the presumptive penalties for violations of provisions of the Legislative Code relating to the Sale to a person under twenty-one (21) years of age:

Under section 324.10(b)(1), the presumptive penalty for a first-time violation is a \$500 fine.



Saint Paul Legislative Code Section 310.06 sets forth a variety of reasons under which adverse actions can be based. Section 310.06(b)(c) says that adverse action can be pursued for failure to comply with laws related to the licensed activity or from which an inference of lack of fitness or good character may be drawn.

Saint Paul Legislative Code §324.07(i) prohibits the sale of tobacco products to person under the age of twenty-one (21) years.

The Department asserts the following facts along with attachments herein constitute proof of a violation of Minnesota Statute § 609.685, Subd. 4 and Saint Paul Legislative Code §324.07(i) by a preponderance of the evidence.

### **Synopsis of alleged facts:**

On July 20, 2022, at 9:17 am, a tobacco compliance check was conducted at Speedway #4023 located at 577 Smith Avenue South. A minor entered your store and attempted to purchase cigarettes. The minor was asked to show identification, which they did, and it indicated they were underage. Nevertheless, the clerk then sold them a package of Marlboro cigarettes.

Inspector Voyda came into the establishment afterward and spoke to the clerk, Archiebald O. Jacob. He was informed that he failed the minor compliance check by selling Marlboro cigarettes to an underage person.

Sale of tobacco to an underage person is a violation of Minn. Stat. § 609.685 and Saint Paul Legislative Code § 324.07(i).

As the Licensee 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 **September 1, 2022**, I will presume that you agree with the facts as alleged, 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 to the violation and pay the \$500.00 fine. 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 **September 1, 2022**. A self-addressed envelope is enclosed for your convenience. Payment of the \$500.00 fine will be considered an admission to the facts as alleged and a waiver of the hearing to which you are entitled.
3. If you wish to admit the facts but you contest the \$500.00 fine, 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 **September 1, 2022**. The matter will then be scheduled before the City Council to determine whether to impose the \$500.00 fine. 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 **September 1, 2022**. 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 September 1, 2022, I will assume that you agree with the facts as alleged and do not contest the imposition of the \$500.00 Fine. In that case, the matter will be placed on the City Council Consent Agenda for approval of the recommended penalty.**

**Please be advised the clerk who made the sale on this date will be charged a \$50.00 administrative penalty pursuant to Minn. Stat. §461.12, subd. 3. This is a separate action from this license matter.**



**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

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

Sincerely,

/s/  
Therese Skarda  
Assistant City Attorney  
License No.: 0240989

Cc: Cristina Borges, P.O. Box 219088, Dallas, TX 75221  
Realty Income Properties 3, LLC, P.O. Box 182597, Columbus, OH 43218-2597  
Ellie Leonardsmith, Community Organizer, West Side Community Organization,  
Baker Center, 209 Page Street West, Saint Paul, MN 55107

Attachments:      Inspector's Report  
                          Screenshots ECLIPS System  
                          License Group Comments Text  
                          License Group Conditions Text  
                          STAMP – Ownership/Zoning Information  
                          Tobacco Youth Compliance Check Purchase Form  
                          Clerk Identification form  
                          Photos of purchased cigarettes

CITY OF SAINT PAUL  
MELVIN CARTER, MAYOR

STPAUL.GOV

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based on race, color, national origin, religion, sex/gender, disability, sexual orientation, gender identity, age, or veteran status  
in the delivery of services or employment practices.*

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 22nd day of August she served the attached **NOTICE OF VIOLATION RECOMMENDATION FOR IMPOSITION OF A \$500 FINE FOR TOBACCO YOUTH COMPLIANCE CHECK FAILURE** and a correct copy thereof in an envelope addressed as follows:


Northern Tier Retail, LLC  
d/b/a Speedway #4023  
577 Smith Avenue South  
Saint Paul, MN 55107

Cristina Borges  
P.O. Box 219088,  
Dallas, TX 75221

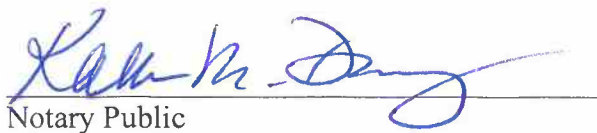
Realty Income Properties 3, LLC  
P.O. Box 182597  
Columbus, OH 43218-2597

Ellie Leonardsmith, Community Organizer  
West Side Community Organization  
Baker Center  
209 Page Street West  
Saint Paul, MN 55107

(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

Subscribed and sworn to before me  
This 22nd day of August 2022

  
Notary Public

