



Legislation Text

File #: RES 24-798, **Version:** 1

Approving adverse action against the Tobacco Shop license held by Garso Mini Mart d/b/a Garso Mini Mart (License ID #20200002430) for the premises located at 189 7th Street East.

WHEREAS, the Tobacco Shop license held by Garso Mini Mart d/b/a Garso Mini Mart (License ID #20200002430) for the premises located at 189 7th Street East, in Saint Paul was the subject of a Notice of Violation License (“Notice”) dated March 22, 2024; and

WHEREAS, the Notice stated that on February 20, 2024, the Department of Safety and Inspections (DSI) received a Seized Cigarette/Tobacco Product letter from the Minnesota Department of Revenue/Tobacco Licensing Division. Attached to the letter was a Notice of Contraband report from an inspection conducted on November 20, 2023, at the licensed premises listing the items seized as contraband which were not listed on the invoice. Therefore, these items were illegally obtained.

WHEREAS, Saint Paul Legislative Code §310.03(m) provides for a presumptive penalty of \$500 for a first-time violation of a provision of the legislative code related to the licensed activity.

WHEREAS, Saint Paul Legislative Code §310.04(b) allows for adverse action when a licensee 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.

WHEREAS, Minnesota Statute §297F.21 states 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).

WHEREAS, the Department of Safety and Inspections recommended a denial of the license application; and

WHEREAS, the Notice gave the licensee until April 1, 2024, to 1) not contest the proposed adverse action; 2) Pay the \$500 penalty fee or 3) request a hearing before Saint Paul City Council; 4) Request an Administrative Hearing; and

WHEREAS, on May 14, 2024, the City Attorney's Office contacted the Department of Safety and Inspections to confirm whether the \$500 penalty fee had been received and was informed the licensee has not paid the \$500 penalty fee; and

WHEREAS, the Notice stated if the licensee failed to contest to the denial of the license application, that the matter would be placed on the City Council Agenda to impose the recommended penalty; now, therefore, be it

RESOLVED, the Tobacco Shop license held by Garso Mini Mart d/b/a Garso Mini Mart (License ID #20200002430) for the premises located at 189 7th Street East in Saint Paul is hereby ordered to pay the penalty fee of \$500 to the Department of Safety and Inspections in violation of Saint Paul Legislative Code §310.03(m).