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Title: Amending Chapter 409.26 of the Saint Paul Legislative Code to simplify matrix penalties for repeat violations.

Sponsors: Kathy Lantry

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
9/28/2011	1	Mayor's Office	Signed	
9/28/2011	1	City Council	Adopted	Pass
9/21/2011	1	City Council	Public Hearing Closed; Laid Over to Fourth Reading/Final Adoption	Pass
9/7/2011	1	City Council	Laid Over to Third Reading/Public Hearing	
8/24/2011	1	City Council	Laid Over to Second Reading	

Amending Chapter 409.26 of the Saint Paul Legislative Code to simplify matrix penalties for repeat violations.

THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:

Section 1

Section 409.26 of the Saint Paul Legislative Code is hereby amended to read as follows:

(a) *Purpose.* The purpose of this section is to establish a standard by which the city council determines the length of license suspensions and the propriety of revocations, and shall apply to all on-sale and off-sale licensed premises for both intoxicating liquor under this chapter and nonintoxicating liquor under Chapter 410. 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.

(e) *Computation of time.*

(1) ~~If a licensee appears before the council for any violation in paragraph (m) where that violation has occurred within twelve (12) calendar months after the first appearance of the same licensee for a violation~~

listed in paragraph (m) above or section 409.26 the current appearance shall be treated as a second appearance for the purpose of determining the presumptive penalty. 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) ~~If a licensee has appeared before the council on two (2) previous occasions for violations listed in paragraph (m) or section 409.26, and if said licensee again appears before the council for a violation listed in paragraph (m), and if the current violation occurs within eighteen (18) calendar months of the violation that gave rise to the first appearance before the council, then the current appearance shall be treated as a third appearance for the purpose of determining presumptive penalty.~~ 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) ~~If a licensee has appeared before the council on three (3) previous occasions, each for violations listed in paragraph (m) or section 409.26 and if said licensee again appears before the council for a violation contained in paragraph (m), and if the current violation occurred within twenty-four (24) calendar months of the violation that gave rise to the first appearance before the council, then the current appearance shall be treated as a fourth appearance for the purpose of determining the presumptive penalty.~~ 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 (12), eighteen (18), or twenty-four (24) 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 in any appearance, the ending date to be used to measure whether twelve (12), eighteen (18), or twenty-four (24) months have elapsed shall be the date of the violation last in time at the first appearance, and the date of the violation first in time at any subsequent appearance.

(5) 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 310.05.

(f) *Other penalties.* Nothing in this section shall restrict or limit the authority of the council to suspend up to sixty (60) days, revoke the license, or impose a civil fine not to exceed two thousand dollars (\$2,000.00), to impose conditions or take any other adverse action in accordance with law, provided, that the license holder has been afforded an opportunity for a hearing in the manner provided for in section 310.05 of this Code.

(g) *Effect of responsible business practices in determining penalty.* In determining the appropriate penalty, the council may, in its discretion, consider evidence submitted to it in the case of uncontested adverse actions or submitted to a hearing examiner in a contested hearing upon which findings of fact have been made that a licensee has followed or is likely to follow in the future responsible business practices in regard to sales to intoxicated persons and sales to minors.

(1) For the purposes of service to intoxicated persons, evidence of responsible business practices may include, but is not limited to, those policies, procedures and actions that are implemented at time of service and that:

- a. Encourage persons not to become intoxicated if they consume alcoholic beverages on the defendant's premises;
- b. Promote availability of nonalcoholic beverages and food;
- c. Promote safe transportation alternatives other than driving while intoxicated;
- d. Prohibit employees and agents of defendant from consuming alcoholic beverages while acting in their capacity as employees or agents;

- e. Establish promotions and marketing efforts that publicize responsible business practices to the defendant's customers and community;
- f. Implement comprehensive training procedures;
- g. Maintain an adequate, trained number of employees and agents for the type and size of defendant's business;
- h. Establish a standardized method for hiring qualified employees;
- i. Reprimand employees who violate employer policies and procedures; and
 - j. Show that the licensee has enrolled in recognized courses providing training to self and one (1) or more employees of the licensed establishment in regard to standards for responsible liquor service.

(2) For the purposes of service to minors, evidence of responsible business practices may include, but is not limited to, those listed in subsection (1) and the following:

- a. Management policies that are implemented at the time of service and that ensure the examination of proof of identification (as established by state law) for all persons seeking service of alcoholic beverages who may reasonably be suspected to be minors;
- b. Comprehensive training of employees who are responsible for such examination regarding the detection of false or altered identification; and
- c. Enrollment by the licensee in recognized courses providing training to self and one (1) or more employees of the licensed establishment in regard to standards for responsible liquor service.

Section 2

This Ordinance shall take effect and be in force thirty (30) days following its passage, approval and publication.