



## Legislation Text

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**File #:** RES 24-1233, **Version:** 1

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Directing the Department of Safety and Inspections to proceed with the \$500 matrix penalty and 10-day license suspension of the Tobacco Shop License and adverse action against Sanaa LLC d/b/a Twins Market & Meat, (License ID #20240000006) for the premises located at 1055 4<sup>th</sup> Street East.

WHEREAS, the Tobacco Shop license (“License”) held by Sanaa LLC d/b/a Twins Market & Meat under License ID #20240000006 for the premises located at 1055 4<sup>th</sup> Street East in Saint Paul (“Licensed Premises”), which is owned by Mustafa Othman Al Zehhawi was the subject of adverse action pursuant to a July 30, 2024, Notice of Violation (Notice”) in which the Department of Safety and Inspections (“Department”) provided notice to the Licensee of its intent to request for an imposition of a \$500 matrix penalty and 10-day license suspension in order to move forward with adverse action supported by Saint Paul Legislative Code 310.03(a); and

WHEREAS, the Notice laid out the basis for adverse action and the Legislative Code upon which the Department was relying as follows:

Saint Paul Legislative Code §310.01, defines Adverse Action as: “the revocation or suspension of a license, the imposition of conditions upon a license, the denial of an application of the grant, issuance or renewal of a license, the imposition of a fine, the assessment of the costs of a contested hearing, and any other disciplinary or unfavorable action taken with respect to a license, Licensee or applicant for a license. “Adverse action” includes any of the foregoing directed at one (1) or more licenses held by a Licensee at any location in the city. “Adverse action” also includes disapproval of licenses issued by the state under statutory provisions which permit the governing body to disapprove the issuance of the license.

### **Violation #1: (\$500 matrix penalty)**

WHEREAS, Department of Safety and Inspections (“DSI”) Licensing Inspector, Eric Hudak was informed of both complaints and reviewed the Twins Market & Meat Licensing Conditions. As a result, DSI requested videos from Twins Market & Meat. As per licensing conditions, the licensee is to produce videos upon request; and

WHEREAS, on May 17<sup>th</sup>, 2024, the Licensee was provided with a letter from DSI requesting that Licensee provide a copy of continuous, uninterrupted video footage from all camera views of the businesses camera surveillance system. The Licensee was to provide that footage to DSI no later than 4:00 p.m. on Monday, May 20<sup>th</sup>, 2024; and

WHEREAS, following the letter of May 17<sup>th</sup>, 2024, the Licensee dropped off the requested footage to DSI. Upon reviewing the footage DSI noticed that 2 out of the 10 camera angles were missing in the footage; and

WHEREAS, on May 21, 2024, the Licensee received another letter from DSI requesting a copy of continuous, uninterrupted video footage from all camera views of the businesses camera surveillance system. The Licensee was to provide that footage to DSI no later than 4:00 p.m. on Thursday, May 23, 2024; and

WHEREAS, the Licensee emailed Sgt. Charles Graupman at DSI that during the downloading process of the video footage, something went wrong and all footage was deleted by mistake. DSI Licensing Manager, Eric Hudak emailed the Licensee and asked him if he took the necessary steps to recover the video footage and

included the licensing conditions with that email. The Licensee responded to DSI stating that he tried to uncover the footage but was unsuccessful. The Licensee sent an email to DSI on May, 22, 2024, with still images showing video was not found. This was a repeat violation of the license condition; and

WHEREAS, On June 25, 2024, according to the police report DSI investigated a complaint regarding menthol tobacco sales at the premises of Twins Market & Meat. It was concluded that a license condition violation took place for failing to provide a copy of the video to DSI upon their request; and

Licensee's licensing conditions states: "Furthermore, in accordance to the license conditions, licensee will ensure that video surveillance camera system is in good working order, ensure it is recording 24 hours per day, ensure that accurate date and time of day are visible on all recorded video. Licensee will retain surveillance video for a minimum of thirty (30) days".

### **Violation #2 (10-Day License Suspension)**

WHEREAS, on April 22, 2024, at 1:00 pm, Officer Hamblin (squad 779) and Officer Ueland (squad 780) were monitoring cameras at the Twins Market & Meat shop. Video cameras footage showed the store employee walk out of the store with a customer. The store employee opened the trunk of his vehicle to retrieve what appeared to be a pack of Newport cigarettes. The customer walked up to the employee's vehicle and stuck his hand out low behind his back to retrieve the pack of apparently cigarettes and walked off. The employee returned to the store; and

Saint Paul Legislative Code §310.14 states:

"That any act or conduct by any clerk, employee, manager or agent of a licensee, or by any person providing entertainment or working for or on behalf of a licensee, whether compensated or not, which act or conduct takes place either on the licensed premises or in any parking lot or other area adjacent to (or under the lease or control of) the licensed premises, and which act or conduct violates any state or federal statutes or regulations, or any city ordinance must be considered to be and treated as the act or conduct of the licensee for the purpose of adverse action against all or any of the licenses held by such licensee".

WHEREAS, on April 23, 2024, Sgt. Graupman was contacted via telephone by District Chief Salim Omari, of the Eastern District. District Chief Omari explained that St. Paul Police CIU (Criminal Intelligence Unit) was monitoring the camera due to high number of citizen complaints regarding quality-of-life concerns involving the following (narcotics, disorderly behavior, and loitering). Additionally, Sgt. Graupman informed District Chief Omari that Twins Market & Meat has an issued cigarette tobacco license and is not a tobacco product shop. Therefore, is prohibited to sell menthol cigarettes; and

WHEREAS, On May 6, 2024 during DSI's investigation, DSI Inspector Joe Voyda was notified by ANSR (The Association for Nonsmokers-Minnesota), that, an undercover decoy was sent into the Twins Market & Meat shop where they had purchased a single pack of Newport Menthol Cigarettes. This information was provided to Inspector Voyda. Inspector Voyda determined that the cigarettes purchased did not contain a MN tax ID stamp, when in fact it contained a Missouri tax ID stamp. Inspector Voyda then mentioned he would need to follow up with the Minnesota Department of Revenue upon completion of DSI's investigation; and

Saint Paul Legislative Code §324.07(i) states:

"That no holder of a license issued under this chapter, nor any employee or agent of the same may sell tobacco products under the age of twenty-one (21) years. Sale to persons under the age of twenty-one (21) years prohibited."

Saint Paul Legislative Code §297F.20 Subd. 5 states:

- (a) “Except as provided in paragraph (b), whenever a package of cigarettes is found in the place of business or in the possession of any person without a proper stamp affixed as required by this chapter, it is presumed that those cigarettes are kept there or held by that person illegally”.

Minnesota Statute §297F.21(a) states:

“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”.

WHEREAS, On May 6, 2024, there was a video camera footage facing the front counter position of a customer purchasing Newport Cigarettes (Menthol) at 10:58 am. It appears a cash sale was made between the employee and the customer. The employee then reached into the corner of the sales counter area where he then handed an item to the customer. At 10:59 am, on the day of the violation, the customer was seen leaving the counter where he then holds up the purchased item which was Newport Cigarettes (Menthol). The customer then leaves the store after this purchase is made. Thus, a violation of the license condition; and

WHEREAS, the Department of Safety and Inspections recommended a \$500.00 matrix penalty for failure to provide video surveillance footage and a 10-day suspension for flavor tobacco; and

WHEREAS, the Notice laid out options for the Licensee:

“You have three (3) options on how to proceed:

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 **August 9, 2024**, 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. If you wish to admit the facts but you contest the penalty, you may have a 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 **August 9, 2024**. The matter will then be scheduled before the City Council to determine whether to suspend your license for ten (10) days. 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 no later than **August 9, 2024**. 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 hearing will need to be scheduled before the City Council. At that time, the City Council will decide whether to adopt, modify or reject the ALJ’s report and recommendation.

WHEREAS, the Notice was sent to the licensee on July 30, 2024, providing that you respond by August 9, 2024, on whether you contest the proposed adverse action; and

WHEREAS, the Notice inadvertently did not include an option to accept the penalty, however Licensee was instructed by the Department of Safety and Inspections that acceptance of the penalty is an option available and understood the options provided to Licensee; and

WHEREAS, the Licensee contacted the Department of Safety and Inspections before the deadline stating they do not contest and accept the penalty; and

RESOLVED, the Tobacco Shop license held by Sanaa LLC d/b/a Twins Market & Meat (License ID #20240000006) for the premises located at 1055 4<sup>th</sup> Street East in Saint Paul is hereby to pay the \$500.00 matrix penalty and have their license suspended for 10 days in violation of Saint Paul Legislative Code §310.03(m), §310.04(b), §310.14, §324.07(i), §324.10(b)(1) and Minnesota Statutes 297F.21(a) and 297F.20 Subd. 5&6.