

Memorandum

To: Council Member Dan Niziolek, Chair, Public Safety & Regulatory Services
Committee

From: James Moncur, Director, Licenses and Consumer Services

Date: 10/22/2004

Re: Beverage Alcohol Licenses for Theaters

Per direction of the Public Safety & Regulatory Services (PS&RS) Committee, staff of the Licenses and Consumer Services Division and the office of the City Attorney have met to discuss the possible effects of a pair of Minnesota Statute amendments that were enacted by 2003 Session of the Minnesota Legislature. These amendments deal with the issuance of on-sale beverage alcohol (intoxicating liquor, wine and malt liquor) licenses to theaters in general.

These amendments read as follows:

340A.101, Subd. 27a. (THEATER) "Theater" means a building containing an auditorium in which live dramatic, musical, dance, or literary performances are regularly presented to holders of tickets for those performances.

And;

340A.404, Subd. (6) (b) A city may issue an on-sale intoxicating liquor license, an on-sale wine license, or an on-sale malt liquor license to a theater within the city, notwithstanding any law, local ordinance, or charter provision. A license issued under this paragraph authorizes sales on all days of the week to persons attending events at the theater.

Prior to the enactment of these amendments, the only method by which a theater could obtain an on-sale beverage alcohol license was to either solicit a special statute from the Legislature (Minneapolis has fifteen (15) such statutes, with four (4) of them inactive), or comply with ordinance requirements (zoning, 60/40, etc.) as did the Suburban World theater. All of the special statutes left the granting of these licenses to the discretion of the City. The City Council has never failed to grant an application for a license under a special statute provision.

Some of these licensees are multi-cultural centers that would fall under the new definition of theater because their buildings contain an auditorium. The Walker Art Center, Minneapolis Institute of Arts and McNamara Center are examples of this.

After examination of the new definition of "theater", staff is of the opinion that the authorization for issuance of an on-sale beverage alcohol license is meant solely for establishments that regularly present live performances for ticket holders. The City has wide latitude in defining "regularly", however, it is obvious that an establishment where the entertainment offering is preponderantly non-live (i.e. simulcasts, etc.) or movie cinema would not qualify for the license under the statute cited above. That is not to say that a theater holding the license could not show a movie on occasion, such as in conjunction with a film festival.

Staff is of the opinion that an establishment holding a theater on-sale beverage alcohol license is not required by the statute to restrict service only in conjunction with events that are ticketed. Thus, the license could be issued to a multi-cultural center and be utilized in conjunction with a number of activities not involving live performances such as workshops, meetings, and art exhibitions.

Given the trouble free history of the existing theaters operating under individual special statutes, it is the recommendation of staff that no ordinance amendments establishing specific restrictions on the operations of theaters be adopted. It is further recommended that Licenses and Consumer Division staff be directed to analyze and justify the proposed operations of an applicant for such a license and to report those findings in the Inspector's Report that is prepared. Appropriate conditions, if warranted, may be placed on individual licenses to resolve specific operations issues.

6.1 in connection with the sale of nonalcoholic beverages only; or
 6.2 (6) in the case of a wholesaler, with the prior written
 6.3 consent of the commissioner, selling beer on consignment to a
 6.4 holder of a temporary license under section 340A.403,
 6.5 subdivision 2, or 340A.404, subdivision 10.

6.6 Sec. 5. Minnesota Statutes 2002, section 340A.318,
 6.7 subdivision 3, is amended to read:

6.8 Subd. 3. [POSTING; NOTICE.] Verified lists or statements
 6.9 required by subdivision 2 shall be posted by the commissioner in
 6.10 offices of the department in places available for public
 6.11 inspection not later than the ~~day~~ Monday following receipt.
 6.12 Documents posted shall constitute notice to every distiller,
 6.13 manufacturer, or wholesaler of the information posted. Actual
 6.14 notice, however received, also constitutes notice.

6.15 Sec. 6. Minnesota Statutes 2002, section 340A.404,
 6.16 subdivision 1, is amended to read:

6.17 Subdivision 1. [CITIES.] (a) A city may issue an on-sale
 6.18 intoxicating liquor license to the following establishments
 6.19 located within its jurisdiction:

6.20 (1) hotels;

6.21 (2) restaurants;

6.22 (3) bowling centers;

6.23 (4) clubs or congressionally chartered veterans
 6.24 organizations with the approval of the commissioner, provided
 6.25 that the organization has been in existence for at least three
 6.26 years and liquor sales will only be to members and bona fide
 6.27 guests;

6.28 (5) sports facilities located on land owned by the
 6.29 metropolitan sports commission; and

6.30 (6) exclusive liquor stores.

6.31 (b) A city may issue an on-sale intoxicating liquor
 6.32 license, an on-sale wine license, or an on-sale malt liquor
 6.33 license to a theater within the city, notwithstanding any law,
 6.34 local ordinance, or charter provision. A license issued under
 6.35 this paragraph authorizes sales on all days of the week to
 6.36 persons attending events at the theater.

7.1 Sec. 7. Minnesota Statutes 2002, section 340A.404,
 7.2 subdivision 2, is amended to read:

7.3 Subd. 2. [SPECIAL PROVISION; CITY OF MINNEAPOLIS.] (a) The
 7.4 city of Minneapolis may issue an on-sale intoxicating liquor
 7.5 license to the Guthrie Theater, the Cricket Theatre, the Orpheum
 7.6 Theatre, ~~and~~ the State Theatre, ~~and~~ the Historic Pantages
 7.7 Theatre, notwithstanding the limitations of law, or local
 7.8 ordinance, or charter provision relating to zoning or school or
 7.9 church distances. The licenses authorize sales on all days of
 7.10 the week to holders of tickets for performances presented by the
 7.11 theaters and to members of the nonprofit corporations holding
 7.12 the licenses and to their guests.

7.13 (b) The city of Minneapolis may issue an intoxicating
 7.14 liquor license to 510 Groveland Associates, a Minnesota
 7.15 cooperative, for use by a restaurant on the premises owned by
 7.16 510 Groveland Associates, notwithstanding limitations of law, or
 7.17 local ordinance, or charter provision.

7.18 (c) The city of Minneapolis may issue an on-sale
 7.19 intoxicating liquor license to Zuhrah Shrine Temple for use on
 7.20 the premises owned by Zuhrah Shrine Temple at 2540 Park Avenue
 7.21 South in Minneapolis, and to the American Swedish Institute for
 7.22 use on the premises owned by the American Swedish Institute at
 7.23 2600 Park Avenue South, notwithstanding limitations of law, or
 7.24 local ordinances, or charter provision relating to zoning or
 7.25 school or church distances.

7.26 (d) The city of Minneapolis may issue an on-sale
 7.27 intoxicating liquor license to the American Association of
 7.28 University Women, Minneapolis branch, for use on the premises




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KEY: ~~stricken~~ = old language to be removed
underscored = new language to be added

NOTE: If you cannot see any difference in the key above, you need to change the display of stricken and/or underscored language.

Authors and Status ■ List versions

H.F. No. 719, 3rd Engrossment: 83rd Legislative Session (2003-2004) Posted on May 20, 2003

1.1 A bill for an act
1.2 relating to liquor; allowing brewpubs to make
1.3 off-sales of the brewpub's own product under certain
1.4 circumstances; modifying a posting requirement;
1.5 modifying licensing provisions; expanding sale hours;
1.6 modifying sampling provisions; authorizing certain
1.7 local on-sale licenses; amending Minnesota Statutes
1.8 2002, sections 340A.101, by adding a subdivision;
1.9 340A.301, subdivisions 6, 7; 340A.308; 340A.318,
1.10 subdivision 3; 340A.404, subdivisions 1, 2; 340A.411,
1.11 subdivision 1; 340A.413, subdivision 4; 340A.504,
1.12 subdivisions 1, 2, 3; 340A.510, subdivisions 1, 2;
1.13 340A.511.
1.14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
1.15 Section 1. Minnesota Statutes 2002, section 340A.101, is
1.16 amended by adding a subdivision to read:
1.17 Subd. 27a. [THEATER.] "Theater" means a building
1.18 containing an auditorium in which live dramatic, musical, dance,
1.19 or literary performances are regularly presented to holders of
1.20 tickets for those performances.
1.21 Sec. 2. Minnesota Statutes 2002, section 340A.301,
1.22 subdivision 6, is amended to read:
1.23 Subd. 6. [FEES.] The annual fees for licenses under this
1.24 section are as follows:
1.25 (a) Manufacturers (except as provided
1.26 in clauses (b) and (c)) \$15,000
1.27 Duplicates \$ 3,000
1.28 (b) Manufacturers of wines of not more
1.29 than 25 percent alcohol by volume \$ 500
2.1 (c) Brewers other than those described
2.2 in clauses (d) and (i) \$ 2,500
2.3 (d) Brewers who also hold one or more
2.4 retail on-sale licenses and who
2.5 manufacture fewer than 3,500 barrels
2.6 of malt liquor in a year, at any one
2.7 licensed premises, using only wort produced
2.8 in Minnesota, the entire
2.9 production of which is solely
2.10 for consumption on tap on the
2.11 licensed premises or for off-sale
2.12 from that licensed premises.
2.13 A brewer licensed
2.14 under this clause must obtain a separate
2.15 license for each licensed premises where
2.16 the brewer brews malt liquor. A brewer