



**Request for City Council Committee Action
From the Department of Regulatory Services
Licenses and Consumer Services Division**

Date: September 9, 2005

To: Public Safety & Regulatory Services Committee

Subject: Amending Title 14, Chapter 364.80 relating to hours of operation of "off-sale" liquor licenses.

Recommendation

The Department of Operations and Regulatory Services recommends that the City Council approve the proposed ordinance amendment.

Previous Directives

None

Prepared or Submitted by: Kenneth Ziegler, Inspector, Licenses and Consumer Services Division

Approved by _____ Ricardo Cervantes, Deputy Director,
Licenses
And Consumer Services Division

Presenters in Committee: Kenneth Ziegler, Inspector, Licenses and Consumer Services Division

Financial Impact No financial impact - or - Action is within current department budget.

Community Impact

City Goals

Background/Supporting Information Attached

A recent amendment to Minnesota Statutes deleted the requirement that “off-sale” liquor licensees located within a city of the first class must close for business at 8:00 PM, Mondays through Thursdays, unless otherwise permitted by law. The proposed amendment to the Minneapolis Code of Ordinances, if adopted, will remove the hour restriction from the statute cited above and Minneapolis “off-sale” liquor stores shall be able to remain open for business until 10:00 PM, Monday through Thursday. “Off-Sale” liquor stores shall remain required to be closed on Sunday, on Thanksgiving Day, on December 25 and after 8:00 PM on December 24.

Several inquiries regarding this proposed amendment have been received from affected licensees, industry representatives and Council members concerning whether or not this amendment is necessary.

On December 12, 1997, then Assistant City Attorney Dana Banwer wrote a Memorandum that relates to this issue. In that instance, the Legislature had enacted a statute that permitted “off-sale” liquor retailers to sell distilled spirits in bottles of 50 milliliters. At that time Minneapolis ordinance prohibited the sale of distilled spirits in bottles of this size. It was Ms. Banwer’s opinion that where a statute confers explicit privileges, as this one did, the conflicting ordinance is void. Thus, even without council adoption of the proposed amendment, Minneapolis “off-sale” liquor licensees could have begun to sell 50 milliliter bottles on the effective date of the statute amendment. In the case of the 50 milliliter bottle matter Ms. Banwer recommended that the conflicting ordinance be amended to conform to the statute as a housekeeping matter.

Given this scenario, Minneapolis “off sale” liquor retailers could have begun to operate under the relaxed hours provided for in the statute on the effective date of the statute amendment (August 1, 2005).

Minnesota Statute 340A.504, subd. 6 which states: “A municipality may further limit the hours of sale of alcoholic beverages, provided that further restricted hours must apply equally to sales of 3.2 percent beer and intoxicating liquor. A city may not permit the sale of alcoholic beverages during hours when the sale is prohibited by this section.” Thus, Minneapolis does have the ability to retain the current Monday through Thursday 8:00 PM closing for “off-sale” liquor retailers, but only if “off-sale” 3.2 percent beer retailers are likewise so restricted. Currently, there are 86 “off-sale” 3.2 percent beer licensees, however, except for establishments located within the central commercial district, all “on-sale” liquor, wine and beer licensees may also sell 3.2 percent beer at “off-sale” if they so choose. This choice is indicated by checking a box on the initial or renewal applications and is not electronically recorded, so the number of “on-sale” licensees whom have elected to sell 3.2 percent beer at “off-sale” is not known.

Both the Licenses and Consumer Services Division and the Police License Investigation Division recommend that the Committee not follow this method of hour restriction since it would place additional requirements on an already strained enforcement effort.

