

CITY OF MINNEAPOLIS
LICENSES AND CONSUMER SERVICES
350 SOUTH 5TH STREET, ROOM 1-C, CITY HALL
MINNEAPOLIS, MN 55415

FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATIONS

In the Matter of License # L173-08301. ZIPP'S LIQUOR. For LIQ. OFF-SALE SERIES 4000

Held by:
ZIPP'S LIQUOR STORE INC
2618 FRANKLIN AVE E
MINNEAPOLIS, MN 55406

09-0702912

This matter came before a License Settlement Conference on Wednesday, June 24, 2009. Present for the License Division were Deputy Director Ricardo Cervantes and Lead License Inspector Julie Casey. Present for the Minneapolis Police License Division were Lt Travis Glampe and Sgt Rolf Markstrom. Appearing for the Licensee was Jennifer and Andy Schoenzeit, representatives of Zipp's Liquor Store, Inc. and their attorney, David Boerigter. Based on the information presented at the hearing the Department makes the following findings of fact.

FINDINGS OF FACT

1. Minneapolis Police License Division conducts youth alcohol compliance checks in an effort to ensure retail alcohol holders are not serving alcohol to persons under the age of 21.
2. On January 19, 2009, Minneapolis Police License Division conducted an alcohol compliance check at Zipp's Liquor, located at 2618 Franklin Avenue East. The employee for Zipp's Liquor failed to ask for identification and the alcohol compliance checkers was able to purchase a six pack of beer. A \$500 administrative citation was issued to Zipp's Liquor. The citation has been paid.
3. On March 2, 2009, Minneapolis Police License Division conducted a second check for alcohol compliance at Zipp's Liquor, located at 2618 Franklin Avenue East. The employee for Zipp's Liquor failed to ask for identification and the alcohol compliance checker was able to purchase a six pack of beer. A\$1000 administrative citation was issued to Zipp's Liquor. The citation has been paid.

4. On June 3, 2009, Minneapolis Police License Division conducted a third check for alcohol compliance at Zipp's Liquor, located at 2618 Franklin Avenue East. The wine manager for Zipp's Liquor failed to ask for identification and the alcohol compliance checker was able to purchase a six pack of beer. A \$2000 administrative citation was issued to Zipp's Liquor. The citation has been paid.
5. A License Settlement Conference was held in April 2009 to discuss the first two failures within a two month period. At the conference in April, they described their alcohol training program as follows. All employees go through alcohol server training through MN Liquor and Beverage Alcohol Association. They hold weekly employee meetings and ask them to request identification for person that appears to be under the age of 40.
They provide their own spot checks to ensure their employees are asking for I identification. They have signs posted in their business that they cannot sell to anyone under the age of 21. They always have a manager present to support the cashiers. Recently they joined with J & J Taylors to send in checkers from that business. They insisted they take alcohol compliance seriously.

New policies were added as follows.

1. The business agreed to write a policy to diminish the likelihood of a sale to a minor. This policy is included the following.
 - a. Signage concerning sale of alcohol to persons above the age of 21 shall be posted at the entrance door and the cash registers.
 - b. Pictures of the State of Minnesota identification cards be given to each employee to make them familiar with the wording on the card that the person holding it is under 21.
 2. The business agreed that all employees would attend an alcohol refresher program on an annual basis from a company of their choice.
 3. The business agreed that a trained manager would be present at all times and will support the employees to prevent alcohol sales to minors.
 4. All employees would take alcohol server training within 30 days of the start of their employment.
 5. A new License Settlement Conference was held on June 24, 2009.
6. A new License Settlement Conference was held on June 24, 2009.

The representatives of Zipp's Liquor stated that they were in compliance of the additional alcohol policies at the time of the third failure. Several unfortunate circumstances occurred that lead to the failure. They believed that if any of their primary cashiers would have been at the third check, a failure would not have occurred. They stated that since the failure they added the following policies.

1. Employees hired to work cash registers will maintain the register as their primary responsibility. Other employees that are not hired as cashiers would generally not

work at the register but rather fill in on the other work that might take the cashier away from the register.

2. On June 22, 2009, a new point of sale software was installed that required the birth date of the customer to be typed into the register before the sale can be completed.

Any person appearing to be under the age of 50 would be asked to produce an identification card.

3. The past manager for hiring and training was let go in May. A new manager was brought in to upgrade training. The new manager already had put in place a training schedule for each new employee.

CONCLUSION

1. Zipp's Liquor Store, Inc allowed alcohol sale to minors on three occasions in 2009 in violation of MCO 364.10.

RECOMMENDATION

1. That the \$1500 stayed fine from the April 2009 license settlement conference is now Reinstated and due on the date this agreement is signed.
2. That the off sale liquor license for Zipp's Liquor Store be suspended for a period of 30 days. 28 days of the suspension be stayed for a period of two years from the date the full City Council approves this agreement under the following conditions:
 - a. no same or similar violations during the said two year period;
 - b. Zipp's shall pay a fine in the amount of \$5000 due within two (2) business days of the date the City Council approves this agreement;
 - c. Zipp's Liquor Store's off sale liquor license will be suspended for two (2) days;
 - d. the two (2) days will be served on two weekdays as selected by Zipp's but must be served within 30 days of this agreement is approved by the City Council. In lieu of giving its employees unpaid time off during the two days Zipp's is closed, Zipp's will pay its employees to serve 80 hours of community service to the Seward Neighborhood Group. The 80 hours represents the approximate staffing level for the two closed weekdays and will be served by staff and management. Proof that the community service has been completed shall be presented to the Licenses and Consumer Services Division by September 30, 2009.
3. Zipp's Liquor will present a new written alcohol policy to the License and Consumer Services Division outlining all the policies presented in number 6 above and is due on the date this agreement is signed.

Zipp's Liquor Store, Inc. understands that the holding of a business or liquor license in the City of Minneapolis is both a privilege and a responsibility, and, as such, it is understood that there is a minimum standard that shall be met in order to hold such a license. Furthermore, it is understood that a license holder is responsible to ensure that its business operates in compliance with all applicable laws, ordinances and regulations. As such, it is understood and agreed that any violation of the above Recommendations shall constitute just and proper cause for the immediate imposition of any agreed upon or stayed penalties. It is further understood that compliance with the above Recommendations is a requirement for continuing to hold a license and that failure to comply with any of these conditions may result in additional adverse license action.

I have read and understand the above findings of fact, conclusions, and recommendations. I agree with their contents and I agree with the above noted Recommendations. I understand that the failure of my business to adhere to this agreement may be cause for further suspension, revocation, or denial of my license. I understand that this report must be accepted and approved by the Minneapolis City Council and Mayor.

Based upon the foregoing, this agreement is FREELY & VOLUNTARILY ENTERED INTO IN GOOD FAITH:

Business

By: J. Delacruz
(signature)

Its: manager
(title)

Dated: 7-14, 2009

For the City of Minneapolis:

Ricardo Cervantes
Ricardo Cervantes
Deputy Director of Licenses

Dated: 7-14, 2009

ZIPP'S LIQUOR STORE, INC.

ALCOHOL POLICY

Mission Statement

Zipp's Liquor Store Inc. (Zipp's) recognizes that it is a privilege to buy and sell alcoholic beverages in the State of Minnesota and with that privilege, realizes that it is our legal and social responsibility to comply with all Minnesota laws, rules and regulations and follow policies as they pertain to the service of alcoholic beverages. We are committed to the safe and responsible sale of all alcoholic beverages to only those patrons who are 21 years of age or older. In order to achieve these goals, we have adopted the following policies.

1. General:

- All new employees will review, with a member of management, the laws, rules and regulations and policies as described in the mission statement prior to making any sale of alcohol. All new cashiers will complete the alcohol server training provided by the Minnesota Licensed Beverage Association (MLBA) within 30 days of being hired. Once trained, all employees will regularly review those laws, regulations and best practices with a member of management, asking for clarification on topics they don't understand and upon completion of the review, acknowledge that they understand and will comply with all of the premise policies governing the sale of liquor or imitation liquor.
- Employees shall comply with all the Minnesota Liquor Laws and Rules and Regulations governing the sale of alcoholic beverages.
- A cashier's primary responsibility is checking out patrons, including verifying age requirements. Cashiers should not perform other jobs that would create a situation where a less trained employee would then need to operate the cash registers.
- Cashiers and trained managers should operate the cash register and make sales to patrons. Other employees will take care of any projects that could take a cashier away from a register, thereby attempting to ensure that there is always a trained cashier at the register to prevent underage sales.
- We will have a trained manager on site at all times to support the cashiers if they have any questions or concerns and to help them prevent sales to underage customers.
- We will hold weekly employee meetings where all policies are reviewed and cashiers are reminded to verify birthdates of all purchasers and to ask to see a valid form of identification for all patrons who appear to be under the age of 50.

- We will hold brief daily check-ins with all cashiers to review policies and remind them to verify birthdates of all patrons and to ask to see a valid identification for all patrons who appear to be under the age of fifty (50).
- We will work with our Hiring and Training Manager and support the Hiring and Training Manager, including helping train cashiers to ask for valid identification and prevent sales to underage patrons.
- No patron under the age of 21 will be allowed to enter the store unless they are accompanied by a parent or legal guardian.
- In order to return the possibility of selling alcohol to minors, we will not sell any products, including non-alcoholic beverage and tobacco products, to anyone under the age of 21.

2. Carding Practices:

- We have installed, and will continue to utilize, new point-of-sale software that requires cashiers to age verify **ALL** patrons by prompting cashiers to input the patron's date of birth prior to completing a sale. Cashiers will enter the patron's date of birth; cashiers are not permitted to enter a fictitious date of birth or a date of birth of someone other than the actual patron.
- Cashiers must ask for a reliable identification from anyone that appears to be under 50 years of age **every time** a patron enters the store to purchase alcohol.
- Our policy is to card anyone that attempts to purchase alcohol and appears to be under the age of 50.
- No employee will accept an expired identification card unless accompanied by the appropriate renewal documentation.
- The cashier will ask for a current, reliable and verifiable pictured identification containing the patron's date of birth (acceptable are state driver's license, state non-driver identification card or a Passport). All out of state driver's licenses or identification cards will be verified with the Driver's License Guide or Identification Card Scanner.
- The cashier will verify that the information and picture on the identification match the person presenting it, paying special attention to the date of birth in order to confirm that the individual is old enough to purchase and that the identification card has not been altered.
- In the event the cashier questions the validity of the identification card the cashier will use the Identification Card Scanner to verify the validity of the identification card.
- In the event any patron fails to show proper identification or if there is doubt by the cashier of the validity of an ID, the sale will be refused.

- No alcohol will be sold to any patron suspected of purchasing the alcohol for the purposes of selling or giving the alcohol to a minor.
- When a patron displays an identification card that is obviously false, the cashier will refuse sale of liquor or imitation liquor and report it to a manager and/or the police.

3. Signage:

- We have posted, and will continue to post, signs at the entrance and at each cash register stating that Zipp's will not sell alcoholic beverages to anyone under 21.
- We have posted, and will continue to post, signs at the entrance that no one under the age of 21 may enter the store unless accompanied by their parent or legal guardian.

4. Miscellaneous:

- Any staff whose responsibilities include the sale, handling or marketing of alcoholic beverages will attend a refresher server training provided by the MLBA each October.
- We will perform our own compliance checks to make sure cashiers are asking for birthdates and checking identification cards to ensure that underage customers are not able to purchase alcohol.
- We have partnered with JJ Taylor Distributing to have them spot check cashiers, helping to prevent sales to underage drinkers.
- Employees will always be professional, friendly and polite with all patrons when complying with Minnesota law and/or store policy, explaining that when service is declined, it is because of Minnesota law and/or store policy.
- All staff should use due diligence in watching for patrons or activities that are not consistent with this policy or Minnesota Law and should report a breach of either to management immediately.
- Managers will periodically monitor employees' performance in the area of compliance with the alcohol policies to ensure that policies are understood and followed by all staff.
- A copy of the Zipp's Liquor Store, Inc. Alcohol Policy will be distributed to every employee at the time the employee is hired.