



City Council Memorandum

To: Mayor Fasbender & City Councilmembers
From: City Administrator Dan Wietecha
Date: September 18, 2023
Item: Speedway Gas Station License Suspension

Council Action Requested:

Approve resolution imposing civil penalties of \$1,000 and a 3-day license suspension of Speedway Gas Station at 1390 S. Frontage Road.

Background Information:

On April 28, 2023, the City of Hastings conducted a liquor license compliance check of Speedway Gas Station, 1390 S. Frontage Road, Hastings, MN 55033. Speedway failed the compliance check and was not enrolled in the Best Practices Program.

Pursuant to Section 111.10 of the City Code Pertaining to Alcoholic Beverages, the presumptive civil penalties for a first offense, Non-Best Practices Business of a \$1,000 and a 3-day license suspension would be levied against Speedway Gas Station. Licensee has been advised of the penalties and that it has an opportunity to demand a hearing before the City Council.

Financial Impact:

Not applicable

Committee Discussion:

Not applicable

Attachments:

- Hastings City Code Section 111.0 Suspension or Revocation of License
- Police Report #23-900068
- Resolution Imposing Sanctions Upon Retail Intoxicating Liquor License Holder Speedway Gas Station

111.10 Suspension Or Revocation Of License

- A. *Suspending License.* The City Council may suspend any retail license for up to 60 days or revoke any retail license for the sale of alcoholic beverages upon the violation of any provision or condition of this chapter or of any state or federal law regulating the sale of alcoholic beverages. The City Council shall revoke the license for any willful violation, which under the laws of this state, is grounds for mandatory revocation.
- B. *Notice To Suspend.* Before the Council shall suspend or revoke any license issued under this chapter, the licensee shall be given at least 10-days' notice stating the time and place of the hearing and the charges against the licensee. The notice shall also state that the licensee may have a hearing conducted under M.S. §§ 14.57 through 14.69 of the Minnesota Administrative Procedures Act, as they may be amended from time to time.
- C. *Presumptive Civil Penalties.* The following process and presumptive penalties shall apply only to liquor license violations involving failure of routine alcohol sales, compliance checks or sales of alcohol to underage persons. There shall be no presumptive penalties for liquor license violations of other types and the City Council may impose any penalties allowed by law for those violations after the notice and opportunity for hearing provided in division (B) above.
 - 1. 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. These penalties are presumed to be appropriate for every case; however, the Council may deviate in an individual case where the Council finds that there exist substantial reasons making it more appropriate to deviate. When deviating from these standards, the Council shall provide written findings that support the penalty imposed.
 - 2. Best Practices Program. The Best Practices Program (BPP) is a program offered by the City with the intent to eliminate sales of alcohol to youth. Participation in the BPP is voluntary, it is offered to both off-sale and on-sale liquor establishments and offers incentives to participating licensees to undertake certain practices with the objective of avoiding sales to minors. The City will assist participating businesses with training and a different set of presumptive penalties will apply to those who choose to participate, should an illegal sale to a minor occur. Licensees may enroll at any time during their license period, and will be offered an opportunity at the time of annual license renewal. Interested licensees will provide written intent to participate, and will be categorized as a Best Practices Business once they have successfully completed the requirements of the program. It is the licensee's responsibility to ensure continued compliance with the program; the City may conduct random verification checks, and recertification will be required during annual renewal of a liquor license. If a Best Practices Business has two (2) or more violations within a three (3) year period, the City Council may choose to disregard a business' participation in the program and apply penalties different than the BPP presumptive penalties.

	<i>Required Items</i>
	A minimum of 75% of alcohol selling employees (at any one time) have attended alcohol training conducted by Hastings Police Department (or other training pre-approved by the City)
	Business has an internal program in place for providing ongoing training of both new and current alcohol selling employees (copy of program and tracking must be provided)

	Business has an internal policy requiring identification checks for anyone appearing to be 40 years old or under (copy of program and tracking must be provided)	VIII-05
Electives (Must Have 40 Points)		
10	Business has an internal employee reward/recognition program for employees who catch any underage customer attempting to purchase alcohol	
10	Businesses uses an automated ID Card Scammer system or	
20	Business uses an automated ID card scanner system that is integrated into register system*	
10	Business has an internal policy setting a minimum age of 21 for employees to sell alcohol products	
10	Business agrees to meet immediately with city staff following a violation (instead of waiting for criminal court proceedings)	
	Total electives selected	
	* Cannot elect both automated ID systems	

3. Underage sales and compliance check failures. The following presumptive penalties apply to liquor license violations involving failure of routine alcohol sales compliance checks or sale of alcoholic beverages to an underage person(s).

Violation	Best Practices Business	Non-Best Practices Business
1st	\$500 civil penalty	\$1,000 civil penalty and 3 day license suspension
2nd (within 24 months of first violation)	\$750 civil penalty and 3 day license suspension	\$1,500 civil penalty and 6 day license suspension
3rd (within 24 months of first violation)	\$1,000 civil penalty and 6 day license suspension	\$2,000 civil penalty and 9 day license suspension
4th (within 24 months of first violation)	Revocation	Revocation
"Best Practices" designation applies to those license holders who at the time of the violation are registered with the city to participate and are in compliance with its alcohol "Best Practices Program".		

- a. Multiple violations. At a licensee's first appearance before the City Council, the Council shall act upon all of the violations that have been alleged in the notice sent to the licensee. The Council in that case shall consider the presumptive penalty for each violation under the 1st Violation column in division (3) above. The occurrence of multiple violations shall be a basis for deviation from the presumptive penalties in the Council's discretion.
- b. Subsequent violation. Violations occurring after the notice of hearing has been sent to the licensee, but prior to the hearing, shall be treated as a separate violation and treated as a subsequent violation before the City Council, unless the City Administrator and licensee agree in writing to add the violation to the appearance and hearing on the initial violation for which notice was sent. The

same procedure shall apply to a second, third or fourth violation considered before the Council.

VIII-05

- c. Subsequent appearances. Upon a second, third or fourth appearance before the City Council by the same licensee, the Council shall impose the presumptive penalty for the violation or violations giving rise to the subsequent appearance without regard to the particular violation or violations that were the subject of the first or prior appearance. However, the Council may consider the amount of time elapsed between appearances as a basis for deviation from the presumptive penalties imposed by this section.
- d. Computation of violations. Multiple violations are computed by reviewing the time period of the two (2) years immediately prior to the date of the most current violation.
- e. Stipulations in lieu of hearing. When a liquor license violation involves a licensee's failure of a routine alcohol sales compliance check or sale of alcohol to an underage person or persons to which these presumptive penalties apply, documentation of the illegal sale shall be sent to the City Council by either the Chief of Police or the City Administrator, together with notice of the applicable presumptive penalty. If no Council member objects to application of the presumptive penalty or otherwise requests that the matter be brought before the Council within 7 days, the City Administrator or City Attorney may enter into a written stipulation with the licensee which shall include a waiver of further notice and hearing by the licensee, a recitation of stipulated facts describing the alleged violation, and setting forth the applicable presumptive penalty to be imposed, provided that all such stipulations shall be subject to the approval of the City Council and if the approval is not granted, the licensee shall have the right to withdraw its waiver of hearing and to demand a hearing before the Council.
- f. Other penalties. Nothing in this section shall restrict or limit the authority of the City Council to suspend a liquor license up to 60 days, to revoke the license, to impose a civil fee not to exceed \$2,000 to impose conditions, or to take any other action in accordance with law; provided that the license holder has been afforded an opportunity for a hearing in the manner provided by this chapter.

D. *Costs*. Once a notice of intent to revoke or suspend a license has been mailed to the licensee, the licensee becomes responsible for all reasonable costs of investigation, administration and hearings associated with the action as a condition of reinstatement, termination of suspension or dismissal of the allegations prior to a hearing.

(Prior Code, § 3.10)

HISTORY

Amended by Ord. 483, 2nd Series on 5/20/2002

Amended by Ord. 509, 2nd Series on 4/5/2004

Amended by Ord. 2009-07, 3rd Series on 7/6/2009



Hastings Police Department

Incident Report

Incident: **GM-Liquor-Purchase/Sell/Bar** **VIII-05**

Incident Report Number: 23-900068	Between: Date - Time	And/At: Date-Time 4/28/23 19:50
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Incident Location:
1390 South Frontage Rd, Hastings, MN, 55033

Offense - 1: 340A.503.2(1)	Offense - 2:	Offense - 3:	Offense - 4:
Offense - 5:	Offense - 6:	Offense - 7:	Offense - 8:

Name (Last, First, Middle)	DOB:	Race/Sex
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Address: (Address, City, State, Zip)	Phone 1
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Employer	Phone 2
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Employer Address	Work Phone #
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Name (Last, First, Middle)	DOB:	Race/Sex
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Address: (Address, City, State, Zip)	Phone 1
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Employer	Phone 2
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Employer Address	Work Phone #
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SUMMARY

On 04/28/2023 at 2013 hours, Officers responded to the 1300 block of South Frontage Road regarding a violation of the Alcohol Compliance Checks.

Vehicle Information: (Year, Make, Model, Style, Color)
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License Number:	State:	Expiration Year:	Vin:	Insurance Company:
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Other Vehicle Information:	NCIC#
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Reporting Officer(s): Willers, Jacob R.	Payroll Number : HAJW01	Report Date: 05/24/2023
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Time Received: 19:50:00	Time Cleared: 20:30:00	Unit(s) Assigned: 1422	Pages: 1 of 5
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Reviewed by: Belisle, Kathleen C.	Payroll Number : hakb03	Copy To
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Date: 05/24/2023
 Offense - 1: 340A.503.2(1)
 Incident Report Number: 23-900068

Hastings Police Department

Continuation

Incident Report Number

23-900068

Incident Location:

1390 South Frontage Rd, Hastings, MN, 55033

Incident Date:

04/28/2023

VII-05

NAMES

Suspect

Poole, Janya Lashay B/F-18 of 1601 South Frontage Rd,
Hastings, MN, 55033-2496
DOB: 02/13/2005
HT: 508 WT: 164 Hair: Black
Eyes: Brown Complexion: Medium

Location of Event

Speedway #4486 of 1390 South Frontage Rd, Hastings, MN, 55033
Phone 1: (651) 480-8700

Other-1

Klann, Gabrielle Marie U/F-18 of 9763 Dunes Ln, Cottage Grove, MN, 55016-4649
DOB: 12/03/2004
HT: 504 WT: 130 Hair: Brown
Eyes: Brown Complexion: Medium

Other-2

Robbins, Adriauna Suzanne U/F-26 of 1000 Peters Pl, 303,
Columbia Heights, MN, 55421
DOB: 02/12/1997
HT: 505 WT: 190 Hair: Black
Eyes: Hazel

Phone 1: (651) 200-1243

Reporting Officer(s):

Willers, Jacob R.

Payroll Number :

HAWJ01

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Hastings Police Department**Continuation**

Incident Report Number

23-900068

Incident Location:

1390 South Frontage Rd, Hastings, MN, 55033

Incident Date:

04/28/2023

VBI-05

NARRATIVE

On 04/28/2023 at approximately 1950 hours, I, School Resource Officer Jake Willers, conducted an alcohol and tobacco compliance check at Speedway (1390 South Frontage Road). The person attempting to purchase tobacco and alcohol for me was Gabrielle Marie Klann DOB/2004-12-03.

I parked directly east of Speedway behind pine trees in another businesses' parking lot. I could not see who was inside the business. Before Gabrielle went inside, we discussed what I wanted her to attempt to purchase, which was Camel Blue cigarettes and Coors Light. If there wasn't Coors Light (some gas stations did not carry Coors Light), then Gabrielle should buy any other alcoholic beverage.

Gabrielle went inside Speedway and returned with a single box of Camel Blue cigarettes, a six pack of Michelob Ultra Lime, 8 dollars in change, and the receipt for the transaction. Gabrielle said she grabbed the six pack of Michelob Ultra Lime and approached the Cashier. The Cashier was described as an African American with "dreads." Gabrielle asked for Camel Blue cigarettes, and the Cashier asked Gabrielle why she wanted Camel Blues. The Cashier still handed Gabrielle the cigarettes and did not ask Gabrielle for her age or identification. The Cashier told Gabrielle the price (\$21.14), and Gabrielle handed the Cashier \$30 in cash. The Cashier provided \$8 in change (all \$1 bills), but the Cashier never provided the change (86 cents). Gabrielle exited the store with the items.

I reviewed the receipt, which showed the transaction occurred at 1957 hours. The name of the Cashier according to the receipt was "Jamya P." I also looked at the Michelob Ultra Lime, which showed an alcohol percentage of four percent in each bottle. I photographed the alcohol, cigarettes, and the receipt, and I uploaded them to the casefile. I brought the cigarettes, alcohol, and the change into the store. At the cash register, I observed a female I knew from Hastings High School. The female was Jamya Lashay Poole DOB/2005-02-13. I briefly spoke with the most senior employee at the time, identified as Adriauna Suzanne Robbins DOB/1997-02-12. I explained the situation to her, and I provided my name and phone number for the manager to call me. I explained to her there would be potential consequences for Speedway. Adriauna said would let the manager know.

I then spoke with Jamya, and I explained to Jamya that she failed the compliance check by selling alcohol and cigarettes to someone under the age of 21. I explained the incident as told by Gabrielle, and Jamya recalled the incident. Jamya remembered Gabrielle not taking the coins for change. I told Jamya that she could face possible criminal charges for serving Gabrielle. Jamya said this was her third shift at Speedway, and nobody trained her. Jamya did not specify what she was not trained to do. Jamya abruptly left and did not speak to me again.

I advised Adriauna to have the manager call me. I was given the \$30 Gabrielle used back, and I gave Audrianna the alcohol and cigarettes back as well. I completed the documentation on the Alcohol

Reporting Officer(s):

Willers, Jacob R.

Payroll Number :

HAJW01

Pages:

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Hastings Police Department**Continuation**

Incident Report Number

23-900068

Incident Location:

1390 South Frontage Rd, Hastings, MN, 55033

Incident Date:

04/28/2023

VBI-05

Compliance Form, and I uploaded it to the casefile. As of 05/04/2023, I have attempted to speak with Management at Speedway three separate times about Jamya's training. The employees took my information and said they would let management know to call me. One of the employees advised me Jamya was terminated from Speedway. The same employee also said Jamya only worked three shifts before being terminated. Management never called me. A voicemail was also left with information regarding the case.

On 05/16/2023 at approximately 1400 hours, I attempted to call Speedway again. The first time I called there were phone issues, and the second time I called, I left a voicemail. I then contacted Speedway Corporate Office, and I spoke with a customer service representative. I advised the representative of the situation, and she sent an email with information to her supervisor. The representative also created a report on her end and provided me with a reference number of CUSTSUP0247956. The representative also provided me with the Law Enforcement Division for Speedway's email, which was LawEnforcement@7-11.com. I sent an email to the Law Enforcement Division as well regarding this situation.

On 05/18/2023, I spoke with Rebecca Vijjeswarapu, who is the Regulatory Compliance Analyst for Speedway. Rebecca provided a phone number of 972-828-6879, and an email address of rebecca.vijjeswarapu@7-11.com. I explained the situation to Rebecca, and she would get back to me. Per company policy, every employee must watch a DVD on compliance checks before running the cash register at any store. Rebecca would try to find out if Jamya received any training.

On 05/24/2023, I spoke with Rebecca again, and she spoke with the Area Manager for the Speedway on South Frontage Road. It was determined Jamya was not trained to use the cash register.

Since Jamya was not trained properly, I decided not to charge Jamya with selling alcohol to a person under the age of 21. I am unable to charge Jamya with selling tobacco to a person under the age of 21 because Jamya was also under the age of 21. Jaymya was advised of the warning on 05/24/2023.

This case should be forwarded to the City Attorney's Office for further review.

See BWC for further information.

Case Status: Refer to City Attorney's Office.

Squad Video: No

Photos: Yes

Reporting Officer(s):

Willers, Jacob R.

Payroll Number:

HAJW01

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Hastings Police Department

Continuation

Incident Report Number

Incident Location:

Incident Date:

23-900068

1390 South Frontage Rd, Hastings, MN, 55033

04/28/2023

VII-05

Refer Adult Services: No

Refer Juvenile Service: No

Physical Evidence: No

Body Cam: No

Statements: Yes

Reporting Officer(s):

Willers, Jacob R.

Payroll Number:

HAWJ01

Pages:

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**CITY OF HASTINGS
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. _____

**RESOLUTION IMPOSING SANCTIONS UPON
RETAIL INTOXICATING LIQUOR LICENSE HOLDER
SPEEDWAY GAS STATION**

WHEREAS, state law authorizes a city council to impose sanctions upon the holder of a retail intoxicating liquor license who has failed to comply with an applicable statute, upon a hearing duly noticed, and the opportunity for the license holder to be heard;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hastings, Minnesota, as follows:

FINDINGS

- A. On April 28, 2023, the Hastings Police Department conducted an alcohol compliance check at the Speedway Gas Station located at 1390 S Frontage Road, Hastings, Minnesota 55033. On that date, an employee of Speedway sold intoxicating alcohol to an underage purchaser cooperating with the Hastings Police Department.
- B. The Police reports attached are stipulated into evidence to support the sanctions imposed herein.
- C. Notice of an intoxicating liquor violation was duly given to the license holder for the premises at 1390 S Frontage Road, Hastings, Minnesota 55033 on September 7, 2023, pursuant to Minnesota Statutes, sections 14.57 to 14.69 and City Code Section 111.10.
- D. In lieu of a hearing, the liquor license holder has agreed to comply with the civil sanctions below and consents to the terms contained herein.
- E. The civil sanctions below are conditioned upon the Hastings City Council’s approval. If the City Council chooses to impose more severe sanctions, the liquor license holder has the right to withdraw its consent.

CONCLUSION

- A. Based upon the police report attached hereto, the City Council concludes that the liquor license holder for the premises at 1390 S Frontage Road, Hastings, Minnesota 55033 (Speedway Gas Station) failed to comply with an applicable statute in that an alcoholic beverage was sold to an underage person on April 28, 2023, in the licensed establishment.
- B. This incident constitutes the liquor license holder’s first violation pursuant to Hastings City Code Section 111.10 within a 24-month period.

C. The liquor license holder is not a member of the Best Practices Program, therefore the presumptive sanction is: \$1,000 fine and 3 day suspension.

D. The following sanctions are imposed for the violation:

1. A \$1,000 civil penalty is imposed against the license holder which must be paid by 4:30 p.m. on September 25, 2023. If not paid, the license will be suspended without notice to the licensee until the civil penalty is paid.
2. The city-issued license will be revoked/suspended for a period of three days, which will occur on these dates: September 28, September 29, and September 30, 2023. The licensee is required to cooperate and work with the Police Chief, who will monitor and ensure compliance with this sanction.
3. While holding a City-issued alcohol license, the licensee or a representative from this establishment will attend any future City-sponsored alcohol compliance training when notified;
4. The license holder will establish an age verification policy for the establishment’s employees and provide the police department with a copy of this policy within 30 days of this resolution;
5. While holding a City-issued alcohol license, the license holder must document and maintain the signatures and dates of any alcohol training their employees receive, including being advised of the policy cited above. This list must be up kept to date and made available to the police department upon request.
6. The license holder shall not have any alcohol-related violations for a period of one year of this resolution.
7. If the licensee fails to comply by the conditions and sanctions set forth in this resolution, the following will occur:
 - a. Any stayed civil penalty will be administratively imposed;
 - b. Any stayed suspended period penalty will be administratively imposed, with the dates of suspension determined by the Police Chief;
 - c. The licensee may be required to attend a Council meeting for additional sanctions.

Adopted by the City Council of the City of Hastings this ___ day of _____, 2023.

Ayes: Nays:

Attest:

Mary Fasbender, Mayor

Kelly Murtaugh, City Clerk

Signed

Printed

Title

DATE