

ROSEVILLE
REQUEST FOR COUNCIL ACTION

Date: January 31, 2022
Item No.: 7.b

Department Approval



City Manager Approval



Item Description: Presumptive Penalty Approval—BP Gas Station (3110 Cleveland Avenue)

BACKGROUND

On Saturday, November 22, 2021, at 11:00 a.m., a plain clothes Roseville police officer, along with an 18-year-old underage compliance checker, entered BP Gas, located at 3110 Cleveland Avenue, Roseville, Minnesota, to conduct a tobacco compliance check. The underage compliance checker approached the front register and requested to purchase a pack of Marlboro cigarettes. The cashier did not review the checker’s identification and processed the sale. The plain clothes officer then identified himself as a police officer. The cashier was administratively cited for the violation and the administrative fine has since been paid.

This is BP Gas Station’s second tobacco violation in the past thirty-six (36) months. On June 15, 2021, a different employee sold an underage compliance checker tobacco without checking their identification.

The Roseville Police Department seeks Council approval to issue and administer the presumptive penalty pursuant to City Code Section 306.09, for tobacco license holders for the second violation within thirty-six (36) months. The mandatory minimum penalty shall be a two thousand dollar (\$2000.00) fine and a three (3) day suspension.

BUDGET IMPLICATIONS

Pursuant to City Code Section 306.09, the financial impact shall be a mandatory penalty of a two thousand dollar (\$2000.00) fine and a three (3) day suspension issued to the license holder for the second violation within thirty-six (36) months.

STAFF RECOMMENDATION

Staff recommends Council approval to issue and administer the presumptive penalty pursuant to City Code Section 306.09, for tobacco license holders for the second violation within thirty-six (36) months. The mandatory minimum penalty shall be a two thousand dollar (\$2000.00) fine and a three (3) day suspension.

REQUESTED COUNCIL ACTION

The Roseville Police Department is seeking Council approval to allow the Roseville Police Department to issue and administer the presumptive penalty as set forth in Section 306.09, of the Roseville City Code or other action as determined by the Roseville City Council.

Prepared by: Joe Adams, Deputy Chief of Police

Attachments:

A: Police Report CN21031046

B: Police Report CN21015877

C: Letter announcing Council Meeting

Title: Compliance Fail

Created By: Haivy Vang

On 11/22/2021, XXXXX XXX acted as my underage tobacco buyer. XXX was only in possession of one valid ID, which is issued by MN which contained his name and birthdate. XXX, his ID, and two \$10 bills XXX was provided were photographed (see photos).

Around 1056 hours, XXX entered 3110 Cleveland Ave (BP). Officer Marston also entered the store behind XXX. XXX made contact with an employee, later identified by his MN driver's license as YESHAK TESHAYE DESTA XXXXXXXXXXXX, at the cash register. XXX requested a pack of Marlboro Gold Pack cigarettes and was informed the total cost was \$10.34. XXX provided payment with two \$10 bills (\$20 total). XXX was sold the Marlboro cigarettes, given his change, and the cigarettes. DESTA never requested XXXXs ID during the transaction.

Upon failing the compliance check, Officer Anderson and I made contact with DESTA, identified myself as a police officer, and advised him of the offense. DESTA was working at a regular cash register, but was able to retrieve the cigarettes himself when requested by XXX or other customers.

I provided the change back to DESTA and collected the two \$10 bills used for payment. I collected the cigarette pack and receipt as evidence. They were photographed and placed in evidence at RPD.

DESTA was issued Roseville Administrative citation #18124 for underage sale of tobacco.

Anderson's PRS was activated during this incident.

Supplemental Report

ICR: 21031046

Last Modified: 12-28-2021 1836

Title: Owner Letter

Created By: Haivy Vang

On 12/28/2021 at 1835 hours, I requested patrol Officer Cook and Biles deliver the tobacco letter to the establishment regarding suspension of their tobacco sales license.

Officer Cook advised me they provided the letter to the owner at the location.

Nothing further.

Supplemental Report**ICR:** 21015877**Last Modified:** 06-16-2021 1711**Title:** Failed Compliance**Created By:** Haivy Vang

On 6/15/2021, XXXXX XXX acted as my underage tobacco buyer. XXX was only in possession of one valid ID, which is issued by MN which contained his name and birthdate. XXX, his ID, and one \$20 bill XXX was provided were photographed (see photos).

Around 1820 hours, XXX entered 3110 Cleveland Ave (BP). I also entered the store behind XXX. XXX made contact with an employee, later identified by his MN driver's license as QASIM SHEIKH, at the cash register. XXX requested a pack of Camel Crush menthol cigarettes and provided payment. Prior to conducting the transaction, SHEIKH grabbed a basket of Camel tobacco products on clearance and offered it to XXX. XXX declined the clearance products and was eventually sold the Camel Menthol cigarettes, given his change, the cigarettes, and a receipt. SHEIKH failed to obtain XXXXX ID during the transaction and sold the cigarettes to XXX without viewing an ID.

It should be noted, next to the cash register was a digital display indicating any individual with a birthday after 6/15/2000 was ineligible to purchase tobacco products per state law.

Upon failing the compliance check, I made contact with SHEIKH, identified myself as a police officer, and advised him of the offense. SHEIKH could not articulate an answer as to why he did not ask for XXXXX ID prior to allowing the transaction.

Also present near the register was the owner, ABDULLAH SHERIAN, who was identified by his MN driver's license. SHERIAN stated he also observed the entire transaction and did not know why SHEIKH had not checked XXXXX ID. SHERIAN said SHEIKH was a new employee and was provided training prior to today's incident.

I provided the change back to SHEIKH and collected the \$20 bill used for payment. I collected the cigarette pack and receipt as evidence. They were photographed and placed in evidence at RPD.

SHEIKH was issued Roseville Administrative citation # for underage sale of tobacco.

PRS not available due to plain clothes undercover mode inside the business.

Supplemental Report**ICR:** 21015877**Last Modified:** 07-28-2021 1738**Title:** Admin Letter/Citation**Created By:** Haivy Vang

On 7/28/2021, at approximately 1533 hours, Officer Eckert and I traveled to 3110 Cleveland Ave (BP) regarding this incident.

We spoke with the on-duty employee, whom I recognized as SHEIKH. SHEIKH stated the manager/owner was not present. I provided SHEIKH RPD's administrative citation/letter and instructed him to provide the citation/letter to the owner of the business.

PRS activated.

Nothing further.

Supplemental Report**ICR:** 21015877**Last Modified:** 08-12-2021 1416**Title:** Admin Fine Received**Created By:** Joe Adams

The \$1000 administrative fine was received and forwarded to finance for processing.

Supplemental Report

ICR: 21015877

Last Modified: 08-18-2021 1459

Title: Seller fine received

Created By: Joe Adams

The fine was received and processed.



December 20, 2021

BP Gas Station
3110 Cleveland Avenue
Roseville, MN 55113

Dear Manager,

On Monday, January 31, 2022, the Roseville City Council will discuss the November 22, 2021 tobacco compliance failure at BP Gas Station. You had an additional failure on June 15, 2021, making this the second violation in a 36 month time frame. Staff has recommended Council impose the presumptive penalty of a \$2000.00 fine and a three day tobacco suspension.

Council discussion of this violation will occur during the "Business Actions" segment of the meeting. A representative from your establishment may appear at the time of the council discussion to offer any information you deem relevant as to whether the Council should deviate from the presumptive penalties set forth in the Roseville City Code. If you choose not to appear at this meeting, the City Council will act without any input from your business. Please note, due to the pandemic, you may attend the January city council meeting virtually. Information on providing input can be found on the city's website at:

<https://www.cityofroseville.com/3458/Attend-a-Meeting-Online>

Summary of Violation:

November 22, 2021 An employee sold an 18 year old compliance checker a pack of cigarettes. This is the second violation in the past 36 months. On June 15, 2021, an employee also sold tobacco to an underage compliance checker. The administrative fine to the employee and the business were both paid and not disputed.

Please be advised if another violation should occur, further penalties will be invoked. If you have any questions, you can reach me at 651-792-7275.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joe Adams'.

Joe Adams
Deputy Chief of Police