

ROSEVILLE
REQUEST FOR COUNCIL ACTION

Date: Sept. 14, 2015
Item No.: 14.c

Department Approval



City Manager Approval



Item Description: Approve Presumptive Penalty for Wing Stop Alcohol Compliance Failure

1
2 **Background**

3 On or about March 11st, 2015, all businesses with a city liquor license were mailed a packet
4 from the Roseville Police Department announcing two city wide alcohol compliance checks to
5 be conducted before the end of the calendar year. On the front of the packet envelope stamped in
6 3/8” letters were the words “ALCOHOL COMPLIANCE!” The 3/8” stamped words were
7 intentionally placed on the front of the envelope to ensure the mailing would be directed to the
8 business owner/manager/alcohol compliance employee. The envelope packet included notice of
9 recent changes to Roseville City Ordinances regarding mandatory liquor licensee training
10 programs and penalties for noncompliance. Also in the letter was a complete copy of the City of
11 Roseville Manager and Server Training Program and the name and telephone number of a police
12 contact should a business have any questions/concerns relating to alcohol compliance.
13

14 **Compliance Failure**

15 On Wednesday, July 8, 2015, at 1:00 p.m., a plain clothes Roseville police officer, along with a
16 17-year old underage buyer, entered the Wing Stop Restaurant located at 2100 Snelling Avenue
17 North, Roseville Minnesota, to conduct an alcohol compliance check. The underage alcohol
18 compliance checker approached the restaurant’s sales counter and when asked, ordered a
19 Leinenkugels Summer Shandy beer. The store’s cashier/on-duty manager asked the compliance
20 checker for his identification. The checker provided his Minnesota photo driver’s license which
21 displays his date of birth of 04-30-1998. The cashier looked at it and then proceeded to ring up
22 the sale for the alcohol. The cashier completed the sale and returned proper change for the cash
23 purchase. The plain clothing officer identified himself as a police officer to the cashier and
24 asked why she sold alcohol to an underage person? The cashier said she “got the dates wrong.”
25 The cashier was later administratively cited for the violation. On Thursday, July 23, 2015, Wing
26 Stop owner provided the police department with paper copies of their store employee
27 manager/server alcohol training records. Upon inspection of these pre-violation employee
28 documents, I was able to determine all of the store’s employees were current with their alcohol
29 manager/server training documents. This is Wing Stop’s first compliance failure/violation in the
30 last thirty six (36) months.
31

32 **Staff Recommendation**

33 Issue and administer the presumptive penalty pursuant to City Code Section 302.15, for off-sale
34 license holders for the first violation within thirty-six (36) months. The mandatory minimum

35 penalty shall be a one thousand dollar (\$1,000.00) fine and a one (1) day suspension.

36

37 **Council Action Requested**

38 Allow the Roseville Police Department to issue and administer the presumptive penalty as set
39 forth in Section 302.15, of the Roseville City Code or other action as determined by the
40 Roseville City Council.

41

42 **Prepared by:** Lt. Lorne Rosand

Attachments:

- A: Police Report CN/15017287
- B: Letter announcing compliance checks and enclosures
- C: Letter announcing Council Meeting
- D: Wing Stop Restaurant Training Records

43



ROSEVILLE POLICE DEPARTMENT

INCIDENT REPORT

ICR# 15017287	AGENCY ORI# MN0620800	JUVENILE: Juvenile Involved	
INCIDENT	<p>Reported: 07-08-2015 1300 Committed Start: 07-08-2015 1300 Committed End: 07-08-2015 1330 Title: Compliance Checks-Alcohol How Received: None Selected Short Description: Alcohol Compliance Failure Summary: Round 1 of 2015 Alcohol Compliance Checks.</p> <p>Wing Stop Alcohol Compliance Failure.</p> <p>See supplements for additional information.</p> Location(s) Wing Stop Address: 2100 SNELLING AV N 66C City: Roseville State: MN Zip: 55113 Country: USA		
OFFICERS	<p>Officer Assigned: Rosand, Lorne (Administrative Action) Badge No: 3 Primary: No Officer Assigned: Adams, Joe Badge No: 200 Primary: Yes</p>		
MOC	<p>MOC: M4102 Literal: LIQUOR - SELLING Statute: 340A-401 UCR: 22</p>		
NAMES	<p>Involvement: Cited Name: Kimaiga, Robyn Lynn DOB: 06-18-1982 Age: 33 Sex: Race: Height: 509 Weight: 240 Address: 547 Central Ave W City: ST PAUL State: MN Zip: 55103 Country: Phone: (Home) (651)206-6576</p> <p>ID Number(s) ID Type: DL / ID Number ID #: XXXXXXXXXXXXXXXX State: Year: Class:</p> <hr/> <p> PRIVATE Involvement: Other Name: XXXXXXXX XXXXXX DOB: 04-30-1998 Age: 17 Sex: Race: Height: 0 Weight: 0 Address: 2660 Civic Center Drive City: Roseville State: MN Zip: XXXXX Country:</p> <hr/> <p>Involvement: Owner Name: Bryant, Howard Lewis DOB: 03-03-1975 Age: 40 Sex: M Race: W Height: 601 Weight: 190 Address: 10170 Jody Ave Court North City: Stillwater State: MN Zip: 55082 Country: USA Phone: (Home) (651)426-0328 Phone: (Work) (651)636-9464 Phone: (Cell) (651)261-4000 Email: (Personal)h.bryant@hotmail.com Eye Color: BRO</p> <p>ID Number(s) ID Type: DL / ID Number ID #: XXXXXXXXXXXXXXXX State: MN Year: Class:</p>		
EVIDENCE	<p>BarCode: 15-02131 Item Type: Alcohol Bin: A42 Value: 1.00 Description: Leinenkugels beer Location Address: 2100 SNELLING AV N 66C City: Roseville State: MN Zip: 55113 Country: USA</p> <p>BarCode: 15-02132 Item Type: Alcohol Container, empty Bin: A42 Value: 1.00 Description: Leinenkugels beer bottle</p>		

Location**Address:** 2100 SNELLING AV N 66C**City:** Roseville**State:** MN**Zip:** 55113**Country:** USA**Supplemental Report****ICR:** 15017287**Last Modified:** 07-09-2015 0923**Title:** Alcohol Compliance Failure**Created By:** Joe Adams

On 07/08/2015 I assisted in conducting alcohol compliance checks for the city of Roseville, MN. Prior to checking local area businesses I met with the underage "buyer", XXXXXX XXXXXX DOB 04/30/1998 (17 years old). I confirmed that XXXXXX only had one valid MN identification (see attached), took a photograph (see attached) and provided him with a \$20 bill (XXXXXX had no additional cash).

On 07/08/2015 at approximately 1300 hours XXXXXX and I entered Wing Stop located at 2100 Snelling Avenue. Once at the cash register I witnessed XXXXXX order a Leinenkugels Summer Shandy beer bottle. The female employee (later identified as Robyn Lynn Kimaiga DOB 06/16/1982) then asked for his identification which XXXXXX provided to her. Upon viewing XXXXXX's MN ID, Kimaiga gave it back, asked for payment of \$3.84, completed the transaction and provided XXXXXX with the beer.

Once the transaction had been completed in my presence, I identified myself as a Roseville Police Officer (presented badge) and asked Kimaiga to come speak with me, Kimaiga complied and we walked into the rear hallway.

Upon speaking with Kimaiga I was informed that she had looked at XXXXXX's identification however, said she got the dates wrong. I then informed Kimaiga of the UNDER 21 label which is above the photo portion of an underage individuals ID and asked if she had received training on checking identifications. Kimaiga stated she had received training, but had forgotten about the UNDER 21 banner. Kimaiga stated that she was the on duty manager.

While speaking with Kimaiga in the rear hallway, an adult black male continually approached and was filming with his cellular phone. The male made several comments in reference to youtube, was cursing and called me a "pig". Kimaiga advised that this male was an on duty employee of Wing Stop by the name of "Tone".

Kimaiga was ultimately issued Roseville administrative citation #21485 for Selling alcohol to an underage buyer.

Nothing further at this time.

Supplemental Report**ICR:** 15017287**Last Modified:** 07-24-2015 1422**Title:** Meeting w/Resaturant Owner**Created By:** Lorne Rosand

On Tuesday, July 14, 2015 at approximately 1500 hours, I traveled to the Roseville Wing Stop located at 2100 Snelling Avenue North Suite 66C.

Upon my arrival, I introduced myself and asked to speak with the owner/manager.

I ultimately spoke with Wing Stop owner Howard Bryant. Our conversation took place in his restaurant at a table near the mall entrance away from customers. After introducing myself, I provided Bryant my business card with incident case number.

After our introductions, I recaped the Wing Stop Thursday, July 8, 2015 alcohol compliance failure. Bryant apologized for having failed the compliance check and said it shouldn't have happened.

I then went through Roseville Code Chapter 302/Liquor Control with Bryant highlighting the fact he must provide annual manager/server training to all employees who serve alcohol (302.08C). Bryant verbally verified he does provide manager/server training and acknowledged receiving the police department's alcohol compliance packet earlier this year.

After completing our conversation about manager/server training, I said I would be back on Thursday, July 23, 2015 at 1500 hours to inspect his training records. Bryant agreed to meet with me and provide copies of the alcohol server training he provides his 4 employees who serve alcohol.

I then explained to Bryant the request for council action (RCA) I would be submitting to council and would keep him informed as to the scheduled review of the compliance violation.

I will continue to supplement as this case progresses.

Supplemental Report

ICR: 15017287

Last Modified: 07-16-2015 0959

Title: Cited - Robyn Kimaiga

Created By: Lorne Rosand

On Wednesday, July 15, 2015 at approximately 1400 hours, I telephoned Robyn Kimaiga (cited) and asked when she would be paying her \$250.00 administrative citation for selling alcohol to a minor?

Kimaiga said she needed additional time to make her payment and asked for a full month.

I agreed to provide Kimaiga an month with payment in full due on Monday, August 10, 2015 by the noon hour. Kimaiga agreed.

I authored the attached letter and mailed it to Kimiaga on the same date advising payment in full was due by Monday, August 10, 2015 by the noon hour and if payment wasn't made, I would forward the case file to the city attorney's office for gross misdemeanor underage sale charging consideration.

I will supplement the case file upon payment in full.

Supplemental Report

ICR: 15017287

Last Modified: 07-16-2015 0959

Title: Cited - Howard Bryant

Created By: Lorne Rosand

On Thursday, July 16, 2015, I mailed Wing Stop liquor license holder Howard Bryant (owner) an administrative citation and cover letter for the sale of alcohol to a underage compliance checker.

I scanned both the administrative cite #21486 as well as the cover letter and attachments to the report's Media file.

In my letter to Bryant, I indicated he has until Monday, July 27, 2015 to make payment in full (\$300.00) for the code violation.

I will supplement report upon receipt of payment.

Supplemental Report

ICR: 15017287

Last Modified: 07-24-2015 1309

Title: Manager/Server Training Records

Created By: Lorne Rosand

At 1500 hours on Thursday, July 23, 2015, I met with Wing Stop store owner Howard Bryant at his restaurant.

Bryant provided me photo copies of his employee manager/server training records for the years of 2014-2015. Bryant explained his restaurant opened in June 2014.

In Bryant's presence, I reviewed both the 2014 as well as 2015 manager/server training records. I found all Wing Stop training records were current and in order.

I scanned 2015 Wing Stop alcohol manager/server training records to the report's Media file.

Supplement for informational purposes.

Supplemental Report

ICR: 15017287

Last Modified: 07-24-2015 1422

Title: Cite #21486 Paid/Howard Bryant

Created By: Lorne Rosand

On Friday, July 24, 2015, I received documentation Howard Bryant had paid his \$300.00 administrative fine reference the July 8, 2015 Wing Stop Restaurant alcohol compliance failure - liquor license holder fine.

I scanned the receipt documenting payment to the report's Media file.

Supplement for informational purposes.

Supplemental Report

ICR: 15017287

Last Modified: 07-24-2015 1425

Title: Request Council Action

Created By: Lorne Rosand

On Thursday, July 24, 2015, I prepared the necessary request council actions (RCA) documents requesting a Monday, September 14, 2015 Roseville City Council action (business actions agenda item) reference the July 8, 2015 Wing Stop Restaurant alcohol compliance failure.

On same date, I mailed Wing Stop Restaurant owner/manager Howard Bryant notification of the September 14, 2015 action item on Roseville Council Agenda.

Supplement for informational purposes.



July 24, 2015

Howard Bryant
Owner/Manager
Wing Stop Restaurant
2100 North Snelling Avenue
Roseville Minnesota 55113

Mr. Howard Bryant;

Reference Roseville PD Case File 15-017287: July 8, 2015 Wing Stop Restaurant Alcohol Compliance Failure

On Monday, September 14, 2015, the Roseville City Council will discuss the July 8, 2015 alcohol compliance failure at Wing Stop Restaurant. Staff has recommended Council impose the presumptive penalty of a \$1000.00 fine and one (1) day liquor license suspension.

A representative of your establishment may appear at the time of the council discussion to offer any information that you deem relevant as to whether the Council should deviate from the presumptive penalties set forth in the Roseville City Code. If you fail to appear at this meeting, the City Council will act without any input from your business.

Summary of Violation:

- March 11, 2015: All businesses with a liquor license in the City of Roseville were mailed a letter from the Roseville Police Department announcing two alcohol compliance checks will be conducted before the end of the year.
- July 8, 2015: A Wing Stop Restaurant employee sold a 17-year old underage compliance buyer an alcoholic beverage. The Wing Stop employee sold an underage alcohol compliance buyer a Leinenkugels Summer Shandy beer. This violation was witnessed by a plain clothing police officer.
- July 23, 2015: Wing Stop Restaurant was able to provide me with photo copies of all store employee alcohol server training records. I reviewed these server training records and found all of your employee alcohol server training records current.

Roseville City Council will consider staff recommendation specific to this violation at its regular meeting scheduled for Monday, September 14, 2015. Council discussion of this violation will occur during the "Business Actions" segment of the meeting.

Finally, please be advised if another violation should occur, further penalties will be invoked. If you have any questions, you can reach me at my desk telephone number of 651-792-7211 during normal business hours.

Sincerely,

Lorne Rosand
Lieutenant

Cc: Rick Mathwig – Chief of Police
Patrick Trudgeon – City Manager
Roseville City Council

RESPONSIBLE MANAGER/SERVER TRAINING CERTIFICATION

Wings & Hops 2100 Breckin Ave N Roswell, GA 30113
Establishment & Address

I acknowledge that I have been taught and understand the attached training material on responsible alcohol beverage serving and I have been given the opportunity to ask questions about any portion I do not understand. I have been given a copy of the training material to keep and review. I acknowledge, as a condition of employment, that I am responsible for compliance with the attached training material and I will manage my behavior to attain zero errors in performance.

[Signature]
Signature

02/27/15
Date

Harold Bryant
Printed name

3/16/14
Date of Hire

[Signature]
Manager's Signature

02/27/2015
Date of Training

Shannon Bryant
Manager's Printed Name

RESPONSIBLE MANAGER/SERVER TRAINING CERTIFICATION

Wing Stop Har Mar 2100 Snelling Ave.
Establishment & Address

I acknowledge that I have been taught and understand the attached training material on responsible alcohol beverage serving and I have been given the opportunity to ask questions about any portion I do not understand. I have been given a copy of the training material to keep and review. I acknowledge, as a condition of employment, that I am responsible for compliance with the attached training material and I will manage my behavior to attain zero errors in performance.

[Signature]
Signature

3/6/15
Date

Alan Nelson
Printed name

10/30/14
Date of Hire

[Signature]
Manager's Signature

3/6/15
Date of Training

Howard Bayman
Manager's Printed Name

RESPONSIBLE MANAGER/SERVER TRAINING CERTIFICATION

Wingstop 2100 Snelling Ave N. Roseville, MN, 55113
Establishment & Address

I acknowledge that I have been taught and understand the attached training material on responsible alcohol beverage serving and I have been given the opportunity to ask questions about any portion I do not understand. I have been given a copy of the training material to keep and review. I acknowledge, as a condition of employment, that I am responsible for compliance with the attached training material and I will manage my behavior to attain zero errors in performance.

Mackenzie Richardson
Signature

3-4-15
Date

Mackenzie Richardson
Printed name

5-28-14
Date of Hire

[Signature]
Manager's Signature


3-4-15
Date of Training

Howard Bryant
Manager's Printed Name

RESPONSIBLE MANAGER/SERVER TRAINING CERTIFICATION

Wings Step #769 2100 Sully Ave N Roseville MN 55113
Establishment & Address

I acknowledge that I have been taught and understand the attached training material on responsible alcohol beverage serving and I have been given the opportunity to ask questions about any portion I do not understand. I have been given a copy of the training material to read and review. I acknowledge, as a condition of employment, that I am responsible for compliance with the attached training material and I will manage my behavior to attain zero errors in performance.


Signature

3/17/15
~~8/18/17~~
Date

DeAndre Smith
Printed name

08/20/2014
Date of Hire


Manager's Signature

7/3/17/15
Date of Training

Howard Bryant
Manager's Printed Name

RESPONSIBLE MANAGER/SERVER TRAINING CERTIFICATION

Wingshop / 2100 S. Holladay Ave N Roseville, MN 55113
Establishment & Address

I acknowledge that I have been taught and understand the attached training material on responsible alcohol beverage serving and I have been given the opportunity to ask questions about any portion I do not understand. I have been given a copy of the training material to keep and review. I acknowledge, as a condition of employment, that I am responsible for compliance with the attached training material and I will manage my behavior to attain zero errors in performance.

B. Shelton
Signature

3/11/15
Date

Brandy Shelton
Printed name

3/11/15
Date of Hire

[Signature]
Manager's Signature

3/11/15
Date of Training

Howard Bryant
Manager's Printed Name

RESPONSIBLE MANAGER/SERVER TRAINING CERTIFICATION

Wing Stop

Establishment & Address

I acknowledge that I have read, understand and understand the attached training material on responsible alcohol beverage serving and I have been given the opportunity to ask questions about any portion I do not understand. I have been given a copy of the training material to keep and review. I acknowledge, as a condition of employment, that I am responsible for compliance with the attached training material and I will manage my behavior to attain zero errors in performance.

Desmond Taylor
Signature

2-28-15
Date

Desmond Taylor
Printed name

9/16/14
Date of Hire

Howard Bryant
Manager's Signature

2-28-15
Date of Training

Howard Bryant
Manager's Printed Name

RESPONSIBLE MANAGER/SERVER TRAINING CERTIFICATION

Whigstop 2100 S. Sullinger Rd. Roseville
Establishment & Address MN

I acknowledge that I have been taught and understand the attached training material on responsible alcohol beverage serving and I have been given the opportunity to ask questions about any portion I do not understand. I have been given a copy of the training material to keep and review. I acknowledge, as a condition of employment, that I am responsible for compliance with the attached training material and I will manage my behavior to attain zero errors in performance.

Desmond Taylor
Signature

12/27/14
Date

Desmond Taylor
Printed name

12/27/14
Date of Hire

Diana Cox
Manager's Signature

12/27/14
Date of Training

Diana L Cox
Manager's Printed Name

RESPONSIBLE MANAGER/SERVER TRAINING CERTIFICATION

Wingstop Hartman 2100 Sneyling
Establishment & Address

I acknowledge that I have been taught and understand the attached training material on responsible alcohol beverage serving and I have been given the opportunity to ask questions about any portion I do not understand. I have been given a copy of the training material to keep and review. I acknowledge, as a condition of employment, that I am responsible for compliance with the attached training material and I will manage my behavior to attain zero errors in performance.

Michealena Nixon
Signature

~~5/7/15~~ 6/7/15
Date

Michealena Nixon
Printed name

~~5/5/15~~ 6/7/15
Date of Hire

Tyrone Thompson
Manager's Signature

6/7/15
Date of Training

Tyrone Thompson
Manager's Printed Name

RESPONSIBLE MANAGER/SERVER TRAINING CERTIFICATION

Wingshop / 2100 Snelling Ave N, Roseville, MN 55113
Establishment & Address

I acknowledge that I have been taught and understand the attached training material on responsible alcohol beverage serving and I have been given the opportunity to ask questions about any portion I do not understand. I have been given a copy of the training material to keep and review. I acknowledge, as a condition of employment, that I am responsible for compliance with the attached training material and I will manage my behavior to attain zero errors in performance.

[Signature]
Signature

4-20-15
Date

Denise Coines
Printed name

6/24/14
Date of Hire

[Signature]
Manager's Signature

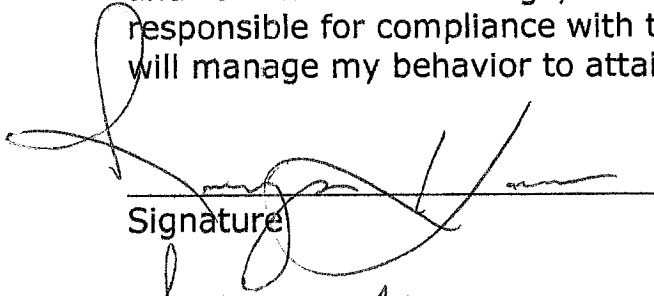
4-20-15
Date of Training

Howard Boyer
Manager's Printed Name

RESPONSIBLE MANAGER/SERVER TRAINING CERTIFICATION

2100 Swellm AVE N Rosville MN 55113 / Wings Stop
Establishment & Address

I acknowledge that I have been taught and understand the attached training material on responsible alcohol beverage serving and I have been given the opportunity to ask questions about any portion I do not understand. I have been given a copy of the training material to keep and review. I acknowledge, as a condition of employment, that I am responsible for compliance with the attached training material and I will manage my behavior to attain zero errors in performance.


Signature

Robin Kimeriya
Printed name

2-28-15
Date

05/28/14 - 06/04/14
Date of Hire


Manager's Signature

2/28/15
Date of Training

Howard Bryant
Manager's Printed Name