

ROSEVILLE
REQUEST FOR COUNCIL ACTION

Date: Oct. 22, 2012
Item No.: 12.e

Department Approval



City Manager Approval



Item Description: Approve Presumptive Penalty – Rainbow Foods Liquor Store Alcohol Compliance Failure

Background

On March 26th, 2012, 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 would be conducted before the end of the year. The letter included notice of recent changes to Roseville City Ordinances regarding mandatory liquor licensee training programs and penalties for noncompliance. Also in the letter were instructions for the City of Roseville mandatory liquor licensee training program and the name of a police contact should a business need additional information on the licensee program. Training was to be completed by every employee prior to the employee selling or serving alcohol and documentation of this training was to be completed and kept on file by the business.

Compliance Failure

On Friday, August 31, 2012, an 18-year old underage alcohol compliance checker entered the Rainbow Foods Liquor Store located at 1201 Larpenteur Avenue, Roseville, Minnesota to conduct an alcohol compliance check. The underage checker entered the liquor store, went to the beer cooler, removed a six pack of Bud Light Beer and approached the cashier. The liquor store cashier asked to see the compliance checker's driver's license which she produced and handed to the cashier. The cashier looked at the license and returned it to the compliance checker and finalized the sale of Bud Light Beer. A plain clothing police officer then administratively cited the seller for the violation and released her. When the officer questioned the cashier about the sale, the cashier said the buyer was 21 years old because she checked her identification. When the compliance checker showed the cashier her driver's license a second time, the cashier looked at the driver's license and said she thought the buyer was 21 on February 14, 2012. The cashier went on to say she had read the license wrong and said she (the checker) turned 18 on February 14, 2012. On September 4, 2012, Rainbow Food Liquor Store was mailed a letter requesting documentation of a City of Roseville approved liquor licensee training program. This documentation was to be received by the police department no later than September 18, 2012. On September 10, 2012, Rainbow Foods Liquor Manager – Susan Quinn provided Lt. Lorne Rosand with server training documents from an on-line alcohol server training company (SureSellNow) that wasn't on the list of city authorized trainers. This is Rainbow Food Liquor Stores first liquor compliance failure/violation in the last thirty six (36) months.

Staff Recommendation

Issue and administer the presumptive penalty pursuant to City Code Section 302.15, for off-sale license holders for the first violation within thirty-six (36) months. The mandatory minimum penalty shall be a one thousand dollar (\$1,000.00) fine and a zero (0) day suspension.

Council Action Requested

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

Discuss violation of City Code Section 302.08, *Manager and Server Training*. Failure to comply with this provision in its entirety is sufficient grounds for denial or nonrenewal of a requested license in 2013.

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At a December 12, 2011 Council Meeting, Council fined Smash Burger Restaurant an additional \$1000.00 beyond the presumptive civil penalty for selling alcoholic beverage to a person under the age of 21-years. The additional \$1000.00 fine was for failing to provide current *Manager and Server Training* to its employee(s).

Prepared by: Lt. Lorne Rosand

Attachments:

- A: Police Report
- B: Letter announcing compliance checks
- C: Notification of failure and investigation
- D: Rainbow Liquor employee training documents
- E: Letter announcing Council Meeting



ROSEVILLE POLICE DEPARTMENT

INCIDENT REPORT

ICR# 12023569	AGENCY ORI# MN0620800	JUVENILE:																																																		
INCIDENT	Reported: 08-31-2012 1441 Committed Start: Committed End: Title: Alcohol Compliance Failure How Received: None Selected Short Description: Sale to under age 21 person during compliance check. Summary: Alcohol compliance failure. Location(s) Rainbow Foods Address: 1201 LARPENTEUR AVE W City: Roseville State: MN Zip: 55113 Country: USA																																																			
OFFICERS	Officer Assigned: Rosand, Lorne (Administrative Action) Badge No: 3 Primary: No																																																			
NAMES	<table style="width: 100%; border: none;"> <tr> <td style="width: 30%;">Involvement: Suspect</td> <td style="width: 30%;">Name: Johnson, Shelley Marie</td> <td style="width: 20%;">DOB:</td> <td style="width: 20%;">Height: 504</td> <td style="width: 10%;">Weight:</td> </tr> <tr> <td>Age:</td> <td>Sex:</td> <td>Race:</td> <td>State: MN</td> <td>Zip: 55113</td> </tr> <tr> <td>Address:</td> <td>City: ROSEVILLE</td> <td>State: MN</td> <td>Zip: 55113</td> <td>Country:</td> </tr> </table> <hr/> <table style="width: 100%; border: none;"> <tr> <td style="width: 30%;">Involvement: Mentioned</td> <td style="width: 30%;">Name: Quinn, Susan Rae</td> <td style="width: 20%;">DOB: 1</td> <td style="width: 20%;">Height:</td> <td style="width: 10%;">Weight:</td> </tr> <tr> <td>Age:</td> <td>Sex:</td> <td>Race:</td> <td>State: MN</td> <td>Zip: 55117</td> </tr> <tr> <td>Address:</td> <td>City: ST PAUL</td> <td>State: MN</td> <td>Zip: 55117</td> <td>Country:</td> </tr> <tr> <td colspan="5">Phone: (Work) (651)489-5050 Email: (Work)Susan.Quinn@roundys.com</td> </tr> </table> <hr/> <table style="width: 100%; border: none;"> <tr> <td style="width: 30%;">Involvement: Mentioned</td> <td style="width: 30%;">Name: Rainbow Foods</td> <td style="width: 20%;">State: MN</td> <td style="width: 20%;">Zip: 55113</td> <td style="width: 10%;">Country: USA</td> </tr> <tr> <td>Address: 1201 Larpenteur Ave</td> <td>City: Roseville</td> <td>State: MN</td> <td>Zip: 55113</td> <td>Country: USA</td> </tr> <tr> <td colspan="5">Phone: (Business) (651)488-1825</td> </tr> </table>		Involvement: Suspect	Name: Johnson, Shelley Marie	DOB:	Height: 504	Weight:	Age:	Sex:	Race:	State: MN	Zip: 55113	Address:	City: ROSEVILLE	State: MN	Zip: 55113	Country:	Involvement: Mentioned	Name: Quinn, Susan Rae	DOB: 1	Height:	Weight:	Age:	Sex:	Race:	State: MN	Zip: 55117	Address:	City: ST PAUL	State: MN	Zip: 55117	Country:	Phone: (Work) (651)489-5050 Email: (Work)Susan.Quinn@roundys.com					Involvement: Mentioned	Name: Rainbow Foods	State: MN	Zip: 55113	Country: USA	Address: 1201 Larpenteur Ave	City: Roseville	State: MN	Zip: 55113	Country: USA	Phone: (Business) (651)488-1825				
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EVIDENCE	BarCode: 12-10424 Item Type: Alcohol Bin: A34 Value: Description: Six pack of Bud Light cans Location Address: 1201 LARPENTEUR AVE W City: Roseville State: MN Zip: 55113 Country: USA																																																			

Supplemental Report

ICR: 12023569

09-04-2012 0900

Title: Alcohol Compliance Check

Created By: Greg Levendoski

On 08-31-12 XXXXX XXXXX (XXXXXXXXXXXX) acted as my underage alcohol buyer. XXXXX viewed the underage buyer video prior to the beginning of compliance checks. I had officer Reski take a digital photograph and search XXXXX finding only one photo DL which is attached to this report.

At approx. 1020 hours XXXXX walked into the business of Rainbow Foods and went to the liquor side of the business. XXXXX went to the cooler area and grabbed one six pack of Bud Light beer. XXXXX walked up to the check out area and the clerk asked to see her drivers license. XXXXX stated she handed the clerk her drivers license she looked at it for a few seconds and handed it back and rang the sale through. XXXXX came out the

doors of the business holding a bag with the beer in it and waved to me to come to her location. XXXXX went back into the business with me and pointed out the clerk that sold her the beer moments ago.

I identified myself as a Roseville police officer and asked the clerk for her ID. (The clerk was ID via her MN photo DL as Shelley Marie Johnson dob . Johnson stated to me "I checked, She is 21" I had XXXXX show her drivers license to Johnson. Johnson looked at it again and said "I thought it said 21 as of 02-14-2012, I read it wrong it says age 18 02-14-2012". I also pointed out to Johnson that right above the photo in red is says under 21.

I advised Johnson's manager of what happened who I verbally ID as Sue Quinn. I asked both of them if they had any questions for me at this time and both stated "No".

I propertied the Bud Light beer into property locker #11

I cited Johnson with an administrative citation # 22120 for selling alcohol to an underage person.

Supplemental Report

ICR: 12023569

09-05-2012 1505

Title: Training Records Request

Created By: Lorne Rosand

On Tuesday, September 4, 2012, I sent the attached letter to Rainbow Foods Liquor Store Manager Sue Quinn.

In this letter, I request Quinn to provide me with alcohol server training records for Shelley Johnson as well as all employees authorized to sell liquor at this establishment. Quinn was given until Tuesday, September 18, 2012 to provide me with all alcohol server training records.

Report is for informational purposes.

Supplemental Report

ICR: 12023569

09-05-2012 1504

Title: Administrative Citation Paid

Created By: Lorne Rosand

On Tuesday, September 4, 2012, I learned Shelley Johnson had paid her administrative fine of \$250.00 reference cite number 22120.

Report is for informational purposes.

Supplemental Report

ICR: 12023569

09-14-2012 1105

Title: Server Training Records

Created By: Lorne Rosand

On Monday, September 10, 2012 at approximately 1045 hours, I met with Susan Quinn who is the Rainbow Liquor Store Manager reference alcohol server training certificates.

Quinn provided me with eight employee alcohol server documents. Quinn said all of her employees were current. Upon reviewing the server documents, I noted the alcohol server training was completed by a company called SURESELL located in Cedar Park Texas.

Upon inspection of the completion and expiration dates of each of these nine certificates, I noted:

- two certificates were current
- three certificates were expired - to include violator server Shelly Johnson
- three certificates were completed POST violation - after August 31, 2012

I advised Quinn of my observations and the fact 6 of the 8 liquor store employees were in violation of liquor server training requirements (302.08C) on the date (August 31st) of violation. Quinn asked when annual server training requirements went into effect. I explained city code required alcohol server training as long as I had been charged with alcohol compliance check and was in fact written into code. Quinn said she wasn't aware of "annual" server training.

Upon closer inspection of Rainbow's Liquor Store alcohol server training records on Thursday, September 13, 2012, I noted the training indicates "PLYMOUTH MN." When I checked the SureSell web site - www.suresellnow.com I learned the training the Rainbow Liquor Store employees had taken was specific to Plymouth Minnesota not Roseville Minnesota. It appears the city of Plymouth has a 3-year annual server training requirement.

SureSell is **not** a city approved alcohol server trainer thus all of the Rainbow Liquor Store employees are without current alcohol server training.

I telephoned Quinn and informed her of my findings. Quinn assured me she would have all of her liquor store employees alcohol server trained by using the city's alcohol server training packet.

Report is for informational purposes.



Date

Business

Address

Roseville, MN 55113

ATTN: MANAGER

Please thoroughly review the following information as it pertains to alcohol compliance checks conducted by the Roseville Police Department, relative to your establishment.

The City of Roseville began alcohol compliance checks on licensed alcoholic beverage sellers in 1997. At that time, the compliance rate was only 70%. Nearly 30% of our licensees failed those compliance checks. Our goal is to achieve 100% compliance. We need your cooperation to make that happen.

The Roseville Police Department conducts yearly compliance checks to insure licensed alcoholic beverage sellers in the City of Roseville are complying with State law and Roseville Code Provisions relating to the selling of alcoholic beverages.

Please review the following relating to sales of alcohol to underage persons:

Minnesota Statute Chapter 340A.503 PERSONS UNDER 21; ILLEGAL ACTS.

Subdivision 1. Consumption.

(a) It is unlawful for any:

(1) retail intoxicating liquor or 3.2 percent malt liquor licensee, municipal liquor store, or bottle club permit holder under section 340A.414, to permit any person under the age of 21 years to drink alcoholic beverages on the licensed premises or within the municipal liquor store;

Subdivision 2. Purchasing. It is unlawful for any person:

(1) to sell, barter, furnish, or give alcoholic beverages to a person under 21 years of age;

The City of Roseville has passed Chapter 302, Roseville's Liquor Control Ordinance. The Roseville Police Department encourages you to become familiar with the Liquor Control Ordinance. It can be obtained at the Roseville City Hall or in the city code at www.ci.roseville.mn.us.

The civil penalties for underage alcoholic beverage sales are set forth in the Roseville City Code. Presumptive penalties are set forth in § 302.15 of the Code. These penalties vary depending upon whether it is a first time violation, a second time violation, a third time violation, etc.

The Roseville Police Department has worked with City alcoholic beverage licensees to promote training for both servers and managers to prevent sales of alcohol to underage persons, and to prevent other violations of the Liquor Control Ordinance. All licensees and their managers, and all employees or agents employed by the licensee that sell or serve alcohol, must complete a city approved or city provided liquor licensee training program. Free training packets are available from the City. Contact Kelly Roberto of the Roseville Police Department at kelly.roberto@ci.roseville.mn.us to receive a packet or the names of approved trainers.

Both the City's approval and the required training shall be completed:

1. Prior to licensure or renewal for licensees and managers, or
2. Prior to serving or selling for any employee or agent, and
3. Every year thereafter.

Your business must maintain documentation that you have properly trained every employee that sells or serves alcohol, and produce such documentation upon reasonable request made by a peace officer, health officer or properly designated officer or employee of the city. The City will not maintain these records for you. Additional penalties may be assessed if you are unable to provide documentation or it is determined the employee did not under-go the required training.

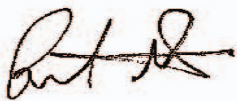
The mandatory minimum penalty for the sale of alcoholic beverages to underage individuals is a \$1,000 fine and a one day suspension.

These penalties are civil in nature. Please be aware criminal penalties may also be imposed for violations of the Liquor Control Ordinance.

The Roseville Police Department will conduct two compliance checks in 2012 beginning this spring. Please remind your employees of their legal and moral responsibility not to sell or serve alcoholic beverages to anyone under the age of 21.

Once again, we encourage you to review Roseville City Code, Chapter 302, to insure that you have familiarized yourself with the local regulations applicable to your establishment. If you have any questions, please contact Lt. Lorne Rosand at 651-792-7211.

Sincerely,



Rick Mathwig
Chief of Police



September 4, 2012

Sue Quinn
Rainbow Foods
1201 Larpenteur Avenue
Roseville Minnesota 55113

Sue Quinn – Liquor Store Manager;

The City of Roseville has an ordinance prohibiting the sale of any alcoholic beverage to persons under the age of 21 years. A copy of Roseville Code 302 has been enclosed for your review. Please note Section 302.15 of code where minimum penalties are stipulated.

On August 31, 2012, a Rainbow Food employee named Shelley Johnson sold an alcoholic beverage to a minor in violation of the attached code. Our records indicate that this is your first violation in the previous thirty-six (36) months. Therefore, pursuant to Section 302.15 of Roseville City Code, the presumptive penalty for a first violation for sale of an alcoholic beverage to a person under the age of twenty-one is a minimum penalty of a \$1,000.00 fine and a one (1) day suspension.

This incident is currently under investigation by the Roseville Police Department. You are being asked to provide a training certificate documenting Shelley Johnson has completed a city approved liquor license training program. **I must receive a copy of Johnson's training certification from you by Tuesday, September 18, 2012. Failure to provide this training certification may result in additional penalties because of non compliance. You are also being mandated to provide server training records for all employees who are authorized to serve liquor at your establishment. These server training documents are also due by Tuesday, September 18, 2012.**

When a violation occurs, the police department provides information to the City Council, which either will assess the presumptive penalty set forth above or depart upward or downward based on extenuating or aggravating circumstances. The information set forth in this letter regarding the failed compliance check will be passed on to the City Council, as well as information regarding your participation in the manager and server training program and the history of compliance checks at your establishment. Once the date of the Council meeting is established, I will send you notice.

A representative of your establishment may appear at the Council meeting 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 that meeting, the City Council will act without any input from your establishment.

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

Sincerely,

Lorne R. Rosand
Lieutenant
Roseville Police Department

Enclosure

Cc: Rick Mathwig – Chief of Police
Bill Malinen – City Manager

Rainbow Liquor Store
CURRENT Alcohol
Server Training
Employees

Responsible Beverage Server Training - Plymouth, MN

Nicole Proulx

has met all training requirements and successfully completed the above course and/or exam.

Date of Completion: 06-15-2012

Expiration Date: 06-15-2015

Rhianon Eltete

Authorized Signature

Diversys Learning, Inc.
1101 Arrow Point Drive, Suite 302
Cedar Park, TX 78613

Responsible Beverage Server Training - Plymouth, MN

Christopher Bengtson

has met all training requirements and successfully completed the above course and/or exam.

Date of Completion: 03-14-2012

Expiration Date: 03-14-2015



Authorized Signature

Rainbow Liquor Store
EXPIRED Alcohol Server
Training Employees

Responsible Beverage Server Training - Plymouth, MN

Shelley Johnson

has met all training requirements and successfully completed the above course and/or exam.

Date of Completion: 09-14-2010

Expiration Date: 09-13-2013



Authorized Signature

Diversys Learning, Inc.
1101 Arrow Point Drive, Suite 302
Cedar Park, TX 78613

Responsible Beverage Server Training - Plymouth, MN

Erik Shaw

has met all training requirements and successfully completed the above course and/or exam.

Date of Completion: 11-15-2011

Expiration Date: 11-14-2014

Rhianm Eltiste

Authorized Signature

Diversys Learning, Inc.
1101 Arrow Point Drive, Suite 302
Cedar Park, TX 78613

Responsible Beverage Server Training - Plymouth, MN

Daniel O'Brien

has met all training requirements and successfully completed the above course and/or exam.

Date of Completion: 05-07-2010

Expiration Date: 05-06-2013

Rhiana Eltiste

Authorized Signature

Diversys Learning, Inc.
1101 Arrow Point Drive, Suite 302
Cedar Park, TX 78613

Rainbow Liquor Store
Alcohol Server Training
Employees Who
Completed Server
Training **POST Violation**
– August 31, 2012

Responsible Beverage Server Training - Plymouth, MN

Susan Quinn

has met all training requirements and successfully completed the above course and/or exam.

Date of Completion: 09-06-2012

Expiration Date: 09-06-2015

Rhianm Eltiste

Authorized Signature

Diversys Learning, Inc.
1101 Arrow Point Drive, Suite 302
Cedar Park, TX 78613

Responsible Beverage Server Training - Plymouth, MN

Anthony Hyland

has met all training requirements and successfully completed the above course and/or exam.

Date of Completion: 09-06-2012

Expiration Date: 09-06-2015

Rhianon Eltsie

Authorized Signature

Diversys Learning, Inc.
1101 Arrow Point Drive, Suite 302
Cedar Park, TX 78613

Responsible Beverage Server Training - Plymouth, MN

Ruth Giefer

has met all training requirements and successfully completed the above course and/or exam.

Date of Completion: 09-07-2012

Expiration Date: 09-07-2015

Rhianm Eltiste

Authorized Signature

Diversys Learning, Inc.
1101 Arrow Point Drive, Suite 302
Cedar Park, TX 78613



September 17, 2012

Susan Quinn – General Manager
Rainbow Foods Liquor Store
1201 Larpenteur Avenue
Roseville Minnesota 55113

Susan Quinn;

Reference Roseville PD Case File 12-023569: August 31, 2012 Rainbow Foods Liquor Store Alcohol Compliance Failure.

On Monday, October 22, 2012, the Roseville City Council will discuss the August 31, 2012 alcohol compliance failure at Rainbow Foods Liquor Store. Staff has recommended Council impose the presumptive penalty of a \$1000.00 fine and zero (0) 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 establishment.

Summary of Violation:

- March 26, 2012: 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 would be conducted before the end of the year.
- August 31, 2012: A Rainbow Food Liquor Store employee sold an underage compliance checker an alcoholic beverage. The Rainbow Food Liquor Store employee seller looked at the compliance checker's drivers license and sold her a six pack of Bud Light Beer. The employee server was administratively cited for the violation.
- September 4, 2012: The Rainbow Food Liquor Store seller/violator paid a \$250.00 administrative fine to the City of Roseville for violating city code.
- September 10, 2012: Rainbow Food Liquor Store provides server training documentation showing the offending seller wasn't current with her annual alcohol server training. Further research indicates the alcohol server training provided by Rainbow Liquor Store was from a web based training company not currently authorized by the city of Roseville to train.

Roseville City Council will consider staff recommendation specific to this violation at its regular meeting scheduled for Monday, October 22, 2012. 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
Bill Malinen – City Manager
Roseville City Council