Request for City Council Committee Action from the Department of Regulatory Services

Date: November 1, 2010

To: Elizabeth Glidden, Chair
Regulatory, Energy and Environment Committee

Subject: Update Chapter 281 of the Minneapolis Code of Ordinances, Tobacco Dealers, to conform with recent changes to state law, The Minnesota Tobacco Modernization and Compliance Act, Senate File 3055, effective date August 1, 2010.

Recommendation: That the Regulatory, Energy and Environment Committee approve changes to Title 13, Chapter 281, Tobacco Dealers to

- Amend definitions of tobacco, tobacco products, tobacco products shop, and tobacco related devices
- Restrict free giveaways of novel tobacco products
- Prevent youth from buying new tobacco products and e-cigarettes
- Prohibit indoor smoking of tobacco samples in exclusive tobacco shops
- Increase the penalty for the third underage tobacco sale violation in two years from $600 to $800
- Increase the penalty for the fourth underage tobacco sale violation in two years from $800 to $1600

Department Information

Prepared by: Grant Wilson, Acting Deputy Director, Licenses and Consumer Services, 673-3902

Approved by:

Grant Wilson, Acting Deputy Director, Licenses and Consumer Services

Rocco Forte, Director of Regulatory Services

Presenter: Grant Wilson, Licenses and Consumer Services

Background and Supporting Information: On August 1 the State of Minnesota implemented the Tobacco Modernization and Compliance Act of 2010 which represents a first-of-its-kind law in the country. The new law limits youth access to tobacco by confining placement of products behind counters and eliminating self-service sales, restricting free giveaways of novel tobacco products, and preventing purchases of new tobacco products and e-cigarettes. With these changes, Minnesota is keeping pace with a rapidly evolving tobacco industry that continues to innovate and adapt in an increasingly smoke-free environment.

Business establishments that sell any tobacco related product, such as rolling papers or pipes for example, but do not sell tobacco will be required to discontinue such retail sales or obtain a tobacco dealers license which is limited to businesses located in a C-2 or higher zoning district.

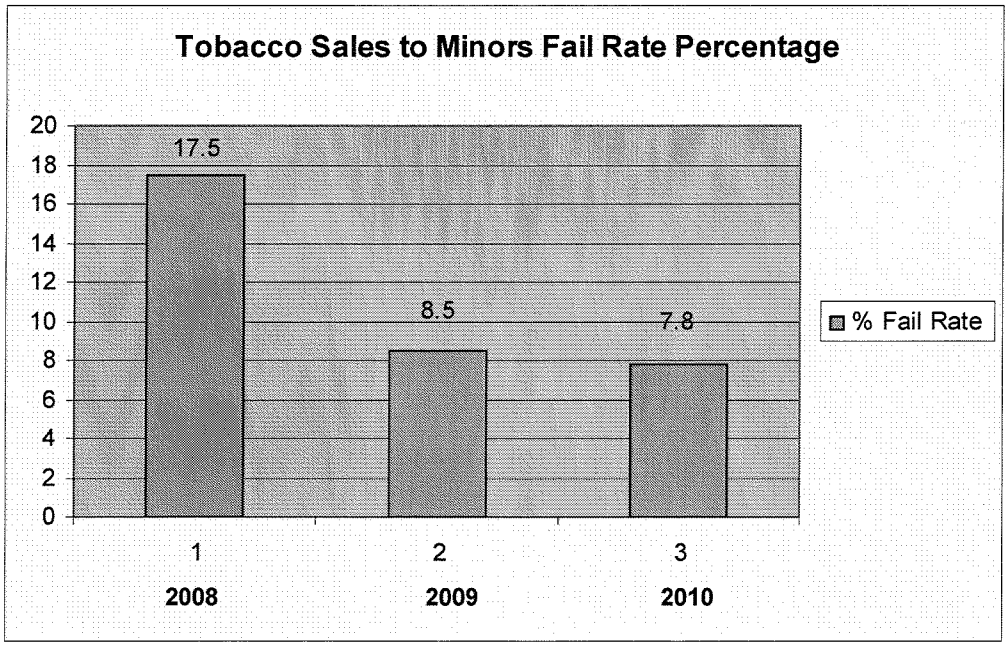
The proposed amendments also address the problem of tobacco product sampling in exclusive tobacco shops. Some tobacco shops have established indoor smoking lounges which state law allows. This amendment, more stringent than state law, prohibits indoor sampling/smoking of tobacco products in tobacco shops.

Finally, the proposed amendments increase the fines for third and fourth underage tobacco sales violations. Current fines for violations are as follows: 1st Offense: $200; 2nd: $400; 3rd: $600 and 4th: $800 within a two year period. Staff proposes increasing the 3rd violation fine to $800 and the 4th violation fine to $1600. This structure of doubling fines is consistent with other progressive fines.

Community Impact: This amendment further restricts youth access to tobacco and tobacco products and prevents the proliferation of tobacco shops where indoor smoking is now permitted.

Financial Impact: Staff does not predict a significant change in license or fine revenues. Over 98% of the fine revenue results from first and second underage tobacco sales violations.

Supporting Information Required: Listed below are statistics from recent youth tobacco sales compliance checks.



2010 Compliance Checks: 31 failures among the 397 establishments tested

New Tobacco Products:

Recommendation: That the Regulatory, Energy and Environment Committee approve proposed amendments to Chapter 281, Tobacco Dealers .