



Las Vegas

Agenda Item No.: 34.

**AGENDA SUMMARY PAGE
CITY COUNCIL MEETING OF: JUNE 4, 2014**

DEPARTMENT: CITY ATTORNEY
DIRECTOR: BRADFORD R. JERBIC

Consent Discussion

SUBJECT: **LIQUOR LICENSES VIOLATIONS**
RECOMMENDING COMMITTEE: **ELIGIBLE FOR ADOPTION AT THIS MEETING**

Bill No. 2014-34 - For Possible Action: An ordinance amending LVMC 6.02 to increase civil penalties for violation of LVMC 6.51 and clarifying that the director may suspend an alcoholic beverage license on an administrative basis under certain circumstances, adding a new condition to LVMC 6.50 to clarify that a licensee's violation for knowingly permitting an employee to violate a condition of an alcoholic beverage license is a misdemeanor, and creating a zone in the downtown area where the possession of glass or metal containers for the consumption of beverages is prohibited and the consumption of alcoholic beverages in its original packaging is prohibited, and to provide for other related matters. Proposed by: Bradford R. Jerbic, City Attorney

Fiscal Impact

No Impact

Augmentation Required

Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

This ordinance will act to increase the fines for a violation of 6.50 to \$500.00, permit the Director to administratively suspend a liquor license where there has been a three criminal convictions or a civil liability adjudications against a liquor licensee in any twelve month period, and create a zone bounded by Stewart Street, Eighth Street, Bridger Street and the UPRR right of way where possession of glass and metal containers for the consumption of beverages is prohibited as well as the consumption of alcoholic beverages in its original packaging.

RECOMMENDATION:

ABEYANCE to 06/16/2014 Recommending Committee Meeting by the 06/02/2014 Recommending Committee

First Reading 05/21/2014; First Publication 05/23/2014

BACKUP DOCUMENTATION:

1. Bill No. 2014-34
2. Submitted after Final Agenda Testimony and Witness Qualifications for Pamela Erickson, April 2014 Newsletter and 2014 Issue Briefs for States and Safe and Sound Pamphlet by Pamela Erickson, submitted at the 6/2/2014 Recommending Committee Meeting
3. Submitted at Meeting - Final Proposed Amendments by Staff

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Motion made by CAROLYN G. GOODMAN to Approve the amendments as read for the record

Passed For: 7; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 0

BOB COFFIN, RICKI Y. BARLOW, LOIS TARKANIAN, CAROLYN G. GOODMAN, STAVROS S. ANTHONY, STEVEN D. ROSS, BOB BEERS; (Against-None); (Abstain-None); (Did Not Vote-None); (Excused-None)

Motion made by CAROLYN G. GOODMAN to Approve sending the bill as amended back to the Recommending Committee meeting on 6/16/14

Passed For: 6; Against: 1; Abstain: 0; Did Not Vote: 0; Excused: 0

BOB COFFIN, RICKI Y. BARLOW, LOIS TARKANIAN, CAROLYN G. GOODMAN, STAVROS S. ANTHONY, BOB BEERS, (Against-STEVEN D. ROSS); (Abstain-None); (Did Not Vote-None); (Excused-None)

Minutes:

CITY ATTORNEY BRAD JERBIC said that this bill was on the June 2, 2014 Recommending Committee meeting, but language was not available for inclusion on the bill so it was held in abeyance to the June 16, 2014 Recommending Committee meeting. This bill is on the agenda and is technically eligible for adoption, however, people who were at the June 2, 2014 Recommending Committee meeting do not have knowledge that this may possibly be adopted today. CITY ATTORNEY JERBIC consulted with MAYOR GOODMAN that it is her desire to add the missing language to the bill and make some other corrections through an amendment. The options today are to let the bill go to the Recommending Committee, hear just the amendment and forward it to the Recommending Committee so anyone wishing to speak will be able to do so or it can all be done at a City Council meeting today. CITY ATTORNEY JERBIC confirmed with MAYOR GOODMAN that she wishes to hear the amendment today and send it back to the Recommending Committee.

MAYOR GOODMAN reiterated that the vote will only be on the amendment and it will be sent to the Recommending Committee. CITY ATTORNEY JERBIC confirmed that and said that the City Council is actually recommending an amendment to the Recommending Committee.

CITY ATTORNEY JERBIC said that DEPUTY CITY ATTORNEY JAMES LEWIS prepared a document titled Final Proposed Amendments to Bill 2014-34, dated June 3, 2014. CITY ATTORNEY JERBIC read the changes for the record. Section 10.77.030 had a former Section A which is being rewritten, and the new Section A will say that within a discreet boundary, bounded by Stewart Street, Eighth Street, Bridger Street and the Union Pacific Railroad, and he pointed out that the area is larger than the Fremont Street Experience, located directly to the west of Main Street, it is unlawful for a person to open and/or consume any alcoholic beverage in any glass container, metal container or its original packaging, on public property whether sidewalks, right-of-way, buildings or the Pedestrian Mall described in LVMC 11.68.040. He said that if the first part of the amendment is adopted, individuals who buy alcohol at package liquor, beer, wine and cooler establishments will not be able to open or consume the products in the Pedestrian Mall or anywhere in the area bounded by Eight Street, Stewart Street, Bridger Street and the Union Pacific Railroad right-of-way.

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CITY ATTORNEY JERBIC confirmed for MAYOR GOODMAN that his understanding is that the Recommending Committee wanted clarification on Sections A and B along with clarification regarding legality of carrying the package liquor through the Pedestrian Mall area.

CITY ATTORNEY JERBIC said that staff wrote an amendment that says that a person authorized to sell alcoholic beverages at an establishment pursuant to an off-sale or package alcoholic beverage license, directly adjacent to or upon the Pedestrian Mall shall place any alcoholic beverage purchased at the establishment in a bag that shall remain unopened and used to transport the unopened alcoholic beverage through the area described in 10.77 which is the area described earlier. He said it would be legal to purchase and transport it as long as it was in a bag that was closed.

MAYOR GOODMAN said that she had also suggested a dated receipt of purchase. CITY ATTORNEY JERBIC said that it will be up to the City Council to amend it further, but staff discussed what the police department would need to read and understand in order to enforce this law, and it was believed that a closed bag was the simplest solution. If using a seal, discussion would have to take place regarding what kind of seal if a store bag is necessary, there will be a delayed entrance of the ordinance as colored bags will have to be ordered, and if a receipt has to be attached, people may not be aware there is a receipt on the bag.

MAYOR GOODMAN said that she would like to have a closed bag with a receipt affixed to the outside like the pharmacies, which would be useful for the Marshals, will show the date of purchase and what is inside the bag. CITY ATTORNEY JERBIC said that is up to the City Council's discretion and MAYOR GOODMAN said she would like to have that added.

CITY MANAGER ELIZABETH FRETWELL confirmed with MAYOR GOODMAN that she would like the bag closed and the receipt attached to the outside. She said that there are representatives from the Metro Police Department (Metro) in the audience and if this is a problem they should say something now; MAYOR GOODMAN said that she is very much for this as it is a visual they can see from 10 feet away making it easier for them.

COUNCILMAN ROSS appreciates the discussion and will support this amendment being attached to the bill; however, he will only support approving and passing the bill today. This will give Metro, the Fremont Street Experience and Code Enforcement Officers the ability to start dealing with the issues. He supports this and does not want to wait another two weeks.

MAYOR GOODMAN said that at the Recommending Committee meeting it was recommended to bring the bill back; by passing it all today, the public would be denied the opportunity to speak. Procedurally it is only fair to the public to do what they said they were going to do. COUNCILMAN ROSS respects that and understands the process, but thinks that significant changes need to be made as soon as possible.

COUNCILMAN BEERS asked to hear what the police officer had to say. SHAWN ANDERSEN, Las Vegas Metro Police Department, Downtown Area Command, said that they spoke with the City Attorney's office and came to the conclusion that placing the beverage into a bag is the simplest way possible to make it easy for them to enforce. He said that the bag is

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sufficient and the receipt does not help much, but adds a step for the sellers. MAYOR GOODMAN said that the people who own the shop should want a receipt on everything and believes that having it stapled to the outside of the bag is the way to do it.

COUNCILMAN COFFIN commented that the City is being sued over this and wants to hear from legal counsel if an injunction has been granted. CITY ATTORNEY JERBIC said that the City was sued in Federal Court last week based on the ordinance that was passed at the last City Council meeting. The court has been asked for emergency action to be taken; the City filed a response on June 2, 2014 which the court has taken under advisement and there is no injunction in place at this time. COUNCILMAN COFFIN said that he appreciates moving this back to the Recommending Committee. He commented that he is in support of this and is sure this can be done prior to the 4th of July weekend when thousands of people will be in the area.

COUNCILMAN BARLOW agrees with the direction, but is concerned about over legislating the problem, creating a bigger government to solve a problem and looks forward to see how this comes out of the Recommending Committee meeting.

MAYOR GOODMAN confirmed with COUNCILMAN COFFIN that he will be available for the June 16 Recommending Committee meeting.

COUNCILMAN BEERS said that he will urge the Recommending Committee to not attach the receipt to the bag as Metro has said it will not assist in their efforts and doing beyond what they need will lead to complications. He also agrees with COUNCILMAN ROSS and hopes that if this goes to the Recommending Committee it will come back to the full City Council for consideration of passage.

CITY ATTORNEY JERBIC advised that the first decision to be made should be whether or not to send to the Recommending Committee.

CITY ATTORNEY JERBIC restated MAYOR GOODMAN'S motion as to amend Bill 2014-34 to add all of the language that he read and has been distributed in the document titled Final Proposed Amendment with one exception, adding language to Subsection M after the "bag shall remain unopened", that says "with an attached receipt" and it would be their recommendation to send it back to the Recommending Committee with the amendment.

COUNCILMAN ROSS stated that he votes "yes" to the amendment but "no" to sending it back to the Recommending Committee.

COUNCILMAN BARLOW asked if there has been a conversation through the Recommending Committee for businesses to have an opportunity to exhaust their inventory because he does not want to displace the businesses in any way as they transition into the new process. MAYOR GOODMAN replied that COUNCILMAN COFFIN had brought that up in the Recommending Committee meeting because the bill contains language regarding miniatures and other high powered drinks. If this goes back to the Recommending Committee, there will be a chance to speak to that.

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COUNCILMAN ROSS stated that he respects the position in regards to inventory, but after the last meeting, it is clear to him that the current license holders are in violation as some indicated that liquor is 90 percent of their business. COUNCILWOMAN TARKANIAN inquired if what he meant was that there being a higher percentage of liquor in the store than they should have is what makes them out of compliance. COUNCILMAN ROSS said that their sales and success of the souvenir stores is based on their liquor sales which means they are liquor stores and not souvenir stores. He said that at the last City Council meeting, they self admitted that liquor sales are 90 percent of their business which means they are working in violation of their current business license.

COUNCILMAN COFFIN said that some of the City inspectors were kicked out of the establishments. The businesses should know that there is unanimous support of the bill and they should be sloughing off glass and metal containers. He will support a motion to refer the bill to the Recommending Committee.

CITY ATTORNEY JERBIC reiterated that the motion is to accept the amendment and to send the bill back to the Recommending Committee. NANCY GOODMAN said she would like to separate the motions; the first to accept the amendment and CITY ATTORNEY JERBIC read and the second to send the bill back to the Recommending Committee. Both motions passed.

