

**Item 24-0568: Demerit Point Violation Appearance - Walmart**

**Item 24-0569: Demerit Point Violation Appearance - Valley Mobil**

**Item 24-0570: Demerit Point Violation Appearance - Northland Ave Citgo**

**Item 24-0572: Demerit Point Violation Appearance - Aldi Kensington**

Safety and Licensing Committee

Wed, May 08, 2024, 5:30PM

**Aldersperson Alex Schultz (District 9) 00:53**

We have a number of public appearances—excuse me, public hearing and appearances this evening. We will start with the first one. Actually, I was informed that we will prefer to hold this one if I can get a motion on the floor that Walmart will not be able to represent themselves this evening.

**Aldersperson William Siebers (District 1) 01:11**

I don't know....

**Aldersperson Alex Schultz (District 9) 01:13**

Need a motion to hold.

**Aldersperson William Siebers (District 1) 01:14**

Do we need a motion?

**Aldersperson Denise Fenton (District 6) 01:15**

Do we need a motion to hold those if it's a public hearing?

[Something was said off microphone.]

**Aldersperson Alex Schultz (District 9) 01:28**

Okay, thank you. Well, then we'll just move to the next one and assume that at the next meeting, we'll have that hearing.

**Aldersperson Alex Schultz (District 9) 01:36**

24-0569 demerit point violation or Valley Mobil. Attorney, we have a microphone over there. What number do you have?

**Aldersperson Denise Fenton (District 6) 01:50**

Podium.

**Aldersperson Alex Schultz (District 9) 01:51**

Oh, yes, sorry. Podium is on. Do you want to speak to this first, or do we have them come to the podium and...?

**Zak Buruin (Assistant City Attorney) 02:07**

I have district five. I can address the point broadly before the individual comes up and speaks, and this—I'm going to speak broadly to the public appearances that were scheduled for today. Two of them related to violations of retail licenses with respect to dispensing to minors. One of those is the one that's being held.

**Zak Buruin (Assistant City Attorney) 02:32**

24-0569 and 24-0570 are violations related to gambling machines in a licensed establishment. I don't think too many of those have come before the committee in recent times. I did want to provide a little bit of background information. At the beginning of the year and kind of leading into the beginning of this year, there was an increased effort by state authorities to step up enforcement of those pre-existing requirements. As part of that there was a letter that went out to licensees within the city giving them essentially 30 days' notice that these restrictions are going to be more strictly enforced and that we would prefer that they simply remove any such machines that they have because we were seeking cooperation rather than forced compliance. And after that period of time, enforcement began, and that's what we're starting to see here.

**Zak Buruin (Assistant City Attorney) 03:27**

These are 150 demerit point violations. So they're here to essentially provide the committee with whatever information they have regarding their steps to get into compliance. At a later time, there will be documentation brought before the committee to address the suspension that is required with 150-point accumulation. My hope is to speak with the licensees and come to some kind of agreement about the length and timing of that. Obviously, the committee and the Council would need to approve any such agreement, and then obviously, if there isn't an agreement, it would be entirely up to the committee and Council to make a determination as to the length of any such any such suspension. But that is for a later time, and today, it's just to address their efforts to remedy the issue. So with that, I would turn it over for them to be able to do that.

**Aldersperson Alex Schultz (District 9) 04:22**

Thank you for that summary. Representatives. Would you care to please approach the microphone and give us at least some sense of what you're doing to remediate the situation.

**Todd V. (Valley Mobil) 04:34**

Hi. [Todd V. of Valley Mobil]. Let me start at the beginning, I guess. There were—we did receive the letter. It was hand delivered by the police department on a weekend, which I thought was odd rather than the US Mail. The letter did not have a date on it. Also thought that was a little odd. The letter clearly stated 30 days; I understood that.

**Todd V. (Valley Mobil) 05:00**

I'll just tell you where we're at here. The games are very profitable for that business. It allows us to keep gas prices low and keep people in the store at late hours of the night, which keeps my staff and customers safe. So the games are a big deal for us. That being said, the two odd things with the delivery of the letter and the date—no date—on the letter, the rumor on the street was that there was another convenience store operator in town, who I really don't know but I know of him, that he had gotten in some sort of disagreement with somebody with the city. The city then retaliated, threatened to pull his games out. He then threatened to sue the city. So it was something to do with a different operator that I'm not involved with it all. And so for cover, the city that issued this letter, this blanket letter, to everybody in the city. So that was the word on the street, that's what I was led to believe.

**Todd V. (Valley Mobil) 06:05**

So that being said, you know, we let it run its course and then, of course, ultimately, it was—I was provided with a citation. At the time, I was given that citation and the games are immediately shut down, and they were removed the following day.

**Todd V. (Valley Mobil) 06:22**

The time I received that citation, I asked the police officer, does this affect our liquor license point system? And his response was, "No, it's not related to liquor in any way." So that being said, I simply paid the fine. Didn't think it would come to this. Didn't realize it was connected to the liquor license. So that's where I'm at.

**Alderson Alex Schultz (District 9) 06:50**

Thank you.

**Todd V. (Valley Mobil) 06:54**

We, as far as liquor goes, or beer in my case, we've got a very clean record. The store has a good reputation. It's been there for 25 years. I'm not going to tell you it's never had a problem, because, yeah, we employ people, and many years ago, we had more of a problem. But in recent years, we've had, you know, no liquor problems at all there. We've got one of the strictest ID policies in the Valley. I get complaints about it a lot, and that's okay. I'll deal with the complaints. But we ID everybody for any alcohol purchase, regardless of age. My employees know that I've got their backside on that, and so we ID religiously with alcohol.

**Alderson Alex Schultz (District 9) 07:44**

It's unfortunate that you had a misunderstanding about what was coming. Since March 1 when you got that citation, you're telling us that the machines have been unplugged and not operational? Is that correct?

**Todd V. (Valley Mobil) 07:53**

Correct. Yeah. They were removed like the following day.

**Alderson Alex Schultz (District 9) 07:56**

Okay, thank you. Alderman Siebers, you had, want to say—

**Alderson William Siebers (District 1) 07:59**

I guess the question is that the machines are illegal?

**Zak Buruin (Assistant City Attorney) 08:04**

Correct.

**Alderson William Siebers (District 1) 08:04**

Okay. So to be legal is they're not there.

**Zak Buruin (Assistant City Attorney) 08:09**

They cannot be in alcohol licensed establishments.

**Alderson William Siebers (District 1) 08:13**

Okay.

**Zak Buruin (Assistant City Attorney) 08:13**

And that was explicitly explained in the letter that went out, including an explanation of the 150 demerit points assessed for those violations.

**Alderson William Siebers (District 1) 08:22**

So your machines are gone?

**Todd V. (Valley Mobil) 08:24**

Yes.

**Alderson William Siebers (District 1) 08:25**

Okay.

**Todd V. (Valley Mobil) 08:26**

Yeah, they were removed, you know, as soon as there was a citation.

**Alderson William Siebers (District 1) 08:30**

Okay.

**Todd V. (Valley Mobil) 08:30**

Yeah. And let me just say that the history on these games or video games, whatever you want to call them, during COVID, they were referred to as arcade games. So the history and definition of these games is rather unclear and it keeps changing. And, you know, that's why you've seen these games all over town. So.

**Alderson Alex Schultz (District 9) 08:57**

Thank you for coming up. We have a question from Alderman Croatt. Would you like to ask a question?

**Alderson Chris Croatt (District 14) 09:05**

Yes, I would. Thank you, Vice Chair Schultz. Without getting into detail on the comments about the word on the street, I'm wondering if the Attorney's Office could elaborate a little bit on the state's position and the state's effort that was maybe driving the city's efforts?

**Zak Buruin (Assistant City Attorney) 09:24**

I can, and perhaps Chief Olson can elaborate a little bit more. But essentially it was authorities with the state that approached the city about stepping up enforcement. There have been similar efforts in other nearby municipalities that they had success with, and they were essentially moving through the area focusing on spreading that enforcement. And near the end of last year, beginning of this year, they approached Appleton specifically, and we had a meeting about that before any of this began. But they approached us about the enforcement.

**Alderson Chris Croatt (District 14) 10:01**

Okay, thank you for that. I think that it's important because it contradicts the comments made about the word on the street being a city driven thing based on some other incidents. And I think it's just important to know that it was it was from another direction.

**Alderson Alex Schultz (District 9) 10:17**

Chief Olson.

**Police Chief Polly Olson 10:21**

Thank you. I would just like to add to respond to your question as well, that at about the same time, it was in January, that at a county wide chiefs meeting, the same representatives from the State came and presented to all of the chiefs in Outagamie County, requesting that they also address the same machines in in their establishments that hold those same licenses. So it wasn't, again, originated by the city of Appleton. It actually started initially in Brown County and an enforcement there and then continued on into Outagamie County with a request to us to assist them with equally applying the law.

**Alderson Alex Schultz (District 9) 11:08**

Thank you. Alderman Doran, did you have anything?

**Alderson Chad Doran (District 15) 11:12**

Yeah, thank you. Just a question, I guess for the representative of the business here. I just want to clarify; you mentioned you received the letter that was hand delivered by the police department and understood that there was a 30-day timeline associated with it to remove the machines? But you're saying you didn't actually remove them until that time period had elapsed and then they came back, and you were cited? Correct?

**Todd V. (Valley Mobil) 11:12**

That's correct.

**Alderson Chad Doran (District 15) 11:12**

Okay. I guess I'm just curious, your thought process there in not removing them until you were cited. Did you not understand that the—was the letter not clear, I guess, that you had to remove them? Or...?

**Todd V. (Valley Mobil) 11:48**

No, the letter was clear. I guess I thought it was the city creating cover to satisfy that other disagreement with that other operator. I didn't realize they were really going to follow through. I talked to the guy that, you know, services and provides these games. That was, you know, his take as well, because he was seeing different things across the state—different counties, different cities, everybody's doing it differently. Grand Chute followed a very similar but different procedure right after Appleton did, a month later, you know. You know, I'm sorry, but I'm not always privy to what's going on county by county around the whole state.

**Alderson Chad Doran (District 15) 12:36**

Sure. And I'm just curious, did you at any point then between getting the letter and the time you were cited, did you reach out to either the city or the police department for clarification or to ask any questions at all about it?

**Todd V. (Valley Mobil) 12:47**

No, I did not.

**Alderson Chad Doran (District 15) 12:48**

Okay. Thank you.

**Alderson Alex Schultz (District 9) 12:52**

Kami, do you—what number are you?

**Clerk Kami Lynch 12:58**

I just wanted to add this bit of information; I think it'd be helpful for everyone. The enforcement agents for the state that cover the whole state, I think there's like five of them. So the—why it was being seen, you know, popping up in different areas is because it's that agent partnering with municipalities to enforce a state law across statewide. So that's kind of why it was a phased approach. It was just getting assistance, because one officer from the state couldn't do everything all at once. So they started to reach out to create basically municipal buy in or assistance to get this law—or get these laws enforced all at one time versus kind of the phased approach where it was spreading. And I think now the enforcement is more statewide.

**Alderson Alex Schultz (District 9) 13:59**

Thank you for that. Chris, do you want to add anything?

**Alderson Chris Croatt (District 14) 14:04**

One more thing, and this is for the police chief Olson. Is hand delivery of the letter standard practice? And was the missing date just an oversight? Or is that something that needs to be addressed?

**Police Chief Polly Olson 14:22**

I can take a look. I don't recall the letter not having a date on it. So without having it directly in front of me, I can take a look at that. I don't think that would necessarily have been standard practice to not place a date on the letter. However, I can't say that for certain.

**Police Chief Polly Olson 14:41**

As far as the hand delivery is concerned, that was intentional so that we could ensure that each letter was actually making it to somebody in the business rather than it just going through US mail and not knowing whether or not they actually received the letter.

**Alderson Chris Croatt (District 14) 14:58**

Thank you, Chief.

**Alderson Alex Schultz (District 9) 15:00**

Anything else from committee? Thank you, Mr. Van Zeeland, for appearing today.

**Alderson Alex Schultz (District 9) 15:09**

We'll move on to the next one, which is 24-0570 demerit point violation appearance from Northland Ave Citgo. Is there anybody here from Northland Avenue Citgo? Please approach the podium.

**Translator For Manager of Northland Ave Citgo 15:43**

So, he's the manager. So I'm just—he has some language barrier. So I'm just kind of translating. So we pretty much had the same issue like Todd mentioned. So we did receive the letter. It wasn't clear. He didn't understand very well when we supposed to take out those gambling machine. We did try our best to make sure that we're following the rules and regulations, but the day it wasn't clear.

**Translator For Manager of Northland Ave Citgo 16:25**

Those machine doesn't belong to us. We don't own those machines. So a third-party vendor came in and installed those for us. We reach out to them and he told them that, "Hey, we got this letter; we need to take those machine out as soon as possible because we don't want to be in trouble." We are in business. We never had any issue any problem. So we reach out to the vendor, and they told us "Yeah, we were gonna send someone who will come and take out those machine." They're supposed to come I believe on 27 or 28. Somehow they failed, and the next morning, someone came in check those machine. Even though they will turn off; no one was playing or gambling or doing anything. We switch those machines up to make sure no one is playing on those. And I think the morning we got the ticket, the vendor came in and picked up those like machines around 10:30-ish. So we paid the fine. All we want is just those points to be taken off.

**Alderson Alex Schultz (District 9) 17:32**

Okay, would anybody like to jump in on from staff and give us a little insight on this one? Slightly different.

**Zak Buruin (Assistant City Attorney) 17:41**

As far as the information that I have, I don't have anything beyond the general information provided before. As far as the fines and things like that, that's not the issue today. That would be something that would have been addressed in court. With the citation that was issued, it had a court date on it, time and place to appear to deal with that. So this isn't the time or place to address that particular aspect of things. But as far as additional facts or factual information, it was the same letter that was sent, addressed differently with the same information.

**Alderson Alex Schultz (District 9) 18:20**

Okay, thank you. Alder Fenton.

**Alderson Denise Fenton (District 6) 18:23**

And may I direct the question to the attorney? Is the state statute—the violation would still exist if the machines were present, even if non-operational?

**Zak Buruin (Assistant City Attorney) 18:38**

I would need to review them. I believe their presence is an issue in and of itself, but I don't—let me step back on that. I would need to review the statutes, and I would also want to review, specifically the city code, because there are—in addition to the statutes, there is similar city code regarding games of chance. So we're dealing with two levels of illegality here, but I can certainly look and see if that's the case. And I don't—but I can't speak to whether or factually it was the case that they were off at that time.

**Alderson Denise Fenton (District 6) 19:12**

Thank you.

**Alderson Alex Schultz (District 9) 19:13**

Thank you. Alderman Siebers.

**Alderson William Siebers (District 1) 19:16**

You received a letter?

**Translator For Manager of Northland Ave Citgo 19:18**

Yes, we did.

**Alderson William Siebers (District 1) 19:19**

Did it have a date on it?

**Translator For Manager of Northland Ave Citgo 19:21**

It wasn't clear. We don't see any date on the letter actually.

**Manager of Northland Ave Citgo 19:29**

What read—I don't time and date at that time.

**Alderson William Siebers (District 1) 19:35**

Okay, so there's no date on the letter.

**Manager of Northland Ave Citgo 19:37**

Are we forced—are we forced to give up the loan?

**Translator For Manager of Northland Ave Citgo** 19:42

No. It just say like you need to take those machine out within 30 days. There is no actually said day that this is the date you need to take those out.

**Aldersperson William Siebers (District 1)** 19:55

Thank you.

**Aldersperson Alex Schultz (District 9)** 19:58

Alderman Doran.

**Aldersperson Chad Doran (District 15)** 19:59

Thank you. Would you—I guess, did you or would you assume that the day you received the letter would wouldn't—if not seeing a specific date it had to be out by would you assume that that would start a clock so to speak of 30 days?

**Translator For Manager of Northland Ave Citgo** 20:13

I'm not sure, but you can say that is correct.

**Aldersperson Chad Doran (District 15)** 20:19

Okay. Did you at any point reach out to the city or police department for clarification on that if you weren't sure?

**Translator For Manager of Northland Ave Citgo** 20:26

No. The owner was actually out of the country, and he—he was out of the city, actually. And he wasn't sure what to do, who whom to contact. He deal—he did inform the owner, and he said, "Yeah, I will take care of it." But somehow, he is a family emergency. So he had to leave the state.

**Aldersperson Chad Doran (District 15)** 20:47

Okay. Was there someone else running the business in in his absence that maybe could have reached out?

**Translator For Manager of Northland Ave Citgo** 20:53

He is the manager.

**Aldersperson Chad Doran (District 15)** 20:54

Okay. And did you reach out to the city at all or the police department for clarification?

**Translator For Manager of Northland Ave Citgo** 21:03

No, he did not.

**Aldersperson Chad Doran (District 15)** 21:04

Okay. And you said you—when you receive the letter, you reached out to a third party to have them come in and remove the machines?

**Translator For Manager of Northland Ave Citgo** 21:12

That is correct, because those are not our machine. So a third party usually come in and take care of those for us. We did reach out to them. Somehow, they failed to come and take out those machine on the same day.



**Alderman Chad Doran (District 15) 21:25**

Okay. And you had said they came and took the machines out the day that you were cited. So the police department came in earlier in the day before they had arrived?

**Translator For Manager of Northland Ave Citgo 21:35**

Yes, the police department came in around say 1:30-ish, and third party came in around 10:30ish and they took out the machine.

**Alderman Chad Doran (District 15) 21:45**

Okay. All right. Thank you.

**Alderman Alex Schultz (District 9) 21:48**

Could I ask if you—did you guys appear on the 20th for your court hearing, and were you present for that?

**Translator For Manager of Northland Ave Citgo 21:56**

When was it? I'm sorry.

**Alderman Alex Schultz (District 9) 21:57**

That would have been on the 20th when you were awarded these demerits—or essentially awarded that citation.

**Translator For Manager of Northland Ave Citgo 22:04**

I think the owner did.

**Alderman Alex Schultz (District 9) 22:06**

Okay. Alderman Siebers?

**Alderman William Siebers (District 1) 22:12**

Who paid the fine?

**Translator For Manager of Northland Ave Citgo 22:13**

We did. Yes.

**Alderman William Siebers (District 1) 22:15**

But you don't own the machines, and you paid the fine?

**Translator For Manager of Northland Ave Citgo 22:18**

Yes, we did. Because we got the ticket we just wanted to follow the rules and regulation and whatever it is. So we thought that's the right way to do it. We are just concerned about the points that we got. That's the only concern we have at this point. That's why we are here.

**Alderman William Siebers (District 1) 22:40**

The machines are gone?

**Translator For Manager of Northland Ave Citgo 22:42**

Machines they have been taken out for almost like three months ago.

**Alderson William Siebers (District 1) 22:47**

Okay.

**Translator For Manager of Northland Ave Citgo 22:47**

On the same day, they are gone.

**Alderson Alex Schultz (District 9) 22:55**

Anything from committee? Anything other questions? Anything else from staff? Thank you for appearing.

**Alderson Alex Schultz (District 9) 23:08**

Okay, that brings us to this third one which is 24-0572 demerit point violation appearance Aldi Kensington. Is Aldi here this evening. I do not see Aldi. I guess I'm gonna assume that this is a very similar situation.

**Alderson Denise Fenton (District 6) 23:28**

This is the minor.

**Alderson Alex Schultz (District 9) 23:29**

Oh, I'm sorry. This is slightly different then. I guess I'd like to get a little information from staff on this one.

**Zak Buruin (Assistant City Attorney) 23:41**

In terms of factual information, I don't have anything to provide. I can share that this was—I believe this was part of a typical compliance check done by APD to ensure proper dispensation of alcoholic beverages. There was a citation issued as a result of this particular compliance check. There was alcohol dispensed to I believe an underage community service officer as part of this compliance check, if I recall it correctly.

**Zak Buruin (Assistant City Attorney) 24:14**

Beyond that it is an 80 demerit point violation. Service to underage. We can't take license action against that without multiple violations within the year. So it is an 80-point violation, but we can't really do anything with those points unless there's another similar violation in the next 12 months. But it does still require an appearance before the committee, and that would be what hopefully somebody is here to share with the committee about and explain what steps are being taken to address the issue.

**Alderson Alex Schultz (District 9) 24:54**

Alderman Croatt, I saw you first.

**Alderson Chris Croatt (District 14) 24:57**

Yes. Thank you, Chair. As I understand it, Attorney Behrens, the letter states that they're required to appear, but there's no penalty for non-appearance, correct?

**Zak Buruin (Assistant City Attorney) 25:09**

Not that I'm aware of.

**Alderson Chris Croatt (District 14) 25:13**

Thank you.

**Alderson Alex Schultz (District 9) 25:14**

Alder Doran.

**Alderson Chad Doran (District 15) 25:16**

Well, I was gonna ask a similar question, I guess. But first to Chief Olson, I'm assuming these—the letter was hand delivered like the others were to this business or is—this is a different...?

**Alderson Alex Schultz (District 9) 25:30**

This is a—Clerk Lynch if you want to—

**Alderson Chad Doran (District 15) 25:32**

I guess as far as the as far as their notice to appear.

**Clerk Kami Lynch 25:37**

So I can take that one. These—once the citations go through court and they are, you know, convicted of the demerit point violation, then a letter is sent, and that comes from me and my office, just via mail, that they are required to appear, and the letters are attached to the agenda, and lets them know, the points assessed and the points that they currently have accumulated.

**Alderson Chad Doran (District 15) 26:01**

Okay, but that one was—that's mailed versus being—?

**Clerk Kami Lynch 26:04**

Correct.

**Alderson Chad Doran (District 15) 26:04**

Okay. Thank you.

**Alderson Alex Schultz (District 9) 26:08**

Anything else from the committee? Anything else from staff? Okay.

**Alderson William Siebers (District 1) 26:14**

Well.

**Alderson Alex Schultz (District 9) 26:15**

Okay, I'll give you one shot.

**Alderson William Siebers (District 1) 26:16**

As a committee member, I'm bothered by the fact that somebody is given a letterer and sent a letter and told to appear. I mean, this isn't the first time this has happened. I believe this is the second time in—what?—a period of a month where people have just blown us off. So maybe we need to—I don't know if we can do this, but maybe we need to start assessing points for not showing up.

**Alderson Alex Schultz (District 9) 26:54**

It's a thought. What mic are you? Mic 12. There you go.

**Alderson Nate Wolff (District 12) 27:07**

Thank you, Chair. Just yeah, on the Alderson Siebers' point there, I mean, we don't have a lot of liquor licenses left in this community, so it is a luxury and a privilege to have one. So if we ask someone to come before you, they should.

**Aldersperson Alex Schultz (District 9)** 27:27

Thank you, Alderman Wolff. Alright, I feel like we've covered those sufficiently.