



**Roll Call Number**

**Agenda Item Number**

51

.....  
**Date** January 24, 2011

**PUBLIC HEARING ON ASSESSMENT OF A \$1,500.00 PENALTY AND  
A 30-DAY SUSPENSION OF LIQUOR LICENSE FOR BEST TRIP  
LOCATED AT 1516 S.E. 1ST FOR VIOLATION OF IOWA ALCOHOLIC BEVERAGE LAWS**

WHEREAS, an employee of Best Trip located at 1516 S.E. 1<sup>st</sup> Street sold an alcoholic beverage to a person under legal age at the place of business in violation of Iowa Code Section 123.49(2)(h) on 9/02/10, and was convicted of the charge by a guilty plea; and

WHEREAS, Iowa Code Section 123.39 permits a local authority (city council) to suspend, revoke, or impose a civil penalty upon license/permit holders who violate the alcoholic beverage laws; and

WHEREAS, Iowa Administrative Rule 185-4.8 (123) provides that violations of the alcoholic beverage laws by any employee, agent, or servant of a license or permit holder shall be deemed the act of the licensee or permittee and subject the license or permit holder to civil penalty, suspension or revocation; and

WHEREAS, the violation of Iowa Code Section 123.49(2)(h) is the second violation within 2 years; An employee of Best Trip was previously convicted of violating 123.49(2)(h) which offense occurred on 09/23/09; and

WHEREAS, Iowa Code Section 123.50(3) and Des Moines Ordinance 10-13(C)(2) provide that for a second conviction of Iowa Code section 123.49(2)(h) in a two-year period a civil penalty in the amount of \$1,500.00 and a 30 day suspension of license/permit shall be imposed; and

WHEREAS, Iowa law provides that the local authority shall retain the civil penalties where the proceeding to impose the penalty is conducted by the local authority;

Date January 24, 2011

(2)

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa that:

1. Best Trip located at 1516 S.E. 1<sup>st</sup> Street is assessed a \$1,500.00 civil penalty and a 30 day suspension of its Liquor License No. LE0001540 for sale of alcoholic beverages to a person under legal age for a second time in a two year period.
2. The suspension shall commence at 6:00 a.m. Monday February 28, 2011 and end at 6:00 a.m. Wednesday March 30, 2011.
3. Best Trip shall pay the \$1,500.00 civil penalty to the City of Des Moines at the City Clerk's Office on or before 4:30 p.m. Friday March 25, 2011.
4. The City Clerk is directed to notify the permit holder by sending through ordinary mail a copy of this resolution as soon as possible.
5. This City Council action may be appealed within thirty (30) days to the Alcoholic Beverages Division of the Iowa Department of Commerce, 1918 S.E. Hulsizer, Ankeny, IA 50021.

MOVED BY \_\_\_\_\_  
TO ADOPT

FORM APPROVED:

\_\_\_\_\_  
Douglas P. Philip  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk