

ITEM#: 21  
DATE: 1-10-23  
DEPT: Police

**COUNCIL ACTION FORM**

**SUBJECT: LIQUOR LICENSE RENEWAL, 1 NIGHT STAND, 124 WELCH AVENUE**

**BACKGROUND:**

1 Night Stand, located at 124 Welch Avenue, has applied for renewal of its Class C Liquor License. These state licenses and permits must receive approval by the local authority (City Council) before they can be issued by the state.

The Police Department conducts compliance checks on establishments that hold liquor licenses in the City of Ames. These compliance checks are completed by taking an underage person to a liquor licenses establishment who then attempts to purchase alcohol. A business passes the check if the employee asks for identification and rightly refuses the purchase. An establishment fails the compliance check if the employee sells to the underage person.

The Police Department conducted one such compliance check on March 25, 2021. An employee of 1 Night Stand sold alcohol to an underage person during the check and was cited. **The Police Department conducted a follow-up compliance check later in the year and the establishment passed.**

**The Police Department conducted another compliance check on October 20, 2022, and an employee again sold alcohol to a minor. This is the second violation within two years and Iowa Code 123.50(3)(b) prescribes a 30-day suspension and \$1,500 fine. This suspension will be imposed on the establishment by ABD regardless of whether the City Council chooses to approve or deny the requested renewal.**

**In addition to the failed compliance checks, in the previous 12 months, Ames officers have issued 11 citations at this location, including 10 citations to underage individuals for being on-premises.** Of those 10, officers were able to verify one used a fake ID. It is worth noting that officers are unable to determine how the remaining underage individuals entered the bar.

Staff spoke with the owner of 1 Night Stand, Jerrad Atkin, on January 3, 2023, to determine what changes they intended to make to improve upon their performance. The owner reported they have a zero-tolerance policy regarding minors entering the establishment and require all individuals to show ID at the door. The owner felt there should be a larger penalty for minors who use fake IDs to gain entry. The owner also explained the failure of the second compliance check in October occurred when the door person left for a few minutes to get ice and left the door unattended, which allowed the minor into the establishment. Staff encouraged the owner to attend the Council meeting

should Council members have questions for him. He indicated that he would be in attendance.

**ALTERNATIVES:**

1. Deny the application for a 12-month renewal but suggest that the applicant submit an application for an 8-month license.

**If this alternative is approved, the establishment will be subject to the 30-day suspension and fine by the state of Iowa some at some point during the renewal period. The applicant could choose to appeal the denial or submit a request for an 8-month license, which would be presented to the City Council for consideration at a future meeting.**

2. Deny the application for a 12-month liquor license renewal.

**If this alternative is approved, the establishment will be subject to the fine by the state of Iowa. The applicant could appeal this denial to the state.**

3. Approve the application for a 12-month liquor license renewal.

**If this alternative is approved, the establishment will be subject to the 30-day suspension and fine by the state of Iowa some at some point during the renewal period.**

**CITY MANAGER'S RECOMMENDED ACTION:**

Compliance checks are conducted by the Ames Police Department and ABD to ensure liquor license holders are complying with their obligation to ensure underage individuals are not being sold or served alcohol. These compliance checks require the establishment to exercise a minimal level of due diligence to pass. In order to comply, the establishment must simply ask the customer for identification, confirm the age of the customer as being less than 21, and deny the sale.

The applicant, 1 Night Stand, has failed two of three such compliance checks. While the Police Department has not found a high number of underage individuals on premise, it is clear from two compliance check failures in as many years that the establishment has not been successful at the most basic of functions, checking an ID and confirming the age of a customer to being less than 21.

**Based on the nature of the citations and the cooperation from the applicant, the Police Department believes that a shorter license term than one year would provide the opportunity to more closely review the progress the establishment has made towards compliance.**

Therefore, it is the recommendation of the City Manager that the City Council take the recommendation of the Chief of Police to adopt Alternative No. 1, as described above.

If the City Council denies the requested license renewal, the denial can be appealed, first to the ABD, then to the Administrative Law Judge, then the Director of ABD, and then District Court. Filing an appeal with ABD places a stay on the denial, and the establishment is allowed to continue to operate until the appeal process is complete. If the appeal(s) are not successful, alcohol may not be sold on the premises for one year, or until a new licensee applies for and is granted a new liquor license.