Not Published

Repealed by ordinance 1193

ORDINANCE NO. 1188

AN ORDINANCE REQUIRING THE AFFIXING OF DECALS OR STAMPS TO MALT OR BREWED BEVERAGE CONTAINERS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PRICHARD, ALABAMA, as follows:

SECTION 1: It shall be unlawful and an offense against the City of Prichard for any person, firm, club, association, or corporation to have in his, her or its possession any can, bottle, or other container of malt or brewed beverage not having firmly attached or affixed thereto on the cap, crown, top, or other suitable place a decal, stamp, or other evidence of the fact that the proper tax or license for such malt or brewed beverage now or hereafter levied by the City of Prichard has been paid.

SECTION 2: It shall be the duty and responsibility of the City Clerk of the City of Prichard, or the person performing the duties of such City Clerk to design, prepare or cause to be designed, prepared or otherwise made ready and purchase in proper quantities the decals, stamps or other evidence of payment of the license tax upon malt or brewed beverages now or hereafter imposed by the City of Prichard; provided that such action of the City Clerk shall be approved by the City Council of the City of Prichard. It shall also be the duty of the City Clerk to keep on hand sufficient quantities of such decals, stamps or other evidence of payment and to sell the same to those applying therefor, to keep complete and accurate records of all transactions with relation thereto, and to make periodic reports to the council concerning the same.

SECTION 3: It shall be the duty and responsibility of each jobber, wholesaler and distributor of malt or brewed beverages to Alabama Beverage Control Board Licensees within the City of Prichard or within the Police jurisdiction thereof to acquire prior to such sale or delivery the appropriate quantity of such decals, stamps or other evidence of, the fact that the proper tax or license for such malt or brewed beverages now or hereafter levied by the City of Prichard shall have been paid, and such jobber, distributor or wholesaler shall, upon making a sale of or delivery to such licensees in the City of Prichard or within the police jurisdiction thereof, furnish to such licensee with such malt or brewed beverages the proper quantity of such decals, stamps or other evidence of the fact that the proper tax or license for such malt or brewed beverages levied now or hereafter by the City of Prichard shall have been paid, and such license shall forthwith affix the same to the bottles, cans or other containers of such malt or brewed beverages.

SECTION 4: Any other person, firm, club, association or corporation having or intending to have in his, her or its possession, any malt or brewed beverages within the City of Prichard or within the police jurisdiction thereof shall purchase from the City Clerk of the City of Prichard, or the person performing the duties of such clerk, the proper quantity of decals, stamps or other evidence of the fact that the proper tax or license for such malt or brewed beverages now or hereafter levied by the City of Prichard shall have been paid, and shall forthwith affix the same to the bottles, cans or other containers of malt or brewed beverages.

SECTION 5: It shall be the duty and responsibility for any person, firm, club or association or corporation to file with the City Clerk of the City of Prichard within 10 days from the adoption if this ordinance a statement under oath setting forth the inventory of all malt or brewed beverages then in the possession of or under the control of any person, firm, club, association or corporation.

SECTION 6: It shall be the duty and responsibility for any person, firm, club or association or corporation to have firmly attached or affixed to any malt or brewed beverages a decal, stamp or other evidence of the fact that the proper tax or license for such malt or brewed beverage now or hereafter levied by the City of Prichard has been paid within 30 days from date of adoption.

SECTION 7: It shall be the duty of the police department and the License Inspector of the City of Prichard to enforce the provisions of this Ordinance.

SECTION 8: Any person, firm, club, association or corporation found with more than three (3) cans, bottles or other containers of malt or brewed beverages in his, her or its possession in the City of Prichard or within the police jurisdiction thereof without the proper decal, stamp or other evidence of payment of the tax due the City of Prichard except as expressly provided herein, shall, upon conviction, be fined not more than $100, and may, in addition, in the discretion of the Judge or Recorder trying the same, be sentenced to jail or hard labor for the City of Prichard for a period not to exceed six (6) months, one or both.

SECTION 9: All parts of Ordinances of the City of Prichard or resolutions heretofore passed in conflict with this ordinance be and the same are hereby repealed to the extent of any such conflict.

SECTION 10: This ordinance shall become effective upon its adoption by the City Council.

ADOPTED this 7thday of April, 1969.

APPROVED:

BY: W O Capps
MAYOR

ATTEST:

BY: Rumece H Cantrell
CITY CLERK

NOT PUBLISHED-REPEALED BY ORDINANCE NO. 1190

1189

ORDINANCE NO. ~~710~~

AN ORDINANCE TO LEVY A LICENSE TAX ON PERSONS, FIRMS, CORPORATIONS AND OTHER ENGAGED IN THE BUSINESS OF SELLING, STORING OR DELIVERYING CIGARETTES WITHIN THE CORPORATE LIMITS OF THE CITY OF PRICHARD, ALABAMA, AND THE POLICE JURISDICTION THEREOF: TO PROVIDE FRO THE ENFORCEMENT AND COLLECTION OF SAID LICENSE TAX, AND TO PROVIDE PENALTIES FOR FAILURETO COMPLY WITH THE TERMS THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PRICHARD, ALABAMA AS FOLLOWS:

Section 1. DEFINITIONS. Unless the contex clearly indicates a different meaning, the following words and phrases wherever used in this ordinance shall have the meanings respectively ascribed to them in this section:

"Person" means a natural person, firm, corporation, association, club, receiver, and trustee or other person acting in a fiduciary capacity.

"Cigarettes" means a roll of finely cut tobacco or any substitutes therefor enclosed in paper prepared for smoking in individuals.

"Package" means individual containers holding twenty (20) cigarettes or less from which or in which retail sales of cigarettes are normally made or intended to be made.

"City" means City of Prichard, Alabama.

"Corporate Limits" means the territory outside but within three miles of the corporate limits of the city, but not including territory within the corporate limits of any other incorporated minicipality and not including territory which is nearer to the boundary of another incorporated municipality then to the City of Prichard, Alabama.

"Wholesale dealer" means a person who sells or delivers within the city or its police jurisdiction at wholesale only, cigarettes to retail dealers for the purpose of resale only.

"Retail dealer" means any person, other than a wholesale dealer, who sells or delivers cigarettes within the city or its police jurisdiction, and any person operating under a retail dealer's license.

"Dealer" means any wholesale or retail dealer as herein defined.

"Decals, stamps or other suitable objects" means the decals, stamps or other suitable objects by the use of which the taxes levied under this ordinance are paid.

"Sold" and "Sale" means any transfer of title or possession, or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever for a consideration or any agreement threfore, including rewards, prizes or premiums or cigarettes given as a result of operations on punch boards, shooting galleries or other activities.

"Store" and "Stored" means the storage or warehousing of cigarettes in any manner, or the withdrawal or use of the same for any purpose, other than for resale or reshipment outside the city or its police jurisdiction.

The masculine gender shall include the feminine and neuter genders. Wherever the contex requires, the plural shall include the singular and the singular shall include the plural.

Section 2. TAX LEVY IN CITY. In addition to all other taxes now imposed by law or ordiance, every person who sells, stores or delivers cigarettes shall pay a license tax to the city, and a license tax is hereby fixed and levied, for the sale, storage or delivery of

cigarettes in the corporate limits of the city, which license tax shall be in an amount equal to two cents (2¢) for each twenty cigarettes or fraction of said number, contained in the package so sold, stored or delivered. Except those cigarettes sold and distributed through vending machines; those cigarettes shall have in addition to all other taxes now imposed by law or ordinance, every person who sells, stores or delivers cigarettes shall pay a license tax to the city, and a license tax is hereby fixed and levied, for the sale, storage or delivery of cigarettes in the corporate limits of the city, which license tax shall be in an amount equal to five cents (5¢) for each package so sold, stored or delivered.

Section 3. TAX LEVY IN POLICE JURISDICTION. In addition to all other taxes now imposed by law or ordinance, every person who sells, stores or delivers cigarettes in the police jurisdiction of the city, shall pay a license tax to the city, and a license tax is hereby fixed and levied, for the sale, storage or delivery of cigarettes in the police jurisdiction of the city which license tax shall be in an amount equal to one-half ~~cent for each twenty cigarettes sold, stored or delivered.~~ the tax imposed within the Corporate limits of the City of Prichard.

Section 4. STAMPS. The City Clerk shall keep on hand for sale an adequate quantity of decals, stamps or other suitable objects to be affixed to each package of cigarettes in denominations as required under this ordinance evidencing the fact that the license tax on the cigarettes in such package has been paid, but no person shall be entitled to purchase any such number of decals, stamps or other suitable objects as shall cause the purchase price to include a fraction of a cent.

Section 5. AFFIXING STAMPS. Before any cigarettes shall be sold, stored or delivered within the corporate limits of the City or its police jurisdiction by any dealer, such dealer shall affix to each package of cigarettes a decal, stamp or other suitable object obtained from the City Clerk in the amounts set out in this ordinance in payment of the license taxes imposed by this ordinance. Every dealer shall, within one hour after receipt of any cigarettes within the city or its police jurisdiction, unless sooner offered for sale, cause a decal, stamp or other suitable object obtained from the City Clerk to be firmly affixed to each individualy package. No decal, stamp or other suitable object required to be affixed to any package or cigarettes shall, after the same has been affixed as herein provided, be again used in payment of any part of the tax levied under this ordinance.

Section 6. RECORDS. Every wholesale dealer shall, at the time of selling or delivering cigarettes within the city or its police jurisdiction, amke a true duplicate invoice of the same, which shall show full and complete details of the sale or delivery of such cigarettes and the price thereof. Every wholesale dealer and every retail dealer shall keep a record of the purchase, sale exchange or receipt of cigarettes, all such invoices and records and all cancelled checks and other memoranda pertaining to any such purchase, sale, exchange or receipt shall be retained for a period of three years and shall be subject to inspection of the City Clerk or his duly authorized deputy or representative, who shall have the power and authority to enter upon the premises of any dealer at all reasonable times for the purpose of examining such invoices, records, cancelled checks and other memoranda. Any person who purchases or receives in any manner whatsoever cigarettes which do not have stamps affixed in the manner required by this ordiance shall, within three days after receipt of such cigarettes, report the receipt and purchase thereof to the City Clerk, giving the date of purchase or receipt, the name of the person or firm from which purchased or received and a list describing the

cigarettes so purchased or received and the purchase price thereof. Such report must be made by registered mail or in person.

Section 7. ILLEGAL ACTS. Among others, the following acts and omissions shall be unlawful:

(a) It shall be unlawful for any person who is required by this ordinance to affix decals, stamps or other suitable objects to packages of cigarettes to fail to affix such decals, stamps or other suitable objects in the manner and within the time required by this ordinance.

(b) It shall be unlawful for any person to sell, offer for sale, store or deliver within the city or its police jurisdiction any cigarettes where decals, stamps or other suitable objects have not been affixed as provided in this ordinance.

(c) It shall be unlawful for any person to have in his possession or under his control more than three (3) packages of cigarettes to which decals, stamps or other suitable objects have not been affixed as provided in this ordinance.

(d) It shall be unlawful to manufacture, buy, sell, offer for sale, or possess, or attempt so to do, any reproduction or counterfeit of the decals, stamps or other suitable objects provided for in this ordinance, or to possess tools, implements, instruments or materials of any kind necessary or appropriate to reproduce or counterfeit such decals, stamps or other suitable objects, or to alter or cause to be altered any decals, stamps or other suitable objects herein provided for.

(e) It shall be unlawful to remove from a package or otherwise prepare any decal, stamp or other suitable object with intent to use or cause the same to be used, after it has already been used, or to buy, offer for sale, give away, sell or deliver, any washed, removed, altered or restored decal, stamp or other suitable object to any person, or to have in possession any such washed or removed or restored or altered decal, stamp or other suitable object, or, for the purpose of indicating payment of any tax hereunder, to reuse any decal, stamp or other suitable object which has theretofore been used for the payment of any tax provided in this ordinance, or to sell any decal, stamp or other suitable object provided for herein except as to sales made by the City Clerk.

(f) It shall be unlawful to reuse or refill with cigarettes any package from which cigarettes have been removed and with respect to which the tax has theretofore been paid.

(g) It shall be unlawful for any person, who is in this ordinance required to keep records, to fail or omit to keep same in the manner herein provided, or to refuse to permit the City Clerk or his duly authorized deputy or representative to inspect the same at any reasonable hour, or to interfere with or obstruct the City Clerk or his duly authorized deputy or representative in the making of any such inspection.

(h) It shall be unlawful for any person who is herein required to file statements with the City Clerk to fail or omit to make or file any statement herein specified, or to make any false statement therein, and such offense shall be a continuing offense against the city and each day during which such person shall sell, store or deliver cigarettes in the city or its police jurisdiction during such default shall constitute a separate offense.

(i) It shall be unlawful for any person who is required to

pay the license tax herein provided for to fail to pay the same within the time herein specified, and such offense shall be a continuing offense against the city and each day during which said person shall sell, store or deliver digarettes in the city or its police jurisdiction during such default shall constitute a separate offense.

Section 8. CONSTRUCTION.

(a) This ordinance shall not be construed to tax interstate commerce or any business of the United States government or any branch or agency thereof.

(b) This ordinance shall not be construed to apply to cigarettes stored for the purpose of resale or reshipment outside the city and its police jurisdiction and which are actually so resold or reshipped.

(c) This ordinance shall not be construed to repeal any of the provisions of any other ordinance or of the general license code of the city, but shall be held to be cumulative.

(d) Whenever the requisite amount of decals, stamps or other suitable objects have been affixed to the cigarettes or to the packages containing the same as required herein, this ordinance shall not be construed to require additional decals, stamps or other suitable objects to be affixed thereto in case of subsequent sales, deliveries or storage; provided, that where such cigarettes have had the proper decals, stamps or other suitable objects affixed for sale, delivery or storage within the police jurisdiction, then before the same can be sold, delivered or stored in the corporate limits of the city there must be properly affixed to such cigarettes an equal amount of decals, stamps or other suitable objects to those already affixed.

Section 9. SEVERABILITY. Each and every provision of this ordinance is hereby declared to be an independent provision, and the holding of any provision hereof to be void or invalid shall not affect any other provision hereof, and it is hereby declared that the other provisions of this ordinance would have been enacted regardless of any provision which might be held invalid.

Section 10. PENALTY. Any person violating any of the provisions of this ordinance shall, upon conviction, be punished by a fine of not more than One Hundred ($100.00) Dollars, and may in addition, be sentenced to jail or hard labor for the City of Prichard for a period not to exceed six (6) months.

Section 11. EFFECTIVE DATE. This ordinance shall become effective at 12:01 A.M. on the _____ day of _____, 196__.

Adopted this 7th day of APRIL, 1969.

APPROVED: W O Copps
MAYOR

ATTEST:
Bennie H Centanni
CITY CLERK