



OFFICE OF THE PENNINGTON COUNTY STATE'S ATTORNEY

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COPY

April 13, 2012

Stephen J. Wesolick
 201 Box Street Ste. 204
 P.O. Box 169
 Rapid City, SD 57709

RE: Ifrit's Hookah Lounge

Dear Stephen,

I have had an opportunity to consult with the Attorney General, and to examine an independent test we ran on the substance and am now fully convinced that the hookah pipe is indeed "smoke" as it is defined by our laws.

The police administration and I met yesterday and decided on a 15 day request for your client to come into compliance. Either they remove the hookah, or they remove the alcohol as they are not in compliance with the laws of our state. Specifically SDCL §34-46-14 and, SDCL §34-46-19, which state:

34-46-14. Smoking in public or place of employment prohibited--Petty offense. No person may smoke tobacco or carry any lighted tobacco product in any public place or place of employment. A violation of this section is a petty offense.

34-46-19. Smoking permitted in certain retail tobacco stores. The provisions of §§ 34-46-13 to 34-46-15, inclusive, do not apply to any retail tobacco store that meets the following requirements:

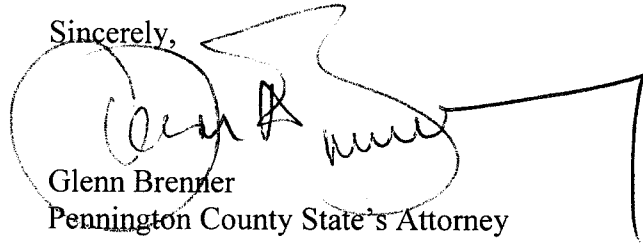
- (1) Generates sixty-five percent of its annual gross income from the sale of tobacco, tobacco products, and accessories for such products;
- (2) Is enclosed by solid walls or windows, a ceiling, and a solid door that provides egress to the outdoors; and
- (3) Does not allow the consumption of alcoholic beverages on the premises.

Any retail tobacco store meeting the requirements of this section shall annually report to the Department of Revenue, on a form prescribed by the department, the revenue generated from the sale of tobacco, tobacco products, and accessories for such products as a percentage of annual gross income.

The testing was completed using a Multi-Rae gas meter that could detect five toxins. Those toxins were the same as the results of the cigarette and cigar that were tested.

Should your client not be in compliance by the above referenced date, enforcement of the petty offense will commence. This could include the citation of patrons. You and I discussed your client's options, including but not limited to, the potential court actions you could take for interpretation. As I mentioned to you, I would share the information with which I was able to form an opinion and will be available to communicate at any time. Should you have any additional questions or concerns, please don't hesitate to contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Glenn Brenner", is written over a circular stamp. The signature is fluid and cursive. To the right of the signature, there is a long horizontal line that extends to the right edge of the page, possibly indicating a date or a reference number.

Glenn Brenner
Pennington County State's Attorney

cc: Chief Allender
Mayor Kooiker
Sergeant Tom Senesac
Officer Jolene Ollerich
Commander Doug Thrash