



*Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, Massachusetts 02150-2358*

Jean M. Lorizio, Esq.
Chairman

DECISION

**MCMURPHY, INC. D/B/A MCMURPHY'S UPTOWN TAVERN
37 NORTH PLEASANT ST.
AMHERST, MA 01002
LICENSE #: 00079-RS-0024
VIOLATION DATE: 12/07/2019
HEARD: 9/14/2021**

McMurphy, Inc. d/b/a McMurphy's Uptown Tavern (the "Licensee" or "Tavern") holds an alcohol license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission (the "ABCC" or "Commission") held a remote hearing via Microsoft Teams on Tuesday, September 14, 2021, regarding alleged violation of 204 CMR 2.05 (2), to wit: 527 CMR 1.05 § 10.5.2.1 Overcrowding or admittance of any person beyond the established posted occupant load shall be prohibited. Prior to the commencement of the hearing, the Licensee stipulated to the facts alleged in Investigator Di Cicco's Report.

The following documents are in evidence:

1. Investigator Di Cicco's Report;
2. ABCC Form 43 New License Approval, 7/2/1998;
3. ABCC Decision, 6/22/2016;
4. ABCC Decision, 1/24/2012;
5. ABCC Decision, 10/11/2000;
6. ABCC Decision, 2/8/2000;
7. Photograph of Licensed Premises;
8. Photograph of Tally Counter indicating Establishment's Count
9. Town of Amherst Certificate of Inspection;
10. Licensee's Stipulation of Facts.

There is one (1) audio recording of this hearing.

FINDINGS OF FACT

1. On Saturday, December 7, 2019, at approximately 12:10 a.m., Investigators Keefe and Di Cicco ("Investigators") conducted an inspection of the operation of McMurphy Inc. d/b/a McMurphy's Uptown Tavern to determine the manner in which its business was being conducted.

2. Prior to entering McMurphy's Uptown Tavern, Investigators observed a line of individuals waiting to gain entry into the licensed premises. When Investigators made their way to the front of the line, they observed a high volume of individuals inside.
3. Investigators identified themselves to staff and inquired as to the permitted occupancy load for the premises. Staff members were unable to provide Investigators with this information.
4. Investigators observed one staff member at the door with a tally counter. The counter indicated there were 186 individuals inside the premises.
5. Investigators entered the licensed premises and observed a Certificate of Inspection, from the Town of Amherst, which indicated the allowed occupancy load was 117.
6. Investigators continued to make observations. They had a difficult time walking around due to the large number of individuals inside the premises.
7. Investigators made contact with Brendan Simard who identified himself as the manager on duty. Investigators informed Mr. Simard of the violation and that a report would be filed with the Chief Investigator for review.
8. Brian Stahl, Manager of Record, attended the Commission hearing and testified that he was not present on the night of the Investigators' visit but acknowledged the violation and stated the staff must have gotten overwhelmed. Mr. Stahl assured the Commission that the issue of overcrowding has been addressed with all staff members.
9. The Licensee has held a license under M.G.L. c. 138, § 12 since 1998 with several prior violations.

CONCLUSION

Based on the evidence, the Commission finds the Licensee violated 204 CMR 2.05 (2), to wit: 527 CMR 1.05 § 10.5.2.1 Overcrowding or admittance of any person beyond the established posted occupant load shall be prohibited. Therefore, the Commission **suspends the license for a period of four (4) days which are hereby deemed served.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio, Chairman _____

Jean M. Lorizio

Crystal Matthews, Commissioner _____

Crystal Matthews

Deborah A. Baglio, Commissioner _____

Deborah A. Baglio

Dated: September 16, 2021

You have the right to appeal this decision to the Superior Courts under the provisions of Chapter 30A of the Massachusetts General Laws within thirty (30) days of receipt of this decision.

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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Joseph Di Cicco, Investigator
Dennis Keefe, Investigator
Administration, File