

The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, Massachusetts 02114

Steven Grossman
Treasurer and Receiver General

Kim J. Gainsboro, Esq.
Chairman

DECISION

MCMURPHY, INC. DBA MCMURPHY'S UPTOWN TAVERN
37 NORTH PLEASANT ST.
AMHERST, MA 01002
LICENSE# 00242400079
HEARD 1/24/2012

McMurphy, Inc. dba McMurphy's Uptown Tavern (the "Licensee") holds an all alcohol license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, January 24, 2012, regarding an alleged violation of M.G.L. c. 138 §34 (1 count) and 527 CMR 10.13 (2) (e). Prior to the commencement of the hearing, the licensee stipulated to the violations alleged in Investigator Jan Kujawski's Report.

The following documents are in evidence:

Commission Exhibits

1. Investigator Kujawski's Investigative Report dated September 30, 2011;
2. Licensee's Stipulation of Facts; and
3. Photocopy of fake New York Driver's License.

Licensee Exhibits

- A. DFS Crowd Manager Training Certificate for Tyler Percival;
- B. DFS Crowd Manager Training Certificate for Marc Pedraza, Jr.; and
- C. DFS Crowd Manager Training Certificate for Brian Stahl.

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

FACTS

1. On Friday, September 30, 2011, at approximately 12:35: a. m., Investigators Bailey, Keefe and Kujawski, investigated the business operation of McMurphy, Inc. dba McMurphy's Uptown Tavern.
2. Investigators entered the premises and observed a youthful looking female individual in possession of an alcoholic beverage, later identified as a Long Island Tea.
3. Investigators identified themselves and asked to see her identification.
4. The female individual provided a New York State License bearing the name of Kathryn V. Lombardo, date of birth March 28, 1990.
5. The information recorded indicated the female individual, Miss Courtney Bifani, date of birth November 4, 1990, was under twenty-one (21) years of age.
6. Investigators spoke with the night manager on duty, identified as Mr. Brian Stahl, and asked to see the liquor license, as well as the occupancy permit.

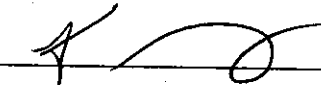
7. The occupancy permit indicated an allowable occupant load of one hundred and seventeen (117) persons.
8. Investigators asked Mr. Stahl to identify the certified crowd manager on duty
9. Mr. Stahl provided investigators with the certified crowd manager certificates.
10. Investigators asked Mr. Stahl to provide the daily fire and building safety checklists for review.
11. Mr. Stahl stated the daily fire and safety building checklist had not been completed.
12. Investigators asked if any daily fire and building safety checklists had been completed since June 1, 2011.
13. Mr. Stahl stated that no daily fire and building safety checklists had been completed.
14. Mr. Stahl stated he always does a safety check on a daily basis.
15. Investigators informed the manager on duty, Brian Stahl, and informed him that a report would be filed with the Chief Investigator for further action.
16. Administrative review of the files indicates the licensee has had no violations in over ten (10) years.

CONCLUSION

Based on the evidence, the Commission finds the licensee violated M.G.L. c. 138 §34 (1 count) and 527 CMR 10.13 (2) (e). Therefore, the Commission issues a **WARNING** for violating **M.G.L. c. 138 §34 (1 count)** and **suspends the licensee's license for one (1) day to be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur for violating 527 CMR 10.13 (2) (e).**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro, Chairman



I, the undersigned, hereby certify that I have reviewed the hearing record and concur with the above decision.

Susan Corcoran, Commissioner



Dated: January 24, 2012

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.

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Jan. Kujawski, Investigator
Administration
File