



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

**Jean M. Lorizio, Esq.**  
*Chairman*

*AMENDED*  
NOTICE OF SUSPENSION

November 16, 2023

**SIMRA LLC D/B/A AMHERST MARKET  
259 TRIANGLE STREET  
AMHERST, MA 01002  
LICENSE#: 89833-PK-0024  
VIOLATION DATE: 4/21/2023  
HEARD: 9/19/2023**

After a hearing on November 7, 2023, the Commission finds Simra LLC d/b/a Amherst Market violated M.G.L. Ch.138 § 34- Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age (6 Counts).

The Commission **suspends the license for a period of eight (8) days to be served.**

**The suspension shall commence on Monday, January 8, 2024, and terminate on MONDAY January 15, 2024.** The license will be delivered to the Local Licensing Board or its designee on Monday, January 8, 2024, at 9:00 A.M. It will be returned to the licensee on January 16, 2023.

You are advised that pursuant to the provisions of M.G.L. c.138 §23, you may petition the Commission to accept an offer in compromise in lieu of suspension within twenty (20) calendar days following such notice of such suspension. If accepted, you may pay a fine using the enclosed form which must be signed by the Licensee and a Massachusetts Licensed Accountant.

You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

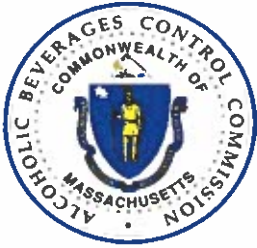
**ALCOHOLIC BEVERAGES CONTROL COMMISSION**

Jean M. Lorizio  
Chairman

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'Đây là tài liệu quan trọng và cần được dịch ngay'  
ឯកសារនេះសំខាន់ណាស់ ហើយត្រូវបកប្រែជាបន្ទាន់។

2023-000161-ad-enf

cc: Local Licensing Board  
Frederick G. Mahony, Chief Investigator  
Brian Gould, Investigator  
Sean Fleming, Investigator  
John Pearson, Esq.  
Administration, File



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Alcoholic Beverages Control Commission  
95 Fourth Street, Suite 3  
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NOTICE OF SUSPENSION

November 7, 2023

**SIMRA LLC D/B/A AMHERST MARKET  
259 TRIANGLE STREET  
AMHERST, MA 01002  
LICENSE#: 89833-PK-0024  
VIOLATION DATE: 4/21/2023  
HEARD: 9/19/2023**

After a hearing on November 7, 2023, the Commission finds Simra LLC d/b/a Amherst Market violated M.G.L. Ch.138 § 34- Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age (6 Counts).

The Commission **suspends the license for a period of eight (8) days to be served.**

**The suspension shall commence on Monday, January 8, 2024, and terminate on Sunday January 15, 2024.** The license will be delivered to the Local Licensing Board or its designee on Monday, January 8, 2024, at 9:00 A.M. It will be returned to the licensee on January 16, 2023.

You are advised that pursuant to the provisions of M.G.L. c.138 §23, you may petition the Commission to accept an offer in compromise in lieu of suspension within twenty (20) calendar days following such notice of such suspension. If accepted, you may pay a fine using the enclosed form which must be signed by the Licensee and a Massachusetts Licensed Accountant.

You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

**ALCOHOLIC BEVERAGES CONTROL COMMISSION**

Jean M. Lorizio  
Chairman

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*Commonwealth of Massachusetts  
Alcoholic Beverages Control Commission  
95 Fourth Street, Suite 3  
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**Jean M. Lorizio, Esq.**  
*Chairman*

**DECISION**

**SIMRA LLC D/B/A AMHERST MARKET  
259 TRIANGLE STREET  
AMHERST, MA 01002  
LICENSE#: 89833-PK-0024  
VIOLATION DATE: 4/21/2023  
HEARD: 9/19/2023**

Simra LLC d/b/a Amherst Market (“Licensee”) holds an alcohol license issued pursuant to M.G.L. c. 138, § 15. The Alcoholic Beverages Control Commission (“ABCC” or “Commission”) held a remote hearing via Microsoft Teams on Tuesday, September 19, 2023, regarding alleged violation of M.G.L. Ch. 138, § 34 – Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age (6 counts) which occurred on April 21, 2023, according to Investigator Gould’s Report.

The following documents are in evidence:

1. Investigator Gould’s Violation Report;
2. ABCC Licensing Authority Certification, Transfer of License Approved, 8/17/2020;
3. Photocopies of Confiscated Fraudulent Drivers’ Licenses.

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

FINDINGS OF FACT

1. On Friday, April 21, 2023, Investigators Fleming and Gould (“Investigators”) conducted an inspection of Simra LLC d/b/a Amherst Market (“Licensee” or “Amherst Market”) to determine the manner in which its business was being conducted. (Testimony, Exhibit 1)
2. At approximately 9:00 p.m., while Investigators conducted surveillance of the licensed premises, they observed four youthful appearing male individuals enter Amherst Market and exit shortly thereafter in possession of alcoholic beverages. Investigators identified themselves and asked to see proof of legal age to purchase and/or possess alcoholic beverages. Id.
3. Underage #1, actual date of birth 1/23/2003 (age 20) provided to Investigators a fraudulent Connecticut driver’s license bearing his own name but a different birth date. (Testimony, Exhibits 1 and 3)

4. Underage #2, actual date of birth 6/1/2003 (age 19) provided to Investigators a fraudulent Massachusetts driver's license bearing his own name but a different birth date. Id.
5. Underage #3, actual date of birth 6/20/2003 (age 19) and Underage #4, actual date of birth 10/28/2002 (age 20) each stated to Investigators that they were not asked to produce identification. (Testimony, Exhibit 1)
6. Investigators confiscated the alcoholic beverages, three cases of White Claw Hard Seltzer, one case of Bud Light beer, one case of Truly Hard Seltzer, one case of Vizzy Hard Seltzer, and four containers/ cans/bottles of beer. Id.
7. At approximately 9:50 p.m., Investigators observed two youthful appearing male individuals enter Amherst Market and exit shortly thereafter in possession of alcoholic beverages. Investigators identified themselves and asked to see proof of legal age to purchase and/or possess alcoholic beverages. Id.
8. Underage #5, actual date of birth 11/08/2002 (age 20) provided to Investigators a fraudulent Massachusetts driver's license bearing his own name but a different birth date. (Testimony, Exhibits 1 and 3)
9. Underage #6, actual date of birth 6/19/2003 (age 19) provided to Investigators a fraudulent Rhode Island driver's license bearing his own name but a different birth date. Id.
10. Investigators confiscated the alcoholic beverages, one case of Natural Ice beer, one case of Michelob Ultra beer, 1 case of Truly Hard Seltzer, and one container of Four Loko. (Testimony, Exhibit 1)
11. At approximately 10:05 p.m., Investigators entered the licensed premises and spoke to the clerk on duty. Id.
12. Investigators advised the clerk of the violations, and that a report would be submitted to the Chief Investigator for further review. Id.
13. The Licensee has held a license under M.G.L. c. 138, § 15 since 2020 with no prior violations. (Exhibit 2, Commission Records)
14. Atif Tasneem, Licensee, appeared at the Commission hearing and testified his policy is to check the identification of every person who enters the licensed premises. The Licensee has since installed an identification scanner which is utilized for every transaction. (Testimony)

#### DISCUSSION

Licenses to sell alcoholic beverages are a special privilege subject to public regulation and control, Connolly v. Alcoholic Beverages Control Comm'n, 334 Mass. 613, 619 (1956), for which States have especially wide latitude pursuant to the Twenty-First Amendment to the United States Constitution. Opinion of the Justices, 368 Mass. 857, 861 (1975). The procedure for the issuance of licenses and required conduct of licensees who sell alcoholic beverages is set out in Massachusetts General Laws, Chapter 138.

Chapter 138 gives the Commission the authority to grant, revoke and suspend licenses. Chapter 138 was “enacted ... to serve the public need and ... to protect the common good.” M.G.L. c. 138, § 23. “[T]he purpose of discipline is not retribution, but the protection of the public.” Arthurs v. Bd. of Registration in Medicine, 383 Mass. 299, 317 (1981). The Commission is given “comprehensive powers of supervision over licensees.” Connolly, 334 Mass. at 617.

The law is well-settled that the responsibility of the licensee is to exercise sufficiently close supervision so that there is compliance with the law on the premises. A vendor who sells alcohol is “bound at his own peril to keep within the condition of his license.” Commonwealth v. Gould, 158 Mass. 499, 507 (1893); Burlington Package Liquors, Inc. v. Alcoholic Beverages Control Comm’n, 7 Mass. App. Ct. 186, 190 (1979). It is, thus, quite possible for a licensee to offend the regulatory scheme without scienter. Rico’s of the Berkshires, Inc. v. Alcoholic Beverages Control Comm’n, 19 Mass. App. Ct. 1026, 1027 (1985).

The Licensee is charged with a violation of M.G.L. c 138, § 34 - Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age (6 counts). M.G.L. c. 138, § 34 states, in pertinent part, that: “[w]hoever makes a sale or delivery of any alcoholic beverage or alcohol to any person under twenty-one years of age ... shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than one year or both.” M.G.L. c. 138, § 34.

In this matter, direct evidence was presented through the Investigator’s testimony as to his observations of the six individuals, later determined to be under the age of twenty-one, entering the licensed premises and shortly thereafter exiting the establishment in possession of alcoholic beverages.

The Licensee offered that identification is requested of all patrons and argued that four of the six patrons presented Investigators with driver’s licenses which indicated they were over the age of twenty-one.

Massachusetts General Laws, Chapter 138, § 34B offers protection from license suspension or revocation or criminal penalties to license holders who reasonably rely on one of the types of identification specified in the statute, including a valid Massachusetts driver’s license, Massachusetts liquor identification card, Massachusetts identification card, a United States passport, or a passport issued by the government-- recognized by the United States-- of a foreign country, a passport card for a U.S. passport, or a valid U.S. military identification card. See M.G.L. c. 138, § 34B. Here, the licenses presented by four of the six individuals were fraudulent and false identifications provide no such defense.

The Commission is persuaded by the evidence that Simra LLC d/b/a Amherst Market sold alcoholic beverages to persons under twenty-one years of age. The Commission finds that the Licensee committed a violation of M.G.L. c. 138, § 34 - Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age (6 counts).

CONCLUSION

Based on the evidence, the Commission finds the Licensee violated M.G.L. Ch. 138, § 34 – Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age (6 counts). Therefore, the Commission **suspends the license for a period of eight (8) days.**

**ALCOHOLIC BEVERAGES CONTROL COMMISSION**

Crystal Matthews, Commissioner Crystal Matthews

I/we, the undersigned, hereby certify that I/we have reviewed the hearing record.

Deborah Baglio, Commissioner Deborah A Baglio

Jean M. Lorizio, Chairman Jean M Lorizio

Dated: November 7, 2023

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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