



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

Jean M. Lorizio, Esq.
Chairman

NOTICE OF SUSPENSION

March 13, 2024

**CHANSKY MARKET INC. D/B/A CHANSKY'S SUPER MARKET
1700 COMMONWEALTH AVENUE
BOSTON, MA 02135
LICENSE#: 89503-PK-0116 & TR-LIC-010638
VIOLATION DATE: 9/08/2023
HEARD: 2/06/2024**

After a hearing on February 6, 2024, the Commission finds Chansky Market Inc. d/b/a Chansky's Super Market violated M.G.L. Ch. 138, § 34 Sale or Delivery of an alcoholic beverage to a person under twenty-one years of age (1 count). The Commission **SUSPENDS the license for two (2) days to be served.**

The suspension shall commence on Monday, April 29, 2024, and terminate on Tuesday, April 30, 2024. The license will be delivered to the Local Licensing Board or its designee on Monday, April 29, 2024, at 9:00 A.M. It will be returned to the licensee on May 1, 2024.

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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2023-000273-ad-enf

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
John David, Investigator
Robert Gardner, Investigator
Kristen L. Scanlon, Esq.
Administration, File



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DECISION

**CHANSKY MARKET INC. D/B/A CHANSKY'S SUPER MARKET
1700 COMMONWEALTH AVENUE
BOSTON, MA 02135
LICENSE#: 89503-PK-0116 & TR-LIC-010638
VIOLATION DATE: 9/08/2023
HEARD: 2/06/2024**

Chansky Market Inc. d/b/a Chansky's Super Market (the "Licensee" or "Chansky Market") 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, February 6, 2024, regarding an alleged violation of M.G.L. Ch. 138, § 34 Sale or Delivery of an alcoholic beverage to a person under twenty-one years of age (1 count), which occurred on September 8, 2023, according to Investigator Gardner's report.

The following documents are in evidence:

1. Investigator Gardner's Report;
2. Photograph of Massachusetts Driver's License of Delivery Driver;
3. Photograph of Alcohol Confiscated;
4. Photograph of Fraudulent Rhode Island Driver's License Confiscated;
5. Licensee's Transportation and Delivery Permit, Approved, 12/30/2023;
6. Photographs (3) of Drizly Mobile Application Order Details;
7. ABCC Approval Cover Sheet, Transfer of License Approved, 3/7/2019;
8. ABCC Decision (vd 9/30/2020), 12/8/2021;
9. ABCC Decision (vd 10/1/2020), 12/8/2021;
10. ABCC Decision (vd 10/2/2020), 12/8/2021.

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

FINDINGS OF FACT

1. On Friday, September 8, 2023, Investigators Gardner and David ("Investigators"), conducted surveillance of Chansky Market Inc. d/b/a Chansky's Super Market (the "Licensee" or "Chansky Market") to determine the way its business was being conducted. (Testimony, Exhibit 1)

2. At approximately 9:40 p.m., Investigators observed a delivery driver exit Chansky Market with two 30 packs of Coors Light and put the alcoholic beverages into a White Chevy Bolt vehicle. Investigators followed the vehicle to Tudor Road in Chestnut Hill and observed the delivery driver pull over outside of Medeiros Townhouse, which is a freshman dormitory located on the Boston College Campus. Id.
3. A few moments later, Investigators observed a youthful appearing male individual approach the vehicle from the direction of the Medeiros Townhouse. Investigators observed the delivery driver speaking with the male and then observed the male take possession of the two 30 packs of Coors Light. Investigators then approached the delivery driver and the male, identified themselves and requested proof of age to lawfully purchase and/or possess alcoholic beverages. (Testimony, Exhibits 1, 3)
4. Underage #1, actual date of birth 5/18/2005 (age 18), provided Investigators with a fraudulent Rhode Island Driver's License that he used to purchase the alcoholic beverages. (Testimony, Exhibits 1, 4)
5. Investigators spoke with the delivery driver, who stated he was an employee of Chansky Market and provided Investigators with a valid Transportation permit. The delivery driver stated the alcoholic beverages were ordered through the Drizly application. (Testimony, Exhibits 1, 6)
6. On Wednesday, September 13, 2023, Investigators visited Chansky Market and advised an employee of the violation and informed him that a report would be filed with the Chief Investigator for further action. (Testimony, Exhibit 1)
7. Mr. Peter Patel, Licensee, attended the Commission hearing and acknowledged the alcoholic beverages were delivered to Underage #1 prior to his employee checking identification. The Licensee stated he instructs all employees concerning delivery orders to be aware of "red flags" such as, deliveries close to college campuses and the price of products ordered, as well as instructing them to ask for back-up identification to ensure the customer is over 21 years of age. (Testimony)
8. The Licensee has held a license under M.G.L. c. 138, § 15 since 2019 with prior violations. (Exhibits 7 – 10)

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 (1 count). 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 Licensee’s employee delivering alcoholic beverages to a male individual who was under the age of twenty-one. (Testimony, Exhibit 4)

The Licensee argued the employee was in the process of obtaining identification from the underage individual as the investigators approached. However, the Licensee also acknowledged delivery of the alcoholic beverages was made prior to an identification being examined. (Testimony)

The Commission is persuaded by the evidence that Chansky Market, Inc. d/b/a Chansky’s Super Market sold alcoholic beverages to a person 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 (1 count).

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 years of age (1 count). Therefore, the Commission **suspends the license for a period of two (2) days.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Crystal Matthews, Commissioner



Deborah A. Baglio, Commissioner



Dated: March 13, 2024

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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