



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

Jean M. Lorizio, Esq.
Chairman

NOTICE OF SUSPENSION

September 22, 2025

**FENWAY JOHNNIE'S LLC D/B/A FENWAY JOHNNIE'S
96-98 BROOKLINE AVENUE
BOSTON, MA 02215
LICENSE#: 04077-RS-0116
VIOLATION DATE: 11/3/2023
HEARD: 4/30/2024**

After a hearing on April 30, 2024, the Commission finds Fenway Johnnie's LLC d/b/a Fenway Johnnie's violated 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: M.G.L. Ch. 138, § 34C – Possession of an alcoholic beverage by a person under twenty-one (21) years of age (5 Counts).

The Commission **SUSPENDS** the license for a period of eight (8) days of which five (5) days will be served and three (3) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations are found by this Commission.

The suspension shall commence on **Monday, November 17, 2025**, and terminate on **Friday, November 21, 2025**. The license will be delivered to the Local Licensing Board or its designee on Monday, November 17, 2025, at 9:00 A.M. It will be returned to the licensee on November 22, 2025.

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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2023-000277ad-enf

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Sean Fleming, Investigator
Alicia Cutter, Investigator
John David, Investigator
Katelyn Quinn, Investigator
Nicole Smith, Investigator
Christopher Temple, Investigator
Seamus O'Kelly, Esq.
Administration, File



*Commonwealth of Massachusetts
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DECISION

**FENWAY JOHNNIE'S LLC D/B/A FENWAY JOHNNIE'S
96-98 BROOKLINE AVENUE
BOSTON, MA 02215
LICENSE#: 04077-RS-0116
VIOLATION DATE: 11/3/2023
HEARD: 4/30/2024**

Fenway Johnnie's LLC d/b/a Fenway Johnnie's ("Licensee" or "Fenway Johnnies") holds an alcohol license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission ("ABCC" or "Commission") held a remote hearing via Microsoft Teams on Tuesday, April 30, 2024, regarding an alleged violation of 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit: Ch. 138 § 34C - Possession of an alcoholic beverage by a person under twenty-one (21) years of age (5 Counts) which occurred on November 3, 2023, according to Investigator Cutter's Report.

The following documents are in evidence:

1. Investigative Report of A. Cutter;
2. Photographs of Fraudulent Identifications;
3. ABCC Application Summary Review, Transfer of License Approved 5/08/2018;
4. ABCC Decision, 2/3/2023;
5. ABCC Decision, 5/2/2023;
6. Investigative Report of N. Velez, 9/8/2023;
7. Investigative Report of S. Fleming, 9/22/2023.

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

FINDINGS OF FACT

1. On Friday, November 3, 2023, at approximately 10:20 p.m., Investigators Cutter, Temple, Velez and Fleming ("Investigators") inspected the business operation of Fenway Johnnie's LLC d/b/a Fenway Johnnie's ("Licensee" or "Fenway Johnnies"). (Testimony, Exhibit 1)
2. Investigator Cutter observed a youthful appearing female in possession of what appeared to be an alcoholic beverage. The Investigator identified herself and requested proof of legal age to possess an alcoholic beverage. Id.

3. Underage #1, actual date of birth 2/2/2005 (age 18), was in possession of a vodka cranberry mixed drink. Id.
4. Investigator Velez observed a youthful appearing female in possession of what appeared to be an alcoholic beverage. He identified himself and requested proof of legal age to possess an alcoholic beverage.
5. Underage #2, actual date of birth 2/24/2005 (age 18), was in possession of a dirty shirley temple with vodka. Id.
6. Investigator Temple observed a youthful appearing male in possession of what appeared to be an alcoholic beverage. Investigator Temple identified himself and requested proof of legal age to possess an alcoholic beverage. Id.
7. Underage #3, actual date of birth 8/30/2004 (age 19), was in possession of a Bud Light beer. Id.
8. Investigator Temple observed another youthful appearing male in possession of what appeared to be an alcoholic beverage. He identified himself and requested proof of legal age to possess an alcoholic beverage. Id.
9. Underage #4, actual date of birth 1/19/2005 (age 18), was in possession of a Bud Light beer. Id.
10. Investigator Fleming observed a youthful appearing male in possession of what appeared to be an alcoholic beverage. He identified himself and requested proof of legal age to possess an alcoholic beverage. Id.
11. Underage #5, actual date of birth 2/6/2005 (age 18), was in possession of a Bud Light beer. Id.
12. Investigators informed John Caron, Licensee, of the violations, and that a report would be submitted to the Chief Investigator for further action. Id.
13. Mr. Caron appeared at the Commission hearing and testified his employees are trained to check each patron's identification. He stated that he has an identification scanner and employees do their best to prevent underage individuals from obtaining alcoholic beverages. (Testimony)
14. The Licensee has held a license under M.G.L. c. 138, § 12 since 2018 with two prior violations. (Exhibits 3, 4, 5)

DISCUSSION

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 Licensee is charged with a violation of 204 CMR 2.05 (2) - Permitting an illegality on the licensed premises, to wit: chapter 138, §34C – Possession of an alcoholic beverage by a person under twenty-one (21) years of age. A Commission regulation promulgated at 204 CMR 2.05(2) provides in pertinent part, that “[n]o licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to the place in or on the licensed premises. The licensee shall be responsible therefore, whether present or not.” The law is well-settled that ‘under the regulation, [204 C.M.R. 2.05(2)] 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.” Burlington Package Liquors, Inc. v. Alcoholic Beverages Control Comm’n, 11 Mass. App. Ct. 785, 788 (1981); Commonwealth v. Gould, 158 Mass. 499, 507 (1893). It is, thus, quite possible for a licensee to offend the regulatory scheme without scienter. The licensee is responsible for illegalities that occur on the licensed premises. Rico’s of the Berkshires, Inc. v. Alcoholic Beverages Control Comm’n, 19 Mass. App. Ct. 1026, 1027 (1985).

Massachusetts General Laws, Chapter 138, §34C states, in pertinent part, that: “Whoever, being under twenty-one years of age and not accompanied by a parent or legal guardian, knowingly possesses any alcohol or alcoholic beverages, shall be punished.” M.G.L. c. 138, §34C.

Direct evidence was provided through the eye-witness testimony of Investigators Cutter, Velez, Temple and Fleming who observed and interacted with patrons younger than twenty-one years of age who were on the licensed premises and in possession of alcoholic beverages.

The Licensee asserts that its employees check the identification of each person entering the licensed premises and utilized an identification scanner to verify the identifications.

Massachusetts General Law, 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. See M.G.L. c. 138, § 34B. However, Section 34B refers only to the activities of delivery and sale, and it omits any reference to the act of possession. See id. Section 34B offers no relief from liability for allowing possession of alcoholic beverages in violation of M.G.L. c. 138, § 34C. See Id.

The Commission finds that the Licensee committed a violation of 204 CMR 2.05 (2) - Permitting an illegality on the licensed premise, to wit: M.G.L. c. 138, §34C- Possession of an alcoholic beverage by a person under twenty-one years of age (5 counts).

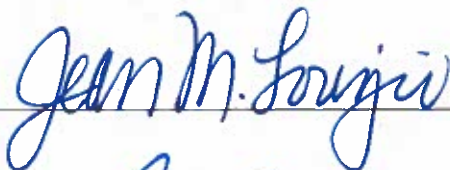
CONCLUSION

Based on the evidence, the Commission finds the Licensee violated 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit: Ch. 138 § 34C - Possession of an alcoholic beverage by a person under twenty-one (21) years of age (5 Counts).

As a result, the Commission **suspends the license for a period of eight (8) days of which five (5) days will be served and three (3) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations are found by this Commission.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio, Chairman



Crystal Matthews, Commissioner



Deborah Baglio, Commissioner



Dated: September 22, 2025

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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