



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

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

**DECISION**

**HIGH STREET RESTAURANT GROUP D/B/A HOWL AT THE MOON  
184 HIGH STREET  
BOSTON, MA 02110  
LICENSE#: 01441-RS-0116  
VIOLATION DATE: 12/14/2024<sup>1</sup>  
HEARD: 3/11/2025**

High Street Restaurant Group d/b/a Howl at The Moon (“Licensee” or “Howl”) holds an alcohol license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission (“ABCC” or “Commission”) held a hearing on Tuesday, March 11, 2025, regarding an alleged violation of M.G.L. Ch.138 § 69 – Sale or delivery of an alcoholic beverage to an intoxicated person (1 Count). Prior to the commencement of the hearing, the Licensee stipulated to the facts in Investigator Quinn’s report.

The following documents are in evidence:

1. Investigative Report of K. Quinn;
2. ABCC Form 43, Transfer of License Approval, 4/21/2010;
3. ABCC Decision, 1/5/2020;
4. Licensee’s Stipulation of Facts.

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

**FINDINGS OF FACT**

1. On Saturday, December 14, 2024, at approximately 10:07 p.m., Investigators McDonough and Quinn (“Investigators”) inspected the business operation of High Street Restaurant Group d/b/a Howl at the Moon (“Licensee” or “Howl”).
2. At approximately 10:11 p.m., Investigators observed an unidentified female individual (“UF1”). UFI appeared to be unsteady on her feet. She appeared to stumble and fall while

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<sup>1</sup> The violation report listed the violation date as 12/14/2022. This was a scrivener’s error. The alleged violation occurred on Saturday, 12/14/2024. The report was submitted via email to the Commission’s administrative assistant on 1/13/2025.

dancing with friends. This occurred in close proximity to the bar and in the line of sight of the bartenders and/or staff.

3. At approximately 10:12 p.m., Investigators observed UF1 standing and swaying with her eyes closed. UF1 then appeared to lose her balance while dancing and fell into her friends. This occurred in close proximity to the bar and in the line of sight of the bartenders and/or staff.
4. Investigators then observed UF1 dancing with another unidentified female individual ("UF2"). UF1 and UF2 appeared to lose their balance and stumble while in close proximity to the bar and in the line of sight of the bartenders/staff.
5. At approximately 10:15 p.m., UF2 approached Investigator Quinn and spoke to her with slurred speech. Investigators observed UF2's eyes were glassy. UF2 grabbed Investigator Quinn and attempted to dance with her. This occurred in close proximity to the bar and within the line of sight of the bartenders/staff.
6. At approximately 10:20 p.m., Investigators observed UF2 dancing and bumping into people. UF2 exhibited a lack of inhibition and attempted to dance with various groups of people. This occurred in close proximity to the bar and within the line of sight of the bartenders/staff.
7. At approximately 10:28 p.m., Investigators observed UF1 stumbling and bumping into other patrons and she appeared to have difficulty maintaining her balance. This occurred in close proximity to the bar and within the line of sight of the bartenders/staff.
8. At approximately 10:38 p.m., Investigators observed UF2 dancing with a different group of individuals, becoming very touchy with them. This occurred in close proximity to the bar and within the line of sight of the bartenders/staff.
9. At approximately 10:43 p.m., Investigators observed both UF1 and UF2 standing directly at the bar. UF1 ordered three drinks, including two vodka & Red Bull mixed drinks. Investigators observed the bartender deliver the three drinks to UF1. UF1 then handed one vodka and Red Bull mixed drink to UF2.
10. Investigators spoke with the manager on duty, Artie Lucas, about the violation and advised him that a report would be filed with the Chief Investigator for further review.
11. Paul Holian, Licensee, and Mr. Lucas, General Manager, appeared at the Commission hearing.
12. The Licensee has held a license under M.G.L. c. 138, § 12 since 2010. (Exhibit 2)

#### DISCUSSION

The Licensee is charged with service to an intoxicated person in violation of M.G.L. c. 138, § 69. "No alcoholic beverage shall be sold or delivered on any premises licensed under this chapter to an intoxicated person." M.G.L. c. 138, § 69. "[A] tavern keeper does not owe a duty to refuse to serve liquor to an intoxicated patron unless the tavern keeper knows or reasonably should have known that the patron is intoxicated." Vickowski v. Polish Am. Citizens Club of Deerfield, Inc.,

422 Mass. 606, 609 (1996) (quoting Cimino v. Milford Keg, Inc., 385 Mass. 323, 327 (1982)). “The negligence lies in serving alcohol to a person who already is showing discernible signs of intoxication.” Id. at 610; see McGuiggan v. New England Tel. & Tel. Co., 398 Mass. 152, 161 (1986).

To substantiate a violation of M.G.L. c. 138, § 69, there must be proof of the following elements: (1) that an individual was in or on the licensed premises; (2) that an employee of the licensed premises knew or reasonably should have known that the individual was intoxicated; and (3) that after the employee knew or reasonably should have known the individual was intoxicated, the employee sold or delivered an alcoholic beverage to the intoxicated individual. See Vickowski, 422 Mass. at 609. “The imposition of liability on a commercial establishment for the service of alcohol to an intoxicated person ..., often has turned, in large part, on evidence of obvious intoxication at the time a patron was served.” Id.; see Cimino, 385 Mass. at 325, 328 (patron was “totally drunk”; “loud and vulgar”).

The Commission’s decision must be based on substantial evidence. See Embers of Salisbury, Inc. v. Alcoholic Beverages Control Comm’n, 401 Mass. 526, 528 (1988). “Substantial evidence” is “such evidence as a reasonable mind might accept as adequate to support a conclusion.” Id. Evidence from which a rational mind might draw the desired inference is not enough. See Blue Cross and Blue Shield of Mass. Inc. v. Comm’r of Ins., 420 Mass. 707 (1995). Disbelief of any particular evidence does not constitute substantial evidence to the contrary. New Boston Garden Corp. v. Bd. of Assessor of Boston, 383 Mass. 456, 467 (1981).

To find a violation of M.G.L. c. 138, § 69 evidence must exist that “the patron in question was exhibiting outward signs of intoxication by the time he was served his last alcoholic drink.” Rivera v. Club Caravan, Inc., 77 Mass. App. Ct. 17, 20 (2010); see Vickowski, 422 Mass. at 610 (“The negligence lies in serving alcohol to a person who already is showing discernible signs of intoxication”). Direct or circumstantial evidence or a combination of the two may be used to prove that an individual is intoxicated. See Vickowski, 422 Mass. at 611 (direct evidence of obvious intoxication not required).

The law is well-settled that it is the responsibility of the licensee 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).

Investigator Quinn appeared at the Commission hearing and read her report which detailed her observations of the actions of two patrons inside the licensed premises and her observations of the licensee’s employee serving one of them three (3) alcoholic beverages as the two stood together at the bar. However, the Investigator did not establish she had made a determination that either patron was intoxicated prior to the service.

Given the evidence presented, the Commission finds it cannot draw an inference of obvious intoxication at the time of service with the requisite degree of certainty as to either patron. The Commission is not persuaded that substantial evidence exists to support a finding that the licensee violated M.G.L. c. 138 § 69.

CONCLUSION

Based on the evidence, the Commission finds NO VIOLATION of M.G.L. Ch.138 § 69 – Sale or delivery of an alcoholic beverage to an intoxicated person (1 Count) occurred.

**ALCOHOLIC BEVERAGES CONTROL COMMISSION**

Jean M. Lorizio, Chairman \_\_\_\_\_  
*Jean M. Lorizio*

Crystal Matthews, Commissioner \_\_\_\_\_  
*Crystal Matthews*

Deborah A. Baglio, Commissioner \_\_\_\_\_  
*Deborah A. Baglio*

Dated: November 26, 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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2025-000014-ad-enf

- cc: Local Licensing Board
- Frederick G. Mahony, Chief Investigator
- Katelyn Quinn, Investigator
- David McDonough, Investigator
- Dennis A. Quilty, Esq.
- Administration, File