



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

Jean M. Lorizio, Esq.
Chairman

NOTICE OF SUSPENSION

January 23, 2024

**QUALITY MART INC. D/B/A QUALITY MART
21 MASSACHUSETTS AVENUE
BOSTON, MA 02115
LICENSE#: 01957-PK-0116
VIOLATION DATE: 5/26/2022
HEARD: 6/20/2023**

After a hearing on June 20, 2023, the Commission finds Quality Mart Inc. d/b/a Quality Mart violated M.G.L. Ch. 138, § 34 – Sale or delivery of an alcoholic beverage to a person under twenty-one years of age (2 Counts). The Commission **suspends the license for a period of four (4) days to be served.**

The suspension shall commence on Monday, April 8, 2024, and terminate on Thursday, April 11, 2024. The license will be delivered to the Local Licensing Board or its designee on Monday, April 8, 2024, at 9:00 A.M. It will be returned to the licensee on April 12, 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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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Alicia Cutter, Investigator
John David, Investigator
Brian Gould, Investigator
Christopher Temple, Investigator
Carolyn Conway, Esq.
Administration, File



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DECISION

**QUALITY MART INC. D/B/A QUALITY MART
21 MASSACHUSETTS AVENUE
BOSTON, MA 02115
LICENSE#: 01957-PK-0116
VIOLATION DATE: 5/26/2022
HEARD: 6/20/2023**

Quality Mart Inc. d/b/a Quality Mart (“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, June 20, 2023, 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 (2 Counts)¹ which occurred on May 26, 2022, according to Investigator Cutter’s report.

The following documents are in evidence:

1. Investigator Cutter’s Report;
2. ABCC Form 43, License Transfer Approval, 8/30/2011;
3. Photographs of Fraudulent Identifications Confiscated;
4. ABCC Decision, 7/20/2017;
5. ABCC Decision, 7/25/2017;
6. ABCC Decision, 8/25/2022.

A. Screenshots of ID Science Scanner’s Results.

At the conclusion of the hearing, the Commission left the record open to June 27, 2023, for the Licensee to submit an additional exhibit. The Commission did not receive any additional documents and the record is now closed.

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

¹ During the Commission hearing, the Investigation and Enforcement Division withdrew one (1) count of the charge of a violation of M.G.L. Ch. 138, § 34.

FINDINGS OF FACT

1. On Thursday May 26, 2022, at approximately 8:40 p.m., Investigators David, Gould, Temple, and Cutter (“Investigators”) inspected Quality Mart Inc. d/b/a Quality Mart (“Licensee” or “Quality Mart”). (Testimony, Exhibit 1)
2. Investigators conducted surveillance outside the licensed premises and observed two youthful appearing female individuals exit the premises carrying what appeared to be 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 2/04/2003 (age 19), presented to Investigators a fraudulent Maine driver’s license, that she used to purchase the alcoholic beverages. She also provided Investigators her true Massachusetts Junior Operator driver’s license. (Testimony, Exhibits 1, 3)
4. Underage #2, actual date of birth 3/28/2003 (age 19) presented to Investigators a fraudulent Ohio driver’s license, which she used to purchase the alcoholic beverages. She also provided Investigators with her New York University student identification. Id.
5. Underage #1 and Underage #2 were in possession of one 12-pack of High Noon Hard Seltzer and one bottle of Tito’s vodka which the Investigators confiscated. (Testimony, Exhibit 1)
6. Investigators entered the licensed premises and spoke to the clerk who sold the alcoholic beverages to Underage #1 and #2. Investigators informed the clerk of the violations and that a report would be submitted to the Chief Investigator for further action. Id.
7. Mr. Chafia A. Hamadeh, a Licensee employee, appeared at the Commission hearing and testified he was working as store manager on the night of May 26, 2022. Mr. Hamadeh testified that it is store policy to request identification from all patrons and to scan every identification. He testified that policy was followed that night. (Testimony)
8. Aymen Rajeh, Licensee, appeared at the Commission hearing. Mr. Rajeh testified all customers were required to produce identification on the night of May 26, 2022, and all identification were scanned. (Testimony)
9. The Licensee has held a license under M.G.L. c. 138, § 15 since 2011 with three (3) prior violations. (Exhibit 2, 4, 5, 6)

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. 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 her observations at the licensed premises on the night of May 26, 2022, and her interactions with the underage individuals and the Licensee’s employee that followed, as well as the testimony of both the Licensee and an employee regarding all customers being required to produce identification and those identifications being run through an identification scanner.

Here, the evidence shows the underage individuals presented the Licensee with fraudulent Maine and Ohio driver’s licenses. 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. Consequently, the out-of-state identifications provide no such defense.

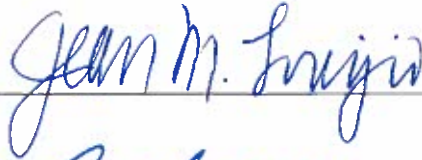
The Commission is persuaded by the evidence that Quality Mart, Inc., d/b/a Quality Mart sold alcoholic beverages to persons under twenty-one years of age. The Commission finds the Licensee committed a violation of M.G.L. c. 138, § 34 - Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age (2 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 years of age (2 Counts). Therefore, the Commission **suspends the license for a period of four (4) days.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

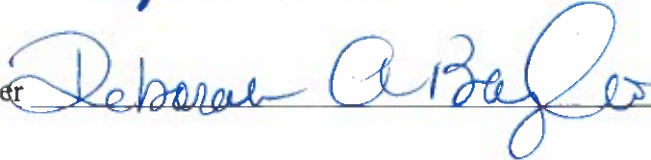
Jean M. Lorizio, Chairman



Crystal Matthews, Commissioner



Deborah Baglio, Commissioner



Dated: January 23, 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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