



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

Jean M. Lorizio, Esq.
Chairman

NOTICE OF INDEFINITE SUSPENSION

January 7, 2021

**SHANNON TAVERN INC. D/B/A SHANNON TAVERN
558 EAST THIRD STREET
BOSTON, MA 02127
LICENSE#: 00340-RS-0116
VIOLATION DATE: 11/07/2020
HEARD: 12/08/2020**

After a hearing on December 8, 2020, the Commission finds Shannon Tavern Inc. d/b/a Shannon Tavern violated:

- 1) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 37 (June 6, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 2) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 40 (June 19, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 3) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Mass. Exec. COVID-19 Order No. 53 (Nov. 2, 2020) – Failure to close licensed premises to the public before 10:00 PM.

Therefore, the Commission **INDEFINITELY SUSPENDS** the license of Shannon Tavern Inc. d/b/a Shannon Tavern **effective forthwith** until further written order of the Commission.

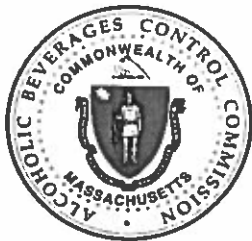
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

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Chairman

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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Kyle E. Gill, Esq., Associate General Counsel
Dennis Keefe, Investigator
Joseph Di Cicco, Investigator
Michael Flanagan, Dept. of Labor Standards
Administration, File



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DECISION

**SHANNON TAVERN INC. D/B/A SHANNON TAVERN
558 EAST THIRD STREET
BOSTON, MA 02127
LICENSE#: 00340-RS-0116
VIOLATION DATE: 11/07/2020
HEARD: 12/08/2020**

Shannon Tavern Inc. d/b/a Shannon Tavern (the "Licensee") holds an alcoholic beverages 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, December 8, 2020, regarding alleged violations of:

- 1) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 37 (June 6, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 2) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 40 (June 19, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 3) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Mass. Exec. COVID-19 Order No. 53 (Nov. 2, 2020) – Failure to close licensed premises to the public before 10:00 PM.

The above-captioned occurred on November 7, 2020, according to Investigator Keefe's Report.

The following documents are in evidence:

1. Investigator Keefe's Report;
2. Copy of New License Approval, 12/16/1993;
3. Massachusetts Executive COVID-19 Order No. 37, 6/6/2020;
4. Massachusetts Executive COVID-19 Order No. 40, 6/19/2020;
5. Massachusetts Executive COVID-19 Order No. 53, 11/2/2020;
6. Massachusetts Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19, 10/1/2020;
7. ABCC Enforcement Memorandum, 12/7/2020.

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

FINDINGS OF FACT

1. On Saturday, November 7, 2020, at approximately 10:50 p.m., Investigators Di Cicco and Keefe ("Investigators") conducted an investigation of Shannon Tavern Inc. d/b/a Shannon Tavern to determine the manner in which its business was being conducted, and to ensure compliance with Massachusetts Governor Charles Baker's Executive COVID-19 Orders. (Testimony, Exhibit 1)
2. Investigators were in the area and noticed lights still on inside the licensed premises. They approached the establishment and from outside observed multiple individuals standing without any facial coverings in possession of alcoholic beverages and a gentleman behind the bar wearing a mask below his chin. Id.
3. Investigators attempted to enter the licensed premises but found the front door to be locked. Investigators then knocked on the door, which was answered by Jeremiah Bowen, the bartender and owner. Mr. Bowen's mask was located below his chin. Id.
4. Investigators identified themselves to Mr. Bowen. As Investigators spoke with Mr. Bowen, they were able to see directly into the licensed premises where they observed five (5) individuals standing and in possession of alcoholic beverages, some without any facial coverings and others with facial coverings below their chins. Id.
5. Investigators informed Mr. Bowen of their observations and reviewed the Sector Specific Safety Standards for Restaurants and COVID-19 Order 53 with him, specifically advising him of the requirement that all patrons must exit the premises before 10:00 PM. Id.
6. Mr. Bowen informed Investigators that earlier in the evening there had been many more patrons and it was difficult getting them to leave the premises. Id.
7. Mr. Bowen attended the Commission hearing. Mr. Bowen acknowledged the violations, explaining that he has since updated his protocols and spoken with staff. In addition, the establishment has been closing fifteen (15) minutes earlier. (Testimony)
8. The Licensee has held a license under M.G.L. c. 138, § 12 since 1963 with no prior violations. (Commission Records)

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 Licensee is charged with a violation of 204 CMR 2.05 (2). “No licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premises.” 204 CMR 2.05 (2). More specifically the Licensee is charged with permitting an illegality on the licensed premises, to wit:

Massachusetts Executive COVID-19 Order No. 37 (June 6, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;

Massachusetts Executive COVID-19 Order No. 40 (June 19, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19; and

Violation of Massachusetts Executive COVID-19 Order No. 53 (Nov. 2, 2020) – Failure to close licensed premises to the public before 10:00 PM.

The Executive COVID-19 Orders require adherence to all Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19 (October 1, 2020) including:

Require face coverings for all customers and workers at all times, except where an individual is unable to wear a face covering due to medical condition or disability;

Customers must wear face coverings unless seated at tables;

All customers must be seated.

Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19 (October 1, 2020)

Massachusetts Executive COVID-19 Order No. 53 (Nov. 2, 2020) mandates Licensees must close their premises to the public by 9:30 p.m. with all patrons exiting the premise by 10:00 PM.

Massachusetts Executive COVID-19 Order No. 53 (November 2, 2020)

Direct evidence was presented through the testimony of Investigator Keefe as to a number of patrons without facial coverings, the Licensee without a facial covering, patrons standing throughout the establishment in possession of alcoholic beverages, and patrons on the licensed premise after 10:00 PM.

The Licensee acknowledged violations occurred and explained to the Commission that he has updated protocols to ensure compliance with the Governor’s COVID-19 Orders and Safety Standards.

The Commission is persuaded by the evidence that a violation of 204 CMR 2.05(2) to wit Massachusetts Executive COVID-19 Orders 37, 40 and 53 did occur.

CONCLUSION

Based on the evidence, the Commission finds the Licensee violated:

- 1) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 37 (June 6, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 2) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 40 (June 19, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 3) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Mass. Exec. COVID-19 Order No. 53 (Nov. 2, 2020) - Failure to close licensed premises to the public before 10:00 PM.

The Commission hereby **INDEFINITELY SUSPENDS** the license of Shannon Tavern Inc. d/b/a Shannon Tavern **effective forthwith** until further written order of the Commission.

The Commission will not issue any further order without a written request from the licensee showing good cause to reconsider this indefinite suspension.

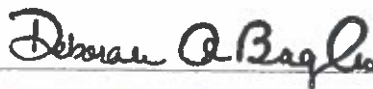
Good cause for the Commission to consider issuing a further written order revising the order of indefinite suspension will include, but not be limited to the Licensee receives approval from the Massachusetts Department of Labor Standards ("DLS") as to a reopening plan. The Licensee must submit to the DLS a COVID Control Plan to reopen (see link here: <https://www.mass.gov/doc/phase-iii-step-1-restaurants-checklist-92220/download>) and operate in compliance with COVID 19 Orders Nos. 33, 37, 40 and 43, and the Restaurant Sector Specific Standards. Said plan must be submitted to both Michael Flanagan (michael.flanagan@mass.gov) and Mary Dozois (mary.dozois@mass.gov) requesting review and approval.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Crystal Matthews, Commissioner



Deborah A. Baglio, Commissioner



Jean M. Lorizio, Chairman



Dated: January 7, 2021

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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