

*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**

March 17, 2021

**SUNILA CORP. D/B/A QUALITY MART**  
**150 NORTH BEACON STREET**  
**BOSTON, MA 02135**  
**LICENSE#: 01578-PK-0116**  
**VIOLATION DATE: 1/15/2021**  
**HEARD: 3/16/2021**

After a hearing on March 16, 2021, the Commission finds Sunila Corp. d/b/a Quality Mart violated 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Mass. Exec. COVID-19 Order No. 53 (Nov. 2, 2020) – Sale, service, or delivery of alcoholic beverages after 9:30 pm.

Therefore, the Commission **INDEFINITELY SUSPENDS** the license of Sunila Corp. d/b/a Quality Mart **effective forthwith** until further written order of the Commission.

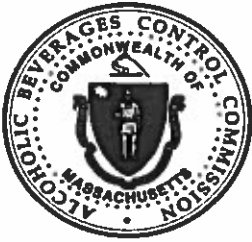
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

**ALCOHOLIC BEVERAGES CONTROL COMMISSION**

Jean M. Lorizio  
Chairman

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cc: Local Licensing Board  
Frederick G. Mahony, Chief Investigator  
Kyle E. Gill, Esq., Associate General Counsel  
Robert Gardner, Investigator  
Nicholas Velez, Investigator  
Michael Flanagan, Dept. of Labor Standards  
Demetrios Kafkas, Esq.  
Administration, File



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

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

**DECISION**

**SUNILA CORP. D/B/A QUALITY MART  
150 NORTH BEACON STREET  
BOSTON, MA 02135  
LICENSE#: 01578-PK-0116  
VIOLATION DATE: 1/15/2021  
HEARD: 3/16/2021**

Sunila Corp. d/b/a Quality Mart (the "Licensee") holds an alcoholic beverages 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, March 16, 2021, regarding an alleged violation of 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Mass. Exec. COVID-19 Order No. 53 (Nov. 2, 2020) – Sale, service, or delivery of alcoholic beverages after 9:30 pm. The above-captioned occurred January 15, 2021 according to Investigator Gardner's Report.

The following documents are in evidence:

1. Investigator Gardner's Report;
2. License Transfer Approval, 7/10/2002;
3. ABCC Decision, 10/25/2005;
4. Massachusetts Executive COVID-19 Order No. 53, 11/2/2020.

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

**FINDINGS OF FACT**

1. On Friday, January 15, 2021, at approximately 10:00 p.m., Investigators Gardner and Velez ("Investigators") were in the area of the licensed premise and observed an individual exit the establishment in possession of alcoholic beverages. Investigators conducted an investigation of Sunila Corp. d/b/a Quality Mart 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. While outside of the establishment, Investigators observed multiple individuals enter the licensed premise and then exit in possession of alcoholic beverages. Id.

3. At 10:03 p.m., Investigators observed a male individual exit the store in possession of one 18-pack of Bud Light beer. *Id.*
4. At 10:05 p.m., Investigators observed a male individual exit the establishment in possession of one 24-pack of Corona beer. *Id.*
5. At 10:15 p.m., Investigators observed another male individual exit the establishment in possession of one 24-pack of Corona beer. *Id.*
6. At 10:17 p.m., Investigators observed a male individual exit the licensed premise in possession of one 12-pack of Modelo beer. *Id.*
7. Investigators entered the licensed premises and identified themselves to the clerk, Kapil Gautam, and advised him of the COVID-19 Order prohibiting the sale of alcoholic beverages after 9:30 p.m. Mr. Gautam was further advised to immediately cease all sales of alcoholic beverages. *Id.*
8. Investigators informed Mr. Gautam that a report would be filed with the Chief Investigator for review. *Id.*
9. Sunil Kapoor, the Licensee, attended the Commission hearing and testified that he had not been aware the sale of alcoholic beverages must cease at 9:30 p.m. because he had not received notice of said order from the local board. That being said, he acknowledged he has trouble receiving mail at Quality Mart. Mr. Kapoor went on to state that he holds another license for a package store and had, in fact, received notice at that location. He testified he mistakenly believed the prohibition against sales after 9:30 p.m. only pertained to distilled spirits. (Testimony)
10. The Licensee has held a license under M.G.L. c. 138, § 15 since 2005.

## 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. 53 (November 2, 2020) – Sale, service, or delivery of alcoholic beverages after 9:30 p.m.

Direct evidence was presented through the testimony of Investigator Gardner, and corroborated by the Licensee, as to the sale of alcoholic beverages after 9:30 p.m. As acknowledged by the Licensee, four (4) individuals were allowed to purchase alcoholic beverages after 9:30 p.m. The Commission is persuaded by the evidence that a violation of 204 CMR 2.05(2), to wit: Massachusetts Executive Order 53 did occur.

### 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: Violation of Mass. Exec. COVID-19 Order No. 53 (Nov. 2, 2020) – Sale, service, or delivery of alcoholic beverages after 9:30 pm.

The Commission hereby **INDEFINITELY SUSPENDS** the license of Sunila Corp. d/b/a Quality Mart **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/sector-specific-workplace-safety-standards-for-restaurants-to-address-covid-19-030121/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](mailto:michael.flanagan@mass.gov)) and Mary Dozois ([mary.dozois@mass.gov](mailto:mary.dozois@mass.gov)) requesting review and approval.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio, Chairman

*Jean M. Lorizio*

Crystal Matthews, Commissioner

*Crystal Matthews*

Deborah A. Baglio, Commissioner

*Deborah A. Baglio*

Dated: March 17, 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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