



Jean M. Lorizio, Esq.
Chairman

*Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114
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NOTICE OF SUSPENSION

September 5, 2017

**UVM INC. D/B/A BIDDY EARLY'S
141 PEARL ST.
BOSTON, MA 02110
LICENSE#: 0116-01553
VIOLATION DATE: 05/05/2017
HEARD: 09/05/2017**

After a hearing on September 5, 2017, the Commission finds UVM Inc. d/b/a Biddy Early's violated:

- 1) M.G.L. c. 138, § 69- Sale or delivery of an alcoholic beverage to an intoxicated person (1 Count);
- 2) 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: 527 CMR 1.05 § 10.5.2.1 Overcrowding or admittance of any person beyond the established posted occupant load shall be prohibited.

On the first violation, M.G.L. c. 138, § 69, the Commission **suspends the license for four (4) days of which two (2) days will be served and two (2) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.**

On the second violation, 204 CMR 2.05 (2), to wit: 527 CMR 1.05 § 10.5.2.1, the Commission **suspends the license for four (4) days of which four (4) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur. This suspension held in abeyance to run concurrently with the one above.**

The suspension shall commence on Wednesday, October 25, 2017 and terminate on Thursday, October 26, 2017. The license will be delivered to the Local Licensing Board or its designee on Wednesday, October 25, 2017 at 9:00 A.M. It will be returned to the licensee on Friday, October 27, 2017.

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.

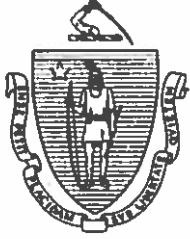
ALCOHOLIC BEVERAGES CONTROL COMMISSION



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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Michael Teehan, Investigator
Lisa Lordan, Investigator
Brad Doyle, Investigator
Dennis Quilty, Esq. via email
Administration, File



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DECISION

**UVM INC. D/B/A BIDDY EARLY'S
141 PEARL ST.
BOSTON, MA 02110
LICENSE#: 0116-01553
VIOLATION DATE: 05/05/2017
HEARD: 09/05/2017**

UVM Inc. d/b/a Biddy Early's (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, September 5, 2017, regarding alleged violations of:

- 1) M.G.L. c. 138, § 69- Sale or delivery of an alcoholic beverage to an intoxicated person (1 Count);
- 2) 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: 527 CMR 1.05 § 10.5.2.1 Overcrowding or admittance of any person beyond the established posted occupant load shall be prohibited.

Prior to the start of the hearing, the Licensee stipulated to the violation in Investigator Teehan's report.

The following documents are in evidence:

1. Investigator Teehan's Investigative Report; and
2. Licensee's Stipulation of Facts.

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

The Commission took Administrative Notice of the Licensee's record.

FINDINGS OF FACT

1. On Friday, May 5, 2017, at approximately 11:00 p.m., Investigators Lordan, Doyle, and Teehan ("Investigators") conducted an investigation of the business operation of UVM Inc. d/b/a Biddy Early's to determine the manner in which its business was being conducted.

2. Investigators entered the establishment at approximately 11:00 p.m. and observed the premises was extremely crowded with individuals standing shoulder to shoulder from the front to the rear of the licensed premises.
3. As they attempted to move about the premises, Investigators observed that it was difficult to maneuver and it presented a very dangerous situation if an emergency were to occur.
4. Investigators did not observe any staff member in possession of a counter device, something commonly used by doorpersons at section 12 licensed premises, nor was such a device presented to them.
5. Investigators observed approximately over 100 patrons inside the establishment.
6. Investigators identified themselves to the manager of record, Sean Moylan, and asked him about the capacity of the establishment. Moylan stated the occupancy capacity was 65 people. Moylan admitted to Investigators that the premises was overcrowded.
7. While inside the establishment, Investigators observed an individual, James Mannion Jr., who appeared to be intoxicated and in possession of a draft beer.
8. Investigators observed Mr. Mannion with a group of individuals in the bar area. Mannion staggered and was unsteady on his feet. Mannion's movements were slow, and at times his head nodded up and down. Investigators further observed Mannion knock a female individual to the floor while attempting to hug her. Based on their training and experience, Investigators determined Mannion was intoxicated.
9. At approximately 12:05 a.m., Investigators observed a male bartender serve Mannion a Sam Adams Summer draft beer.
10. Mr. Moylan stated to Investigators that Mannion lived up the street from the bar and would walk home with his friends.
11. Investigators informed Mr. Moylan of the violations and that a report would be filed with the Chief Investigator for further action.

CONCLUSION

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

- 1) M.G.L. c. 138, § 69- Sale or delivery of an alcoholic beverage to an intoxicated person (1 Count);
- 2) 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: 527 CMR 1.05 § 10.5.2.1 Overcrowding or admittance of any person beyond the established posted occupant load shall be prohibited.

On the first violation, M.G.L. c. 138, § 69, the Commission **suspends the license for four (4) days of which two (2) days will be served and two (2) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.**

On the second violation, 204 CMR 2.05 (2), to wit: 527 CMR 1.05 § 10.5.2.1, the Commission **suspends the license for four (4) days of which four (4) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur. This suspension held in abeyance to run concurrently with the one above.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio, Chairman

Jean M. Lorizio

Kathleen McNally, Commissioner

Kathleen McNally

Elizabeth A. Lashway, Commissioner

Elizabeth A. Lashway

Dated: September 5, 2017

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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