



*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**

February 10, 2021

**MAUI LLC D/B/A MAUI RESTAURANT  
1875-1883 MAIN STREET  
BROCKTON, MA 02301  
LICENSE#: 00045-RS-0144  
VIOLATION DATE: 12/19/2020  
HEARD: 1/19/2021**

After a hearing on January 19, 2021, the Commission finds Maui LLC d/b/a Maui Restaurant violated:

- 1) 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 p.m.;
- 2) 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 have patrons exit licensed premises before 10:00 p.m.

Therefore, the Commission **INDEFINITELY SUSPENDS** the license of Maui LLC d/b/a Maui Restaurant **effective forthwith** until further written order of the Commission.

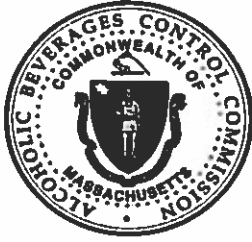
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

**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  
Nicholas Velez, Investigator  
Robert Gardner, Investigator  
Michael Flanagan, Dept. of Labor Standards  
Administration, File



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

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

**DECISION**

**MAUI LLC, D/B/A MAUI RESTAURANT  
1875 – 1883 MAIN STREET  
BROCKTON, MA 02301  
LICENSE#: 00152-RS-0594  
VIOLATION DATE: 12/19/2020  
HEARD: 1/19/2021**

Maui LLC d/b/a Maui Restaurant (“Licensee” or “Maui Restaurant”) 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, January 19, 2021, regarding alleged violations of:

- 1) 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 p.m.;
- 2) 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 have patrons exit licensed premises before 10:00 p.m.

The above-captioned occurred on December 19, 2020 according to Investigator Velez’s Report.

The following documents are in evidence:

1. Investigator Velez’s Report;
2. Form 43 New License Approval, 9/10/2010;
3. Massachusetts Executive COVID-19 Order No. 53, 11/2/2020.

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

**FINDINGS OF FACT**

1. On Saturday, December 19, 2020, Investigators Gardner and Velez (“Investigators”), conducted an investigation of Maui LLC d/b/a Maui Restaurant 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. At approximately 10:25 p.m., while driving on Main Street, Investigators observed multiple vehicles in the parking lot of the licensed premises and through the window of the restaurant they could see individuals sitting at the bar. Id.
3. As Investigators entered the licensed premises, they observed four (4) individuals seated at the bar. At approximately 10:30 p.m., Investigators observed the bartender serve shots of alcoholic beverages to multiple individuals at the bar. Investigators then identified themselves to the bartender who stated he served "Green Tea" shots to the individuals at the bar. Id.
4. Investigators approached a female staff member, identified themselves, and asked to speak with a manager or owner. Id.
5. Investigators spoke with the manager, Elizabeth Wong, and advised her of their observations. Id.
6. Investigators reviewed the COVID-19 guidelines with Ms. Wong and the bartender and advised them that no alcohol can be served after 9:30 p.m. and all customers must exit the premises by 10 p.m. Id.
7. Investigators advised Ms. Wong of the violations and that a report would be filed with the Chief Investigator for further review. Id.
8. Ms. Wong, the Licensee and Manager, appeared at the hearing before the Commission and testified that the bartender did serve "Green Tea" shots to individuals at the bar after 9:30 p.m. Ms. Wong confirmed that "Green Tea" shots are alcoholic beverages. (Testimony)
9. The Licensee has held a license under M.G.L. c. 138, § 12 since 2010 with no prior violations. (Exhibit 2, 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. 53 (November 2, 2020) – Sale, service, or delivery of alcoholic beverages after 9:30 p.m.; and

Massachusetts Executive COVID-19 Order No. 53 (November 2, 2020) Failure to have patrons exit licensed premises before 10:00 p.m.

Direct evidence was presented through the testimony of Investigator Gardner, and corroborated by the Licensee, as to the Licensee serving alcoholic beverages after 9:30 p.m. and failing to ensure all patrons were off the premises by 10:00 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:

- 1) 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 p.m.;
- 2) 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 have patrons exit licensed premises before 10:00 p.m.

Therefore, the Commission hereby **INDEFINITELY SUSPENDS** the license of Maui LLC d/b/a Maui Restaurant **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-phase-iii-step-1-for-restaurants-to-address-covid-1/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**

Crystal Matthews, Commissioner Cybil Matthews

Deborah A. Baglio, Commissioner Deborah A. Baglio

Jean M. Lorizio, Chairman Jean M. Lorizio

Dated: February 10, 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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