



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

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

NOTICE OF SUSPENSION

July 11, 2022

**NORTHSIDERS LLC D/B/A SUNSET CANTINA**  
**916 COMMONWEALTH AVENUE**  
**BROOKLINE, MA 02215**  
**LICENSE#: 04397-RS-0148**  
**VIOLATION DATE: 11/11/2021**  
**HEARD: 3/29/2022**

After a hearing on March 29, 2022, the Commission finds Northsiders LLC d/b/a Sunset Cantina violated 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: M.G.L. Ch. 138, § 34C – Possession of an alcoholic beverage by a person under twenty-one years of age (2 Counts). The Commission **suspends the license for a period of two (2) days to be served.**

**By decision dated February 1, 2022, the Commission ordered an 18-day suspension of which 13 days were deemed served and five (5) days were held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission regulations occur. Based on the violation found above, the Commission, in its discretion, hereby orders that 5-day suspension to be served. The Licensee will serve a total of seven (7) days.**

**The suspension shall commence on Monday, September 12, 2022, and terminate on Sunday, September 18, 2022.** The license will be delivered to the Local Licensing Board or its designee on Monday, September 12, 2022, at 9:00 A.M. It will be returned to the licensee on Monday, September 19, 2022.

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.

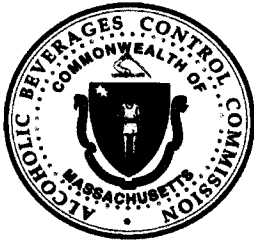
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

**ALCOHOLIC BEVERAGES CONTROL COMMISSION**

Jean M. Lorizio  
Chairman

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cc: Local Licensing Board  
Frederick G. Mahony, Chief Investigator  
Kyle E. Gill, Esq., Associate General Counsel  
Michael Teehan, Investigator  
Caroline Guarino, Investigator  
Mark Kenny, Investigator  
Administration, File



*Commonwealth of Massachusetts  
Alcoholic Beverages Control Commission  
95 Fourth Street, Suite 3  
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**Jean M. Lorizio, Esq.**  
*Chairman*

**DECISION**

**NORTHSIDERS LLC D/B/A SUNSET CANTINA  
916 COMMONWEALTH AVENUE  
BROOKLINE, MA 02215  
LICENSE#: 04397-RS-0148  
VIOLATION DATE: 11/11/2021  
HEARD: 3/29/2022**

Northsiders LLC d/b/a Sunset Cantina ("Licensee" or "Sunset Cantina") holds an alcohol 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, March 29, 2022, regarding alleged violation of 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: M.G.L. Ch. 138, § 34C – Possession of an alcoholic beverage by a person under twenty-one years of age (2 Counts).

The following documents are in evidence:

1. Investigator Teehan's Report;
2. ABCC Application Summary Review, License Transfer Approval, 10/4/2018;
3. ABCC Decision, 2/1/2022.

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

**FINDINGS OF FACT**

1. On Thursday November 11, 2021, at approximately 10:20 p.m., Investigators Guarino, Kenny, and Teehan ("Investigators") conducted an inspection of Northsiders LLC d/b/a Sunset Cantina ("Licensee" or "Sunset Cantina") to determine the manner in which its business was being conducted.
2. While inside the licensed premises, Investigators observed two youthful appearing individuals in possession of alcoholic beverages. Investigators identified themselves and asked to see proof of legal age.
3. Underage #1, actual date of birth 11/27/2002 (age 18) was in possession of a mixed drink.
4. Underage #2, actual date of birth 9/16/2003 (age 18) was in possession of a draft beer.

5. Investigators informed the manager on duty of the above violations and that a report would be submitted to the Chief Investigator for further action.
6. William McCarthy, Licensee and Manager of Record, appeared at the Commission hearing along with Oran McGonagle, Director of Operations.
7. The Licensee has held a license under M.G.L. c. 138, § 12 since 2018 with one prior violation which occurred September 10, 2020.

### 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) - Permitting an illegality on the licensed premises, to wit: chapter 138, §34C- Possession of an alcoholic beverage by a person under twenty-one (21) years of age. A Commission regulation promulgated at 204 CMR 2.05(2) provides in pertinent part, that "[n]o licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to the place in or on the licensed premises. The licensee shall be responsible therefore, whether present or not." The law is well-settled that 'under the regulation, [204 C.M.R. 2.05(2)] 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." Burlington Package Liquors, Inc. v. Alcoholic Beverages Control Comm'n, 11 Mass. App. Ct. 785, 788 (1981); Commonwealth v. Gould, 158 Mass. 499, 507, (1893). It is, thus, quite possible for a licensee to offend the regulatory scheme without scienter. The licensee is responsible for illegalities that occur on the licensed premises. Rico's of the Berkshires, Inc. v. Alcoholic Beverages Control Comm'n, 19 Mass. App. Ct. 1026, 1027 (1985).

Massachusetts General Laws, Chapter 138, § 34C states, in pertinent part, that: "Whoever, being under twenty-one years of age and not accompanied by a parent or legal guardian, knowingly possesses any alcohol or alcoholic beverages, shall be punished..." M.G.L. c. 138, § 34C

Investigators testified as to their observations and interactions with two patrons who were found to be under the age of 21 and in possession of alcoholic beverages. The Commission is persuaded by the evidence that the two patrons were younger than 21 years of age and were in possession of an alcoholic beverage in the licensed premises. The Commission finds the Licensee committed a

violation of 204 CMR 2.05 (2) - Permitting an illegality on the licensed premise, to wit: M.G.L. c. 138, § 34C – Possession of an alcoholic beverage by a person under 21 years of age (2 counts).

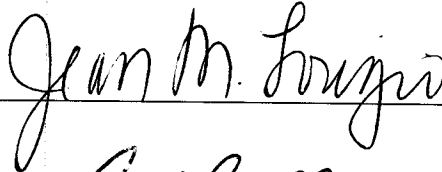
### CONCLUSION

Based on the evidence, the Commission finds the Licensee violated 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: M.G.L. Ch. 138, § 34C – Possession of an alcoholic beverage by a person under twenty-one years of age (2 Counts). Therefore, the Commission **suspends the license for a period of 2 days.**

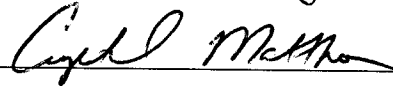
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### ALCOHOLIC BEVERAGES CONTROL COMMISSION

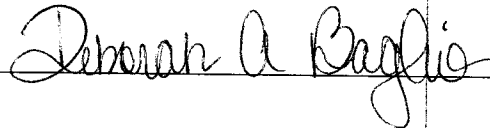
Jean M. Lorizio, Chairman



Crystal Matthews, Commissioner



Deborah Baglio, Commissioner



Dated: July 11, 2022

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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