

The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, Massachusetts 02114

Steven Grossman
Treasurer and Receiver General

Kim S. Gainsboro, Esq.
Chairman

NOTICE OF SUSPENSION

October 2, 2012

MICHAEL G. SMITH DBA DALTON GENERAL STORE
200 NORTH STREET
DALTON, MA 01226
LICENSE#: 026200017
HEARD: 10/02/2012

After a hearing on October 2, 2012, the Commission finds Michael G. Smith dba Dalton General Store in violation of:

- 1) 204 CMR 2.05 (2), to wit: c. 138, §34- Employing a person less than 18 years of age for direct handling or selling of alcoholic beverages or alcohol.
- 2) 204 CMR 2.05(2), to wit: c.138, §34- Sale or Delivery of an alcoholic beverage to a person under twenty-one (21) years of age.

The Commission suspends the licensee's license for a total of four (4) days to be served. The suspension shall commence on Wednesday, November 21, 2012 and terminate on Saturday, November 24, 2012. The license will be delivered to the Local Licensing Board or its designee on Wednesday, November 21, 2012 at 9:00 A.M. It will be returned to the licensee Sunday, November 25, 2012.

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. All checks must be certified and accompanied by the enclosed form, which must be signed by a Massachusetts Licensed Accountant.

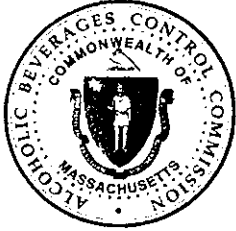
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro
Chairman

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Dennis Keefe, Investigator
Administration
File

1767 0212



The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, Massachusetts 02114

Steven Grossman
Treasurer and Receiver General

Kim J. Gainsboro, Esq.
Chairman

DECISION

MICHAEL G. SMITH DBA DALTON GENERAL STORE
200 NORTH STREET
DALTON, MA 01226
LICENSE#: 026200017
HEARD: 10/02/2012

Michael G. Smith dba Dalton General Store (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, §15. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, October 2, 2012, regarding an alleged violation of:

- 1) 204 CMR 2.05 (2), to wit: c. 138, §34- Employing a person less than 18 years of age for direct handling or selling of alcoholic beverages or alcohol; and
- 2) 204 CMR 2.05(2), to wit: c.138, §34- Sale or Delivery of an alcoholic beverage to a person under twenty-one (21) years of age.

Prior to the commencement of the hearing, the licensee stipulated to the violations alleged in Investigator Keefe's Reports.

The following documents are in evidence:

1. Licensee's Stipulation of Facts to each violation;
2. Investigator Keefe's Compliance Check Field Report dated May 23, 2012; and
3. Investigator Keefe's Investigative Report dated May 23, 2012.

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

FACTS

1. On Wednesday, May 23, 2012, at approximately 7:42 p.m., Investigators Kujawski and Keefe conducted an investigation of the business operation of Michael G. Smith dba Dalton General Store.
2. An underage operative working with investigators purchased an alcoholic beverage, a twenty-four ounce (24 oz.) can of Budweiser Lite beer for two dollars and twenty cents (\$2.20). The underage operative was not asked for identification.
3. Investigators entered the licensed premises to inform the licensee of its failure on the compliance check.
4. Investigators observed a youthful looking male clerk behind the counter.
5. The underage operative identified the youthful looking male clerk as the person who sold him the alcoholic beverage.
6. Investigators asked the male clerk for his identification.

7. The male clerk was identified as Mr. Timothy Smith, date of birth June 16, 1994, age seventeen (17) years.
8. Investigators contacted the owner, Mr. Michael G. Smith, and informed him of the violations.
9. Mr. Michael G. Smith arrived at the licensed premises and stated to investigators that the store policy allowed his son Timothy to work behind the counter, but if a customer came in to purchase alcohol, Timothy was supposed to have a co-worker cash the customer out.
10. Investigator Keefe informed the owner that a report would be submitted to the Chief Investigator for review.


CONCLUSION

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

- 1) 204 CMR 2.05 (2), to wit: c. 138, §34- Employing a person less than 18 years of age for direct handing or selling of alcoholic beverages or alcohol; and
- 2) 204 CMR 2.05(2), to wit: c.138, §34- Sale or Delivery of an alcoholic beverage to a person under twenty-one (21) years of age.

Therefore, the Commission suspends the license for seven (7) days of which four (4) days will be served and three (3) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner 

I, the undersigned, hereby certify that I have reviewed the hearing record and concur with the above decision.

Kim S. Gainsboro, Chairman 

DATE: October 2, 2012

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.

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Dennis Keefe, Investigator
Jan Kujawski, Investigator
Administration
File